AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO



FEDERAL REGISTER

Vol. 76 Tuesday,

No. 26 February 8, 2011

Pages 6687–7094

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.ofr.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.fdsys.gov*, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, 1 (January 2, 1994) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Printing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpo@custhelp.com.*

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Printing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 76 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

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

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

WHEN: Tuesday, February 22, 2011
9 a.m.–12:30 p.m.

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

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

Contents

Federal Register

Vol. 76, No. 26

Tuesday, February 8, 2011

Agriculture Department
See Animal and Plant Health Inspection Service
See Forest Service
See Rural Utilities Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 6757–6759

Animal and Plant Health Inspection Service
PROPOSED RULES
Viruses, Serums, Toxins, and Analogous Products; Packaging and Labeling Correction, 6702
NOTICES
Environmental Assessments; Availability, etc.:
Monsanto Co. and KWS SAAT AG, Genetically Engineered Roundup Ready Sugar Beets; Petition for Partial Deregulation, 6759–6761

Army Department
RULES
Radiation Sources on Army Land, 6692–6694

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Centers for Disease Control and Prevention
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 6795–6797

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Social Services Block Grant Post-expenditure, 6797–6798

Coast Guard
RULES
Drawbridge Operation Regulation:
Upper Mississippi River, Keokuk, IA, 6694
PROPOSED RULES
Safety Zones:
Underwater Hazard, Gravesend Bay, Brooklyn, NY, 6728–6730

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office

Commodity Futures Trading Commission
PROPOSED RULES
Orderly Liquidation Termination Provision in Swap Trading Relationship Documentation for Swap Dealers and Major Swap Participants, 6708–6715
Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants, 6715–6727

Comptroller of the Currency
RULES
Bank Secrecy Act Compliance; Fair Credit Reporting:
Technical Amendments, 6687–6688
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 7082–7087

Consumer Product Safety Commission
NOTICES
Consumer Product Safety Act:
Revision of Terms of Stay of Enforcement of Testing and Certification Requirements, 6765–6766

Defense Department
See Army Department
See Navy Department
NOTICES
Meetings:
Defense Science Board, 6766
Veterans' Advisory Board on Dose Reconstruction, 6766–6767

Delaware River Basin Commission
PROPOSED RULES
Water Quality Regulations, Water Code and Comprehensive Plan to Provide for Regulation of Natural Gas Development Projects, 6727–6728

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 6768–6769
Applications for Fiscal Year 2011 Awards:
Undergraduate International Studies and Foreign Language Program, 6769–6774
Meetings:
Equity and Excellence Commission, 6774–6775

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Meetings:
Ultra-Deepwater Advisory Committee, 6775

Environmental Protection Agency
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 6780–6781
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Production Outlook Reports for Un-Registered Renewable Fuel Producers, 6781–6782
Superfund Site Evaluation and Hazard Ranking System, 6782–6784
Meetings:
Local Government Advisory Committee, 6785–6786
Science Advisory Board Dioxin Review Panel, Public Teleconferences, 6784–6785
Regional Project Waivers of Buy American Section of 2009 American Recovery and Reinvestment Act:
Hernando County Utilities Department, Hernando County, FL, 6786–6787

Executive Office of the President
See Trade Representative, Office of United States

Export-Import Bank
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 6787

Federal Bureau of Investigation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 6827

Federal Communications Commission
PROPOSED RULES
Radio Experimentation and Market Trials under Part 5 of Commission's Rules, etc., 6928–6956
NOTICES
Meetings:
North American Numbering Council, 6787–6788
Radio Broadcasting Services:
AM or FM Proposals To Change The Community of License, 6788–6789
Unlicensed Operation in the TV Broadcast Bands, 6789–6792

Federal Deposit Insurance Corporation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 7082–7089

Federal Emergency Management Agency
NOTICES
Major Disasters and Related Determinations:
California, 6809
Rehabilitation Assistance for Levees and other Flood Control Works; Availability, 6809–6810

Federal Energy Regulatory Commission
NOTICES
Combined Filings, 6775–6780

Federal Highway Administration
RULES
Highway Systems:
Technical Correction, 6690–6692

Federal Housing Finance Agency
PROPOSED RULES
Private Transfer Fees, 6702–6708

Federal Reserve System
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 7082–7087
Changes in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 6792
Intent to Require Reporting Forms For Savings and Loan Holding Companies, 7091–7094

Federal Transit Administration
NOTICES
Fiscal Year 2011 Apportionments, Allocations, and Program Information, 6958–7079

Financial Stability Oversight Council
NOTICES
Recommendations Regarding Modifications to the Concentration Limit on Large Financial Companies, 6756–6757

Fish and Wildlife Service
RULES
Endangered and Threatened Wildlife and Plants:
Final Revised Critical Habitat for Brodiaea filifolia (Thread-Leaved Brodiaea), 6848–6925
PROPOSED RULES
Endangered and Threatened Wildlife and Plants:
Reclassifying Wood Bison under Endangered Species Act as Threatened Throughout Its Range, 6734–6754
Subsistence Management Regulations:
Public Lands in Alaska – 2012–13 and 2013–14 Subsistence Taking of Wildlife Regulations, 6730–6734
NOTICES
Endangered and Threatened Wildlife and Plants; Permit Applications:
Construction and Operation of Kaheawa II Wind Energy Generation Facility; Maui, HI, 6811–6812
Environmental Assessments; Availability, etc.:
Proposed Shiloh III Wind Plant Project, Solano County, CA, 6812–6813

Food and Drug Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Additional Criteria and Procedures for Classifying Over-the-Counter Drugs, etc., 6801–6802
Data to Support Drug Product Communications, 6800–6801
Focus Groups as Used by the Food and Drug Administration, 6802–6803
Labeling of Nonprescription Human Drug Products Marketed Without an Approved Application, etc., 6798
Presubmission Conferences, New Animal Drug Applications and Supporting Regulations, etc., 6798–6800

Foreign Assets Control Office
NOTICES
Foreign Narcotics Kingpin Designation Act; Additional Designations, 6843

Forest Service
PROPOSED RULES
Subsistence Management Regulations:
Public Lands in Alaska – 2012–13 and 2013–14 Subsistence Taking of Wildlife Regulations, 6730–6734
NOTICES
Meetings:
Daniel Boone National Forest Resource Advisory Committee, 6761
Secure Rural Schools Resource Advisory Committee, 6761–6762

General Services Administration
NOTICES
Redesignations of Federal Buildings, 6792–6793

Geological Survey
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Consolidated Consumers' Report (1 Form), 6813–6814

Health and Human Services Department
See Centers for Disease Control and Prevention

See Children and Families Administration
See Food and Drug Administration
See National Institutes of Health
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 6793–6794
Requests for ONC-Approved Accreditor (ONC-AA) Status, 6794
Statement of Organization, Functions, and Delegations of Authority:
Office of the National Coordinator for Health Information Technology, 6795

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency
See U.S. Customs and Border Protection

Housing and Urban Development Department
NOTICES
Funding Awards for the Special Needs Assistance Programs—Technical Assistance Fiscal Year 2010, 6810–6811
Public Interest for Fiscal Year 2010 Transformation Initiative:
Homeless Families Demonstration Small Grant Research Program; Availability; Correction, 6811

Interior Department
See Fish and Wildlife Service
See Geological Survey
See Land Management Bureau
See National Park Service
See Office of Natural Resources Revenue
See Reclamation Bureau
See Surface Mining Reclamation and Enforcement Office

International Trade Administration
NOTICES
Amended Final Determination of Critical Circumstances:
Drill Pipe from the People's Republic of China, 6762–6764

International Trade Commission
NOTICES
Termination of Investigations:
Certain Display Devices Including Digital Televisions and Monitors, 6826

Justice Department
See Federal Bureau of Investigation
See Parole Commission
NOTICES
Lodging of Proposed Consent Decrees:
United States v. Rutherford Oil Corp., et al., 6826–6827

Land Management Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 6814–6816
Filing of Plat of Survey:
Eastern States, 6816
Realty Actions:
Lease and Conveyance of Public Land, Dona Ana County, NM, 6816–6818

National Aeronautics and Space Administration
RULES
Implementation of Federal Acquisition Regulation Award Fee Language Revision, 6696–6699
NOTICES
FY 2010 Service Contract Inventory; Availability, 6827–6828

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Humanities Panel, 6828

National Highway Traffic Safety Administration
NOTICES
Petitions for Decision that Nonconforming Vehicles Are Eligible for Importation:
2006 and 2007 Aston Martin Vantage Passenger Cars, 6841–6842

National Institutes of Health
NOTICES
Meetings:
Center For Scientific Review, 6803–6806
Eunice Kennedy Shriver National Institute Of Child Health and Human Development, 6803, 6808–6809
National Center For Complementary and Alternative Medicine, 6806
National Center On Minority Health And Health Disparities, 6808
National Institute of Allergy and Infectious Diseases, 6807–6808
National Institute Of Arthritis And Musculoskeletal And Skin Diseases, 6806–6807
National Institute of Diabetes and Digestive and Kidney Diseases, 6808
National Institute Of General Medical Sciences, 6803
National Institute Of Mental Health, 6807

National Oceanic and Atmospheric Administration
RULES
Taking and Importing Marine Mammals:
Navy Training in the Hawaii Range Complex, Southern California Range Complex and Atlantic Fleet Active Sonar Training, 6699–6701
PROPOSED RULES
Endangered and Threatened Species:
Threatened Status for Distinct Population Segments of the Bearded Seal, 6755
Threatened Status for Subspecies of the Ringed Seal, 6754–6755

National Park Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 6818
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Colorado River Valuation Survey, 6819

National Science Foundation
NOTICES
Meetings; Sunshine Act, 6828–6830

Navy Department
NOTICES
Privacy Act; Systems of Records, 6767–6768

Nuclear Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 6830
Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations, 6830–6836
Applications:
Entergy Operations, Inc.; Withdrawal, 6836
Southern California Edison Co.; Withdrawal, 6836–6837
Establishment of Atomic Safety and Licensing Board:
Exelon Nuclear Texas Holdings, LLC, 6837
Meetings; Sunshine Act, 6837

Office of Natural Resources Revenue
NOTICES
States' Decisions on Participating in Accounting and Auditing Relief for Federal Oil and Gas Marginal Properties, 6819–6820

Office of United States Trade Representative
See Trade Representative, Office of United States

Parole Commission
NOTICES
Meetings; Sunshine Act, 6827

Patent and Trademark Office
NOTICES
Meetings:
How to More Effectively Use Depository Library Program; Roundtable and Request for Comments, 6764–6765

Reclamation Bureau
NOTICES
Contracts:
Hydroelectric Power Development at the C-Drop, Klamath Project, Klamath Falls, OR, 6820–6825

Rural Utilities Service
NOTICES
Depreciation Rates, 6762

Securities and Exchange Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 6837–6838
Meetings; Sunshine Act, 6838
Self-Regulatory Organizations; Proposed Rule Changes:
Chicago Board Options Exchange, Inc., 6838–6839
Trading Suspensions:
ActiveCore Technologies, Inc., Battery Technologies, Inc., China Media1 Corp., et al., 6839–6840

Surface Mining Reclamation and Enforcement Office
NOTICES
Environmental Impact Statements; Availability, etc.:
Petitions to Designate Lands Unsuitable for Mining and to Prepare Petition Evaluation Document, 6825–6826

Surface Transportation Board
NOTICES
Release of Waybill Data, 6842–6843

Thrift Supervision Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 7082–7089
Intent to Discontinue Collection of Data to Calculate Funds Ratios in Cost of Funds Report, 7089–7091

Trade Representative, Office of United States
NOTICES
Determinations Under the African Growth and Opportunity Act, 6840

Transportation Department
See Federal Highway Administration
See Federal Transit Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Aircraft Liability Insurance; Correction, 6840
Meetings:
Intelligent Transportation Systems Program Advisory Committee, 6841

Treasury Department
See Comptroller of the Currency
See Foreign Assets Control Office
See Thrift Supervision Office

U.S. Customs and Border Protection
RULES
Land Border Carrier Initiative Program, 6688–6690

Veterans Affairs Department
RULES
Disclosure of Medical Information to the Surrogate of a Patient Who Lacks Decision-Making Capacity, 6694–6696
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application for Accreditation as a Claims Agent or Attorney, 6846
Application of Service Representative for Placement on Mailing List, 6844–6845
Certificate of Affirmation of Enrollment Agreement for Correspondence Course, 6845–6846
Compliance Report of Proprietary Institutions, 6844
Request for Determination of Loan Guaranty Eligibility – Unmarried Surviving Spouses, 6845

Separate Parts In This Issue

Part II
Interior Department, Fish and Wildlife Service, 6848–6925

Part III
Federal Communications Commission, 6928–6956

Part IV
Transportation Department, Federal Transit Administration, 6958–7079

Part V
Federal Deposit Insurance Corporation, 7082–7089
Federal Reserve System, 7082–7087, 7091–7094
Treasury Department, Comptroller of the Currency, 7082–7087
Treasury Department, Thrift Supervision Office, 7082–7091

Reader Aids

Consult the Reader Aids section at the end of this page for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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

CFR PARTS AFFECTED IN THIS ISSUE

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

9 CFR

Proposed Rules:

103.....6702
112.....6702
114.....6702

12 CFR

21.....6687
41.....6687

Proposed Rules:

1228.....6702

17 CFR

Proposed Rules:

23 (2 documents) 6708, 6715

18 CFR

Proposed Rules:

410.....6727

19 CFR

123.....6688
142.....6688
178.....6688

23 CFR

470.....6690

32 CFR

655.....6692

33 CFR

117.....6694

Proposed Rules:

165.....6728

36 CFR

Proposed Rules:

242.....6730

38 CFR

1.....6694

47 CFR

Proposed Rules:

0.....6928
1.....6928
2.....6928
5.....6928
22.....6928
73.....6928
74.....6928
80.....6928
87.....6928
90.....6928
101.....6928

48 CFR

1816.....6696

50 CFR

17.....6848
216.....6699

Proposed Rules:

17.....6734
100.....6730
223 (2 documents) 6754, 6755

Rules and Regulations

Federal Register
Vol. 76, No. 26
Tuesday, February 8, 2011

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

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

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 21 and 41

[Docket ID OCC–2011–0003]

RIN 1557–AD38

Bank Secrecy Act Compliance; Fair Credit Reporting; Technical Amendments

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC).

ACTION: Final rule; technical amendments.

SUMMARY: The OCC is amending its Bank Secrecy Act (BSA) and Fair Credit Reporting regulations to make minor, non-substantive technical amendments. These technical amendments update citations in OCC regulations to the reorganized Financial Crimes Enforcement Network, Department of theTreasury (FinCEN) BSA regulations.

DATES: *Effective Date:* March 1, 2011.

FOR FURTHER INFORMATION CONTACT: Kevin Korzeniewski, Attorney, Legislative and Regulatory Activities Division, (202) 874–5090, Office of the Comptroller of the Currency, 250 E St., SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Effective March 1, 2011, FinCEN is reorganizing and moving its existing BSA regulations from 31 CFR Part 103 to 31 CFR Chapter X. *See* 75 FR 65806, October 26, 2010. The OCC is amending provisions of its BSA (12 CFR Part 21) and Fair Credit Reporting (12 CFR Part 41) regulations and Appendix J to 12 CFR Part 41 to make minor, non-substantive technical amendments to conform citations in these OCC regulations and the Appendix to FinCEN's reorganized BSA regulations.

Description of the Final Rule

OCC's BSA (12 CFR 21.21(a) and (b)) and Fair Credit Reporting (12 CFR 41.82(c)(2)(A)) regulations and Appendix J to 12 CFR Part 41, Section III(a) cite to FinCEN's BSA regulations in 31 CFR Part 103. Due to FinCEN's reorganization of its BSA regulations, these citations to 31 CFR Part 103 in OCC's regulations would become obsolete on March 1, 2011. To avoid this, the final rule amends OCC's BSA (12 CFR 21.21(a) and (b)) and Fair Credit Reporting (12 CFR 41.82(c)(2)(A)) regulations and Appendix J to 12 CFR Part 41, Section III(a) to comport with FinCEN's reorganized BSA regulations at 31 CFR Chapter X.

Administrative Procedure Act and Effective Date

Under 5 U.S.C. 553(b)(B) of the Administrative Procedure Act (APA), an agency may, for good cause, find (and incorporate the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

This final rule makes minor, non-substantive technical amendments to the OCC's BSA and Fair Credit Reporting regulations and Appendix J to Part 41, as described previously in this **SUPPLEMENTARY INFORMATION** section, to conform certain citations to FinCEN's reorganized BSA regulations. For this reason, the OCC, for good cause, finds that the notice and comment procedures prescribed by the APA are unnecessary because the final rule makes technical amendments to citations without substantive change to the relevant provisions of 12 CFR parts 21, 41, and Appendix J to 12 CFR part 41.

This final rule takes effect on March 1, 2011. Under 5 U.S.C. 553(d)(3) of the APA, the required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except, among other things, as provided by the agency for good cause found and published with the rule. The OCC finds good cause because the revisions in this final rule make minor, non-substantive technical amendments.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) does not apply to a rulemaking where a general notice of proposed rulemaking is not required. *See* 5 U.S.C. 603 and 604. As noted previously in the **SUPPLEMENTARY INFORMATION** section, the OCC has determined, for good cause, that it is unnecessary to publish a notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

Paperwork Reduction Act of 1995

There are no information collection requirements in this final rule.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532 (Unfunded Mandates Act), requires that an agency must prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate 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 in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that this final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, this final rule is not subject to section 202 of the Unfunded Mandates Act.

List of Subjects in 12 CFR Parts 21 and 41

Banks, Banking, Consumer protection, Crime, Currency, National banks, Reporting and recordkeeping requirements, Security measures.

For the reasons discussed in the **SUPPLEMENTARY INFORMATION** section, 12 CFR parts 21 and 41 are amended as follows:

PART 21—MINIMUM SECURITY DEVICES AND PROCEDURES, REPORTS OF SUSPICIOUS ACTIVITIES, AND BANK SECRECY ACT COMPLIANCE PROGRAM

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

Authority: 12 U.S.C. 93a, 1818, 1881–1884, and 3401–3422; 31 U.S.C. 5318.

■ 2. Amend § 21.21 by revising paragraphs (a) and (b) to read as follows:

§ 21.21 Procedures for monitoring Bank Secrecy Act (BSA) compliance.

(a) *Purpose.* This subpart is issued to assure that all national banks establish and maintain procedures reasonably designed to assure and monitor their compliance with the requirements of subchapter II of chapter 53 of title 31, United States Code, and the implementing regulations promulgated thereunder by the Department of the Treasury at 31 CFR Chapter X.

(b) *Establishment of a BSA compliance program*—(1) *Program requirement.* Each bank shall develop and provide for the continued administration of a program reasonably designed to assure and monitor compliance with the recordkeeping and reporting requirements set forth in subchapter II of chapter 53 of title 31, United States Code and the implementing regulations issued by the Department of the Treasury at 31 CFR Chapter X. The compliance program must be written, approved by the bank's board of directors, and reflected in the minutes of the bank.

(2) *Customer identification program.* Each bank is subject to the requirements of 31 U.S.C. 5318(l) and the implementing regulations jointly promulgated by the OCC and the Department of the Treasury at 31 CFR 1020.220, which require a customer identification program to be implemented as part of the BSA compliance program required under this section.

* * * * *

PART 41—FAIR CREDIT REPORTING

■ 3. The authority citation for Part 41 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.,* 24 (Seventh), 93a, 481, 484, and 1818; 15 U.S.C. 1681a, 1681b, 1681c, 1681m, 1681s, 1681s–2, 1681s–3, 1681t, 1681w, Sec. 214, Pub. L. 108–159, 117 Stat. 1952.

■ 4. Amend § 41.82 by revising paragraph (c)(2)(i)(A) to read as follows:

§ 41.82 Duties of users regarding address discrepancies.

* * * * *

(c) * * *

(2) * * *

(i) * * *

(A) Obtains and uses to verify the consumer's identity in accordance with the requirements of the Customer Identification Program (CIP) rules implementing 31 U.S.C. 5318(l) (31 CFR 1020.220);

* * * * *

■ 5. In Appendix J to Part 41, revise Section III, paragraph (a) to read as follows:

APPENDIX J TO PART 41—INTERAGENCY GUIDELINES ON IDENTITY THEFT DETECTION, PREVENTION, AND MITIGATION

* * * * *

III. Detecting Red Flags

* * * * *

(a) Obtaining identifying information about, and verifying the identity of, a person opening a covered account, for example, using the policies and procedures regarding identification and verification set forth in the Customer Identification Program rules implementing 31 U.S.C. 5318(l) (31 CFR 1020.220); and

* * * * *

Dated: January 25, 2011.

Julie L. Williams,

First Senior Deputy Comptroller and Chief Counsel.

[FR Doc. 2011–2747 Filed 2–7–11; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Parts 123, 142 and 178

[Docket No. USCBP–2006–0132; CBP Dec. No. 11–04]

RIN 1651–AA68

Land Border Carrier Initiative Program

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Final rule.

SUMMARY: This document amends U.S. Customs and Border Protection (CBP) regulations by removing the provisions pertaining to the Land Border Carrier Initiative Program (LBCIP). The LBCIP was established as a voluntary industry partnership program under which participating land and rail commercial carriers would agree to enhance the security of their facilities and conveyances to prevent controlled substances from being smuggled into the United States. Because CBP has developed a more comprehensive voluntary industry partnership program known as the Customs-Trade Partnership Against Terrorism (C–TPAT), CBP is terminating the LBCIP and will focus its partnership efforts on the further development of C–TPAT. C–TPAT builds upon the best practices of the LBCIP, while providing greater border and supply chain security with expanded benefits to approved participants.

DATES: *Effective Date:* March 10, 2011.

FOR FURTHER INFORMATION CONTACT: Glenn Woodley, Jr., Office of Field Operations, (202) 344–2725.

SUPPLEMENTARY INFORMATION:

Background

The Land Border Carrier Initiative Program (LBCIP) was established as a CBP-industry partnership regulatory program enlisting the voluntary cooperation of commercial conveyance entities as part of an effort to prevent the smuggling of controlled substances into the United States.

Under the LBCIP regulations set forth in title 19 of the Code of Federal Regulations (19 CFR 123.71–76), land and rail commercial carrier participants may enter into a written agreement with CBP that specifies methods by which the carrier will enhance the security of its facilities and conveyances. In exchange for this cooperation, CBP would provide training to carrier personnel in the areas of cargo and personnel security, document review techniques, drug awareness, and conveyance searches. Additionally, only LBCIP participants could be approved for Line Release entry processing at certain high-risk border locations as set forth in 19 CFR 142.41.[1]

In 2001, CBP introduced the Customs-Trade Partnership Against Terrorism (C–TPAT) program. C–TPAT is a voluntary industry partnership initiative that meets the objectives of the LBCIP while providing a more comprehensive approach to border and supply chain security. The program entails CBP's ongoing participation in a joint effort with importers, carriers, brokers, warehouse operators, manufacturers, and other industry sectors to develop a seamless security-conscious environment from manufacturing through transportation and importation to ultimate distribution. In addition to providing greater security for both government and business, C–TPAT provides its members with the same privileges accorded to LBCIP participants, as well as additional benefits such as priority processing for CBP inspections, reduced number of CBP inspections, assignment of a C–TPAT Supply Chain Security Specialist who will work with the company to validate and enhance security throughout the company's international supply chain, and eligibility to attend

[1] Line Release provides for advance cargo screening and expedited release at land border ports.

C–TPAT supply chain security training seminars. (For a detailed explanation of C–TPAT benefits, visit www.cbp.gov, and click on the link to C–TPAT).

In light of the development of C–TPAT as a more comprehensive CBP industry partnership program, CBP published a proposal in the **Federal Register** (74 FR 66933) on December 17, 2009, to amend title 19 of the Code of Federal Regulations by removing provisions pertaining to the LBCIP and changing certain references to the LBCIP to "CBP-approved industry partnership program." CBP also proposed replacing the word "Customs" with "CBP" where it appeared in the regulations affected by these changes. Interested parties were given until February 16, 2010 to comment on the proposed changes. CBP received no comments in response to the notice. Accordingly, CBP has determined to adopt as final, the proposed rule published in the **Federal Register**, which eliminates LBCIP as a CBP program. In addition, CBP is removing the reference in 19 CFR 178.2 to the information collection pertaining to the LBCIP.

C–TPAT builds upon the best practices of existing CBP-industry partnership programs and offers more comprehensive supply chain security measures for both government and industry than does LBCIP. CBP encourages any former LBCIP participants to apply for C–TPAT membership. Information on the C–TPAT application process is available on the CBP Web site (*http://www.cbp.gov*).

Explanation of Amendments

For the reasons set forth above, CBP removes §§ 123.71, 123.72, 123.73. 123.74, 123.75, and 123.76 from 19 CFR, and amends 19 CFR 142.41, 142.47 and 178.2.

Executive Order 12866

Executive Order 12866 requires Federal agencies to conduct economic analyses of significant regulatory actions as a means to improve regulatory decision making. Significant regulatory actions include those that may "(1) [h]ave an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (2) [c]reate a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) [m]aterially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) [r]aise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order."

CBP incorporated the best practices and security principles of LBCIP and other industry partnership programs when developing C–TPAT, a comprehensive border and supply chain security partnership. The termination of LBCIP does not eliminate benefits previously conferred to land and rail carrier participants because former LBCIP participants may elect to, and are encouraged to, apply to participate in C–TPAT, which confers all of the privileges of LBCIP along with additional benefits discussed previously. As such, this rule does not meet the criteria for a "significant regulatory action" under Executive Order 12866. The Office of Management and Budget (OMB) has not reviewed this rule under that order.

Regulatory Flexibility Act

In Treasury Decision (T.D.) 99–2 (64 FR 27, January 4, 1999), it was certified that pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, the LBCIP regulations set forth at 19 CFR 123.71–76 would not have a significant economic impact on a substantial number of small entities, because the LBCIP is a voluntary partnership program that confers benefits to the trade community. Accordingly, the LBCIP regulations were not subject to regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Similarly, this rule removes the voluntary LBCIP from the regulations and does not impose any direct costs on small entities. Additionally, CBP encourages any existing LBCIP members to continue their partnership endeavors and benefits by applying for membership in C–TPAT. CBP solicited comments regarding the impact on small entities of the proposal published in the **Federal Register** on December 17, 2009 (74 FR 66933). As no comments were received challenging these findings, it is certified that pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), this rule does not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The collections of information pertaining to the LBCIP were approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under control number 1651–0077. This information collection is referenced in 19 CFR 178.2 under section 123.73.

With the adoption of this final rule removing the LBCIP from the CBP regulations, 19 CFR 178.2 is being amended to delete the reference to this information collection.

Signing Authority

This document is being issued in accordance with 19 CFR 0.2(a), which provides that the authority of the Secretary of the Treasury with respect to CBP regulations that are not related to customs revenue functions was transferred to the Secretary of Homeland Security pursuant to section 403(1) of the Homeland Security Act of 2002 and that such regulations are signed by the Secretary of Homeland Security.

List of Subjects

19 CFR Part 123

Administrative Practice and Procedure, Canada, Common carriers, Customs duties and inspection, Entry of merchandise, Freight, Imports, International traffic, Mexico, Motor carriers, Penalties, Railroads, Reporting and recordkeeping requirements, Vehicles.

19 CFR Part 142

Administrative Practice and Procedure, Canada, Computer technology (Line release), Common carriers (Carrier initiative program), Customs duties and inspection, Entry of merchandise (Line release), Forms, Reporting and recordkeeping requirements.

19 CFR Part 178

Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons stated above, CBP amends parts 123, 142 and 178 of title 19 of the CFR as set forth below:

PART 123—CBP RELATIONS WITH CANADA AND MEXICO

■ 1. The heading to part 123 is revised to read as set forth above.

■ 2. The general authority citation for part 123 continues to read as follows, and the specific authority citation for §§ 123.71–123.76 is removed:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1431, 1433, 1436, 1448, 1624, 2071 note.

* * * * *

■ 3. Remove and reserve subpart H of part 123.

PART 142—ENTRY PROCESS

■ 4. The authority citation for part 142 continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

■ 5. Section 142.41 is amended by removing the word "Customs" wherever it appears and adding in each place the term "CBP" and, in the last sentence, by removing the language, "the Land Border Carrier Initiative Program (*see,* subpart H of part 123 of this chapter)" and adding in its place the language, "a CBP-approved industry partnership program".

■ 6. In § 142.47:

■ (a) Paragraph (a) is amended by removing the word "Customs" wherever it appears and adding in each place the term "CBP"; and

■ (b) Paragraph (b) is amended by removing the word "Customs" wherever it appears and adding in each place the term "CBP", by removing the language "the Land Border Carrier Initiative Program (LBCIP)" in the first sentence and adding in its place the language "a CBP-approved industry partnership program" and, in the second sentence, by removing the word "shall" and adding in its place the word "must".

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

■ 7. The general authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

■ 8. Amend § 178.2 by removing the listing for § 123.73.

Janet Napolitano,

Secretary.

[FR Doc. 2011–2694 Filed 2–7–11; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 470

[FHWA Docket No. FHWA–2011–0003]

RIN 2125–AF35

Highway Systems; Technical Correction

AGENCIES: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule makes a technical correction to the regulations that govern the designation of routes on the National Highway System and the Dwight D. Eisenhower System of Interstate and Defense Highways. The amendments contained herein make no substantive changes to FHWA regulations, policies, or procedures. The current regulation references a section of Title 23 of the United States Code that was later repealed by section 1106(c)(2)(A) of the Transportation Efficiency Act for the 21st Century (Pub. L. 105–178). This rule also corrects outdated and incorrect directions for obtaining publications referenced in the regulatory text. This rule also corrects to 25 years the time period that routes designated by agreement as future Interstate routes must be constructed to meet Interstate Highway System standards. Finally, this rule corrects references to FHWA offices that are involved in reviewing and approving Interstate designation requests, due to Agency reorganizations.

DATES: This rule is effective March 10, 2011.

FOR FURTHER INFORMATION CONTACT: Stefan Natzke, National Systems and Economic Development Team, (202) 366–5010; or Robert Black, Office of the Chief Counsel, (202) 366–1359; Both are located at 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours for FHWA are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by accessing the Office of the Federal Register's home page at: *http://www.archives.gov* or the Government Printing Office's Web page at: *http://www.gpoaccess.gov/nara.*

Background

This rulemaking makes technical corrections to the regulations that govern policies and procedures relating to the designation of routes on the Interstate Highway System found at 23 CFR 470. In its final rule published in the **Federal Register** on June 19, 1997, at 62 FR 33355, the FHWA referenced 23 U.S.C. 139, which at that time governed "Additions to the Interstate." Section 1106(c)(2)(A) of the Transportation Equity Act for the 21st Century, enacted in 1998, repealed that section and inserted revised language governing Interstate additions at 23 U.S.C. 103(c). Furthermore, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59) inserted provisions related to efficient environmental reviews at 23 U.S.C. 139. As such, references in 23 CFR 470 to section 139 causes confusion. These amendments will direct readers of this section to the proper section of the U.S. Code. This rule also corrects outdated and incorrect directions for obtaining publications referenced in the regulatory text. It also extends to 25 years the time period that routes designated by agreement as future Interstate routes must be constructed to meet Interstate Highway System standards as provided by 23 U.S.C. 103(c)(4)(B)(ii). Section 1106(a) of SAFETEA–LU (Pub. L. 109–59), enacted in 2005, extended the construction deadline from 12 to 25 years. The amended rule will reflect this statutory extension. Finally, this rule corrects references to FHWA offices that are involved in reviewing and approving Interstate designation requests, due to Agency reorganizations.

Rulemaking Analyses and Notice

Under the Administrative Procedure Act (5 U.S.C. 553(b)), an agency may waive the normal notice and comment requirements if it finds, for good cause, that they are impracticable, unnecessary, or contrary to the public interest. The FHWA finds that notice and comment for this rule is unnecessary and contrary to the public interest because it will have no substantive impact, is technical in nature, and relates only to management, organization, procedure, and practice. The amendments to the rule are based upon the explicit language of statutes that were enacted subsequent to the promulgation of the rule. The FHWA does not anticipate receiving meaningful comments on it. States, local governments, transit agencies, and their consultants rely upon the environmental regulations corrected by this action. These corrections will reduce confusion for these entities and should not be unnecessarily delayed. Accordingly, for the reasons listed above, the agencies find good cause under 5 U.S.C. 553(b)(3)(B) to waive notice and opportunity for comment.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of DOT regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal. This rule only entails minor corrections that will not in any way alter the regulatory effect of 23 CFR part

470. Thus, this final rule will not adversely affect, in a material way, any sector of the economy. In addition, these changes will not interfere with any action taken or planned by another agency and will not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612) FHWA has evaluated the effects of this action on small entities and has determined that the action will not have a significant economic impact on a substantial number of small entities. This final rule will not make any substantive changes to our regulations or in the way that our regulations affect small entities; it merely corrects technical errors. For this reason, the FHWA certifies that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule does not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This rule does not impose any requirements on State, local, or tribal governments, or the private sector and, thus, will not require those entities to expend any funds.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and FHWA has determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. The FHWA has also determined that this action does not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to these programs.

Paperwork Reduction Act

This action does not create any new information collection requirements for which a Paperwork Reduction Act submission to the Office of Management and Budget would be needed under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

National Environmental Policy Act

The FHWA has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and has determined that this action will not have any effect on the quality of the environment.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this action under Executive Order 13175, dated November 6, 2000, and concluded that this rule will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal government; and will not preempt tribal law. There are no requirements set forth in this rule that directly affect one or more Indian tribes. Therefore, a tribal summary impact statement is not required.

Executive Order 12988 (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.

Executive Order 13045 (Protection of Children)

Under Executive Order 13045, Protection of Children from Environmental Health and Safety Risks, this final rule is not economically significant and does not involve an environmental risk to health and safety that may disproportionally affect children.

Executive Order 12630 (Taking of Private Property)

This final 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.

Executive Order 13211 (Energy Effects)

This final rule has been analyzed under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The FHWA has 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 this final rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RINs contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 470

Highways and roads, Reporting and recordkeeping requirements.

Issued on: February 1, 2011.

Victor M. Mendez,

Administrator.

In consideration of the foregoing, 23 CFR part 470 is amended as set forth below.

PART 470—HIGHWAY SYSTEMS

■ 1. Revise the authority citation for part 470 to read as follows:

Authority: 23 U.S.C. 103(b)(2), 103(c), 134, 135, and 315; and 49 CFR 1.48(b).

Subpart A—[Amended]

■ 2. Amend § 470.105 by revising the last sentence of paragraph (a), the second sentence of paragraph (b)(1), and footnote 1 to read as follows:

§ 470.105 Urban area boundaries and highway functional classification.

(a) * * * Guidance for determining the boundaries of urbanized and nonurbanized urban areas is provided in the FHWA's Functional Classification Guidelines.[1]

(b) * * * (1) * * * Guidance criteria and procedures are provided in the FHWA's Functional Classification Guidelines.

* * * * *

[1] The Functional Classification Guidelines can be viewed at *http://www.fhwa.dot.gov/planning/fctoc.htm.*

■ 3. Amend § 470.107(a)(2) by removing the reference "23 U.S.C. 103(e)(1), (e)(2), and (e)(3)" and adding in its place, the reference "23 U.S.C. 103(c)(1)(D)(2)", and by removing the reference "23 U.S.C. 139(a) and (c)" and adding, in its place, the reference "23 U.S.C. 103(c)(4)."

■ 4. Amend § 470.111 as follows:

■ A. By revising paragraph (b).

■ B. By removing paragraph (c), and redesignating paragraphs (d) through (f) as paragraphs (c) through (e).

■ C. By amending redesignated paragraph (e) by removing the reference "23 U.S.C. 139" and adding, in its place, the reference "23 U.S.C. 103(c)". The revision reads as follows:

§ 470.111 Interstate System procedures.

* * * * *

(b) Proposals for Interstate or future Interstate designation under 23 U.S.C. 103(c)(4)(A) or (B), as logical additions or connections, shall consider the criteria contained in appendix A of this subpart. For designation as a part of the Interstate system, 23 U.S.C. 103(c)(4)(A) requires that a highway meet all the standards of a highway on the Interstate System, be a logical addition or connection to the Interstate System, and have the affirmative recommendation of the State or States involved. For designation as a future part of the Interstate System, 23 U.S.C. 103(c)(4)(B) requires that a highway be a logical addition or connection to the Interstate System, have the affirmative recommendation of the State or States involved, and have the written agreement of the State or States involved that such highway will be constructed to meet all the standards of a highway on the Interstate System within twenty-five years of the date of the agreement between the FHWA Administrator and the State or States involved. Such highways must also be on the National Highway System.

* * * * *

■ 5. Amend Appendix A to Subpart A of Part 470 as follows:
■ A. By revising the appendix heading.
■ B. By amending the introductory paragraph by removing the words "Section 139(a) and (b)" and adding, in their place the words "Section 103(c)(4)(A) and (B)", and removing the reference "23 U.S.C. 139" and adding, in its place, the reference "23 U.S.C. 103(c)".
■ C. By amending paragraph 5 by removing the number "12" and adding, in its place, the number "25".
■ D. By amending paragraph 6 by removing the reference "23 U.S.C. 139(b)" and add, in its place, the reference "23 U.S.C. 103(c)(4)(B)". The revision reads as follows:

Appendix A to Subpart A of Part 470—Guidance Criteria for Evaluating Requests for Interstate System Designations under 23 U.S.C. 103(c)(4)(A) and (B)

* * * * *

Appendix B to Subpart A of Part 470—[AMENDED]

■ 6. Amend Appendix B to Subpart A of Part 470 as follows:
■ A. By amending the introductory paragraph by removing the reference "23 U.S.C. 139(a)" and adding, in its place, the reference "23 U.S.C. 103(c)(4)(A)".
■ B. By amending paragraph 1 by removing the words "and Regional Offices" and add, in their place, the words "Office" in each place it appears.

Appendix C to Subpart A of Part 470—POLICY FOR THE SIGNING AND NUMBERING OF FUTURE INTERSTATE CORRIDORS DESIGNATED BY SECTION 332 OF THE NHS DESIGNATION ACT OF 1995 OR DESIGNATED UNDER 23 U.S.C. 139(b) [AMENDED]

■ 7. Amend Appendix C to Subpart A of Part 470 as follows:
■ A. By revising the appendix heading.
■ B. By amending Conditions paragraph 1 by removing the reference "23 U.S.C. 139(b)" and adding, in its place, the reference "23 U.S.C. 103(c)(4)(B)".
■ C. By amending Conditions paragraph 6 by removing the word "Regional", and adding, in its place, the word "Division".

The revision reads as follows:

Appendix C to Subpart A of Part 470—POLICY FOR THE SIGNING AND NUMBERING OF FUTURE INTERSTATE CORRIDORS DESIGNATED BY SECTION 332 OF THE NHS DESIGNATION ACT OF 1995 OR DESIGNATED UNDER 23 U.S.C. 103(c)(4)(B)

* * * * *

[FR Doc. 2011–2693 Filed 2–7–11; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 655

[Docket No. USA–2008–0001]

RIN 0702–AA58

Radiation Sources on Army Land

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Army is finalizing revisions to its regulation concerning radiation sources on Army land. The Army requires non-Army agencies (including their civilian contractors) to obtain an Army Radiation Permit (ARP) from the garrison commander to use, store, or possess ionizing radiation sources on an Army installation. For the purpose of this rule, "ionizing radiation source" means any source that, if held or owned by an Army organization, would require a specific Nuclear Regulatory Commission (NRC) license or Army Radiation Authorization (ARA). The purpose of the ARP is to protect the public, civilian employees, and military personnel on an installation from potential exposure to radioactive sources. The U.S. Army Safety Office, which is the proponent for the Army Radiation Safety Program, is finalizing revisions to the regulation to reflect the NRC changes to licensing of Naturally-Occurring and Accelerator-Produced Radioactive Material (NARM). Executive Order 12866 Regulatory Planning and Review was followed to rewrite this rule.

DATES: *Effective date:* March 10, 2011.

ADDRESSES: Director of Army Safety, 2221 S. Clarke Street, Suite 1107, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Tim Mikulski, (703) 601–2408.

SUPPLEMENTARY INFORMATION:

A. Background

In the April 14, 2010, issue of the **Federal Register** (75 FR 19302), the Army issued a proposed rule to revise 32 CFR part 655. The revised rule reflects the rule created by the NRC on October 1, 2007 (72 FR 55864) that became effective on November 30, 2007.

The Army received no comments on its proposed rule. Two individuals sought additional information on the rule. One asked how the rule affected the Army radiation safety program. The Army explained that the changes to the rule are being made to reflect changes in the NRC rule. The second individual wanted to know if the rule covered radon. The Army explained that the rule does not cover radon.

The final rule corrects one typographical error in the Authority section of 32 CFR part 655, citing to 10 U.S.C. 3013. The Army has made a number of administrative changes to the proposed rule to apply uniform terminology, insert cross-references to definitions in the NRC rules, and otherwise improve the language without making substantive changes to the proposed rule, and is finalizing the rule as revised.

B. Regulatory Flexibility Act

The Army has certified that the rule will not have a significant economic impact on a substantial number of small entities because the rule imposes no additional costs. The Army received no comments from small entities on the proposed rule.

C. Unfunded Mandates Reform Act

The Department of the Army has determined that the Unfunded Mandates Reform Act does not apply because the rule does not include a mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or the private sector, of $100 million or more.

D. National Environmental Policy Act

The Army has determined that this is not a major federal action significantly affecting the human environment.

E. Paperwork Reduction Act

Section 655.10(e) of this rule contains information collection requirements. The OMB Control number is 0702–0109, "Letter Permit for Non-Army Agency Radiation Sources on Army Land." The Army received no comments on the proposed information collection requirements.

F. Executive Order 12630 (Government Actions and Interference With Constitutionally Protected Property Rights)

The Department of the Army has determined that Executive Order 12630 does not apply because the rule does not impair private property rights.

G. Executive Order 12866 (Regulatory Planning and Review)

The Department of the Army has determined that according to the criteria defined in Executive Order 12866 this rule is a significant regulatory action. As such, the rule was subject to Office of Management and Budget review under section 6(a)(3) of the Executive Order.

H. Executive Order 13045 (Protection of Children From Environmental Health Risks and Safety Risks)

The Department of the Army has determined that according to section 2–202 of Executive Order 13045 this rule is not a covered regulatory action to which Executive Order 13045 applies nor will this rule present environmental health risks or safety risks that will disproportionately affect children.

I. Executive Order 13132 (Federalism)

The Department of the Army has determined that this rule will not have a substantial 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.

William T. Wolf,

Brigadier General, U.S. Army, Director of Army Safety.

List of Subjects in 32 CFR Part 655

Environmental protection, Radiation protection.

For reasons stated in the preamble the Department of the Army revises 32 CFR part 655 to read as follows:

PART 655—RADIATION SOURCES ON ARMY LAND

Authority: 10 U.S.C. 3013.

§ 655.10 Oversight of radiation sources brought on Army land by non-Army entities (AR 385–10).

(a) As used in this section:

Agreement State has the same meaning as provided in 10 CFR 30.4.

Byproduct material has the same meaning as provided in 10 CFR 20.1003.

Radiation has the same meaning as provided in 10 CFR 20.1003.

Radioactive material includes byproduct material, source material, and special nuclear material.

Source material has the same meaning as provided in 10 CFR 20.1003.

Special nuclear material has the same meaning as provided in 10 CFR 20.1003.

(b) Army radiation permits are required for use, storage, or possession of ionizing radiation sources by non-Army entities (including their civilian contractors) on an Army installation. Such use, storage, or possession of ionizing radiation sources must be in connection with an activity of the Department of Defense or in connection with a service to be performed on the installation for the benefit of the Department of Defense, in accordance with 10 U.S.C. 2692(b)(1). Approval by the garrison commander is required to obtain an Army radiation permit. For the purposes of this section, an ionizing radiation source is:

(1) Radioactive material used, stored, or possessed under the authority of a specific license issued by the Nuclear Regulatory Commission (NRC) or an Agreement State (10 CFR parts 30, 40, and 70 or the equivalent regulations of an Agreement State); or

(2) A machine-produced ionizing radiation source capable of producing an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.1 rem (1 mSv) in 1 hour at 30 centimeters from the ionizing radiation source or from any surface that the radiation penetrates.

(c) A permit is not required for non-Army entities (including their civilian contractors) that use Army licensed radioactive material on an Army installation in coordination with the Army NRC licensee. The non-Army entity must obtain permission from the Army NRC licensee to use the radioactive materials and be in compliance with all of the Army NRC license conditions prior to beginning work on Army land.

(d) Other Military Departments are exempt from the requirement of paragraph (b) of this section to obtain an Army radiation permit; however, the garrison Radiation Safety Officer (RSO) must be notified prior to ionizing radiation sources being brought onto the installation.

(e) Applicants will apply for an Army radiation permit by letter with supporting documentation (paragraph (f) of this section) to the garrison commander through the appropriate tenant commander or garrison director. Submit the letter so that the garrison commander receives the application at least 30 calendar days before the requested effective date of the permit.

(f) The Army radiation permit application will include a proposed effective date and duration (not to exceed 12 months) for the Army radiation permit and describe the purposes for which the ionizing radiation source will be used. The application will include: Identification of the trained operating personnel who will be responsible for implementation of the activities authorized by the permit and a summary of their professional qualifications; the applicant's point-of-contact name and phone number; the applicant's radiation safety Standing Operating Procedures (SOPs); storage provisions when the ionizing radiation source is not in use; and procedures for notifying the garrison of reportable incidents/accidents.

(g) The garrison commander may approve the application only if the applicant provides evidence to show that one of the following is true:

(1) The applicant possesses a valid NRC license or Department of Energy (DOE) radiological work permit that allows the applicant to use the ionizing radiation source in the manner requested in the Army radiation permit application;

(2) The applicant possesses a valid Agreement State license that allows the applicant to use the ionizing radiation source in the manner requested in the Army radiation permit application. An applicant operating in areas subject to exclusive Federal jurisdiction (Agreement States Letter SP–96–022) has to file a NRC Form-241, Report of Proposed Activities in Non-Agreement States, with the NRC in accordance with 10 CFR 150.20(b);

(3) For machine-produced ionizing radiation sources, the applicant has an appropriate State authorization that allows the applicant to use the ionizing radiation source as requested in the Army radiation permit application and has in place a radiation safety program that complies with applicable Army regulations; or

(4) For installations outside of the United States, the applicant has an appropriate host-nation authorization as necessary that allows the applicant to use the ionizing radiation source in the manner requested in the Army radiation permit application and has in place a radiation safety program that complies with applicable Army regulations and host nation laws and regulations.

(h) Applicants and permit holders shall comply with all applicable Federal, state, interstate, and local laws and regulations, status-of-forces agreements (SOFAs), and other international agreements.

(i) Each Army radiation permit will require the permit holder to remove its permitted ionizing radiation sources from Army property prior to the expiration of the permit and restore all real or personal property of the Army that was modified, altered, or otherwise changed as a result of the permit holder's activities to the condition such property was in prior to the effective date of the permit.

(j) An Army radiation permit issued pursuant to this section shall be valid for no more than 12 months.

(k) Disposal of radioactive material by non-Army entities on Army property is prohibited. However, the garrison commander may give written authorization for releases of radioactive material to the atmosphere or to the sanitary sewerage system if such releases are in compliance with all applicable Federal, State, interstate, and local laws and regulations, including but not limited to, the NRC regulations at 10 CFR part 20, Subpart K, or the equivalent requirements of an Agreement State, and regulations issued by the Army or the Department of Defense, to include compliance with any applicable requirement to obtain a permit, license, or other authorization, or to submit any information, notification, or report for such release.

[FR Doc. 2011–2748 Filed 2–7–11; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket Number USCG–2011–0029]

Drawbridge Operation Regulation; Upper Mississippi River, Keokuk, IA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Keokuk Drawbridge across the Upper Mississippi River, mile 364.0, at Keokuk, Iowa. The deviation is necessary to allow the bridge owner time to perform the needed maintenance and repairs to the bridge that is essential to the continued safe operation of the drawbridge. This deviation allows the bridge to remain in the closed-to-navigation position for thirty days.

DATES: This deviation is effective from 12:01 a.m., January 30, 2011 until 9 a.m., February 28, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0029 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–0029 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 rule, call or email Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone (314) 269–2378, e-mail *Eric.Washburn@uscg.mil*. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: The City of Keokuk, Iowa requested a temporary deviation for the Keokuk Drawbridge, across the Upper Mississippi River, mile 364.0, at Keokuk, Iowa to remain in the closed-to-navigation position in order to facilitate needed bridge maintenance and repairs. The Keokuk Drawbridge currently operates in accordance with 33 CFR 117.5, which states the general requirement that drawbridges shall open promptly and fully for the passage of vessels when a request to open is given in accordance with the subpart. This deviation allows the bridge to remain in the closed-to-navigation position from 12:01 a.m., January 30, 2011 until 9 a.m., February 28, 2011.

There are no alternate routes for vessels transiting this section of the Upper Mississippi River.

Winter conditions on the Upper Mississippi River coupled with the closure of U.S. Army Corps of Engineer's Lock 20, mile 343.2, Lock 21, mile 324.9, and Lock 22, mile 301.2 from January 30, 2011 to February 28, 2011 will preclude any significant navigation demands for the drawspan to open.

The Keokuk Drawbridge, in the closed-to-navigation position, provides a vertical clearance of 25.0 feet above normal pool. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. This temporary deviation has been coordinated with waterway users. No objections were received.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: January 24, 2011.

Eric A. Washburn,

Bridge Administrator.

[FR Doc. 2011–2688 Filed 2–7–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 1

RIN 2900–AN88

Disclosure of Medical Information to the Surrogate of a Patient Who Lacks Decision-Making Capacity

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends Department of Veterans Affairs (VA) regulations to reflect changes made by section 504 of the Caregivers and Veterans Omnibus Health Services Act of 2010. Section 504 authorizes a VA practitioner, when the practitioner deems it necessary to ensure an informed medical decision, to share certain, otherwise protected medical information with the representative of a patient who lacks decision-making capacity. This rulemaking amends VA regulations consistent with this new authority.

DATES: *Effective Date:* February 8, 2011.

FOR FURTHER INFORMATION CONTACT: Stephania Griffin, Veterans Health Administration Privacy Officer, Office of Information (19F2), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, (704) 245–2492 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: This document amends VA's regulations consistent with section 504 of the Caregivers and Veterans Omnibus

Health Service Act of 2010, Public Law 111–163. The revisions in this rulemaking restate the new statutory authority so that our regulations accurately state that practitioners can disclose certain protected information to a patient's representative under the specified circumstances. Because the revisions merely restate or interpret statutory provisions, we have not provided the public with the opportunity to comment on these changes.

Section 504 of Public Law 111–163 amended 38 U.S.C. 7332(b)(2), which governs the confidentiality of certain medical records. Generally, section 7332 bars VA from disclosing the content of any record of the identity, diagnosis, prognosis, or treatment of patient that is maintained in connection with any VA program or activity relating to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus, or sickle cell anemia, without first obtaining the written consent of the patient. 38 U.S.C. 7332(a)(1), (b)(1). However, under section 7332(b)(2), VA may disclose such records "[w]hether or not [the] patient * * * gives written consent" under circumstances specified in subparagraphs following subsection (b)(2). In section 504, Congress added a new subparagraph (b)(2)(F) to 38 U.S.C. 7332, which states that the records may be disclosed without consent as follows: "To a representative of a patient who lacks decision-making capacity, when a practitioner deems the content of the given record necessary for that representative to make an informed decision regarding the patient's treatment."

This rulemaking adds a new regulation, which incorporates the statutory amendment regarding disclosures to patients' representatives (38 CFR 1.484), and amends an existing VA regulation to clarify the meaning of terms used in the new section (38 CFR 1.460).

First, we are amending § 1.460, the regulation that contains definitions applicable to 38 CFR 1.460 through 1.499, which concern the confidentiality of information relating to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus, or sickle cell anemia in VA records and are applicable in combination with other regulations pertaining to the release of information from VA records. We are adding definitions of "decision-making capacity," "practitioner," and "surrogate" to 38 CFR 1.460. These terms appear only in 38 CFR 1.484, the new section implementing the new statutory provision; however, we are including them in the general definitions regulation because we believe that, at some point in the future, the definitions may be applicable to other disclosure of information regulations. We want to make sure that the terms will be used consistently throughout this body of regulations. We are adding these definitions for purposes of clarification and interpretation only and intend no substantive change regarding the additional authority granted by Congress in the amendment to section 7332.

In amended 38 CFR 1.460, "decision-making capacity" and "practitioner" are defined as "ha[ving] the same meaning set forth in 38 CFR 17.32(a)." This is consistent with the plain language and intent of 38 U.S.C. 7332(b)(2)(F). The purpose of § 17.32(a) is to provide definitions in the context of providing informed consent. The amendment to fnl;38 U.S.C. 7332 likewise is intended to assist a patient's representative in making "an informed decision regarding the patient's treatment." Moreover, § 17.32(a) specifically is authorized by 38 U.S.C. 7331–7334.

Under 38 U.S.C. 7332(b)(2)(F)(i), VA is authorized to release the identified medical information to a "representative," which is defined in 38 U.S.C. 7332 (b)(2)(F)(ii) as "an individual, organization, or other body authorized under [38 U.S.C. 7331] and its implementing regulations to give informed consent on behalf of a patient who lacks decision-making capacity." As noted above, 38 CFR 17.32(a) is one such "implementing regulation[ ]." Therein, we define a "surrogate" as "an individual, organization, or other body authorized under [38 CFR 17.32] to give informed consent on behalf of a patient who lacks decision-making capacity." Because the existing definition of "surrogate" is substantively identical to the statutory definition of "representative," we interpret "representative" as used by Congress in section 7332(b)(2)(F)(ii) to mean "surrogate." This will promote clarity, cohesiveness, and consistency in our regulations.

We are adding 38 CFR 1.484 to state, in a regulation, the new authority provided by 38 U.S.C. 7332(b)(2)(F). The language of the regulation is derived directly, almost verbatim, from section 7332. This language is clear on its face and easy for practitioners to apply.

We note that we are not revising 38 CFR 1.465(a), because a "court appointed legal guardian" meets the statutory definition of "surrogate" under 38 CFR 1.460 and 17.32(a). We also find it unnecessary to revise 38 CFR 1.487 through 1.496 because these regulations authorize disclosure based on authority independent of 38 U.S.C. 7332(b)(2)(F).

Administrative Procedure Act

VA finds, in accordance with 5 U.S.C. 553(b)(A) of the Administrative Procedure Act (APA), that this final rule merely incorporates statutory provisions or interprets those provisions. Therefore, the provisions of the APA regarding notice of proposed rulemaking and opportunities for public participation are not applicable. Further, pursuant to section 553(d)(2), this final rule is exempt from the APA's 30-day delayed effective date requirement.

Unfunded Mandates

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

Paperwork Reduction Act

This final rule does not contain any collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Executive Order 12866

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

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

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

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule affects only VA beneficiaries and their VA clinicians. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604. This final rule is also exempt from the regulatory flexibility analysis requirements of sections 603 and 604 because it was not preceded by a notice of proposed rulemaking.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on February 2, 2011, for publication.

List of Subjects in 38 CFR Part 1

Administrative practice and procedure, Archives and records, Cemeteries, Claims, Courts, Crime, Flags, Freedom of Information, Government contracts, Government employees, Government property, Infants and children, Inventions and patents, Parking, Penalties, Privacy, Reporting and recordkeeping requirements, Seals and Insignia, Security measures, Wages.

Dated: February 3, 2011.

Robert C. McFetridge,

Director, Regulations Policy and Management, Department of Veterans Affairs.

For the reasons set forth in the preamble, VA amends 38 CFR part 1 as follows:

PART 1—GENERAL PROVISIONS

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

Authority: 38 U.S.C. 501(a), and as noted in specific sections.

■ 2. Amend § 1.460 by adding, in alphabetical order, the definitions of "decision-making capacity," "practitioner," and "surrogate," and by revising the authority citation at the end of the section to read as follows:

§ 1.460 Definitions.

* * * * *

Decision-making capacity. The term "decision-making capacity" has the same meaning set forth in 38 CFR 17.32(a).

* * * * *

Practitioner. The term "practitioner" has the same meaning set forth in 38 CFR 17.32(a).

* * * * *

Surrogate. The term "surrogate" has the same meaning set forth in 38 CFR 17.32(a).

* * * * *

(Authority: 38 U.S.C. 7332, 7334)

■ 3. Add § 1.484 after the undesignated center heading "Disclosures Without Patient Consent" preceding § 1.485, to read as follows:

§ 1.484 Disclosure of medical information to the surrogate of a patient who lacks decision-making capacity.

A VA medical practitioner may disclose the content of any record of the identity, diagnosis, prognosis, or treatment of a patient that is maintained in connection with the performance of any VA program or activity relating to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus, or sickle cell anemia to a surrogate of the patient who is the subject of such record if:

(a) The patient lacks decision-making capacity; and

(b) The practitioner deems the content of the given record necessary for the surrogate to make an informed decision regarding the patient's treatment.

(Authority: 38 U.S.C. 7331, 7332)

[FR Doc. 2011–2750 Filed 2–7–11; 8:45 am]

BILLING CODE 8320–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1816

RIN 2700–AD69

NASA Implementation of Federal Acquisition Regulation (FAR) Award Fee Language Revision

AGENCY: National Aeronautics and Space Administration.

ACTION: Interim rule.

SUMMARY: This interim rule revises the NASA FAR Supplement (NFS) to implement the FAR Award Fee revision issued in Federal Acquisition Circular (FAC) 2005–46.

DATES: *Effective Date:* February 8, 2011.

Comment Date: Interested parties should submit written comments to NASA at the address below on or before April 11, 2011 to be considered in the formulation of the final rule.

ADDRESSES: Interested parties may submit comments, identified by RIN number 2700–AD69, via the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments. Comments may also be submitted to Bill Roets, NASA Headquarters, Office of Procurement, Contract Management Division, Washington, DC 20546. Comments may also be submitted by e-mail to *william.roets-1@nasa.gov.*

FOR FURTHER INFORMATION CONTACT: Bill Roets, NASA, Office of Procurement, Contract Management Division (Suite 5G86); (202) 358–4483; *e-mail: william.roets-1@nasa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

Federal Acquisition Circular (FAC) 2005–46 significantly revised FAR Parts 16.305, 16.401, and 16.405–2, incorporating new requirements relative to the use of award fee incentives. Specifically, this FAR rule implements section 814 of the John Warner 2007 National Defense Authorization Act (NDAA) and section 867 of the Duncan Hunter 2009 NDAA and requires agencies to:

(1) Link award fees to acquisition objectives in the areas of cost, schedule, and technical performance;

(2) Clarify that the base fee may be included in a cost plus award fee type contract at the discretion of the contracting officer;

(3) Prescribe narrative ratings when making a percentage of award fee available;

(4) Prohibit the issuance of award fees for a rating period if the contractor's performance is judged to be below satisfactory;

(5) Conduct an analysis and consider the results of the analysis when determining whether to use an award fee type contract or not;

(6) Include specific content in the award fee plans; and

(7) Prohibit the rolling over of unearned award fees to subsequent rating periods.

These significant revisions in FAR award fee guidance resulted in the need

to make associated changes to the NFS award fee regulations.

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

NASA certifies that this interim rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, at 5 U.S.C. 601, *et seq.,* because it merely implements the FAR Award Fee revisions and does not impose an economic impact beyond that addressed in the FAC 2005–46 publication of the FAR final rule.

Therefore, an Initial Regulatory Flexibility Analysis has not been performed. NASA will consider comments from small entities concerning the affected NFS Part 1816 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this interim rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination to Issue an Interim Rule

In accordance with 41 U.S.C 418(d), NASA has determined that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary to harmonize the NFS Award Fee coverage with that in the FAR which was effective per FAC 2005–46. However, pursuant to Public Law 98–577 and FAR 1.501, NASA will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Part 1816

Government procurement.

William P. McNally,

Assistant Administrator for Procurement.

Accordingly, 48 CFR part 1816 is amended as follows:

PART 1816—TYPES OF CONTRACTS

■ 1. The authority citation for 48 CFR part 1816 continues to read as follows:

Authority: 42 U.S.C. 2455(a), 2473(c)(1).

■ 2. Section 1816.405–270 is revised to read as follows:

1816.405–270 CPAF contracts.

(a) Use of an award fee incentive requires advance approval by the Assistant Administrator for Procurement. Requests for approval, that include Determination & Findings (D&F) cited in paragraph (b) of this section, shall be submitted to Headquarters Office of Procurement, Program Operations Division.

(b) Contracting officers shall prepare a D&F in accordance with FAR 16.401(d) prior to using an award fee incentive. In addition to the items identified in FAR 16.401(e)(1), D&Fs will include a discussion of the other types of contracts considered and shall indicate why an award fee incentive is the appropriate choice. Award fee incentives should not be used on contracts with a total estimated cost and fee less than $2 million per year. Use of award fee incentive for lower-valued acquisitions may be authorized in exceptional situations such as contract requirements having direct health or safety impacts, where the judgmental assessment of the quality of contractor performance is critical.

(c) Except as provided in paragraph (d) of this section, an award fee incentive may be used in conjunction with other contract types for aspects of performance that cannot be objectively assessed. In such cases, the cost incentive is based on objective formulas inherent in the other contract types (*e.g.,* FPI, CPIF), and the award fee provision should not separately incentivize cost performance.

(d) Award fee incentives shall not be used with a cost-plus-fixed-fee (CPFF) contract.

■ 3. Section 1816.405–271 is revised to read as follows:

1816.405–271 Base fee.

(a) A base fee shall not be used on CPAF contracts for which the periodic award fee evaluations are final (1816.405–273(a)). In these circumstances, contractor performance during any award fee period is independent of and has no effect on subsequent performance periods or the final results at contract completion. For other contracts, such as those for hardware or software development, the procurement officer may authorize the use of a base fee not to exceed 3 percent. Base fee shall not be used when an award fee incentive is used in conjunction with another contract type (*e.g.,* CPIF/AF).

(b) When a base fee is authorized for use in a CPAF contract, it shall be paid only if the final award fee evaluation is "satisfactory" or better. (*See* 1816.405–273 and 1816.405–275) Pending final evaluation, base fee may be paid during the life of the contract at defined intervals on a provisional basis. If the final award fee evaluation is "unsatisfactory", all provisional base fee payments shall be refunded to the Government.

■ 4. Section 1816.405–274 is revised to read as follows:

1816.405–274 Award fee evaluation factors.

(a) Explicit evaluation factors shall be established for each award fee period. Factors shall be linked to acquisition objectives which shall be defined in terms of contract cost, schedule, and technical performance. If used, subfactors should be limited to the minimum necessary to ensure a thorough evaluation and an effective incentive.

(b) Evaluation factors will be developed by the contracting officer based upon the characteristics of an individual procurement. Cost control, schedule, and technical performance considerations shall be included as evaluation factors in all CPAF contracts, as applicable. When explicit evaluation factor weightings are used, cost control shall be no less than 25 percent of the total weighted evaluation factors. The predominant consideration of the cost control evaluation should be a measurement of the contractor's performance against the negotiated estimated cost of the contract. This estimated cost may include the value of undefinitized change orders when appropriate.

(c)(1) The technical factor must include consideration of risk management (including mission success, safety, security, health, export control, and damage to the environment, as appropriate) unless waived at a level above the contracting officer, with the concurrence of the project manager. The rationale for any waiver shall be documented in the contract file. When safety, export control, or security are considered under the technical factor, the award fee plan shall allow the following fee determinations, regardless of contractor performance in other evaluation factors, when there is a major breach of safety or security.

(i) For evaluation of service contracts under 1816.405–273(a), an overall fee rating of unsatisfactory for any evaluation period in which there is a major breach of safety or security.

(ii) For evaluation of end item contracts under 1816.405–273(b), an overall fee rating of unsatisfactory for

any interim evaluation period in which there is a major breach of safety or security. To ensure that the final award fee evaluation at contract completion reflects any major breach of safety or security, in an interim period, the overall award fee pool shall be reduced by the amount of the fee available for the period in which the major breach occurred if an unsatisfactory fee rating was assigned because of a major breach of safety or security.

(2) A major breach of safety must be related directly to the work on the contract. A major breach of safety is an act or omission of the Contractor that consists of an accident, incident, or exposure resulting in a fatality or mission failure; or in damage to equipment or property equal to or greater than $1 million; or in any "willful" or "repeat" violation cited by the Occupational Safety and Health Administration (OSHA) or by a state agency operating under an OSHA approved plan.

(3) A major breach of security may occur on or off Government installations, but must be directly related to the work on the contract. A major breach of security is an act or omission by the contractor that results in compromise of classified information, illegal technology transfer, workplace violence resulting in criminal conviction, sabotage, compromise or denial of information technology services, equipment or property damage from vandalism greater than $250,000, or theft greater than $250,000.

(4) The Assistant Administrator for Procurement shall be notified prior to the determination of an unsatisfactory award fee rating because of a major breach of safety or security.

(d) In rare circumstances, contract costs may increase for reasons outside the contractor's control and for which the contractor is not entitled to an equitable adjustment. One example is a weather-related launch delay on a launch support contract. The Government shall take such situations into consideration when evaluating contractor cost control.

(e) Emphasis on cost control should be balanced against other performance requirement objectives. The contractor should not be incentivized to pursue cost control to the point that overall performance is significantly degraded. For example, incentivizing an underrun that results in direct negative impacts on technical performance, safety, or other critical contract objectives is both undesirable and counterproductive. Therefore, evaluation of cost control shall conform to the following guidelines:

(1) Normally, the contractor should be given an unsatisfactory rating for cost control when there is a significant overrun within its control. However, the contractor may receive a satisfactory or higher rating for cost control if the overrun is insignificant. Award fee ratings should decrease sharply as the size of the overrun increases. In any evaluation of contractor overrun performance, the Government shall consider the reasons for the overrun and assess the extent and effectiveness of the contractor's efforts to control or mitigate the overrun.

(2) The contractor should normally be rewarded for an underrun within its control, up to the maximum award fee rating allocated for cost control, provided the adjectival rating for all other award fee evaluation factors is very good or higher (*see* FAR 16.401(e)(iv)).

(3) The contractor should be rewarded for meeting the estimated cost of the contract, but not to the maximum rating allocated for cost control, to the degree that the contractor has prudently managed costs while meeting contract requirements. No award shall be given in this circumstance unless the average adjectival rating for all other award fee evaluation factors is satisfactory or higher.

(f) When an AF arrangement is used in conjunction with another contract type, the award fee's cost control factor will only apply to a subjective assessment of the contractor's efforts to control costs and not the actual cost outcome incentivized under the basic contract type (*e.g.* CPIF, FPIF).

(g)(1) The contractor's performance against the subcontracting plan incorporated in the contract shall be evaluated. Emphasis may be placed on the contractor's accomplishment of its goals for subcontracting with small business, HUBZone small business, women-owned small business, veteran-owned small business, and service-disabled veteran-owned small business concerns.

(2) The contractor's performance against the contract target for participation as subcontractors by small disadvantaged business concerns in the NAICS Major Groups designated by the Department of Commerce (*see* FAR 19.201(c)) shall also be evaluated if the clause at FAR 52.219–26, Small Disadvantaged Business Participation—Incentive Subcontracting, is not included in the contract (*see* FAR 19.1204(c)).

(3) The contractor's achievements in subcontracting high technology efforts as well as the contractor's performance under the Mentor-Protégé Program, if applicable, may also be evaluated.

(4) The evaluation weight given to the contractor's performance against the considerations in paragraphs (g)(1) through (g)(3) of this section should be significant (up to 15 percent of available award fee). The weight should motivate the contractor to focus management attention to subcontracting with small, HUBZone, women-owned, veteran-owned, and service-disabled veteran-owned small business concerns, and with small disadvantaged business concerns in designated NAICS Major Groups to the maximum extent practicable, consistent with efficient contract performance.

(h) When contract changes are anticipated, the contractor's responsiveness to requests for change proposals should be evaluated. This evaluation should include the contractor's submission of timely, complete proposals and cooperation in negotiating the change.

(i) Only the award fee performance evaluation factors set forth in the performance evaluation plan shall be used to determine award fee scores.

(j) The Government may unilaterally modify the applicable award fee performance evaluation factors and performance evaluation areas prior to the start of an evaluation period. The contracting officer shall notify the contractor in writing of any such changes 30 days prior to the start of the relevant evaluation period.

■ 5. Section 1816.405–275 is revised to read as follows:

1816.405–275 Award fee evaluation rating.

(a) All award fee contracts shall utilize the adjectival rating categories and associated descriptions as well as the award fee pool available to be earned percentages for each adjectival rating category contained in FAR 16.401(e)(iv).

(b) The following numerical scoring system shall be used in conjunction with the FAR adjectival rating categories and associated descriptions (*see* FAR 16.401(e)(iv)).

(1) *Excellent* (100–91)

(2) *Very good* (90–76)

(3) *Good* (75–51)

(4) *Satisfactory* (50)

(5) *Unsatisfactory* (less than 50) No award fee shall be paid for an unsatisfactory rating.

(c) As a benchmark for evaluation, in order to be rated "Excellent" overall, the contractor would typically be under cost, on or ahead of schedule, and providing outstanding technical performance.

(d) A weighted scoring system appropriate for the circumstances of the individual contract requirement should be developed. In this system, each evaluation factor (*e.g.,* technical, schedule, cost control) is assigned a specific percentage weighting with the cumulative weightings of all factors totaling 100. During the award fee evaluation, each factor is scored from 0–100 according to the ratings defined in 1816.405–275(b). The numerical score for each factor is then multiplied by the weighting for that factor to determine the weighted score. For example, if the technical factor has a weighting of 60 percent and the numerical score for that factor is 80, the weighted technical score is 48 (80 × 60 percent). The weighted scores for each evaluation factor are then added to determine the total award fee score.

[FR Doc. 2011–2772 Filed 2–7–11; 8:45 am]

BILLING CODE 7510–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 110121052–1045–02]

RIN 0648–BA67

Taking and Importing Marine Mammals: U.S. Navy Training in the Hawaii Range Complex; U.S. Navy Training in the Southern California Range Complex; and U.S. Navy's Atlantic Fleet Active Sonar Training

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

ACTION: Interim final rule; request for comments and issuance of letters of authorization.

SUMMARY: In January 2009, pursuant to the Marine Mammal Protection Act (MMPA), NMFS issued three 5-year final regulations to govern the unintentional taking of marine mammals incidental to Navy training and associated activities conducted in the Hawaii Range Complex (HRC), the Southern California Range Complex (SOCAL Range Complex), and the Atlantic Fleet Active Sonar Training (AFAST) Study Area. These regulations, which allow for the issuance of "Letters of Authorization" (LOAs) for the incidental take of marine mammals during the specified activities and described timeframes, prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, as well as requirements pertaining to the monitoring and reporting of such taking.

These rules quantify the specific amounts of individual sound source use that will occur over the course of the 5-year rules, and indicate that marine mammal take may only be authorized in an LOA incidental to the source types and amounts described. Specifically, no language was initially included expressly allowing for deviation from those precise levels of source use if the total number of takes remain within the analyzed and authorized limits. Since the issuance of the 2009 rules, the Navy realized that their evolving training programs, which are linked to real world events, necessitate greater flexibility in the types and amounts of sound sources that they use. In response to this need, when the Navy requested incidental take authorizations for other areas (*e.g.,* the Mariana Islands and the Northwest Training Range Complexes), NMFS included language explicitly allowing for greater flexibility. NMFS has, through this interim final rule, amended the HRC, SOCAL Range Complex, and AFAST regulations to explicitly allow for greater flexibility in the types and amount of sound sources that they use.

NMFS has issued new LOAs for each of these actions, which supersede those issued in January 2011, and which authorize the Navy to take marine mammals incidental to their planned training in 2011, and reflect the greater flexibility addressed in this amendment. The take authorized in these LOAs does not exceed that analyzed and allowed by the original 2009 final rules.

DATES: Effective on February 7, 2011. Comments and information must be received no later than March 10, 2011.

ADDRESSES: You may submit comments, identified by 0648–BA67, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov*.
- Hand delivery or mailing of paper, disk, or CD–ROM comments should be addressed to Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, *etc.)* voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

A copy of the Navy's applications, NMFS' Records of Decision (RODs), NMFS' proposed and final rules and subsequent LOAs, and other documents cited herein may be obtained by writing to Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225 or by telephone via the contact listed here (*see* **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Jolie Harrison, Office of Protected Resources, NMFS, (301) 713–2289, ext. 166.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) during periods of not more than five consecutive years each if certain findings are made and regulations are issued or, if the taking is limited to harassment and of no more than 1 year, to issue a notice of proposed authorization for public review.

Authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth.

NMFS has defined "negligible impact" in 50 CFR 216.103 as:

> An impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The National Defense Authorization Act (NDAA) (Pub. L. 108–136) removed the "small numbers" and "specified geographical region" limitations, and

amended the definition of "harassment" as it applies to a "military readiness activity" to read as follows (section 3(18)(B) of the MMPA):

(i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].

Summary of the Modification

On January 12, 2009, NMFS issued 5-year regulations governing the taking of marine mammals incidental to training activities conducted in HRC (74 FR 1455). On January 21, 2009, NMFS issued 5-year regulations governing the taking of marine mammals incidental to training, maintenance, and research, development, testing and evaluation (RDT&E) activities conducted in the SOCAL Range Complex (74 FR 3881). On January 27, 2009, NMFS issued 5-year regulations governing the taking of marine mammals incidental to training, maintenance, and RDT&E activities conducted in the AFAST Study Area (74 FR 4843).

The HRC, SOCAL Range Complex, and AFAST regulations allow for the issuance of LOAs that authorize the incidental take of marine mammals during the specified activities and described timeframes, prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, as well as requirements pertaining to the monitoring and reporting of such taking. These regulations were drafted in such a way that the Navy's specified activities were strictly quantified by the amounts of each type of sound source utilized (*e.g.,* hours, numbers of sonobuoys or explosive exercises) over the course of the 5-year regulations.

After the issuance of the 2009 rules, the Navy realized that their evolving training programs, which are linked to real world events, necessitate greater flexibility in both the types and amounts of sound sources that they use.

Regarding the types of sources for which incidental take is authorized, in some cases the Navy's HRC, SOCAL Range Complex, and AFAST rules identified the most representative or highest power source to represent a group of known similar sources. Additionally, the Navy regularly modifies or develops new technologies, which often affect the way that sound sources are similar to, but not exactly the same as, existing sources. In this modification to these three final rules, we have increased the flexibility of the Navy's takings prescriptions by inserting language that will explicitly allow for authorization of take incidental to the previously identified specified sound sources or "similar sources" (with similar characteristics that do not change any of the underlying analyses) and, in the case of HRC, by adding one specific source type to the authorization, provided that the implementation of these changes in annual LOAs does not result in exceeding the incidental take analyzed and identified in the final rules.

Regarding amounts of sound source use, the three regulations only allow for the authorization of take incidental to a 5-yr maximum amount of use for each specific sound source, even though in most cases our effects analyses do not differentiate the impacts from the majority of the different types of sources. Specifically, although some sonar sources are louder or generate more acoustic energy in a given amount of time, which results in more marine mammal takes, we authorize total takes but do not differentiate between the individual takes that result from one source versus another. In this modification to these three final rules, we increase flexibility by including language that allows for inter-annual variability in the amount of source use identified in each annual LOA (*i.e.,* one year the Navy could use a lot of one source, and little of another, and the next year those amounts could be reversed), provided it does not result in exceeding the total level of incidental take analyzed and identified in the final rules, and the taking does not result in more than a negligible impact on affected species or stocks. Language of this nature was included in final regulations governing the authorization of take incidental to the Navy's training activities in the Mariana Islands and Northwest Training Range Complexes, which were issued in 2010.

As indicated above, these regulatory amendments do not change the analyses of marine mammal impacts conducted in the original final rules. This fact is assured and illustrated through: (1) The Navy's annual submission of LOA applications for each area, which include take estimates specific to the upcoming the year's activities (*i.e.,* sound source use); (2) their subsequent annual submission of classified exercise reports, which accurately report the specific amount of use for each sound source over the course of the previous year; and (3) their annual submission of monitoring reports, which describe observed responses of marine mammals to Navy sound sources collected via visual, passive acoustic, or tagging methods. Together, these submissions allow NMFS to accurately predict and track the Navy's activities to ensure that both NMFS' annual LOAs, and the impacts of the Navy's activities on marine mammals, remain within what is analyzed and allowed by the HRC, SOCAL, and AFAST 5-year regulations.

Classification

Pursuant to the procedures established to implement section 6 of Executive Order 12866, the Office of Management and Budget has determined that this final rule is not significant.

Pursuant to 5 U.S.C. 553, there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. The 2009 AFAST, SOCAL, and HRC Final Rules established a framework whereby a total number of marine mammals, by species, could be taken incidental to certain military readiness activities during the 5-year period. These rules also enumerated levels of activity for each individual sound source, but did not include language expressly authorizing deviation from those precise levels if the total number of takes remained within authorized limits. Although the Navy used the best available information and professional judgment to estimate the level of individual activities planned for the ranges, evolving unforeseen real world requirements, and the evolving training and readiness tactics and procedures needed to meet those requirements, necessitate annual flexibility to offset increases in some activities from decreases in others. The Navy requires the flexibility to increase the number of hours of use for specific sound sources, and these regulations modify the AFAST, SOCAL, and HRC Final Rules to insert language codifying that flexibility.

The Navy has a compelling need to continue military readiness and testing activities with the specific sound sources at issue without interruption. In 10 U.S.C. 5062, Congress mandated that the Chief of Naval Operations (CNO) man, organize, train, and equip all Naval forces for combat. To accomplish this, naval commands adhere to the Fleet Response Training Plan (FRTP). The FRTP is an arduous sequential training cycle in which unit level training (ULT) and certification is followed by a series of major exercises

that bring together various components so they have the opportunity to train and practice as an integrated whole resulting in Major Combat Operation certification. This certification includes critically important anti-submarine warfare that requires training on the use and deployment of the described systems. Interruption or reduction of the Navy's ability to utilize specific sound sources during this period would significantly disrupt vital sequential training, certification, and testing activities essential to our national security and the safety of our armed forces. Therefore, allowing a public comment period for these rules is impracticable and contrary to the public's interest.

Because the requested modifications would not increase the total level of takes authorized in the 2009 Final Rules, the modifications would result in no increased impact to protected species.

For the same reasons, there is good cause under 5 U.S.C. 553 to waive the 30-day delay in effectiveness.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* are inapplicable.

List of Subjects in 50 CFR Part 216

Exports, Fish, Imports, Incidental take, Indians, Labeling, Marine mammals, Navy, Penalties, Reporting and recordkeeping requirements, Seafood, Sonar, Transportation.

Dated: January 31, 2011.

Eric C. Schwaab,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR part 216 is amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

■ 2. In § 216.170, paragraphs (c) introductory text, (c)(1) introductory text, and (c)(2) introductory text are revised, and paragraphs (c)(1)(vii), (c)(2)(ii)(H), and (d) are added to read as follows:

§ 216.170 Specified activity and specified geographical region.

* * * * *

(c) The taking of marine mammals by the Navy is only authorized if it occurs incidental to the following activities:

(1) The use of the following mid-frequency active sonar (MFAS) and high frequency active sonar (HFAS) sources, or similar sources, for Navy training activities (estimated amounts below):

* * * * *

(vii) AN/SSQ–125 (AEER sonar sonobuoy)—4800 sonobuoys (total, of IEER/EER and AEER combined) over the course of 5 years (an average of 960 per year)

(2) The detonation of the underwater explosives indicated in paragraph (c)(2)(i) of this section, or similar explosives, conducted as part of the training exercises indicated in paragraph (c)(2)(ii) of this section:

(ii) * * *

(H) EER/IEER—4800 sonobuoys (total, of EER/IEER and AEER combined) over the course of 5 years (an average of 960 sonobuoy deployments per year)

(d) The taking of marine mammals may be authorized in an LOA for the activities and sources listed in § 216.170(c) should the amounts (*e.g.,* hours, dips, or number of exercises) vary from those estimated in § 216.170(c), provided that the variation does not result in exceeding the amount of take indicated in § 216.172(c).

■ 3. In § 216.171, paragraph (a) is revised to read as follows:

§ 216.171 Effective dates and definitions.

(a) Amended regulations are effective February 4, 2011, through January 5, 2014.

* * * * *

■ 4. In § 216.240, paragraph (c) introductory text is revised, and paragraph (d) is added to read as follows:

§ 216.240 Specified activity and specified geographical region

* * * * *

(c) The taking of marine mammals by the Navy is only authorized if it occurs incidental to the use of the following mid-frequency active sonar (MFAS) sources, high frequency active sonar (HFAS) sources, explosive sonobuoys, or similar sources, for Navy training, maintenance, or research, development, testing, and evaluation (RDT&E) (estimated amounts below):

* * * * *

(d) The taking of marine mammals may be authorized in an LOA for the activities and sources listed in § 216.240(c) should the amounts (*e.g.,* hours, dips, or number of exercises) vary from those estimated in § 216.240(c), provided that the variation does not result in exceeding the amount of take indicated in § 216.242(c).

■ 5. In § 216.241, paragraph (a) is revised to read as follows:

§ 216.241 Effective dates and definitions.

(a) Amended regulations are effective February 4, 2011, through January 22, 2014.

* * * * *

■ 5. In § 216.270, paragraphs (c) introductory text, (c)(1) introductory text, and (c)(2) introductory text are revised, and paragraph (d) is added to read as follows:

§ 216.270 Specified activity and specified geographical region.

* * * * *

(c) The taking of marine mammals by the Navy is only authorized if it occurs incidental to the following activities:

(1) The use of the following mid-frequency active sonar (MFAS) and high frequency active sonar (HFAS) sources, or similar sources, for Navy training, maintenance, or research, development, testing, and evaluation (RDT&E) (estimated amounts below):

* * * * *

(2) The detonation of the underwater explosives indicated in paragraph (c)(2)(i) of this section, or similar explosives, conducted as part of the training exercises indicated in paragraph (c)(2)(ii) of this section:

* * * * *

(d) The taking of marine mammals may be authorized in an LOA for the activities and sources listed in § 216.270(c) should the amounts (*e.g.,* hours, dips, or number of exercises) vary from those estimated in § 216.270(c), provided that the variation does not result in exceeding the amount of take indicated in § 216.272(c).

■ 6. In § 216.271, paragraph (a) is revised to read as follows:

§ 216.271 Effective dates and definitions.

(a) Amended regulations are effective February 4, 2011, through January 14, 2014.

* * * * *

[FR Doc. 2011–2640 Filed 2–7–11; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 76, No. 26
Tuesday, February 8, 2011

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 103, 112, and 114

[Docket No. APHIS–2008–0008]

RIN 0579–AD19

Viruses, Serums, Toxins, and Analogous Products; Packaging and Labeling

Correction

In proposed rule document 2011–648 beginning on page 2268 in the issue of Thursday, January 13, 2011, make the following correction:

On page 2269, in the third column, in first full paragraph, 20 lines from the bottom, "8 EC" should read "8 °C".

[FR Doc. C1–2011–648 Filed 2–7–11; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1228

RIN 2590–AA41

Private Transfer Fees

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of proposed rulemaking; request for comment.

SUMMARY: This proposed rule would restrict the regulated entities—the Federal National Mortgage Association ("Fannie Mae"), the Federal Home Loan Mortgage Corporation ("Freddie Mac") (collectively, the "Enterprises"), and the Federal Home Loan Banks ("Banks")—from dealing in mortgages on properties encumbered by certain types of private transfer fee covenants and in certain related securities. Such covenants are adverse to the liquidity and stability of the housing finance market, and to financial safety and soundness. This proposed rule would except private transfer fees paid to homeowner associations, condominiums, cooperatives, and certain tax-exempt organizations that use the private transfer fees to provide a direct benefit to the owners of the encumbered real property. With limited exceptions, the rule would apply only prospectively to private transfer fee covenants created on or after the date of publication of the proposed rule.

DATES: Written comments must be received on or before April 11, 2011.

ADDRESSES: You may submit your comments, identified by regulatory identification number (RIN) 2590–AA41, by any of the following methods:

- *E-mail:* Comments to Alfred M. Pollard, General Counsel, may be sent by e-mail to *RegComments@fhfa.gov.* Please include "RIN 2590–AA41" in the subject line of the message.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by e-mail to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by FHFA. Please include "RIN 2590–AA41" in the subject line of the message.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AA41, Federal Housing Finance Agency, 1700 G Street, NW., Washington, DC 20552.
- *Hand Delivered/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AA41, Federal Housing Finance Agency, 1700 G Street, NW., Washington, DC 20552. The package should be logged at the Guard's Desk, First Floor, on business days between 9 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: For issues regarding this proposed rule, contact Christopher T. Curtis, Senior Deputy General Counsel, (202) 414–8947, *christopher.curtis@fhfa.gov;* David Pearl, Executive Advisor, Office of the Deputy Director for Enterprise Regulation, (202–414–3821), *david.pearl@fhfa.gov;* Christina Muradian, Senior Financial Analyst, Office of Examinations Policy and Strategic Planning, (202–408–2584), *christina.muradian@fhfa.gov;* or Prasant Sar, Policy Analyst, Office of Policy Analysis & Research, (202–343–1327), *prasant.sar@fhfa.gov.* (None of these telephone numbers is a toll-free number); Federal Housing Finance Agency, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA invites comment on all aspects of the proposed rule and will take all comments into consideration before issuing a final rule. Copies of all comments will be posted without change, including any personal information you provide, such as your name and address, on the FHFA Internet Web site at *http://www.fhfa.gov.* In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m. at the Federal Housing Finance Agency, 1700 G Street, NW., Washington, DC 20552. To make an appointment to inspect comments, please call the Office of General Counsel at (202) 414–6924.

II. Background

Establishment of FHFA

FHFA is an independent agency of the Federal government and was established by the Housing and Economic Recovery Act of 2008 ("HERA"), Public Law 110–289, 122 Stat. 2654, to regulate and oversee the regulated entities.[1] HERA amended the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 *et seq.*) ("Safety and Soundness Act") and the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449) ("Bank Act") to enhance the authorities and responsibilities of the new agency. FHFA's regulatory mission is to ensure, among other things, that each of the regulated entities "operates in a safe and sound manner" and that their "operations and activities * * * foster liquid, efficient, competitive, and resilient national housing finance markets." (12 U.S.C. 4513(a)(1)(B))

III. Discussion of the Federal Housing Finance Agency's Proposed Guidance

FHFA issued a proposed guidance on private transfer fees for comment on

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

August 16, 2010 (75 FR 49932) and requested public comments during a 60-day public comment period that ended on October 15, 2010. FHFA received several thousand comments on the proposed guidance and has decided to address the subject by regulation rather than through guidance.

FHFA's proposed guidance stated that the Enterprises should not purchase or invest in mortgages on properties encumbered by private transfer fee covenants or securities backed by such mortgages, as such investments would be unsafe and unsound and contrary to the public missions of the Enterprises and the Banks. Likewise, the proposed guidance stated that the Banks should not purchase or invest in such mortgages or securities or hold them as collateral for advances.

As described in the guidance, private transfer fee covenants may be attached to real property by the owner or another private party—frequently, the property developer—and provide for a transfer fee to be paid to an identified third party—such as the developer or its trustee—upon each resale of the property. The fee typically is stated as a fixed amount or as a percentage, such as one percent of the property's sales price, and often exists for a period of ninety-nine (99) years.

The proposed guidance noted that a number of States have either enacted, or are in the process of enacting, legislation to regulate private transfer fee covenants. In California, private transfer fee covenants are permitted, provided that they are properly recorded and contain certain disclosures.[2] Other States, such as Minnesota,[3] Delaware,[4] North Carolina[5] and Hawaii,[6] prohibit private transfer fee covenants that require payment to private third parties (*e.g.,* for-profit companies), but permit these covenants when the fees are paid to homeowners' associations, condominiums, cooperatives, and similar organizations that use the fees to directly benefit the properties encumbered by the covenants.

Legislation was introduced in the 111th U.S. Congress—H.R. 6260, "Homeowner Equity Protection Act of 2010" and H.R. 6332, "Homebuyer Enhanced Fee Disclosure Act of 2010"—to address the issue of private transfer fee covenants.

H.R. 6260 would have banned private transfer fees, with exceptions such as those payable to homeowners' associations. H.R. 6332 would have permitted them, subject to notice and recordation requirements.

In response to questions at congressional hearings, FHFA expressed concerns that private transfer fees may be used to fund purely private continuous streams of income for select market participants either directly or through securitized investment vehicles, and may not benefit homeowners or the properties involved.

FHFA also expressed concerns about the adequacy of disclosure of these private transfer fee covenants which, in turn, may impede the transferability of property and affect its overall marketability. This can impact the valuation and marketability of the encumbered property. Consumers may also be unaware that a fee applies even if the resale price of their home drops below the original purchase price.

IV. Public Comments on the Proposed Guidance

A. Overview of Public Comments

FHFA received over 4,210 comment letters from a broad spectrum of individuals and organizations, including the Community Associations Institute; American Land Title Association ("ALTA"); National Association of Realtors; Freehold Capital; American College of Real Estate Lawyers; Institute of Real Estate Management; Coalition to Stop Wall Street Home Resale Fees; Sierra Club; numerous State and regional real estate agent associations; real estate companies; numerous homeowners', cooperative, and condominium associations, and individuals living within such associations; community associations and other nonprofit organizations; conservation funds and land trusts and foundations; housing and conservation boards; State housing and community development agencies; State natural resources agencies; developers; builders; appraisers; accountants; title companies; several Banks; members of the U.S. House of Representatives; State Governors; law firms (writing on their own behalf and on behalf of their clients); and other individuals and organizations who wrote to express a wide range of views on private transfer fee covenants.

Comments generally fell into five categories: (1) Commenters advocating a complete ban on private transfer fees; (2) commenters advocating for private transfer fees for condominiums, cooperatives, and homeowners associations; (3) commenters advocating for private transfer fees for section 501(c)(3) or (c)(4) nonprofit associations that provide activities that directly benefit the encumbered property; (4) commenters advocating for private transfer fees for general welfare purposes, even if they do not directly benefit the encumbered property; and (5) commenters who supported the payment of such fees to for-profit entities and also supported the securitization and sale of transfer-fee income streams to investors.

B. Discussion of Public Comments

1. Private Transfer Fees Are Adverse to the Market and Homeowners

Commenters supporting a complete ban on private transfer fee covenants included many local real estate agent associations and private citizens. The real estate agent associations generally argued that the fees increase the cost of homeownership, generating revenue for developers or investors while providing no benefits to homebuyers over time.

Further, these commenters stated that there are few binding requirements for fee disclosures to homebuyers and to homeowners and that disclosure of fees at the time of closing adds undesirable complexity to real estate transactions. The commenters argued that the fees do not correlate with any tangible benefit received by the homebuyer and place an inappropriate burden on the transfer of property.

Several individuals submitted comment letters indicating private transfer fees were a "scam" against homeowners, robbing them of their equity. Many asserted that the U.S. Department of Housing and Urban Development's ("HUD's") General Counsel had opined that private transfer fees violate HUD's regulations that prohibit legal restrictions on conveyance and require lenders to convey clear and marketable title.[7]

The American Land Title Association (ALTA) raised concerns about private transfer fees, commenting that there is little uniform regulation over their use, with some States prohibiting their use, while others allow such fees with adequate notice and disclosure. ALTA also noted that courts and State legislatures generally do not favor restrictions on the ability of owners to

[2] Cal. Civ. Code §§ 1098 and 1098.5 (2010).

[3] Minn. Stat. §§ 513.73 to 513.76 (2010).

[4] Del. Code Ann. Tit. 25, § 319 (2010).

[5] N.C. Gen. Stat. §§ 39A–1 to 39A–3 (2010).

[6] H.B. 2288, 25th Leg., 1st Sess. (Haw. 2010).

[7] *See* Letter from Margaret E. Burns, Director, Office of Single Family Program Development, to Vicki Cox Golder, President, National Association of Realtors, April 14, 2010: "HUD agrees that this fee unnecessarily increases the cost of homeownership, and in most cases the homebuyer is unaware of its existence. Our General Counsel has confirmed that private transfer fees would clearly violate HUD's regulations at 24 CFR 203.41, which prohibit 'legal restrictions on conveyance,' defined to include limits on the amount of sales proceeds retainable by the seller."

sell real property. The association stated that private transfer fees could be viewed by courts and State legislatures as impairing the marketability and transferability of real property, and as an unreasonable restraint on alienation of property—regardless of the duration of the covenants or the amount of the transfer fees.

2. Private Transfer Fees for Homeowners' Associations, Condominiums, Cooperatives and Similar Associations Should Be Permitted

Many homeowners' associations, condominiums, and cooperatives with properties subject to private transfer fee covenants commented that the final guidance should be crafted to allow private transfer fees to these associations.

These commenters maintained that private transfer fees fund the capital reserves of their buildings or communities and help to fund critical and necessary capital improvements, upgrades and major repairs. They noted that these improvements increase property values, result in lower regular association dues and create more desirable communities. The commenters asserted that restrictions on these private transfer fees would affect the overall affordability of units by causing owners to raise building reserves through special assessments, through higher monthly fees or by a reduction in services, or by a combination of the alternatives.

Several of the Federal Home Loan Banks commenting agreed that private transfer fee covenants can serve a beneficial purpose when those fees are used for capital improvements and repairs. Several of these commenters stated that buildings that have incorporated a private transfer fee will benefit significantly over those that rely on maintenance from tenant shareholders or rental from commercial units. They also asserted that private transfer fees provide a stable reserve fund by insulating owners from large and immediate costs associated with longer term repair projects.

Other commenters argued that homeowner association private transfer fees are fully disclosed and are at most two or three months of dues or a flat fee from as low as $500.

3. Private Transfer Fees for Section 501(c)(3) and (c)(4) Nonprofits Should Be Permitted

Many commenters proposed that FHFA except from the final guidance transfer fees paid to nonprofit corporations with tax-exempt status under Internal Revenue Code ("Code") sections 501(c)(3), 501(c)(4) or 528 where the fees are targeted to social welfare purposes, environmental purposes, civic betterment and social improvements or to "sustain the real estate infrastructure."[8] These commenters asserted that certain not-for-profit organizations play important roles by supporting the creation and maintenance of community enhancements such as open space, environmental conservation and preservation, affordable housing and transit improvements. Several individuals, associations and nonprofit organizations described their own experiences with private transfer fees and how these fees have provided them with both direct and indirect benefits by improving their communities and their quality-of-life.

For example, one nonprofit organization stated that the private transfer fees it collects are disclosed on the good-faith estimate and argued that the fees support "land preservation, agriculture, energy efficiency, green building, walkability, high density building, arts and culture, and community living" for the residents of the community with which the organization is associated.

A number of commenters urged FHFA to except from the final guidance government agencies and other government entities that partner with nonprofits and collect private transfer fees to grow and maintain the affordable housing stock. Other commenters not only shared these views, but also supported the use of private transfer fees in city and State redevelopment efforts, arguing that these efforts were adversely affected by the economic downturn and the resulting reductions in Federal, State and municipal funding.

Some commenters argued that private transfer fees should be allowed for 501(c)(3) nonprofits that collect the fees and then acquire open-space land in the immediate area of a project. Other commenters extended this argument to environmental mitigation, the preservation of sustainable building programs, the protection of wildlife habitats, and the funding for workforce housing programs. These commenters uniformly argued that private transfer fees in this context were a community benefit.[9]

Some commenters supported uses for private transfer fees that fund community organizations such as cultural centers or parks and community centers. These commenters argued that private transfer fee arrangements are sometimes created when developers build community centers and then transfer ownership of the center to a 501(c)(3) organization that uses the private transfer fees to fund its mission by providing and maintaining community services to the homeowner and community. They maintained that these practices make the homeowner's home more valuable because of the services.

4. All Private Transfer Fees, Including the Securitization of the Transfer Fees, Should Be Permitted

A number of commenters, including some developers and builders, opposed FHFA's proposed guidance on private transfer fee covenants. These commenters contended that private transfer fees confer the same benefits, and raise the same objections, whether viewed in the context of homeowner associations, apartment cooperatives, nonprofit entities or private for-profit groups.

In addition, these commenters advocated for private transfer fees benefitting developers and related parties. One promoter referred to this type of private transfer fee as "capital recovery fees," implying that the fees recover part of the developer's investment in a given project—an amount in addition to the sales price of the houses in the development.

Proponents of developer transfer fees argued that they lower the cost of construction and development. Under this model, a security would be created, backed by the future stream of transfer-fee payments by future buyers of a house. The value of the security, which would only be realized by the developer at the time of its original investment if the security were sold, is argued to offset up-front infrastructure costs, which would otherwise be captured in initial house sale prices.

In this manner, proponents claim private transfer fees spread development costs over all those who benefit; that is, for the next 99 years, subsequent purchasers of the developers' homes

[8] Section 501(c)(3) of the Code provides tax exemption for charitable organizations. Section 501(c)(4) of the Code provides tax exemption for civic leagues, social welfare organizations, and homeowners' associations, among others. Section 528 of the Code provides tax exemption for certain homeowner associations.

[9] Several commenters said that private transfer fees improve the lifestyle of residents, and the surrounding community, by funding yard sales, potluck dinners, concerts, baseball games located at a stadium five miles away from the development and by promoting land conservation and wildlife habitats.

would absorb these costs by paying transfer fees to the developer or any other holder of the related security. On the premise that the present value of the transfer-fee revenue stream supplements the sale price of the developer's new houses, proponents claim that private transfer fees can reduce the developer's negative equity in some developments which have suffered declines in value, thereby assisting in restarting failed development projects and creating jobs.

In response to FHFA's expressed concerns about lack of transparency of private transfer fee covenants, transfer-fee advocates indicate that they support State legislative and regulatory efforts, and private initiatives, to ensure disclosure that is meaningful to future home buyers.

5. Level of Fees

In the proposed guidance, FHFA expressed concern that the typical private transfer fee of one percent was neither minimal nor reasonable, and that the fees were likely not related to the value rendered by the property owner or community. Further, there is an issue of whether the fees are limited to one percent or may be raised by individual developers or securitization firms. In response to this concern, FHFA received a few comments stating that the marketplace does not consider the proportion of the fee relative to the purpose for which it is collected and, therefore, FHFA should not consider the level of the fee. Some commenters also argued that asking the regulated entities to ensure fees were proportional with rendered value would increase costs, including accounting and legal costs.

6. Compliance

Each of the nine Banks that submitted comment letters expressed concern about their ability to comply with the final guidance, which would ask them to ensure that mortgage loans on properties with private transfer fees, and securities backed by such mortgage loans, are not purchased or accepted as collateral. The Banks expressed concerns about their ability to access underlying loan documentation, especially in cases in which they take a blanket lien on member assets, and about the availability of information on the presence of private transfer fee covenants.

Some of the Banks suggested that they could inform their members that such loans may not be pledged as collateral, require enhanced member certifications, and conduct reasonable assessments of loans during on-site reviews.

7. Prospective Application

Several commenters raised concerns about retroactively applying the final guidance to previously originated loans because, they argued, attempts to discover the presence of private transfer fee covenants would pose significant operational challenges. These commenters argued that compliance under most circumstances would be, at best, difficult and, at worst, impossible, because of the added operational complexity it would require on real estate title searches.

Some commenters objected that a retroactive application of the final guidance would effectively render current loans with private transfer fees unmarketable, which would affect both current owners and prospective homebuyers. These commenters argued that retroactivity of the final guidance would impose economic hardship to consumers who should not be subject to rules of which they were unaware at the time of their original purchase.

Similarly, another commenter argued that the final guidance would effectively prohibit sellers from selling their homes, because lending institutions would not finance such purchases for fear these loans would be ineligible for secondary market execution.

Other commenters recommended that the final guidance be applied prospectively, with an effective date of 120 days from the date of issuance. They argued that market participants would require some time to make any necessary operational changes. One Bank requested that members be allowed to pledge loans as collateral if those loans were already acquired by its members prior to the issuance of the final guidance. Another Bank proposed that member institutions be allowed to provide an indemnification to the Bank for a breach, thus avoiding a put-back of the asset.

Another Bank commented that, since the Enterprises could be expected to comply with the final guidance prospectively, Enterprise mortgage-backed securities ("MBS") should be exempt from any investment or collateral prohibitions contained in the final guidance.

C. FHFA Response to Public Comments in the Proposed Rule

After reviewing comments on the proposed guidance, FHFA has decided to publish a proposed rule for comment, with a number of changes to the substance of the former proposed guidance. While FHFA's proposed guidance advised the Enterprises and the Banks not to purchase, or accept as collateral for advances mortgages on property subject to *any* private transfer fee covenants, FHFA has determined to propose a rule with a narrower focus. FHFA's responses to the comments it received, and the changes included in this proposed rule, are described below. In summary, the principal differences between the proposed guidance and the proposed rule are:

- FHFA proposes to except from the rule private transfer fees that are paid to homeowners' associations and similar associations, and to tax-exempt non-profit organizations, where the fees are used for the direct benefit of the encumbered properties.
- FHFA proposes to make the rule prospective in effect, so that it applies to private transfer fee covenants created after the publication date of this proposed rule.
- FHFA allows an implementation period of 120 days for the regulated entities. The regulated entities may use reasonable means to achieve compliance with this rule.

1. Definitions

FHFA is including a number of definitions in the proposed rule to clarify terms, and to identify the scope of the proposed rule's coverage. These definitions include, among others: "adjacent or contiguous property"; "covered association"; "direct benefit"; and "private transfer fee covenant." FHFA requests comment on the content of these definitions, because of the role they play in establishing the scope of the rule's restrictions. For example, the rule would permit the regulated entities to do business in encumbered mortgages when the private transfer fees are paid to a "covered association" and provide a "direct benefit" to the encumbered properties; definitions, therefore, are of significance to market participants. In sum, "covered associations" are defined as homeowners' and similar associations, and tax-exempt non-profit organizations; "direct benefit" is generally defined to include maintenance, improvements, and amenities benefiting the encumbered properties or adjacent properties.

2. Private Transfer Fees Generally

In considering the scope of this proposed rule, FHFA took into account the many public comments received on the August 16, 2010 proposed guidance. One set of commenters stated: "Consumers are essentially forced to pay for the right to sell their property." If the fee is not paid, it results in a lien on the property impairing its marketability. This implicates the public policy against restraints on alienation as well

as the mission of government-sponsored enterprises to foster "liquid, efficient, competitive, and resilient national housing markets."[10]

Because it is difficult to value the burden of a private transfer fee, it is also difficult to value the property that it encumbers and hence the value of that property as collateral for the mortgage loans that the Banks accept as collateral, and that the regulated entities buy, or that back the mortgage-backed securities that the Enterprises guarantee. This is a safety and soundness concern, and is a substantial motivation for FHFA to take action in the form of this rulemaking. In FHFA's view, the purposes for which private transfer fees are imposed are unrelated to the transfer of the property. The transfer is simply an opportunity for the beneficiary of the fee to collect it, imposing a "toll gate" that must be passed before the transfer may occur. While the purposes asserted for these fees—construction of community improvements, upkeep of community amenities, *etc.*—are more logically built into the purchase price of the house (in the case of initial construction) or regularly recurring fees (in the case of upkeep) and using the property transfer as the vehicle for collecting the fee may constitute a restraint on alienation, nevertheless, FHFA believes that certain fees may benefit properties. Fees enhancing the value of collateral backing loans would not be inconsistent with safety and soundness goals.

3. Transfer Fees Paid to Homeowners' Associations and Similar Organizations

FHFA proposes to exclude homeowners' and other similar organizations from the proposed rule in certain instances. First, FHFA acknowledges comments received on the proposed guidance from homeowner associations and their members, as well as from residents of New York co-operatives who feared that the "flip taxes" on their stock interests—analogous to transfer fees on typical real-estate transactions—would be adversely affected. These comments, mostly favorable though not unanimously so, and the longstanding existence and ubiquity of the transfer fees described, suggest that these fees are expected by and are familiar to many homeowner association members and are well understood in banking and mortgage markets.

Private transfer fees assessed by homeowners' and other covered organizations may be viewed as a means by which members of the organizations avoid paying the costs of their amenities out of current income, instead paying those costs out of the equity in their houses when they sell. While owners will then have less sales proceeds with which to buy their next house or to use for other purposes, this has been an accepted means of paying for the maintenance, infrastructure and amenities at these associations.

Further, transfer fees paid to associations contribute to the value of the burdened property through the amenities and maintenance that they fund, and hence do not pose the same valuation risk as do fees that fund other activities that do not provide a direct benefit to the burdened property.

Also FHFA is excepting from the proposed rule private transfer fees that are paid to nonprofit organizations that are tax-exempt under section 501(c)(3) or (c)(4) of the Code and provide direct benefits to the encumbered property. Private transfer fees paid to such nonprofits are comparable to those paid to a homeowners' association and should be similarly excepted from the proposed rule.

Accordingly, FHFA is excepting from the restrictions of the proposed rule private transfer fees paid to homeowners', condominium, cooperative and similar associations, and to certain tax-exempt organizations under section 501(c)(3) or (c)(4).

4. Private Transfer Fees Paid to Non-profit Organizations That Do Not Provide a Direct Benefit to the Encumbered Property

Some commenters described payments to non-profit organizations whose relation to the burdened properties was difficult to characterize, *e.g.,* to grow and maintain the affordable housing stock, to support city and State redevelopment efforts or for environmental preservation.

These private transfer fees do not appear to provide exclusive support of cultural, educational, recreational, maintenance or environmental activities providing a "direct benefit" for the encumbered real property. Although the activities themselves may be meritorious, it appears that these private transfer fees provide a benefit to the general community rather than specifically to the community that is burdened by the private transfer fee covenants, and hence are not dedicated to enhancing the value of the residential housing collateral that is central to the underwriting of mortgage loans purchased and accepted by the regulated entities. Because these fees pose the valuation and other issues related to private transfer fees, without providing benefits that are directly focused on the burdened properties, FHFA declines to except them from the restrictions of the proposed rule.

Traditional real-estate law requires that, to be binding, a covenant running with the land must benefit the land that it burdens. Whether these more general charitable uses meet that test is an open question, which casts doubt on the validity of the covenants and hence creates a possible source of challenge in sales transactions. This is only one reason FHFA regards such private transfer fees, as well as those paid to developers and to unrelated parties, discussed below, as creating a safety and soundness risk for FHFA-regulated entities.[11]

5. Developers, Builders, and Related Parties

Private transfer fees paid to developers or other third parties also would be subject to the restrictions described in this proposed rule. Though asserted to be collected for the purpose of funding infrastructure investments, there is no assurance that they actually are. They are simply another source of return to the developer: a way for a developer to extract additional value from its real estate portfolio. There is no relationship between the transfer fee and the actual costs of the developer.

Proponents of private transfer fees payable to developers and their related parties commented that the fees would enable developers to proceed with developments that would otherwise be uneconomical. No evidence has been presented that this would be the case. The argument appears to depend on the proposition that the future income stream from the fee covenants could be securitized and the securities sold to realize immediate revenue for the developer. To FHFA's knowledge, no such securities have ever been issued, so FHFA regards the argument as speculative.

Further, the argument appears to be based on the assumption that the sales

[10] Safety and Soundness Act section 1313(a)(1)(B)(ii).

[11] Several States have passed laws to restrict the use of private transfer fees, often permitting the use of such fees only where they are used for the benefit of the encumbered property. *See* Ariz. Rev. Stat. § 33–442 (Arizona); Cal. Civ. Code § 1098.5 (California); Del. Code tit. 25, § 319 (Delaware); Fla. Stat. Ann. § 689.28 (Florida); Haw. Rev. Stat. § 501(Hawaii); 765 I.L.C.S. 155/10 (Illinois); Iowa Code § 558.48 (Iowa); Kan. Stat. Ann. § 58–3822 (Kansas); La. Rev. Stat. Ann. § 9:3131 to 3136 (Louisiana)); Md. Code, Real Prop. Law § 10–708 (Maryland); Minn. Stat. § 513.73 (Minnesota); Gen. Laws Miss. 2010 Ch. 348 (Mississippi); Mo. Rev. Stat. § 442.558 (Missouri); N.J. Stat. Ann. 46:3–28 to 46:3–33 (New Jersey); N.C. Gen. Stat. § 39A (North Carolina); Ohio Rev. Code Ann. § 5301.057 (Ohio); 2009 Oregon Laws Ch. 298 (Oregon), Texas Prop. Code Ann. § 5.017(b) (Texas); Utah Code § 57–1–46 (Utah).

prices of the encumbered properties, when sold by the developer, would be discounted by less than the value of the transfer-fee-backed securities that would be sold. No evidence has been presented that this would be the case. There has been no demonstration of how purchasers should calculate the discount from the purchase price that would be necessary to offset the effect of the covenant, or that if the purchasers did make such a calculation accurately that there would be any remaining benefit to the developer from this scheme.

FHFA invites comment on these issues.

6. Compliance

FHFA found persuasive the Banks' comments regarding the challenges in identifying mortgages on properties with private transfer fee covenants and securities backed by such mortgage loans. The issues of inconsistent disclosure, and access to loan files for individual loans covered by a blanket lien or for loans underlying securities, have merit.

Acceptable compliance with the final rule may be achieved through the Banks' quality control review process or through the Banks' collateral review process, coupled with appropriate direction to their members, as well as robust representations, warranties, or certifications. The Enterprises would be expected to use similar compliance tools such as appropriate provisions in seller-servicer guides, representations and warranties, and quality-control processes.

FHFA does not expect that the Banks must use such compliance tools with respect to Enterprise securities. Enterprise securities issued prospectively—should comply with the provisions of the final rule.

7. Prospective Application

To avoid market uncertainties such as those suggested in the comment letters, the final rule will apply only to transfer fees created after the date of publication of the proposed rule, and to securities issued after that date backed by revenue from private transfer fees regardless of when the covenants were created. Regulated entities are required to comply with the final rule within 120 days after its publication.

8. Level of Fees

While FHFA expressed concern in the proposed guidance regarding the level of private transfer fees, no specific request to consider or evaluate the proportion of the private transfer fee relative to its purpose was included in the proposed guidance. This proposed rule remains consistent with the proposed guidance on that point. FHFA is not requesting that the regulated entities consider or evaluate the level of private transfer fees. Comments received on this issue during the public comment period reinforced FHFA's concern about the relation between the fees and the value provided to the homeowners. This, in turn, reinforced FHFA's decision to issue the proposed rule to cover all private transfer fees other than those paid to homeowners' and similar associations, and to tax-exempt nonprofits under sections 501(c)(3) or (c)(4) of the Code, that provide a direct benefit to the encumbered property. Comments on the appropriate level of fees are welcome, but FHFA has not addressed that subject at this time.

9. State Laws

As noted above, a number of States have enacted legislation restricting or otherwise regulating private transfer fees. FHFA has included a section in the proposed rule to clarify that the rule does not affect such legislation.

V. Paperwork Reduction Act

The proposed rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Therefore, FHFA has not submitted any information to the Office of Management and Budget for review.

VI. Regulatory Flexibility Act

The proposed rule applies only to the regulated entities, which do not come within the meaning of small entities as defined in the Regulatory Flexibility Act (*See* 5 U.S.C. 601(6)). Therefore, in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), FHFA certifies that this proposed rule, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 1228

Asset-backed securities, Builders, Condominium associations, Cooperative associations, Developers, Federal Home Loan Banks, Government-sponsored enterprises, Homeowners' associations, Housing, Mortgages, Mortgage-backed securities, Nonprofit organizations, Private transfer fees.

Authority and Issuance

For the reasons stated in the preamble, and under the authority of 12 U.S.C. 4526, the Federal Housing Finance Agency proposes to amend Chapter XII of Title 12 of the Code of Federal Regulations by adding a new part 1228 to subchapter B to read as follows:

PART 1228—RESTRICTIONS ON THE ACQUISITION OF, OR TAKING SECURITY INTERESTS IN, MORTGAGES ON PROPERTIES ENCUMBERED BY CERTAIN PRIVATE TRANSFER FEE COVENANTS AND RELATED SECURITIES

Sec.

1228.1 Definitions.
1228.2 Restrictions.
1228.3 Prospective application and effective date.
1228.4 State restrictions unaffected.

Authority: 12 U.S.C. 4513(a)(1)(B) and 12 U.S.C. 4526(a).

§ 1228.1 Definitions.

As used in this part,

Adjacent or contiguous property means property that borders or lies in close proximity to the property that is encumbered by a private transfer fee covenant or to other similarly encumbered properties located in the same community and owned by members of the same covered association, *provided* that in no event shall a property greater than one thousand (1000) yards from the encumbered property be considered adjacent or contiguous.

Covered association means a nonprofit, mandatory membership organization comprising owners of homes, condominiums, cooperatives, manufactured homes or any interest in real property, created pursuant to a declaration, covenant or other applicable law, or an organization described in section 501(c)(3) or (c)(4) of the Internal Revenue Code.

Direct benefit means that the proceeds of a private transfer fee are used exclusively to support maintenance and improvements to encumbered properties as well as cultural, educational, charitable, recreational, environmental, conservation or other similar activities that benefit exclusively the real property encumbered by the private transfer fee covenants. Such benefit must flow to the encumbered property or the community comprising the encumbered properties and their common areas or to adjacent or contiguous property. A private transfer fee covenant will be deemed to provide a *direct benefit* when members of the general public may use the facilities funded by the transfer fees in the burdened community and adjacent or contiguous property only upon payment of a fee, except that *de minimis* usage may be provided free of charge for use by a charitable or other not-for-profit group.

Enterprises means, collectively, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

Excepted transfer fee covenant means a covenant to pay a private transfer fee to a covered association that is used exclusively for the direct benefit of the real property encumbered by the private transfer fee covenants.

Federal Home Loan Banks or *Banks* mean the Federal Home Loan Banks established under section 12 of the Federal Home Loan Bank Act (12 U.S.C. 1432).

Private transfer fee means a transfer fee, including a charge or payment, imposed by a covenant, restriction or other similar document and required to be paid in connection with or as a result of a transfer of title to real estate. A private transfer fee excludes fees, charges, or payments, or other obligations—

(1) Imposed by a court judgment, order or decree;

(2) Imposed by or are payable to the Federal government or a State or local government;

(3) Arising out of a mechanic's lien; or

(4) Arising from an option to purchase or for waiver of the right to purchase the encumbered real property.

Private transfer fee covenant means a covenant that—

(1) Purports to run with the land or to bind current owners of, and successors in title to, such real property; and

(2) Obligates a transferee or transferor of all or part of the property to pay a private transfer fee upon transfer of an interest in all or part of the property, or in consideration for permitting such transfer.

Regulated entities means the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Home Loan Banks.

Transfer means with respect to real property, the sale, gift, grant, conveyance, assignment, inheritance or other transfer of an interest in the real property.

§ 1228.2 Restrictions.

The regulated entities shall not purchase or invest in any mortgages on properties encumbered by private transfer fee covenants, securities backed by such mortgages or securities backed by the income stream from such covenants, unless such covenants are excepted transfer fee covenants. The Banks shall not accept such mortgages or securities as collateral, unless such covenants are excepted transfer fee covenants.

§ 1228.3 Prospective application and effective date.

This part shall apply only to mortgages on properties encumbered by private transfer fee covenants created on or after *February 8, 2011,* and to securities backed by such mortgages, and to securities issued after that date backed by revenue from private transfer fees regardless of when the covenants were created. The regulated entities shall comply with this part not later than 120 days following the date of publication of the final rule in the **Federal Register**.

§ 1228.4 State restrictions unaffected.

This part does not affect State restrictions or requirements with respect to private transfer fee covenants, such as with respect to disclosures or duration.

Dated: January 28, 2011.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2011–2565 Filed 2–7–11; 8:45 am]

BILLING CODE 8070–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 23

RIN 3038–AC96

Orderly Liquidation Termination Provision in Swap Trading Relationship Documentation for Swap Dealers and Major Swap Participants

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is proposing regulations to implement new statutory provisions established under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Section 731 of the Dodd-Frank Act added a new section 4s(i) to the Commodity Exchange Act (CEA), which requires the Commission to prescribe standards for swap dealers and major swap participants related to the timely and accurate confirmation, processing, netting, documentation, and valuation of swaps. The proposed rule would set forth parameters for the inclusion of an orderly liquidation termination provision in the swap trading relationship documentation for swap dealers and major swap participants.

DATES: Submit comments on or before April 11, 2011.

ADDRESSES: You may submit comments, identified by RIN number 3038–AC96 and Orderly Liquidation Termination Provision in Swap Trading Relationship Documentation for Swap Dealers and Major Swap Participants, by any of the following methods:

- Agency Web site, via its Comments Online process at *http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.
- *Mail:* David A. Stawick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as mail above.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that may be exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the established procedures in § 145.9 of the Commission's regulations, 17 CFR 145.9.

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Sarah E. Josephson, Associate Director, 202–418–5684, *sjosephson@cftc.gov;* Frank N. Fisanich, Special Counsel, 202–418–5949, *ffisanich@cftc.gov;* or Jocelyn Partridge, Special Counsel, 202–418–5926, *jpartridge@cftc.gov;* Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

On July 21, 2010, President Obama signed the Dodd-Frank Act.[1] Title VII of the Dodd-Frank Act [2] amended the Commodity Exchange Act (CEA) [3] to establish a comprehensive regulatory framework to reduce risk, increase transparency, and promote market integrity within the financial system by, among other things: (1) Providing for the registration and comprehensive regulation of swap dealers and major swap participants; (2) imposing clearing and trade execution requirements on standardized derivative products; (3) creating rigorous recordkeeping and real-time reporting regimes; and (4) enhancing the Commission's rulemaking and enforcement authorities with respect to all registered entities and intermediaries subject to the Commission's oversight.

Section 731 of the Dodd-Frank Act amends the CEA by adding a new section 4s, which sets forth a number of requirements for swap dealers and major swap participants. Specifically, section 4s(i) of the CEA establishes swap documentation standards for those registrants.

Section 4s(i)(1) requires swap dealers and major swap participants to "conform with such standards as may be prescribed by the Commission by rule or regulation that relate to timely and accurate confirmation, processing, netting, documentation, and valuation of all swaps." Under section 4s(i)(2), the Commission is required to adopt rules "governing documentation standards for swap dealers and major swap participants."

On January 13, 2011, the Commission voted to issue a notice of proposed rulemaking entitled, "Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants." This proposed regulation supplements that proposal and sets forth another element of the swap trading relationship documentation that swap dealers, major swap participants, and their counterparties must include in their documentation. The Commission is proposing the regulation discussed below, pursuant to the authority granted under sections 4s(h)(1)(D), 4s(h)(3)(D), 4s(a), 4s(i), and 8a(5) of the CEA.[4] The Dodd-Frank Act requires the Commission to promulgate these provisions by July 15, 2011.[5]

The proposed regulations reflect consultation with staff of the following agencies: (i) The Securities and Exchange Commission; (ii) the Board of Governors of the Federal Reserve System (Board of Governors); (iii) the Office of the Comptroller of the Currency; and (iv) the Federal Deposit Insurance Corporation (FDIC). Staff from each of these agencies has had the opportunity to provide comments to the proposal, and the proposed regulations incorporate elements of the comments provided.

In designing these rules, the Commission has taken care to minimize the burden on those parties that will not be registered with the Commission as swap dealers or major swap participants. To the extent that market participants believe that additional measures should be taken to reduce the burden or increase the benefits of documenting swap transactions, the Commission welcomes all comments.

II. Proposed Regulation

This proposed rulemaking supplements a prior notice of proposed rulemaking under which two rules were proposed—§§ 23.504 and 23.505. This proposal would set forth another element of the swap trading relationship documentation that swap dealers, major swap participants, and their counterparties must include in their documentation under § 23.504(b). The provision would require that swap dealers and major swap participants include in the documentation with each of their counterparties a provision that confirms both parties' understanding of how the new orderly liquidation authority under the Title II of the Dodd-Frank Act and the Federal Deposit Insurance Act (FDIA) may affect their portfolios of uncleared, over-the-counter, bilateral swaps.[6]

The Commission believes that the inclusion of this type of provision in the swap trading relationship documentation used by swap dealers and major swap participants registered with the Commission would promote legal certainty for market participants and lower litigation risk during times of significant market stress. In particular, the proposal would ensure both counterparties to a swap understand that under particular, unique circumstances, described in detail below, if one of the counterparties defaults, the non-defaulting party's positions could be transferred to a new, solvent counterparty by the FDIC, and the non-defaulting party may not be able to terminate its claims against the defaulting counterparty until 5 p.m. (U.S. eastern time) on the business day following the day the FDIC is appointed receiver. This stay would facilitate the FDIC's orderly liquidation of the defaulting counterparty's swap positions. This stay also is critical because it would allow the FDIC the requisite time to transfer the defaulter's open swap positions, claims, and collateral with the objective of avoiding widespread market disruption in the form of fire sales and contagion risk.

A. Background

The recent financial crisis, particularly the tumultuous events of 2008, revealed that U.S. financial regulatory authorities lacked an orderly resolution mechanism for certain large financial companies. The lack of such a resolution mechanism led to the need for government bail outs of financial companies considered "too big to fail" and contributed to major financial market dislocations resulting from the disorderly insolvency of Lehman Brothers Inc. and its affiliates under the Federal bankruptcy code.

One of the key lessons of the financial crisis is that for systemically important institutions, the traditional bankruptcy process may be too slow and cumbersome to effectively deal with defaults that require near instant action to diminish their effect on other entities and the financial system as a whole.[7] This is especially true for financial companies with significant derivatives positions that require frequent adjustments based on trading strategies

[1] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010). The text of the Dodd-Frank Act may be accessed at *http://www.cftc.gov/LawRegulation/OTCDERIVATIVES/index.htm.*

[2] Pursuant to section 701 of the Dodd-Frank Act, Title VII may be cited as the "Wall Street Transparency and Accountability Act of 2010."

[3] 7 U.S.C. 1 *et seq.*

[4] Section 8a(5) of the CEA authorizes the Commission to promulgate such regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of the CEA.

[5] This is the seventh rulemaking to be proposed regarding internal business conduct standards for swap dealers and major swap participants. Prior notices of proposed rulemaking are available on the Commission's Web site at *http://www.cftc.gov.*

[6] As proposed, this provision would not apply to swaps cleared by a derivatives clearing organization (DCO). The Commission does not believe it is necessary to address cleared swaps in this rulemaking because they are addressed in section 210(c)(8)(G) of the Dodd-Frank Act, but solicits comment on this issue.

[7] For example, over two years after the bankruptcy process for Lehman Brothers Holding Inc. began, it remains ongoing and active. On December 15, 2010, creditors filed a plan of reorganization by an ad hoc group of Lehman creditors despite Lehman's filing of a plan of reorganization on March 15, 2010. By contrast, under the special provisions under Commission regulation for treatment of cleared futures contracts, Lehman's futures business was resolved within a matter of weeks.

and the need to manage exposure to market risk.

With the passage of the Dodd-Frank Act, Congress sought to address these problems though the enactment of Title II, which establishes an "orderly liquidation authority" under which systemically important financial companies can be resolved in an orderly manner. This authority is separate from, but consistent with, the Federal bankruptcy and State dissolution laws.

B. Orderly Liquidation Under Title II of Dodd-Frank

Under Title II of the Dodd-Frank Act, Congress provided "the necessary authority to liquidate failing financial companies [8] that pose a significant risk to the financial stability of the United States in a manner that mitigates such risk and minimizes moral hazard." [9] To this end, Title II establishes a process under which, upon the recommendation of the FDIC and the Board of Governors, and after consultation with the President, the Secretary of the Treasury appoints the FDIC as the receiver to wind down the affairs of, and liquidate the assets of, the financial company whose default may pose a systemic risk to the financial markets. Accordingly, the decision to act under Title II would be taken under conditions that would have "serious adverse effects on financial stability in the United States." [10]

1. Entities Eligible for Liquidation Under Title II

Title II provides certain Federal financial regulatory authorities with the power, but not the obligation, to conduct an orderly wind down of a financial company. If the authorities decide not to act, the regular insolvency processes under the Federal bankruptcy code or banking laws would apply. For instance, non-bank swap dealers and major swap participants would be subject to the bankruptcy code's chapter 7 or chapter 11 proceedings.[11]

Title II applies to a class of business entities, referred as "covered financial companies," that meet certain criteria as determined by the Secretary of the Treasury under a process described in the next section. This class potentially could include swap dealers and major swap participants registered with the Commission. For example, under Title II, any company that is registered as a swap dealer or major swap participant with the Commission and designated as a systemically important financial institution (SIFI) by the Financial Stability Oversight Council (FSOC) under a process laid out in Title I of the Dodd-Frank Act,[12] could be deemed to be a "covered financial company" under Title II.[13]

It also is possible that a swap dealer or a major swap participant might be deemed to be a "covered financial company" independent of Title I's FSOC designation process. Under Title II, such a company could be deemed to be a "financial company" if that entity is (1) predominantly engaged in financial activities [14] and (2) those financial activities generate 85% or more of the company's revenues.[15] A "covered financial company" is a financial company for which a determination has been made under section 203(b) of the Dodd-Frank Act by the Secretary of the Treasury. A prerequisite to that determination process is the written recommendation of both the FDIC and the Board of Governors.

2. Process for Determining Whether Title II Authority Should Be Invoked

In making a determination to act under Title II, the Secretary of the Treasury (in consultation with the President) must determine that, among other things: (1) The financial company is in default or in danger of default; [16] (2) the default of the financial company would have a serious adverse effect on the financial stability of the United States; and (3) no viable private sector alternative is available to prevent the default. The Secretary must make a specific determination that any effect on the claims or interests of creditors, counterparties, and shareholders is appropriate.[17]

In order to meet each of these criteria, it is likely that a financial company would have to have a significant level of market and credit exposure and its default would be likely to pose a grave risk to financial markets. Only after these determinations have been made would the FDIC be granted resolution authority under Title II.

C. Resolution by the FDIC Under FDIA.

Before describing the FDIC's resolution authority under Title II, it is important to note that the FDIC also may have resolution authority over a swap dealer or major swap participant that is an insured depository institution. Generally speaking, an insured depository institution is defined under section 3(c) of the Federal Deposit Insurance Act (FDIA) as any bank or savings association the deposits of which are insured by the FDIC.[18] Under the FDIA, the FDIC has the authority to liquidate or wind up the affairs of an insured depository institution. Some swap dealers and major swap participants registered with the Commission may be insured depository institutions.

D. Role of the FDIC in the Orderly Liquidation of Swap Dealers and Major Swap Participants Under Either Title II or the FDIA

In many ways, the Title II resolution approach is modeled upon the FDIA. Indeed, as discussed below, certain Title II provisions are identical to provisions in FDIA. Consequently, the FDIC would be able to exercise similar powers with regard to swap dealers and major swap

[8] Under Title II, section 201(a)(11), a financial company includes, among other things, a bank holding company, a nonbank financial company supervised by the Board of Governors, or a company, or a subsidiary (other than an insured depository institution or an insurance company) of a company, that is predominantly engaged in activities that the Board of Governors has determined are financial in nature or incidental thereto.

[9] Section 204(a) of the Dodd-Frank Act.

[10] Section 203(b)(2) of the Dodd-Frank Act.

[11] In general, Chapter 7 allows for the liquidation of a debtor entity and Chapter 11 allows a debtor entity to reorganize its affairs.

[12] Section 113 of the Dodd-Frank Act sets forth the process by which U.S. nonbank financial companies may be designated as systemically important. The term U.S. nonbank financial company is defined in section 102(a)(4)(B) of the Dodd-Frank Act.

[13] Entities that are designated as SIFIs under Title I of the Dodd-Frank Act are considered to be supervised by the Board of Governors of the Federal Reserve System, and thus meet the definition of financial company under section 201(a)(11)(B)(ii).

[14] Financial activities are defined by reference to section 4(k) of the Bank Holding Company Act, 12 U.S.C. 1843(k), which includes activities such as dealing in or making a market in securities and any other activity that may be identified under rules or orders issued by the Board of Governors. *See* 12 U.S.C. 1843(k)(4) and 12 CFR 225.28.

[15] Section 201(a)(11)(B)(iii) or (iv) and section 201(b) of the Dodd Frank Act.

[16] The phrase "default or in danger of default" is defined in Title II, section 203(c)(4), to include situations where an entity has, or likely will promptly, be subject to a bankruptcy action; the entity has incurred losses that have or are likely to deplete all of its capital and there is no reasonable prospect of avoiding such a depletion; the entity's assets are less than its obligations to creditors and others; and the entity is, or is likely to be, unable to make its payments in the normal course of business. *See also* 12 U.S.C. 1813(x)(2) (providing a similar definition under the FDIA).

[17] Section 203(b) of the Dodd-Frank Act. Additional factors the Secretary must consider include: (1) Any action under the liquidation authority would avoid or mitigate such adverse effects on the financial system, the cost to the general fund of the Treasury, and the potential to increase excessive risk taking on the part of creditors, counterparties, and shareholders in the financial company; (2) a Federal regulatory agency has ordered the covered financial company to convert all of its convertible debt instruments that are subject to a regulatory order; and (3) the company satisfies the definition of "financial company" in section 201(a)(11) of the Dodd-Frank Act.

[18] 12 U.S.C. 1813(c).

participants regardless of whether the FDIC was acting under Title II or FDIA. Under either statutory authority, it is likely that the orderly wind-down and liquidation of those large firms whose demise may have systemic implications would have similar characteristics. For example, under both Title II and the FDIA, the FDIC would have the authority to transfer open positions, claims, and collateral to a receiving entity in an effort to move quickly to stabilize what could be deteriorating market conditions.[19]

As part of the resolution authority in Title II and in the existing provisions of the FDIA for insured depository institutions, the FDIC is given a one business day period in which to transfer swaps and certain other contracts to a solvent third party financial institution. For this transfer authority to be effective, a brief stay on the ability of counterparties to terminate, liquidate, or net is necessary.

Specifically, under section 210(c)(10) of Dodd-Frank or 11(e)(10) of FDIA, parties to qualified financial contracts [20] are prohibited from terminating, liquidating, or netting out positions solely by reason of the appointment of the FDIC as receiver or the financial condition of the insured depository institution, covered financial company, or covered subsidiary in receivership until the close of the next business day following the date of appointment of the FDIC as receiver. A party is also precluded from exercising any such contractual rights after it has received notice that its qualified financial contract has been transferred to another financial institution—including a bridge financial company. The effect of these provisions is to provide the FDIC one day after its appointment as receiver to consummate a transfer of a qualified financial contract to either a private acquirer or to a newly created bridge bank or financial company. Absent one of these two types of transfers within the allotted time frame, parties may exercise their contractual rights.

E. Application to Swaps

Swaps subject to the Commission's jurisdiction under Title VII of the Dodd-Frank Act would appear to be subject to orderly liquidation under either Title II or the FDIA by virtue of the fact that they fall under the definition of "qualified financial contract" under those two statutes.[21] The definition of qualified financial contract is identical under both Title II and FDIA and includes securities contracts, commodity contracts,[22] forward contracts, repurchase agreements, swap agreements, and any other contract determined by the FDIC to be a qualified financial contract.

The Commission recognizes the potential for regulatory arbitrage if the definition of qualified financial contract does not apply to swaps under Title VII. Moreover, the Commission believes that should the need for an orderly liquidation of any systemically important swap dealer or major swap participant arise, it would be most appropriate and practicable for all swaps held on the books of those entities to be considered to be part of a comprehensive and orderly resolution process.

F. Commission Involvement in an Orderly Liquidation

While the Commission is not granted explicit authority under Title II, that section does recognize the need for all U.S. financial authorities to work together and to "take all steps necessary and appropriate to assure that all parties * * * having responsibility for the condition of the financial company bear losses consistent with their responsibility * * *." [23] In addition, if the FDIC is appointed receiver of a swap dealer or major swap participant for which the Commission is the primary regulator, the FDIC is required to consult with the Commission "for purposes of ensuring an orderly liquidation of the entity." [24] As part of its consultative role, the Commission might have information on defaulting swap dealers or major swap participants that is relevant to the resolution process. Moreover, the Commission may have responsibility for potential transferees, *i.e.,* firms to which open swap positions might be transferred.

G. Proposed Regulation § 23.504(b)(5)

Previously proposed § 23.504(a) would require that swap dealers and major swap participants establish, maintain, and enforce written policies and procedures reasonably designed to ensure that each swap dealer or major swap participant and its counterparties have agreed in writing to all of the terms governing their swap trading relationship. Under previously proposed § 23.504(b), swap trading relationship documentation would include written agreement by the parties on certain terms, including general provisions on payment obligations, netting of payments, events of default or other termination events, transfer of rights and obligations, and governing law.

Proposed § 23.504(b)(5) would supplement the prior proposal by requiring the inclusion of a written agreement by the parties to comply with the FDIC's transfer authority under section 210(c)(9) and (10) of the Dodd-Frank Act and with the nearly identical sections under the FDIA.[25] This provision under the swap trading relationship documentation could be invoked only if a party to the documentation is deemed to be a "covered financial company" under Title II or is an insured depository institution and the FDIC is appointed as a receiver. Under either scenario, the proposed rule refers to this party as the "covered party."

The language of proposed § 23.504(b)(5)(i) very closely tracks the statutory language of section 210(c)(10)(B) of the Dodd-Frank Act and section 11(e)(10)(B) of the FDIA. Under this provision, counterparties will acknowledge in their trading relationship documentation that neither will exercise any right to terminate a swap due to the appointment of the FDIC as a receiver under Title II or the FDIA [26] until the close of the next business day after such appointment, or it receives notice that the FDIC has transferred its swaps to a performing third party (including a bridge bank, bridge financial institution, or other government-run financial institution). This stay provision would expire at 5 p.m. on the business day after the FDIC is appointed as receiver or as soon as the non-defaulting party receives notice that the FDIC has transferred the defaulting party's swaps positions, claims, and property supporting the positions pursuant to section 210(c)(9)(A) of the Dodd-Frank Act or section 11(e)(9)(A) of the FDIA.

[19] The FDIC also would have the authority to merge the covered financial company with another company under section 210(a)(1)(G) of the Dodd-Frank Act.

[20] Qualified financial contracts include any securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, and any similar agreement as determined by the FDIC. Section 210(c)(8)(D) of the Dodd-Frank Act and section 11(e)(8)(D) of FDIA.

[21] Section 210(c) applies to contracts entered into before the appointment of a receiver under Title II. There is an analogous provision under the FDIA. *See* section 210(c)(8)(D) of the Dodd-Frank Act and section 11(e)(8)(D) of FDIA.

[22] Under this definition, futures contracts subject to the Commission's jurisdiction are considered to be qualified financial contracts.

[23] Section 204(a)(3) of the Dodd-Frank Act.

[24] Section 204(c)(1) and (3) of the Dodd-Frank Act.

[25] Sections 11(e)(9) and (10) of the FDIA; codified at 12 U.S.C. 1821(e)(9) and (10).

[26] The counterparties may be able to specify in their individual documentation that only Title II would apply if neither counterparty would be subject to resolution under the FDIA, *i.e.* neither party is an insured depository institution.

Proposed § 23.504(b)(5)(ii) would track the language of section 210(c)(9)(A) of the Dodd-Frank Act and section 11(e)(9)(A) of the FDIA and would require the parties to agree that if the FDIC decides to transfer swaps of the party in receivership, the FDIC will transfer all swaps between the parties to one financial institution, along with all claims and credit support related to such swaps.

Proposed § 23.504(b)(5)(iii) would require each party to consent to any transfer described in § 23.504(b)(5)(ii). Including an agreement to consent to the transfer of swaps to a solvent entity under the strict requirements of Title II or FDIA will facilitate the orderly wind-down of the defaulting firm and promote the prompt resolution of market uncertainty and allow a return to regular trading strategy for non-defaulting counterparties.

The Commission believes that the proposed regulation is important insofar as it will ensure that counterparties to swap transactions are on notice that, under particular, unique circumstances, their swap positions, claims, and the property supporting those positions may be transferred and that there may be a brief stay on their ability to terminate a swap. As described above, the provision would only be applicable in situations where the counterparties are financial institutions that could be designated covered financial companies under Title II or are insured depository institutions under FDIA.

The Commission also believes that this provision would facilitate the resolution process by minimizing the potential litigation when such resolution authority is exercised. Minimizing litigation risk is important for facilitating a quick and effective resolution process; particularly when the alternative, the sudden collapse of the covered financial company, poses systemic risk.

It is also worth noting that the inclusion of this provision in swap trading relationship documentation may help bring about broad equivalence with regard to the treatment of swaps globally. This is relevant because Congress recognized the need for greater international coordination relating to the orderly liquidation of financial companies by directing the Comptroller General of the United States to study ways to increase effective international coordination.[27]

H. Comment Requested

The Commission requests comment on all aspects of proposed § 23.504(b)(5). In particular, the Commission requests comment on the following questions:

- Are there any swaps as defined under Title VII of the Dodd-Frank Act that should not be considered to be qualified financial contracts as that term is defined under Title II of the Dodd-Frank Act and FDIA?
- Under what circumstances could the requirements of § 23.504(b)(5) allow for recognition of non-US authorities operating under legal provisions similar to that provided under Title II of the Dodd-Frank Act? Would inclusion of non-US authorities be useful with respect to financial companies that may have global operations through multiple subsidiaries and branches, including insured depository institutions?
- What steps can be taken to encourage standard documentation templates developed by industry groups, such as ISDA, to recognize the need to include termination stay provisions similar to those provided for under Title II and FDIA?
- Are there any anticompetitive implications to the proposed rules? If so, how could the proposed rules be implemented to achieve the purposes of the CEA in a less anticompetitive manner?
- Given the use in swaps of cross default provisions referencing agreements with affiliates, should "covered party", as defined in § 23.504(b)(5), also include affiliates of entities that may be designated as covered financial companies under Title II or that are insured depository institutions under FDIA?
- Does the Commission have legal authority to include affiliates in this way?

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires that agencies consider whether the rules they propose will have a significant economic impact on a substantial number of small entities.[28] The Commission previously has established certain definitions of "small entities" to be used in evaluating the impact of its regulations on small entities in accordance with the RFA.[29] The proposed rules would affect swap dealers and major swap participants.

Swap dealers and major swap participants are new categories of registrants. Accordingly, the Commission has not previously addressed the question of whether such persons are, in fact, small entities for purposes of the RFA. The Commission previously has determined, however, that futures commission merchants should not be considered to be small entities for purposes of the RFA.[30] The Commission's determination was based, in part, upon the obligation of futures commission merchants to meet the minimum financial requirements established by the Commission to enhance the protection of customers' segregated funds and protect the financial condition of futures commission merchants generally.[31] Like futures commission merchants, swap dealers will be subject to minimum capital and margin requirements and are expected to comprise the largest global financial firms. The Commission is required to exempt from swap dealer designation any entities that engage in a *de minimis* level of swaps dealing in connection with transactions with or on behalf of customers. The Commission anticipates that this exemption would tend to exclude small entities from registration. Accordingly, for purposes of the RFA for this rulemaking, the Commission is hereby proposing that swap dealers not be considered "small entities" for essentially the same reasons that futures commission merchants have previously been determined not to be small entities and in light of the exemption from the definition of swap dealer for those engaging in a de minimis level of swap dealing.

The Commission also has previously determined that large traders are not "small entities" for RFA purposes.[32] In that determination, the Commission considered that a large trading position was indicative of the size of the business. Major swap participants, by statutory definition, maintain substantial positions in swaps or maintain outstanding swap positions that create substantial counterparty exposure that could have serious adverse effects on the financial stability of the United States banking system or financial markets. Accordingly, for purposes of the RFA for this rulemaking, the Commission is hereby proposing that major swap participants not be considered "small entities" for essentially the same reasons that large traders have previously been determined not to be small entities.

Moreover, the Commission is carrying out Congressional mandates by proposing this regulation. Specifically, the Commission is proposing these regulations to comply with the Dodd-

[27] Section 202(f) of the Dodd-Frank Act.

[28] 5 U.S.C. 601 *et seq.*

[29] 47 FR 18618, Apr. 30, 1982.

[30] *Id.* at 18619.

[31] *Id.*

[32] *Id.* at 18620.

Frank Act, the aim of which is to reduce systemic risk presented by swap dealers and swap market participants through comprehensive regulation. The Commission does not believe that there are regulatory alternatives to those being proposed that would be consistent with the statutory mandate. Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the proposed rules will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) [33] imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. This proposed rulemaking would result in new collection of information requirements within the meaning of the PRA. The Commission therefore is submitting this proposal to the Office of Management and Budget (OMB) for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The title for this collection of information is "Orderly Liquidation Termination Provision in Swap Trading Relationship Documentation for Swap Dealers and Major Swap Participants." 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 control number. The OMB has not yet assigned this collection a control number.

The collection of information under this proposed regulation is necessary to implement new section 4s(i) of the CEA, which expressly requires the Commission to adopt rules governing documentation standards for swap dealers and major swap participants and explicitly obligates such registrants to conform to the documentation standards established by the Commission. The documentation required to be executed and maintained would be an important part of the Commission's regulatory program for swap dealers and major swap participants. Specifically, the required recordkeeping is essential to ensuring that swap dealers and major swap participants include in their trading relationship documentation certain agreements that are designed to enhance the consistent treatment of swaps in the event the FDIC is appointed receiver under Title II of the Dodd-Frank Act or the FDIA. The records required to be preserved would be used by representatives of the Commission and any examining authority responsible for reviewing the activities of the swap dealer or major swap participant to ensure compliance with the CEA and applicable Commission regulations.

If the proposed regulations are adopted, responses to this collection of information would be mandatory. The Commission will protect proprietary information according to the Freedom of Information Act and 17 CFR part 145, "Commission Records and Information." In addition, section 8(a)(1) of the CEA strictly prohibits the Commission, unless specifically authorized by the CEA, from making public "data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers." The Commission also is required to protect certain information contained in a government system of records according to the Privacy Act of 1974, 5 U.S.C. 552a.

1. Information Provided By Reporting Entities/Persons

Proposed § 23.504(b)(5) supplements previously proposed regulations that would establish trading swap relationship documentation requirements for swap dealers and major swap participants. Specifically, proposed § 23.504(b)(5) would require swap dealers and major swap participants to include in the documentation they execute with each counterparty a written agreement about events that will transpire if the FDIC is appointed as receiver under Title II of the Dodd-Frank Act or the FDIA.

The information collection burden associated with drafting and maintaining the agreements required by the proposed regulation is estimated to be 270 hours per year, at an initial annual cost of $27,000 for each swap dealer and major swap participant. The aggregate information collection burden is estimated to be 81,000 hours per year, at an initial annual aggregate cost of $8,100,000. Burden means the total time, effort or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency.

The Commission has characterized the annual cost as an initial cost as the Commission anticipates that the agreements required by the proposed regulation generally would not require significant bilateral negotiation and, therefore, are likely to become standardized within the industry rather rapidly. Moreover, the Commission expects that there would be little need to modify the agreements on an ongoing basis. Accordingly, once a swap dealer or major swap participant has drafted the required agreements and incorporated them into its swaps trading documentation, the annual burden associated with the proposed regulation would be quite minimal.[34]

The hour burden calculation set forth below is based upon certain variables such as the number of swap dealers and major swap participants in the marketplace, the average number of counterparties of each of these registrants, and the average hourly wage of the employees that would be responsible for satisfying the obligation established by the proposed regulation. Swap dealers and major swap participants are new categories of registrants. Accordingly, it is not currently known how many swap dealers and major swap participants will become subject to these rules, and this will not be known to the Commission until the registration requirements for these entities become effective after July 16, 2011, the date on which the Dodd-Frank Act becomes effective. While the Commission believes that there will be approximately 200 swap dealers and 50 major swap participants, it has taken a conservative approach, for PRA purposes, in estimating that there will be a combined number of 300 swap dealers and major swap participants who will be required to comply with the recordkeeping requirements of the proposed rules. The Commission estimated the number of affected entities based on industry data.

Similarly, due to the absence of prior experience in regulating swap dealers and major swap participants and with regulations similar to the proposed rules, the actual, average number of counterparties that a swap dealer or major swap participant is likely to have is uncertain. Consistent with other proposed rulemakings, the Commission has estimated that each of the 14 major swap dealers has an average 7,500 counterparties and the other 286 swap dealers and major swap participants have an average of 200 counterparties per year, for an average of 540 total counterparties per registrant.

The Commission anticipates that agreements required by the proposed regulations typically would be drafted and maintained by a swap dealer or major swap participant's in-house

[33] 44 U.S.C. 3501 *et seq.*

[34] The Commission notes that swap dealers and major swap participants also would be required to develop written policies and procedures to maintain the obligatory agreements as part of their swaps trading relationship documentation. The costs associated with these policies and procedures have been accounted for in the Commission's prior proposal of the rest of regulation § 23.504.

counsel or by financial or operational managers within the firm. According to the Bureau of Labor Statistics findings, the mean hourly wage of an employee under occupation code 23–1011, "Lawyers," that is employed by the "Securities and Commodity Contracts Intermediation and Brokerage Industry" is $82.22.[35] The mean hourly wage of an employee under occupation code 11–3031, "Financial Managers," (which includes operations managers) in the same industry is $74.41.[36] Because swap dealers and major swap participants include large financial institutions whose employees' salaries may exceed the mean wage, however, the Commission has estimated the cost burden of the proposed regulations based upon an average salary of $100 per hour.

Based upon the above, the estimated hour burden was calculated as follows:

Agreement to Orderly Liquidation Termination Provision.

Number of registrants: 300.

Frequency of collection: At least once per counterparty.

Estimated number of annual responses per registrant: 540 [one per counterparty].

Estimated aggregate number of annual responses: 162,000 [300 registrants × 540 counterparties].

Estimated annual hour burden per registrant: 270 [540 counterparties × .5 hours per counterparty].

Estimated aggregate annual hour burden: 81,000 [300 registrants × 270 hours per registrant].

As stated above, the agreements required by proposed § 23.504(b)(5) would be required to be incorporated into the swaps trading relationship documentation obligations established by previously proposed subsections of § 23.504(b). The Commission does not anticipate that swap dealers and major swap participants would incur any start-up costs in connection with the proposed recordkeeping obligations, other than those previously noted and accounted for in the prior proposal.

2. Information Collection Comments

The Commission invites the public and other Federal agencies to comment on any aspect of the recordkeeping burden discussed above. Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments in order to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (ii) evaluate the accuracy of the Commission's estimate of the burden of the proposed collection of information; (iii) determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Comments may be submitted directly to the Office of Information and Regulatory Affairs, by fax at (202) 395–6566 or by e-mail at *OIRAsubmissions@omb.eop.gov.* Please provide the Commission with a copy of submitted comments so that all comments can be summarized and addressed in the final rule preamble. Refer to the Addresses section of this notice of proposed rulemaking for comment submission instructions to the Commission.

A copy of the supporting statements for the collections of information discussed above may be obtained by visiting *RegInfo.gov.* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

C. Cost-Benefit Analysis

Section 15(a) of the CEA [37] requires the Commission to consider the costs and benefits of its actions before issuing a rulemaking under the CEA. By its terms, section 15(a) does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the rule outweigh its costs; rather, it requires that the Commission "consider" the costs and benefits of its actions.

Section 15(a) further specifies that costs and benefits of a proposed rulemaking shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission may, in its discretion, give greater weight to any one of the five enumerated considerations and could, in its discretion, determine that, notwithstanding its costs, a particular regulation was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the CEA.

Summary of proposed requirements. The proposed regulation would implement new section 4s(i) of the CEA, which was added by section 731 of the Dodd-Frank Act. The proposed regulation would establish certain swap trading relationship documentation requirements applicable to swap dealers and major swap participants and related recordkeeping obligations.

Costs. With respect to costs, the Commission has determined that the cost that would be borne by swap dealers and major swap participants to satisfy the new regulatory requirement is far outweighed by the benefits that would accrue to the financial system as a whole as a result of the implementation of the rule. The Commission believes that the annual cost burden per registrant ultimately would be quite minimal as the agreements it requires are likely to become standardized and applicable to most counterparties, thereby negating the need for individual negotiation and drafting. They also would be able to be maintained using a registrant's pre-existing recordkeeping mechanisms.

Benefits. With respect to benefits, the Commission believes that the proposed regulation would ensure that swaps are treated consistently in the event of an appointment of the FDIC under either Title II of the Dodd-Frank Act or the FDIA. Providing the opportunity for swap dealers, major swap participants, and their counterparties to reach a written agreement about events that will transpire if the FDIC is appointed as receiver under Title II of the Dodd-Frank Act or the FDIA, will promote legal certainty and lower litigation risk at crucial times of market stress. Therefore, the Commission believes it is prudent to prescribe this proposed regulation.

Public Comment. The Commission invites public comment on its cost-benefit considerations. Commentators are also invited to submit any data or other information that they may have quantifying or qualifying the costs and benefits of the proposed rules with their comment letters.

List of Subjects in 17 CFR Part 23

Antitrust, Commodity futures, Conduct standards, Conflict of Interests, Major swap participants, Reporting and recordkeeping, Swap dealers, Swaps.

For the reasons stated in this release, the Commission proposes to amend 17 CFR part 23, as proposed to be added in FR Doc. 2010–29024, published in the

[35] *http://www.bls.gov/oes/2099/mayowe23.1011.htm.*

[36] *http://www.bls.gov/oes/current/oes113031.htm.*

[37] 7 U.S.C. 19(a).

Federal Register on November 23, 2010 (75 FR 71379), and as proposed to be amended elsewhere in this issue of the **Federal Register**, as follows:

PART 23—SWAP DEALERS AND MAJOR SWAP PARTICIPANTS

1. The authority citation for part 23 is revised to read as follows:

Authority: 7 U.S.C. 1a, 2, 6, 6a, 6b, 6b-1, 6c, 6p, 6r, 6s, 6t, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21.

2. Amend proposed § 23.504 by adding paragraph (b)(5) to read as follows:

§ 23.504 Swap trading relationship documentation.

* * * * *

(b) * * *

(5) The swap trading relationship documentation shall include written documentation in which the counterparties agree that in the event a counterparty is a covered financial company (as defined in section 201(a)(8) of the Dodd-Frank Wall Street Reform and Consumer Protection Act) or an insured depository institution (as defined in 12 U.S.C. 1813) for which the Federal Deposit Insurance Corporation (FDIC) has been appointed as a receiver (the "covered party"):

(i) The counterparty that is not the covered party may not exercise any right that such counterparty that is not the covered party has to terminate, liquidate, or net any swap solely by reason of the appointment of the FDIC as receiver for the covered party (or the insolvency or financial condition of the covered party):

(A) Until 5 p.m. (U.S. eastern time) on the business day following the date of the such appointment; or

(B) After the counterparty that is not the covered party has received notice that the swap has been transferred pursuant to section 210(c)(9)(A) of the Dodd-Frank Wall Street Reform and Consumer Protection Act or 12 U.S.C. 1821(e)(9)(A);

(ii) A transfer pursuant to section 210(c)(9)(A) of the Dodd-Frank Wall Street Reform and Consumer Protection Act or 12 U.S.C. 1821(e)(9)(A) may include:

(A) All swaps between a counterparty that is not a covered party, or any affiliate of such counterparty that is not a covered party, and the covered party;

(B) All claims of a counterparty that is not a covered party, or any affiliate of such counterparty that is not a covered party, against the covered party under any such swap (other than any claim which, under the terms of any such swap, is subordinated to the claims of general unsecured creditors of such covered party);

(C) All claims of the covered party against a counterparty that is not a covered party, or any affiliate of such counterparty that is not a covered party, under any such swap; and

(D) All property securing or any other credit enhancement for any swap described in paragraph (b)(5)(i)(A) of this section or any claim described in paragraphs (b)(5)(i)(B) or (C) of this section under any such swap; and

(iii) The counterparty that is not the covered party consents to any transfer described in paragraph (b)(5)(ii) of this section.

* * * * *

Issued in Washington, DC, on January 20, 2011 by the Commission.

David A. Stawick,

Secretary of the Commission.

Appendices To Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants—Commissioners Voting Summary and Statements of Commissioners

Note: The following appendices will not appear in the Code of Federal Regulations.

Appendix 1—Commissioners Voting Summary

On this matter, Chairman Gensler and Commissioners Dunn, Sommers and Chilton voted in the affirmative; Commissioner O'Malia voted in the negative.

Appendix 2—Statement of Chairman Gary Gensler

I support the proposed rulemaking that establishes documentation requirements for swap dealers and major swap participants, ensuring consistency with statutory provisions in the event of an orderly liquidation of a swap dealer or major swap participant. The proposed regulation requires the inclusion of a provision in the swap trading relationship documentation that would inform counterparties that, if a swap dealer or major swap participant becomes a covered financial company subject to the resolution authority of the Federal Deposit Insurance Corporation, there may be a one-day stay on the ability of its counterparties to terminate, liquidate or net their uncleared swaps. The proposed rulemaking should lower litigation risk during times of significant market stress and promote an orderly and effective resolution process for large financial entities.

[FR Doc. 2011–2642 Filed 2–7–11; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 23

RIN 3038–AC96

Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is proposing regulations to implement new statutory provisions established under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Section 731 of the Dodd-Frank Act added a new section 4s(i) to the Commodity Exchange Act (CEA), which requires the Commission to prescribe standards for swap dealers and major swap participants related to the timely and accurate confirmation, processing, netting, documentation, and valuation of swaps. The proposed rules would establish requirements for swap trading relationship documentation for swap dealers and major swap participants.

DATES: Submit comments on or before April 11, 2011.

ADDRESSES: You may submit comments, identified by RIN number 3038–AC96 and Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants, by any of the following methods:

- Agency Web site, via its Comments Online process at *http://comments.cftc.gov*. Follow the instructions for submitting comments through the Web site.
- *Mail:* David A. Stawick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as mail above.
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.

Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov*. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that may be exempt from disclosure

under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the established procedures in § 145.9 of the Commission's regulations, 17 CFR 145.9.

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Sarah E. Josephson, Associate Director, 202–418–5684, *sjosephson@cftc.gov*; Frank N. Fisanich, Special Counsel, 202–418–5949, *ffisanich@cftc.gov*; or Jocelyn Partridge, Special Counsel, 202–418–5926, *jpartridge@cftc.gov*; Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

On July 21, 2010, President Obama signed the Dodd-Frank Act.[1] Title VII of the Dodd-Frank Act [2] amended the Commodity Exchange Act (CEA) [3] to establish a comprehensive regulatory framework to reduce risk, increase transparency, and promote market integrity within the financial system by, among other things: (1) Providing for the registration and comprehensive regulation of swap dealers and major swap participants; (2) imposing clearing and trade execution requirements on standardized derivative products; (3) creating rigorous recordkeeping and real-time reporting regimes; and (4) enhancing the Commission's rulemaking and enforcement authorities with respect to all registered entities and intermediaries subject to the Commission's oversight.

Section 731 of the Dodd-Frank Act amends the CEA by adding a new section 4s, which sets forth a number of requirements for swap dealers and major swap participants. Specifically, section 4s(i) of the CEA establishes swap documentation standards for those registrants.

Section 4s(i)(1) requires swap dealers and major swap participants to "conform with such standards as may be prescribed by the Commission by rule or regulation that relate to timely and accurate confirmation, processing, netting, documentation, and valuation of all swaps." Under section 4s(i)(2), the Commission is required to adopt rules "governing documentation standards for swap dealers and major swap participants." The Commission is proposing the regulations governing swap documentation discussed below, pursuant to the authority granted under sections 4s(h)(1)(D), 4s(h)(3)(D), 4s(i), and 8a(5) of the CEA.[4] The Dodd-Frank Act requires the Commission to promulgate these provisions by July 15, 2011.[5]

The proposed regulations reflect consultation with staff of the following agencies: (i) The Securities and Exchange Commission; (ii) the Board of Governors of the Federal Reserve System; (iii) the Office of the Comptroller of the Currency; and (iv) the Federal Deposit Insurance Corporation. Staff from each of these agencies has had the opportunity to provide oral and/or written comments to the proposal, and the proposed regulations incorporate elements of the comments provided.

In designing these rules, the Commission has taken care to minimize the burden on those parties that will not be registered with the Commission as swap dealers or major swap participants. To the extent that market participants believe that additional measures should be taken to reduce the burden or increase the benefits of documenting swap transactions, the Commission welcomes all comments.

II. Proposed Regulations

The proposed regulations would set forth certain requirements for documenting the swap trading relationship between swap dealers, major swap participants, and their counterparties. Documentation of swaps is a critical component of the bilaterally-traded, over-the-counter (OTC) derivatives market and has been the focus of significant domestic and international attention in recent years.

A. Background on Documentation and Standardization

The OTC derivatives markets traditionally have been characterized by privately negotiated transactions entered into by two counterparties, in which each party assumes and manages the credit risk of the other. While OTC derivatives are traded by a diverse set of market participants, such as banks, hedge funds, pension funds, and other institutional investors, as well as corporate, governmental, and other end-users, a relatively few number of dealers are, by far, the most significantly active participants. As such, the default of a dealer may result in significant losses for the counterparties of that dealer, either from the counterparty exposure to the defaulting dealer or from the cost of replacing the defaulted trades in times of market stress.[6]

OTC derivatives market participants typically have relied on the use of industry standard legal documentation, including master netting agreements, definitions, schedules, and confirmations, to document their swap trading relationships. This industry standard documentation, such as the widely used ISDA Master Agreement and related definitions, schedules, and confirmations specific to particular asset classes, offers a framework for documenting the transactions between counterparties for OTC derivatives products.[7] The standard documentation is designed to set forth the legal, trading, and credit relationship between the parties and to facilitate cross-product netting of transactions in the event that parties have to close-out their position with one another.

One important method of addressing the credit risk that arises from OTC derivatives transactions is the use of bilateral close-out netting. Parties seek to achieve enforceable bilateral netting by documenting all of their transactions under master netting agreements.[8] Following the occurrence of a default by one of the counterparties (such as bankruptcy or insolvency), the

---

[1] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010). The text of the Dodd-Frank Act may be accessed at *http://www.cftc.gov/LawRegulation/OTCDERIVATIVES/index.htm*.

[2] Pursuant to section 701 of the Dodd-Frank Act, Title VII may be cited as the "Wall Street Transparency and Accountability Act of 2010."

[3] 7 U.S.C. 1 *et seq.*

[4] Section 8a(5) of the CEA authorizes the Commission to promulgate such regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of the CEA.

[5] This is the sixth rulemaking to be proposed regarding internal business conduct standards for swap dealers and major swap participants. Prior notices of proposed rulemaking are available on the Commission's Web site at *http://www.cftc.gov*.

[6] *See* Financial Stability Board, "Implementing OTC Derivatives Market Reforms: Report of the OTC Derivatives Working Group," (Oct. 10, 2010), available at *http://www.financialstabilityboard.org/publications/r_101025.pdf*.

[7] The International Swaps and Derivatives Association (ISDA) is a trade association for the OTC derivatives industry (*http://www.isda.org*).

[8] Enforceable bilateral netting arrangements are a common commercial practice and are an important part of risk management and minimization of capital costs.

exposures from individual transactions between the two parties are netted and consolidated into a single net "lump sum" obligation. A party's overall exposure is therefore limited to this net sum. That exposure then may be offset by the available collateral previously provided being applied against the net exposure. As such, it is critical that the netting provisions between the parties are legally enforceable and that the collateral may be used to meet the net exposure. In recognition of the risk-reducing benefits of close-out netting, many jurisdictions provide favorable treatment of netting arrangements in bankruptcy,[9] and favorable capital and accounting treatment to parties that have enforceable netting agreements in place.[10]

There is also a risk that inadequate documentation of open swap transactions could result in collateral and legal disputes, thereby exposing counterparties to significant counterparty credit risk. By way of contrast, adequate documentation between counterparties offers a framework for establishing the trading relationship between the parties. The use of common legal documentation also encourages standardization of traded products. This, in turn, may facilitate central clearing and trading as sufficient standardization is a prerequisite for central clearing and trading on an exchange or electronic platform.

In response to the global economic crisis, in September 2009, G–20 Leaders agreed in Pittsburgh to critical elements relating to OTC derivatives reform, including a provision that "[a]ll standardized OTC derivative contracts should be traded on exchanges or electronic trading platforms, where appropriate, and cleared through central counterparties. * * *"[11] In June 2010 in Toronto, the G–20 Leaders reaffirmed this commitment, and expressly stated their objective of increasing standardization in the OTC derivatives markets.[12] With the passage of the Dodd-Frank Act in July 2010, Congress expressly recognized the link between standardized swaps and clearing, as well.[13]

In addition, increasing standardization of swap documentation should improve the market in a number of other ways, including: Facilitating automated processing of transactions; increasing the fungibility of the contracts, which enables greater market liquidity; improving valuation and risk management; increasing the reliability of price information; reducing the number of problems in matching trades; and facilitating reporting to swap data repositories.[14]

Product and process standardization are also key conditions for increased automation and central clearing of OTC derivatives. As a result of targeted supervisory encouragement since 2005,[15] credit derivative market participants have standardized CDS product design and post-trade processes in tandem, leading to greater operational efficiencies, encouraging higher volumes of standardized transactions, and most significantly, providing the requisite operational environment for the implementation of centralized risk-reducing infrastructure, including central counterparty clearing.

Many standardized processes have been established for CDS legal documentation and trading conventions, and in turn, the standardization of product design has enabled market participants to implement infrastructure that automates and centralizes trading, recordkeeping, trade compression, and clearing. For example, the standardization of coupons in the single-name CDS product was largely motivated by the desire to create an efficient process for offsetting contracts. The market-wide adoption of fixed coupons allowed single-name CDS instruments to be centrally cleared, in effect standardizing counterparty credit risk management in these products. The "Big Bang Protocol" further standardized a number of critical operational processes.[16] The protocol: (i) "Hardwired" a standard auction mechanism into CDS trading documentation, eliminating the need for ad hoc protocols; (ii) incorporated the resolutions of the ISDA Determinations Committees into the terms of standard CDS documentation; and (iii) instituted a common standard effective date for CDS transactions. Codifying key standardized processes into CDS products has brought greater certainty to managing the risk of CDS transactions and has provided the structural foundation for greater automation, higher volumes in standardized transactions, and ultimately the establishment of centralized risk-reducing infrastructure, such as central counterparties.

B. Proposed Swap Trading Relationship Documentation Rule

To promote the "timely and accurate * * * documentation * * * of all swaps" under § 4s(i)(1) of the CEA, proposed § 23.504(a) would require that swap dealers and major swap participants establish, maintain, and enforce written policies and procedures reasonably designed to ensure that each swap dealer or major swap participant and its counterparties have agreed in writing to all of the terms governing their swap trading relationship and have executed all agreements required by proposed § 23.504.

Proposed § 23.504(b)(1) would specify that the swap trading relationship documentation include written agreement by the parties on terms relating to payment obligations, netting of payments, events of default or other termination events, netting of obligations upon termination, transfer of rights and obligations, governing law, valuation, and dispute resolution procedures. Proposed § 23.504(b)(2) would establish that all confirmations of swap transactions, as required under previously proposed § 23.501, would be considered to be part of the required swap trading relationship documentation.

---

[9] *See e.g.,* 11 U.S.C. 561 (protecting contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts).

[10] *See* 12 CFR 3, Appendix C; 12 CFR 208, Appendix F; 12 CFR 225, Appendix G; and 12 CFR 325, Appendix D (banking regulations regarding qualifying master netting agreements).

[11] *See* Group of Twenty, "Leaders' Statement: The Pittsburgh Summit," (Sept. 24–25, 2009), available at *http://www.pittsburghsummit.gov/mediacenter/129639.htm.*

[12] *See* The G–20 Toronto Summit Declaration (Jun. 26–27, 2010), available at *http://www.g20.utoronto.ca/2010/g20_declaration_en.pdf.* In Annex II, the declaration stated, "We pledged to work in a coordinated manner to accelerate the implementation of over-the-counter (OTC) derivatives regulation and supervision and to increase transparency and standardization."

[13] "It is expected that the standardized, plain vanilla, high volume swaps contracts—which according to the Treasury Department are about 90 percent of the $600 trillion swaps market—will be subject to mandatory clearing." 156 Cong. Rec. S5921 (daily ed. Jul. 15, 2010) (statement of Sen. Lincoln).

[14] These benefits were articulated by the Financial Stability Board's OTC Derivatives Working Group in its report, "Implementing OTC Derivatives Market Reforms," (Oct. 10, 2010), available at *http://www.financialstabilityboard.org/publications/r_101025.pdf.*

[15] Since 2005, the Federal Reserve Bank of New York (FRBNY) has led a targeted, supervisory effort to enhance operational efficiency and performance in the OTC derivatives market, among other things, by increasing standardization. Known as the OTC Derivatives Supervisors' Group (ODSG), the FRBNY leads an on-going effort with OTC derivatives dealers' primary supervisors, trade associations, industry utilities, and private vendors, through which market participants (including buy-side participants) regularly set goals and commitments to bring infrastructure, market design, and risk management improvements to all OTC derivatives asset classes.

[16] *See* 2009 ISDA Credit Derivatives Determinations Committees and Auction Settlement CDS Protocol, available at: *http://www.isda.org/bigbangprot/docs/Big-Bang-Protocol.pdf.*

Swap trading relationship documentation under proposed § 23.504(b)(3)(i) and (ii) also would include credit support arrangements containing initial and variation margin requirements at least as high as those set by the Commission (for swap dealers and major swap participants that are not banks) and by prudential regulators (for entities that are banks). These credit support arrangements also would be required to identify the forms of eligible assets that may be used as margin and asset valuation haircuts.

Under proposed § 23.504(b)(3)(iii) and (iv), the credit support arrangements between swap dealers and major swap participants would include documentation of the treatment of any assets used as margin for uncleared swaps. These provisions are intended to work together with the rules previously proposed under section 4s(l) of the CEA,[17] and thus require documentation as to whether the funds and other property are to be segregated with an independent third party, in accordance with § 23.601(e). The provisions also are designed to work together with rules to be proposed under section 4s(e) of the CEA that relate to margin requirements.

Under § 23.601, as previously proposed, swap dealers and major swap participants trading uncleared swaps would be required to notify each counterparty that the counterparty has the right to require segregation of the funds or other property that it supplies as "initial margin," a term defined in previously proposed § 23.600.[18] At the request of the counterparty, the swap dealer or major swap participant would be required to segregate such initial margin with an independent third party. Under section 4s(l) of the CEA, this segregation requirement would not apply to variation margin payments. Proposed § 23.602(a)(2), however, would permit the swap dealer or major swap participant and the counterparty to agree that variation margin also may be held in a segregated account. Under proposed § 23.601(e), swap dealers and major swap participants would notify each counterparty of the opportunity to revisit their segregation decision once per calendar year.

Swap dealers and major swap participants also must comply with proposed § 23.603(a), which would provide that segregated initial margin may only be invested consistent with the standards for investment of customer funds that the Commission applies to exchange-traded futures (*see* § 1.25 of Commission regulations), and with proposed § 23.603(b), which would provide that swap dealers and major swap participants and their counterparties may enter into any commercial arrangement, in writing, regarding the investment of segregated initial margin and the related allocation of the gains and losses resulting from such investments. The Commission anticipates that documentation of the foregoing matters would be included in the trading relationship documentation required pursuant to proposed § 23.504(b)(3)(iii).

Swap dealers and major swap participants could maintain standard templates for documenting their trading relationships as a way of complying with the requirements of § 23.504. The Commission would also consider it a sound practice for swap dealers and major swap participants to require senior management in the business trading and risk management units to approve all templates, and any material modifications to them. The Commission recognizes the work that the industry has undertaken over the past several years to update and standardize the documentation it relies upon for various asset classes, and the Commission encourages market participants to adopt standardized confirmation templates, standardized master confirmation agreements,[19] standardized product definitions, and other standardized documentation developed by the industry. Standardized documentation and definitions promote standardized products, which may lead to greater liquidity and more efficient pricing. In addition, increased product standardization may bring systemic risk-reduction benefits as the risks associated with standardized products are better understood by the entire marketplace.

C. Proposed Swap Valuation Provisions

Swap valuation disputes have long been recognized as a significant problem in the OTC derivatives market.[20] The ability to determine definitively the value of a swap at any given time lies at the center of many of the OTC derivatives market reforms contained in the Dodd-Frank Act and is a cornerstone of risk management. Swap valuation is also crucial for determining capital and margin requirements applicable to swap dealers and major swap participants and therefore plays a primary role in risk mitigation for uncleared swaps.

The Commission recognizes that swap valuation is not always an easy task. In some instances, there is widespread agreement on valuation methodologies and the source of formula inputs for frequently traded swaps. These swaps are the proverbial "low-hanging fruit," and many have been accepted for clearing (*i.e.*, commonly traded interest rate swaps and credit default swaps). However, parties often dispute valuations of thinly traded swaps where there is not widespread agreement on valuation methodologies or the source for formula inputs. Many of these swaps are thinly traded either because of their limited use as risk management tools or because they are simply too customized to have comparable counterparts in the market. As many of these swaps are valued by dealers internally by "marking-to-model," their counterparties may dispute the inputs and methodologies used in the model. As uncleared swaps are bilateral, privately negotiated contracts, on-going swap valuation for purposes of initial and variation margin calculation and swap terminations or novations, has also been largely a process of on-going negotiation between the parties. The inability to agree on the value of a swap became especially acute during the 2007–2009 financial crisis when there was widespread failure of the market inputs needed to value many swaps.[21]

[17] *See* 75 FR 75432, *Notice of Proposed Rulemaking, Protection of Collateral of Counterparties to Uncleared Swaps; Treatment of Securities in a Portfolio Margining Account in a Commodity Broker Bankruptcy,* Dec. 3, 2010.

[18] *See* 75 FR 75438 ("Initial margin means money, securities, or property posted by a party to a swap as performance bond to cover potential future exposures arising from changes in the market value of the position.").

[19] Standard Master Confirmation Agreements that have been published include:

2004 Sovereign Master Credit Derivatives Confirmation Agreement.

2003 Master Credit Derivatives Confirmation Agreement (Asia-Pacific).

2003 Master Credit Derivatives Confirmation Agreement (European-North American).

2009 Americas Master Equity Derivatives Confirmation Agreement.

2008 Americas Master Designated/Exchange-Traded Contract Option Confirmation Agreement.

2007 Americas Master Variance Swap Confirmation Agreement.

2004 Americas Interdealer Master Equity Derivatives Confirmation Agreement.

[20] *See* ISDA Collateral Committee, "Commentary to the Outline of the 2009 ISDA Protocol for Resolution of Disputed Collateral Calls," June 2, 2009 (stating "Disputed margin calls have increased significantly since late 2007, and especially during 2008 have been the driver of large (sometimes > $1 billion) uncollateralized exposures between professional firms.").

[21] The failure of the market to set a price for mortgage-backed securities led to wide disparities in the valuation of CDS referencing mortgage-backed securities (especially collateralized debt obligations). Such wide disparities led to large collateral calls from dealers on AIG, hastening its downfall. *See* CBS News, "Calling AIG? Internal Docs Reveal Company Silent About Dozens Of Collateral Calls," Jun. 23, 2009, available at:

The Commission believes that prudent risk management requires that market participants be able to value their own swaps in a predictable and objective manner; the failure to do so may lead to systemic risk. Accordingly, to promote the "timely and accurate * * * valuation of all swaps" under § 4s(i)(1) of the CEA, proposed § 23.504(b)(4) would require that the swap trading documentation include written documentation in which the parties agree on the methods, procedures, rules and inputs for determining the value of each swap at any time from execution to the termination, maturity, or expiration of the swap. The agreed methods, procedures, rules and inputs would be required to constitute a complete and independently verifiable methodology for valuing each swap entered into between the parties. Proposed § 23.504(b)(4)(iii) would require that the methodology include complete alternative methods for determining the value of the swap in the event that one or more inputs to the methodology become unavailable or fail, such as during times of market stress or illiquidity. All agreements on valuation would be considered part of the swap trading relationship documentation.

This proposed rule is an important complement to previously proposed § 23.502 (portfolio reconciliation), which requires swap dealers and major swap participants to resolve a dispute over the valuation of a swap within one business day. By requiring agreement with each counterparty on the methods and inputs for valuation of each swap, it is expected that § 23.504(b)(4) will assist swap dealers and major swap participants to resolve valuation disputes in a timely manner, thereby reducing risk.

D. Submission of Swaps for Clearing

Under proposed § 23.504(b)(6), upon acceptance of a swap by a registered derivatives clearing organization (DCO), each swap dealer and major swap participant would be required to create a record containing certain items of information,[22] along with a statement that in accordance with the rules of the DCO, the original swap is extinguished and is replaced by equal and opposite swaps between clearing members and the DCO. This provision would require that all terms of the cleared swap conform to the templates established under the DCO's rules, and that all terms of the swap, as carried on the books of the clearing member, conform to the terms of the cleared swap established under the DCO's rules.

Proposed § 23.504(b)(6), while addressing the issues prescribed under § 4s(i)(1) of the CEA, is intended to correspond to proposed § 39.12(b)(4).[23] The purpose of these provisions is to encourage the standardization of swaps and to avoid differences that could compromise the benefits of clearing between the terms of a swap as carried at the DCO level and at the clearing member level. Any such differences would raise both customer protection and systemic risk concerns. From a customer protection standpoint, if the terms of the swap at the customer level differ from those at the clearing level, then the customer will not receive the full transparency and liquidity benefits of clearing, and legal and basis risk will be introduced into the customer position. Similarly, from a systemic perspective, any differences could diminish overall price discovery and liquidity and increase uncertainties and unnecessary costs into the insolvency resolution process. Standardizing the terms of a swap upon clearing would facilitate trading and promote the mitigation of risk for all participants in the swap markets.

Standardization also will impose structure on the general economic function of the contract and will facilitate automated processing and the ability for participants to replicate the trade easily. This allows market participants to trade in and out of contracts easily and lowers transaction costs, which in turn enables greater market liquidity and expansion of the market to more participants.

E. Documentation Audit and Recordkeeping

In keeping with prudent risk management, § 23.504(c) would require an annual audit of the swap trading relationship documentation required by § 23.504 to ensure compliance with approved documentation policies and procedures and Commission regulations. Proposed § 23.504(d) would require swap dealers and major swap participants to keep records in compliance with this section.

F. Reporting Swap Valuation Disputes

Proposed § 23.504(e) would require that swap dealers and major swap participants promptly notify the Commission, any applicable prudential regulator, and the Securities and Exchange Commission with regard to security-based swap agreements if any swap valuation dispute is not resolved within one business day, if the dispute is with a counterparty that is a swap dealer or major swap participant; or within five business days, if the dispute is with a counterparty that is not a swap dealer or major swap participant. This proposed rule would complement previously proposed § 23.502, which requires portfolio reconciliation and resolution of valuation disputes. It also would allow authorities to recognize and respond to outstanding swap valuation disputes, which if left uncollateralized, may lead to systemic risk.

G. Proposed End User Exception Documentation Rule

Proposed § 23.505 would work together with the swap data recordkeeping and reporting requirements rules and end-user exception to mandatory clearing rules, both previously proposed by the Commission.[24] Under these previously proposed rules, "a swap otherwise subject to mandatory clearing is subject to an elective exception from clearing if one party to the swap is not a financial entity, is using the swaps to hedge or mitigate commercial risk, and notifies the Commission * * * how it generally meets its financial obligations associated with entering into non-cleared swaps (the 'end-user clearing exception')."[25] Under previously proposed § 39.6, the end-user clearing exception is elected by providing ten additional items of information to a swap data repository (SDR) through a "check-the-box notification process."[26] As explained in the swap data recordkeeping and reporting rules, swap dealers and major swap participants will have the responsibility for reporting to SDRs "with respect to the majority of swaps."[27] In order to ensure that swap dealers and major swap participants comply with all mandatory clearing requirements and in light of their unique reporting obligations, it is critical that they possess documentation

http://www.cbsnews.com/stories/2009/06/23/cbsnews_investigates/main5106672.shtml.

[22] Such information includes the date and time the swap was accepted for clearing, the name of the DCO clearing the swap, the name of the clearing member clearing the swap for the swap dealer or major swap participant, and, if known, the name of the clearing member clearing the swap for the counterparty.

[23] The proposed *Notice of Proposed Rulemaking, Risk Management Requirements for Derivatives Clearing Organizations* under part 39 are available on the Commission's Web site at *http://www.cftc.gov.*

[24] *See Swap Data Recordkeeping and Reporting Requirements*, 75 FR 76573, Dec. 8, 2010, and *End-User Exception to Mandatory Clearing of Swaps*, 75 FR 80747, Dec. 23, 2010.

[25] 75 FR at 80748.

[26] 75 FR at 80749 and 80755.

[27] 75 FR at 76593; *see also* section 4r of the CEA.

sufficient to support a reasonable belief that their counterparties meet the statutory requirements for electing an exception from mandatory clearing. Accordingly, the Commission is proposing § 23.505.

Proposed § 23.505 would require swap dealers and major swap participants to obtain documentation from any counterparty seeking to exercise its rights under the end-user clearing exception from the mandatory clearing requirement under section 2h(7) of the CEA. For swaps subject to the mandatory clearing requirement, the proposed rule would require that swap dealers and major swap participants comply with any mandatory clearing requirement by obtaining documentation sufficient to provide the swap dealer or major swap participant with a reasonable basis to believe that its counterparty meets the statutory conditions required for an exception from a mandatory clearing requirement, as defined in section 2h(7) of the CEA.

H. Application of Proposed Regulations to Existing Swap Documentation

The Commission recognizes that amending all existing trading relationship documentation would present a substantial undertaking for the market. Therefore, the Commission invites comment on the implementation of proposed § 23.504. While much of the existing swap documentation among swap dealers, major swap participants, and their counterparties likely would be in compliance with § 23.504(b), the Commission requests comment on an appropriate interval following the effective date of the regulations after which to require compliance. This interval is expected to be somewhat shorter for swap documentation among swap dealers and major swap participants, and somewhat longer for swap documentation between swap dealers, major swap participants, and counterparties that are not swap dealers or major swap participants.

The Commission also recognizes that many swap dealers and major swap participants may have dormant trading relationships with counterparties where swap documentation has been executed, but no trades are presently in effect thereunder or there are trades that will run-off over a short period of time, and there is no intention to enter into new trades. Therefore, the Commission invites comment on whether to provide a safe harbor for dormant trading relationships.

I. Comment Requested

The Commission requests comment on all aspects of proposed §§ 23.504 and 23.505. The Commission recognizes that there will be differences in the size and scope of the business of particular swap dealers and major swap participants. Therefore, comments are solicited on whether certain provisions of the proposed regulations should be modified or adjusted to reflect the differences among swap dealers and major swap participants or differences among asset classes. In particular, the Commission requests comment on the following questions:

- How long would swap dealers and major swap participants require to bring their existing documentation into compliance with § 23.504? Will compliance take less time for existing documentation between such registrants and longer for existing documentation between registrants and non-registrants? Would three months following the effective date of the rules be long enough for registrants to bring existing documentation among themselves into compliance? Would six months following the effective date of the rules be long enough for registrants to bring existing documentation with non-registrants into compliance?
- Should § 23.504 include a safe harbor for swaps entered into on, or subject to the rules of, a board of trade designated as a contract market?
- Should § 23.504 require that the governing body of each swap dealer or major swap participant approve the policies and procedures for agreeing with each counterparty to all the terms governing the trading relationship?
- Should any other aspects of the trading relationship be required to be included in § 23.504?
- Should the requirement for agreement on events of default or termination events be further defined? For example, should parties be required to specify all cross default implications and potential claims with regard to their respective affiliates and any other present or future debt obligations or transactions?
- Should § 23.504 specifically delineate the types of payment obligation terms that must be included in the trading relationship documentation?
- Should specific requirements for dispute resolution be included in § 23.504 (such as time limits), and if so, what requirements are appropriate for all swaps?
- Should the valuation agreement in § 23.504(b)(4) require greater specificity? If so, what level of detail should be required?
- Should the valuation methodology provision in § 23.504(b)(4) expressly prohibit use of internal and/or proprietary inputs and methods and if not, why are inputs and methods developed and verifiable only by one party to the swap transaction acceptable given the safety and soundness and transparency objectives of the Dodd-Frank Act?
- If internal and/or proprietary inputs or procedures are permitted under § 23.504(b)(4), should the swap dealer or major swap participant be required to disclose such information and the sources thereof to the counterparty and regulators in sufficient detail for them to undertake comparative analysis of such information and verify the valuation calculations?
- Under proposed § 23.504(b)(6)(v), should all the terms of the cleared swap be required to conform to the templates established by the DCO or are there particular terms or rights under the swap that could be retained without prejudice to the need to standardize swaps for the purposes of clearing?
- Is the requirement that each swap dealer and major swap participant conduct an independent internal or external audit of no less than 5% of the swap trading relationship documentation required by the rule executed during the previous twelve month period appropriate?
- Would a failure of swap trading relationship documentation to comply with the requirements of proposed § 23.504 create uncertainty regarding the enforceability of swaps transacted under such non-compliant documentation? If so, how should this uncertainty be addressed in the rules?
- Are the requirements of proposed § 23.505 appropriate? How should swap dealers and major swap participants verify that their counterparties are properly claiming an exception from a given mandatory clearing requirement?
- Are there any anticompetitive implications to the proposed rules? If so, how could the proposed rules be implemented to achieve the purposes of the CEA in a less anticompetitive manner?

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires that agencies consider whether the rules they propose will have a significant economic impact on a substantial number of small entities.[28] The Commission previously has established certain definitions of "small entities" to be used in evaluating the impact of its regulations on small entities in accordance with the RFA.[29]

[28] 5 U.S.C. 601 *et seq.*

[29] 47 FR 18618, Apr. 30, 1982.

The proposed rules would affect swap dealers and major swap participants.

Swap dealers and major swap participants are new categories of registrants. Accordingly, the Commission has not previously addressed the question of whether such persons are, in fact, small entities for purposes of the RFA. The Commission previously has determined, however, that futures commission merchants should not be considered to be small entities for purposes of the RFA.[30] The Commission's determination was based, in part, upon the obligation of futures commission merchants to meet the minimum financial requirements established by the Commission to enhance the protection of customers' segregated funds and protect the financial condition of futures commission merchants generally.[31] Like futures commission merchants, swap dealers will be subject to minimum capital and margin requirements and are expected to comprise the largest global financial firms. The Commission is required to exempt from swap dealer designation any entities that engage in a de minimis level of swaps dealing in connection with transactions with or on behalf of customers. The Commission anticipates that this exemption would tend to exclude small entities from registration. Accordingly, for purposes of the RFA for this rulemaking, the Commission is hereby proposing that swap dealers not be considered "small entities" for essentially the same reasons that futures commission merchants have previously been determined not to be small entities and in light of the exemption from the definition of swap dealer for those engaging in a de minimis level of swap dealing.

The Commission also has previously determined that large traders are not "small entities" for RFA purposes.[32] In that determination, the Commission considered that a large trading position was indicative of the size of the business. Major swap participants, by statutory definition, maintain substantial positions in swaps or maintain outstanding swap positions that create substantial counterparty exposure that could have serious adverse effects on the financial stability of the United States banking system or financial markets. Accordingly, for purposes of the RFA for this rulemaking, the Commission is hereby proposing that major swap participants not be considered "small entities" for essentially the same reasons that large traders have previously been determined not to be small entities.

Moreover, the Commission is carrying out Congressional mandates by proposing this regulation. Specifically, the Commission is proposing these regulations to comply with the Dodd-Frank Act, the aim of which is to reduce systemic risk presented by swap dealers and swap market participants through comprehensive regulation. The Commission does not believe that there are regulatory alternatives to those being proposed that would be consistent with the statutory mandate. Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the proposed rules will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act (PRA)[33] imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. This proposed rulemaking would result in new collection of information requirements within the meaning of the PRA. The Commission therefore is submitting this proposal to the Office of Management and Budget (OMB) for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The title for this collection of information is "Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants." 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 control number. The OMB has not yet assigned this collection a control number.

The collection of information under these proposed rules is necessary to implement new section 4s(i) the CEA, which expressly requires the Commission to adopt rules governing documentation standards for swap dealers and major swap participants and explicitly obligates such registrants to conform to the documentation standards established by the Commission. The required recordkeeping is particularly essential to ensuring that each swap dealer and major swap participant documents all of the terms of its swap trading relationships with its counterparties. Obligating certain swap market participants to memorialize, in writing, their mutual agreement with respect to margin requirements, margin assets, payment and netting, termination events, the calculation and netting of obligations upon termination, transfer of rights and obligations, governing law, valuation methods and inputs, and dispute resolution procedures would decrease the likelihood of significant counterparty disputes; promote transaction standardization; enhance the parties' abilities to engage in risk-reducing exercises such as bilateral offset, portfolio reconciliation, and portfolio compression; provide for more timely and orderly resolution of events of default; and enhance the stability of the market place as a whole. The proposed regulations also would ensure that certain important information regarding cleared swaps would be preserved and would assist in ensuring compliance with the mandatory clearing requirements of the Act and Commission regulations by requiring the maintenance of documentation demonstrating that the statutory conditions for an exception to those requirements have been satisfied. The reporting requirement established by the proposed rules would ensure that the Commission is provided with timely notification of swap valuation disputes that relevant market participants have been unable to resolve promptly.

The proposed regulation would be an important part of the Commission's regulatory program for swap dealers and major swap participants. The information required to be preserved would be used by representatives of the Commission and any examining authority responsible for reviewing the activities of the swap dealer or major swap participant to ensure compliance with the CEA and applicable Commission regulations.

If the proposed regulations are adopted, responses to this collection of information would be mandatory. The Commission will protect proprietary information according to the Freedom of Information Act and 17 CFR part 145, "Commission Records and Information." In addition, section 8(a)(1) of the CEA strictly prohibits the Commission, unless specifically authorized by the CEA, from making public "data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers." The Commission also is required to protect certain information contained in a government system of records according to the Privacy Act of 1974, 5 U.S.C. 552a.

1. Information Provided By Reporting Entities/Persons

Proposed § 23.504 generally would require swap dealers and major swap participants to develop and retain

[30] *Id.* at 18619.

[31] *Id.*

[32] *Id.* at 18620.

[33] 44 U.S.C. 3501 *et seq.*

written swap trading relationship documentation (including the parties' agreement with respect to the terms specified in the regulation; credit support arrangements; valuation methods, procedures and inputs; records of important information regarding their cleared swaps; and written policies and procedures for maintaining the documentation required by the proposed rule). It also would require swap dealers and major swap participants to report to the Commission and, as applicable, to the Securities and Exchange Commission or prudential regulators, swap valuation disputes that have not been resolved between the parties within designated time frames. Proposed § 23.505 would require swap dealers and major swap participants to obtain documentation sufficient to provide a reasonable basis on which to believe that a counterparty meets the statutory conditions necessary for an exception from the mandatory clearing requirements, where applicable.

The information collection burden associated with the proposed regulations is estimated to be 6,168 hours per year, at an initial annual cost of $684,300 for each swap dealer and major swap participant. The aggregate information collection burden is estimated to be 1,850,400 hours per year, at an initial annual aggregate cost of $205,290,000. Burden means the total time, effort or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. The Commission has characterized the annual costs as initial costs as the Commission anticipates that the cost burdens will be reduced dramatically over time as the agreements and other records required by the proposed regulations become increasingly standardized within the industry.

The Commission anticipates that the majority of the information collection burden would arise from the recordkeeping obligations contained in § 23.504(b). Proposed § 23.504(b) would require each swap dealer and major swap participant to create and maintain written trading relationship documentation that contains the parties' agreement with respect to all of the terms of the parties' trading relationship including, without limitation, the terms delineated in § 23.504(b)(1); the parties' credit support arrangements, including the margin-related terms described in § 23.504(b)(3); and the parties' agreement with respect to the particular procedures and inputs that will be used to determine the value of a swap from execution to termination, maturity, or expiration in a manner that can be independently replicated as required by § 23.504(b)(4). It also requires swap dealers and major swap participants to make and maintain records of cleared swaps containing the data contained in proposed § 23.504(b)(6).

Maintenance of written credit support arrangements and other trading relationship documentation that contain the terms required to be memorialized by the proposed §§ 23.504(b)(1) and (3) is prudent business practice and the Commission anticipates that swap dealers and major swap participants already maintain some form of this documentation with each of their counterparties in the ordinary course of their business. Moreover, proposed § 23.504(b)(2) provides that the swap transaction confirmations described under previously proposed § 23.501 would be considered part of the parties' trading relationship documentation and thus, pre-existing swap confirmations that include the terms required by § 23.504 would obviate the need for the parties to develop new documentation with respect to those terms.[34] Accordingly, any additional expenditure related to §§ 23.504(b)(1) and (3) likely would be limited to the time initially required to review and, as needed, to re-negotiate and amend, existing trading relationship documentation to ensure that it encompasses all of the required terms and to develop a system for maintaining any newly created records. Many of the amended provisions are likely to apply to multiple counterparties, thereby reducing the per counterparty hour burden.

With respect to the valuation agreement requirement established by proposed § 23.504(b)(4), the Commission believes that swap dealers and major swap participants are likely to have existing, internal mechanisms for valuing their swaps transactions and thus, the hour burden associated with this obligation would be limited to the time needed to negotiate agreements with counterparties on mutually acceptable valuation methods, should their individual valuation procedures differ, and to commit the agreement to writing as part of the parties' swap trading relationship documentation. It is likely that the need for new valuation agreements may be limited further to instances of complex or highly customized swaps transactions, as the valuation methods for "plain vanilla" swaps are likely to be somewhat standardized.

The Commission estimates the initial annual hour burden associated with negotiating, drafting, and maintaining the swap trading relationship documentation described above that is required by proposed § 23.504(b) (excluding the cleared swap records required by proposed § 23.504(b)(6)), to be 10 hours per counterparty, or an average of 5,400 hours per swap dealer or major swap participant. As stated above, the Commission expects that this annual per registrant burden would be reduced considerably over time as there would be little need to modify the swap trading relationship documentation on an ongoing basis. Once a swap dealer or major swap participant modifies its pre-existing documentation with each of its counterparties, the annual burden associated with the swap trading relationship documentation would be minimal. In addition, because all swap dealers and major swap participants would be required to maintain the swap trading relationship documentation established by the proposed regulation, the Commission believes that it is likely that many of the terms of such documentation would become progressively more standardized within the industry, further reducing the bilateral negotiation and drafting responsibilities associated with the regulation.

With respect to the required records of cleared swaps, the Commission estimates that swap dealers and major swap participants will spend an average of 2 hours per trading day, or 504 hours per year, maintaining the required data for these transactions. The Commission notes that the specific information required for each transaction is limited and is of the type that would be maintained in a prudent market participant's ordinary course of business. The Commission also notes that the statement required to be preserved for each cleared swap likely would become common to each derivatives clearing organization.

In addition to the above, the Commission anticipates that swap dealers and major swap participants will spend an average of 16 hours per year drafting and, as needed, updating the written policies and procedures required by proposed § 23.504(a); 4 hours per year maintaining records of the results of the annual documentation compliance audits mandated by proposed § 23.504(c); and 220 hours per year, or 1 hour per end user, maintaining records of the

[34] The information collection burden associated with the maintenance of confirmations of swaps transactions was calculated and accounted for in previously proposed regulations. *See* Confirmation, Portfolio Reconciliation, and Portfolio Compression Requirements for Swap Dealers and Major Swap Participants, 75 FR 81519, Dec. 28, 2010.

documentation required by proposed § 23.505.

The only reporting requirement contained in the proposed rules is the obligation of swap dealers and major swap participants to report swap valuation disputes that are not resolved between the participants within designated time periods. The Commission expects that swap dealers and major swap participants will spend an average of 24 hours per year satisfying this requirement.

The hour burden calculations below are based upon a number of variables such as the number of swap dealers and major swap participants in the marketplace, the average number of counterparties of each of these registrants, and the average hourly wage of the employees of these registrants that would be responsible for satisfying the obligations established by the proposed regulation. Swap dealers and major swap participants are new categories of registrants. Accordingly, it is not currently known how many swap dealers and major swap participants will become subject to these rules, and this will not be known to the Commission until the registration requirements for these entities become effective after July 16, 2011, the date on which the Dodd-Frank Act becomes effective. While the Commission believes there will be approximately 200 swap dealers and 50 major swap participants, it has taken a conservative approach, for PRA purposes, in estimating that there will be a combined number of 300 swap dealers and major swap participants who will be required to comply with the recordkeeping requirements of the proposed rules. The Commission estimated the number of affected entities based on industry data.

Similarly, due to the absence of prior experience in regulating swap dealers and major swap participants and with regulations similar to the proposed rules, the actual, average number of counterparties that a swap dealer or major swap participant is likely to have and the average size of its portfolio with particular counterparties is uncertain. Consistent with other proposed rulemakings, the Commission has estimated that each of the 14 major swap dealers has an average 7,500 counterparties and the other 286 swap dealers and major swap participants have an average of 200 counterparties per year, for an average of 540 total counterparties per registrant.

The Commission anticipates that the written policies and procedures required by the proposed regulations, along with the recordkeeping and reporting requirements, typically would be drafted and maintained by in-house counsel and financial or operational managers within the firm.[35] According to the Bureau of Labor Statistics findings, the mean hourly wage of an employee under occupation code 23–1011, "Lawyers," that is employed by the "Securities and Commodity Contracts Intermediation and Brokerage Industry" is $82.22.[36] The mean hourly wage of an employee under occupation code 11–3031, "Financial Managers," (which includes operations managers) in the same industry is $74.41.[37] Because swap dealers and major swap participants include large financial institutions whose employees' salaries may exceed the mean wage provided, however, the Commission generally has estimated the cost burden of the proposed regulations based upon an average salary of $100 per hour. To account for the possibility that the services of outside counsel may be required to satisfy the requirements associated with negotiating, drafting, and maintaining the required trading relationship documentation (except the cleared swap records), the Commission has used an average salary of $125 per hour to calculate this burden for one half of the necessary hours.

Based upon the above, the estimated hour burden was calculated as follows:

Drafting and Updating Policies and Procedures. This hour burden arises from the time necessary to develop and periodically update the policies and procedures required by the proposed regulations.

Number of registrants: 300.

Frequency of collection: Initial drafting, updating as needed.

Estimated number of annual responses per registrant: 1.

Estimated aggregate number of annual responses: 300.

Estimated annual hour burden per registrant: 16 hours.

Estimated aggregate annual hour burden: 4,800 burden hours [300 registrants × 16 hours per registrant].

Swap Trading Relationship Documentation (excluding cleared swaps records). This hour burden arises from the proposed obligation that swap dealers and major swap participants execute and maintain swap trading relationship documentation.

Number of registrants: 300.

Frequency of collection: At least once per counterparty.

Estimated number of annual responses per registrant: 540 [one set of agreements per counterparty].

Estimated aggregate number of annual responses: 162,000 [300 registrants × 540 counterparties].

Estimated annual hour burden per registrant: 5,400 [540 counterparties × 10 hours per counterparty].

Estimated aggregate annual hour burden: 1,620,000 [300 registrants × 5,400 hours per registrant].

Cleared Swap Recordkeeping. This hourly burden arises from the proposed requirement that swap dealers and major swap participants make and maintain records of specified information related to each swap accepted for clearing by a derivatives clearing organization.

Number of registrants: 300.

Frequency of collection: Daily.

Estimated number of annual responses per registrant: 252 [252 trading days per year].[38]

Estimated aggregate number of annual responses: 75,600 [300 registrants × 252 trading days].

Estimated annual hour burden per registrant: 504 [252 trading days × 2 hours per trading day].

Estimated aggregate hour burden: 151,200 [300 registrants × 504 hours].

Audit Recordkeeping. This hourly burden arises from the proposed requirement that swap dealers and major swap participants make and maintain records of the results of their annual internal or external audits to examine for compliance with the requirements of the proposed regulations.

Number of registrants: 300.

Frequency of collection: Annually.

Estimated number of annual responses per registrant: 1.

Estimated aggregate number of annual responses: 300 [300 registrants × 1].

Estimated annual hour burden per registrant: 4.

[35] The written policies and procedures also may be drafted and maintained by the chief compliance officer of the swap dealer or major swap participant. According to recent Bureau of Labor Statistics findings, the mean hourly wage of any employee under occupation code 13–1401, "Compliance Officers, Except Agriculture, Construction, Health and Safety, and Transportation," that is employed by the "Securities and Commodity Contracts Intermediation and Brokerage Industry is $38.77. *http://www.bls.gov/oes/current/oes131041.htm.*

[36] *http://www.bls.gov/oes/2099/mayowe23.1011.htm.*

[37] *http://www.bls.gov/oes/current/oes113031.htm.*

[38] Consistent with the Commission's proposed regulations that would require swap dealers and major swap participants to compile and maintain certain transaction records (including daily trading records), the Commission has estimated the hour burden associated with the cleared swap recordkeeping requirement by approximating the number of hours per trading day that an employee of a swap dealer or major swap participant likely would spend compiling and retaining the relevant records. *See* Reporting, Recordkeeping, and Daily Trading Record Requirements for Swap Dealers and Major Swap Participants, 75 FR 76666, Dec. 9, 2010.

Estimated aggregate annual hour burden: 1,200 [300 registrants × 4 hours].

Valuation Dispute Reporting. This hourly burden arises from the proposed requirement that swap dealers and major swap participants submit reports of certain unresolved valuation disputes.

Number of registrants: 300.

Frequency of collection: As applicable.

Estimated number of annual responses per registrant: 240.

Estimated aggregate number of annual responses: 72,000 [300 registrants × 240 responses].

Estimated annual hour burden per registrant: 24.

Estimated aggregate annual hour burden: 7,200 [300 registrants × 24 hours].

End user Exception Documentation Recordkeeping. This hourly burden arises from the proposed requirement that swap dealers and major swap participants make and maintain records of its end user exception documentation.

Number of registrants: 300.

Frequency of collection: Once per applicable counterparty.

Estimated number of annual responses per registrant: 220.[39]

Estimated aggregate number of annual responses: 66,000 [300 registrants × 220 responses].

Estimated annual hour burden per registrant: 220 [220 responses × 1 hour per response].

Estimated aggregate annual hour burden: 66,000 [300 registrants × 220 responses].

In addition to the per hour burden discussed above, the Commission anticipates that swap dealers and major swap participants may incur certain start-up costs in connection with the proposed recordkeeping obligations. Such costs would include the expenditures related to developing and installing new recordkeeping technology or re-programming or updating existing recordkeeping technology and systems to enable the swap dealer or major swap participant to collect, maintain, and re-produce any newly required records. The Commission believes that swap dealers and major swap participants generally could adapt their current infrastructure to accommodate the new or amended technology and thus, no significant infrastructure expenditures would be needed. The Commission estimates the programming burden hours associated with technology improvements to be 40 hours.

According to recent Bureau of Labor Statistics findings, the mean hourly wages of computer programmers under occupation code 15–1021 and computer software engineers under program codes 15–1031 and 1032 are between $34.10 and $44.94.[40] Because swap dealers and major swap participants generally will be large entities that may engage employees with wages above the mean, the Commission has conservatively chosen to use a mean hourly programming wage of $60 per hour. Accordingly, the start-up burden associated with the required technological improvements would be $2,400 [$60 × 40 hours per affected registrant] or $720,000 in the aggregate.

2. Information Collection Comments

The Commission invites the public and other Federal agencies to comment on any aspect of the recordkeeping burdens discussed above. The Commission specifically requests comment on the variables used in the above-referenced hourly burden calculations. For example, the Commission requests comment on the following:

- What is the total number of swap dealers and major swap participants in the marketplace?
- What is the average number of counterparties that a swap dealer or major swap participant is likely to have?
- What percentage of those counterparties are other swap dealers or major swap participants?
- What percentage of those counterparties is likely to meet the statutory qualifications required for an exception from the mandatory clearing requirement, as defined in section 2h(7) of the CEA and § 39.6?
- What is the average size (number of swaps) of a portfolio that a swap dealer or major swap participant is likely to have with a particular type of counterparty?
- To what extent do swap dealers and major swap participants currently enter into agreements that would satisfy the requirements of proposed § 23.504?
- To what extent would swap dealers and major swap participants be able to standardize the swap trading relationship documentation required by § 23.504?
- To what extent would swap dealers and major swap participants be required to utilize the services of outside counsel in negotiating and drafting the swap trading relationship documentation and valuation and termination rights agreements that would be required by proposed § 23.504?

Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments in order to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (ii) evaluate the accuracy of the Commission's estimate of the burden of the proposed collection of information; (iii) determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Comments may be submitted directly to the Office of Information and Regulatory Affairs, by fax at (202) 395–6566 or by e-mail at *OIRAsubmissions@omb.eop.gov.* Please provide the Commission with a copy of submitted comments so that all comments can be summarized and addressed in the final rule preamble. Refer to the **ADDRESSES** section of this notice of proposed rulemaking for comment submission instructions to the Commission.

A copy of the supporting statements for the collections of information discussed above may be obtained by visiting *RegInfo.gov.* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

C. Cost-Benefit Analysis

Section 15(a) of the CEA [41] requires the Commission to consider the costs and benefits of its actions before issuing a rulemaking under the CEA. By its terms, section 15(a) does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the rule outweigh its costs; rather, it requires that the Commission "consider" the costs and benefits of its actions.

Section 15(a) further specifies that costs and benefits of a proposed rulemaking shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and

[39] The Commission estimates that half of the counterparties that are not swap dealers or major swap participants may claim the end user exception on an annual basis.

[40] *http://www.bls.gov/oes/current/oes113031.htm.*

[41] 7 U.S.C. 19(a).

financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission may, in its discretion, give greater weight to any one of the five enumerated considerations and could, in its discretion, determine that, notwithstanding its costs, a particular regulation was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the CEA.

Summary of proposed requirements. The proposed regulations would implement new section 4s(i) of the CEA, which was added by section 731 of the Dodd-Frank Act. The proposed regulations would establish certain documentation requirements applicable to swap dealers and major swap participants and related recordkeeping and reporting obligations.

Costs. With respect to costs, the Commission has determined that the cost that would be borne by swap dealers and major swap participants to institute the policies and procedures, make and maintain the records, and perform the event-based reporting necessary to satisfy the new regulatory requirements are far outweighed by the benefits that would accrue to the financial system as a whole as a result of the implementation of the rules.

For example, memorializing the specific terms of the swap trading relationship and swap transactions between counterparties is prudent business practice and, in fact, many market participants already use standardized documentation. Accordingly, it is believed that many, if not most, swap dealers and major swap participants currently execute and maintain trading relationship documentation of the type required by proposed § 23.504 in the ordinary course of their businesses, including documentation that contains several of the terms that would be required by the proposed rules. Thus, the hour and dollar burdens associated with the swap trading relationship documentation requirements may be limited to amending existing documentation to expressly include any additional terms required by the proposed rules.

The Commission recognizes that swap dealers and major swap participants may face certain costs, such as the legal fees associated with negotiating and drafting the required documentation modifications, as they and their counterparties come into compliance with the new regulations. However, the Commission also believes that, to the extent that any substantial amendments or additions to existing documentation would be needed, such revisions would likely apply to multiple counterparties, thereby reducing the per counterparty burden imposed upon swap dealers and major swap participants. The Commission further expects the per hour and dollar burdens to be incurred predominantly in the first year or two after the effective date of the final regulations. Once a swap dealer or major swap participant has changed its pre-existing documentation with each of its counterparties to comply with the proposed rules, there likely will be little need to further modify such documentation on an ongoing basis. In addition, the Commission anticipates that standardized swap trading relationship documentation will develop quickly and progressively within the industry, dramatically reducing the cost to individual participants.

The Commission expects the per hour burden associated with the remaining requirements of §§ 23.504 and 23.505 to be relatively minimal. The same is true of the sole reporting requirement contained in § 23.504. Such reporting is event-based and the Commission expects that instances of valuation disputes will decrease over time as valuation agreements are committed to writing pursuant to the proposed regulations.

Finally, the Commission notes that most swap dealers and major swap participants have back office personnel, operational systems, and resources capable of maintaining the required records, performing the periodic reporting, and otherwise adjusting to the new regulatory framework without material diversion of resources away from commercial operations or substantial capital investment.

Benefits. With respect to benefits, the Commission has determined that the proposed regulations that would require a swap dealer or major swap participant to document its swap trading relationship with each of its counterparties will promote standardization of documents and transactions, facilitate central trading and clearing, promote legal and financial certainty, decrease the number and scope of counterparty disputes, promote the timely resolution of disputes when they occur, and enhance the parties' abilities to engage in risk-reducing activities and will result in reduced risk, increased transparency, and greater liquidity and market integrity in the swaps marketplace. Moreover, the cleared swap records that are required to be preserved and the mandatory reporting of unresolved valuation disputes will be valuable tools in the Commission's oversight of the affected registrants. Therefore, the Commission believes it is prudent to prescribe these proposed regulations.

Public Comment. The Commission invites public comment on its cost-benefit considerations. Commentators are also invited to submit any data or other information that they may have quantifying or qualifying the costs and benefits of the proposed rules with their comment letters.

List of Subjects in 17 CFR Part 23

Antitrust, Commodity futures, Conduct standards, Conflict of Interests, Major swap participants, Reporting and recordkeeping, Swap dealers, Swaps.

For the reasons stated in this release, the Commission proposes to amend 17 CFR part 23, as proposed to be added in FR Doc. 2010–29024, published in the **Federal Register** on November 23, 2010 (75 FR 71379), and as proposed to be amended in FR Doc. 2010–32264, published in the **Federal Register** on December 28, 2010 (75 FR 81519) as follows:

PART 23—SWAP DEALERS AND MAJOR SWAP PARTICIPANTS

1. The authority citation for part 23 is revised to read as follows:

Authority: 7 U.S.C. 1a, 2, 6, 6a, 6b, 6b–1, 6c, 6p, 6r, 6s, 6t, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21.

2. Revise the table of contents for part 23, subpart I to read as follows:

Subpart I—Swap Documentation

Sec.

23.500 Definitions.
23.501 Swap confirmation.
23.502 Portfolio reconciliation.
23.503 Portfolio compression.
23.504 Swap trading relationship documentation.
23.505 End user exception documentation.

3. Add § 23.504 and § 23.505 to part 23, subpart I, to read as follows:

§ 23.504 Swap trading relationship documentation.

(a) *Policies and procedures.* Each swap dealer and major swap participant shall establish, maintain, and enforce written policies and procedures reasonably designed to ensure that, prior to or contemporaneously with entering into a swap transaction with any counterparty, other than a derivatives clearing organization, the swap dealer or major swap participant executes written swap trading relationship documentation with its counterparty that complies with the requirements of this section. The

policies and procedures shall be approved in writing by senior management of the swap dealer and major swap participant, and a record of the approval shall be retained.

(b) *Swap trading relationship documentation.* (1) The swap trading relationship documentation shall be in writing and shall include all terms governing the trading relationship between the swap dealer or major swap participant and its counterparty, including, without limitation, terms addressing payment obligations, netting of payments, events of default or other termination events, calculation and netting of obligations upon termination, transfer of rights and obligations, governing law, valuation, and dispute resolution procedures.

(2) The swap trading relationship documentation shall include all confirmations of swap transactions under § 23.501.

(3) The swap trading relationship documentation shall include credit support arrangements, which shall contain, in accordance with applicable requirements under Commission regulations or regulations adopted by prudential regulators and without limitation, the following:

(i) Initial and variation margin requirements;

(ii) Types of assets that may be used as margin and asset valuation haircuts;

(iii) Investment and rehypothecation terms for assets used as margin for uncleared swaps; and

(iv) Custodial arrangements for margin assets, including whether margin assets are to be segregated with an independent third party, in accordance with § 23.601(e).

(4) The swap trading relationship documentation shall include written documentation in which the parties agree on the methods, procedures, rules, and inputs for determining the value of each swap at any time from execution to the termination, maturity, or expiration of such swap. To the maximum extent practicable, the valuation of each swap shall be based on objective criteria, such as recently-executed transactions or valuations provided by independent third parties such as derivatives clearing organizations.

(i) Such methods, procedures, rules, and inputs shall be agreed for each swap prior to or contemporaneously with execution and shall be stated with the specificity necessary to allow the swap dealer, major swap participant, counterparty, the Commission, and any applicable prudential regulator to determine the value of the swap independently in a substantially comparable manner.

(ii) Such methods, procedures, and rules shall include alternative methods for determining the value of the swap in the event of the unavailability or other failure of any input required to value the swap, provided that the alternative methods for valuing the swap comply with the requirements of this section.

(iii) Provided that the requirements of this paragraph, including the independent valuation requirement of paragraph (b)(4)(i) of this section, are satisfied, a swap dealer or major swap participant is not required to disclose to the counterparty confidential, proprietary information about any model it may use internally to value a swap for its own purposes.

(5) [Reserved]

(6) Upon acceptance of a swap by a derivatives clearing organization, the swap trading relationship documentation shall include a record of the following information:

(i) The date and time the swap was accepted for clearing;

(ii) The name of the derivatives clearing organization;

(iii) The name of the clearing member clearing for the swap dealer or major swap participant;

(iv) The name of the clearing member clearing for the counterparty, if known; and

(v) A statement that in accordance with the rules of the derivatives clearing organization:

(A) The original swap is extinguished;

(B) The original swap is replaced by equal and opposite swaps between clearing members and the derivatives clearing organization;

(C) All terms of the cleared swap conform to templates established under the derivatives clearing organization's rules; and

(D) All terms of the swap, as carried on the books of the clearing member, conform to the terms of the cleared swap established under the derivatives clearing organization's rules.

(c) *Audit of swap trading relationship documentation.* At least once during each calendar year, each swap dealer and major swap participant shall have an independent internal or external auditor examine no less than 5% of the swap trading relationship documentation required by this section created during the previous twelve month period to ensure compliance with Commission regulations and the written policies and procedures established pursuant to this section. A record of the results of each audit shall be retained.

(d) *Recordkeeping.* Each swap dealer and major swap participant shall maintain all documents required to be created pursuant to this section in accordance with § 1.31 of this chapter and shall make them available promptly upon request to any representative of the Commission or any applicable prudential regulator, or with regard to swaps defined in section 1a(47)(A)(v) of the Act, to any representative of the Commission, the Securities and Exchange Commission, or any applicable prudential regulator.

(e) *Reporting.* Each swap dealer and major swap participant shall promptly notify the Commission and any applicable prudential regulator, or with regard to swaps defined in section 1a(47)(A)(v) of the Act, the Commission, the Securities and Exchange Commission, and any applicable prudential regulator, of any swap valuation dispute not resolved within:

(1) One (1) business day, if the dispute is with a counterparty that is a swap dealer or major swap participant; or

(2) Five (5) business days, if the dispute is with a counterparty that is not a swap dealer or major swap participant.

§ 23.505 End user exception documentation.

(a) *For swaps excepted from a mandatory clearing requirement.* Each swap dealer and major swap participant shall obtain documentation sufficient to provide a reasonable basis on which to believe that its counterparty meets the statutory conditions required for an exception from a mandatory clearing requirement, as defined in section 2h(7) of the Act and § 39.6 of this chapter. Such documentation shall include:

(1) The identity of the counterparty;

(2) That the counterparty has elected not to clear a particular swap under section 2h(7) of the Act and § 39.6 of this chapter;

(3) That the counterparty is a non-financial entity, as defined in section 2h(7)(C) of the Act;

(4) That the counterparty is hedging or mitigating a commercial risk; and

(5) That the counterparty generally meets its financial obligations associated with non-cleared swaps.

(b) *Recordkeeping.* Each swap dealer and major swap participant shall maintain all documents required to be obtained pursuant to this section in accordance with § 1.31 of this chapter and shall make them available promptly upon request to any representative of the Commission or any applicable prudential regulator, or with regard to swaps defined in section 1a(47)(A)(v) of

the Act, to any representative of the Commission, the Securities and Exchange Commission, or any applicable prudential regulator.

Issued in Washington, DC on January 13, 2011 by the Commission.

David A. Stawick,

Secretary of the Commission.

Appendices to Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants—Commissioners Voting Summary and Statements of Commissioners

Note: The following appendices will not appear in the Code of Federal Regulations.

Appendix 1—Commissioners Voting Summary

On this matter, Chairman Gensler and Commissioners Dunn, Sommers, Chilton and O'Malia voted in the affirmative; no Commissioner voted in the negative.

Appendix 2—Statement of Chairman Gary Gensler

I support the proposed rulemaking that establishes swap trading relationship documentation requirements for swap dealers and major swap participants. The proposed regulations are consistent with the express mandate of the Dodd-Frank Act to prescribe standards for the timely and accurate confirmation, processing, netting, documentation and valuation of swap transactions. One of the primary goals of the Dodd-Frank Act was to establish a comprehensive regulatory framework that would reduce risk, increase transparency and promote market integrity within the financial system. The proposed regulations accomplish this objective by establishing procedures that will promote legal certainty regarding terms of swap transactions, early resolutions of valuation disputes, enhanced understanding of one counterparty's risk exposure to another, reduced operational risk and increased operational efficiency. One of the key chapters from the 2008 financial crisis was when large financial players, including AIG, had valuation disputes and other problems regarding documentation standards. These rules will directly address many of these issues, highlighting issues for senior management and regulators earlier and lowering risk to the public.

Appendix 3—Commissioner Scott D. O'Malia

I respectfully dissent from the Commission's decision to propose requirements regarding the inclusion of Title II of the Dodd-Frank Act (Title II) and the Federal Deposit Insurance Act (FDIA) in the swap documentation used by swap dealers (Dealers) and major swap participants (MSP). This proposal would require Dealers and MSP to include a provision in their swap documentation which will prevent their counterparties from exercising certain private, contractual rights in the event that a swap becomes subject to the processes of either Title II or FDIA. In particular, the proposal requires counterparties to explicitly consent to the resolution processes set forth in Title II or FDIA, which includes a one-day stay on the termination, liquidation or netting of swaps with a "covered financial company" as that term is defined under Title II. Title II also provides the Federal Deposit Insurance Company (FDIC) with an unchecked authority to repudiate contracts and preference which creditors receive payments. Finally, the proposal asks whether swap agreements which contain cross default provisions should also subject counterparty affiliates to a "covered financial company" designation or treat them as an insured depository institution under FDIA.

The Commission's proposal relies on its authorities in Title VII of the Dodd-Frank Act regarding swap documentation. Asking parties to agree upon and include valuation language in their swap agreements under this authority is one thing, but dictating that one party forego its legal contractual rights simply because its counterparty becomes subject to an overly vague and far reaching statute intended to address "systemic risk to the financial system" is quite another. If the FDIC authority to require this provision under Title II was clear, then there would be no need for the Commission to prop up the banking regulator's ability to exercise its resolution authority. In its best attempt to justify the proposal, the Commission claims that it is merely trying to put counterparties on notice of the already existing requirements of Title II and FDIA, but neither the proposal regarding an explicit consent to transfer, nor the discussion regarding affiliates and cross default agreements is a reflection of language already included in Title II or FDIA. At the very least, if the CFTC had any specific role under Title II or FDIA, then it would be clear how we would inform the treatment of the market participants that we regulate and their transactions in the case of a default. We do not.

By raising these objections, I hope that market participants will become fully aware of the legal regime that they will be subject to by virtue of entering into a swap agreement. I don't believe it is in our best interest to adopt seemingly redundant and unnecessary requirements into our regulations or to adopt requirements under the guise of our Title VII authorities that clearly exceeds the already broad statutory authority Congress decided to provide the FDIC under both Title II and FDIA. As a result, I cannot support this proposal.

[FR Doc. 2011–2643 Filed 2–7–11; 8:45 am]

BILLING CODE 6351–01–P

DELAWARE RIVER BASIN COMMISSION

18 CFR Part 410

Proposed Amendments to the Water Quality Regulations, Water Code and Comprehensive Plan To Provide for Regulation of Natural Gas Development Projects

AGENCY: Delaware River Basin Commission.

ACTION: Proposed rule; supplemental notice of public hearing.

SUMMARY: The Delaware River Basin Commission published in the **Federal Register** of January 4, 2011 a proposed rule containing tentative dates and locations for public hearings on proposed amendments to its Water Quality Regulations, Water Code and Comprehensive Plan relating to natural gas development projects. The public hearing dates have been changed and locations and times established, as set forth below.

DATES: Public hearings will be held at two locations on February 22, 2011 and at a third on February 24, 2011. Hearings will run from 1:30 p.m. until 5 p.m. and from 6 p.m. until 9:30 p.m. at each location. Written comments will be accepted through the close of business on March 16, 2011.

Locations: The hearings on February 22, 2011 will take place in the Honesdale High School auditorium, 459 Terrace Street, Honesdale, Pennsylvania and the Liberty High School auditorium, 125 Buckley Street, Liberty, New York. The hearings on February 24, 2011 will take place in Patriots Theater at the War Memorial, 1 Memorial Drive, Trenton, New Jersey.

FOR FURTHER INFORMATION CONTACT: Ms. Paula Schmitt at 609–883–9500, ext. 224.

SUPPLEMENTARY INFORMATION: This document supplements the Commission's proposed rule published in the **Federal Register** of January 4, 2011 (76 FR 295) by providing the dates, times and locations of the public hearings to be held on proposed amendments to the Commission's Water Quality Regulations, Water Code and Comprehensive Plan relating to the conservation and development of water resources of the Delaware River Basin during the implementation of natural gas development projects. The tentative hearing dates published in the notice of January 4, 2011 have been changed. The exact locations and times of the public hearings were not included in the January 4 notice and are provided here.

The text of the proposed amendments and additional details about how to submit written and oral testimony are available on the Commission's Web site, drbc.net.

Dated: February 1, 2011.

John F. Calkin,

Attorney.

[FR Doc. 2011–2677 Filed 2–7–11; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–1091]

RIN 1625–AA00

Safety Zone; Underwater Hazard, Gravesend Bay, Brooklyn, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a permanent safety zone within the waters of Gravesend Bay, Brooklyn, New York. This proposed safety zone is necessary to provide for the protection of the maritime public and safety of navigation from recently discovered underwater explosive hazards in Gravesend Bay. This action is intended to restrict unauthorized persons and vessels from traveling through or conducting underwater activities within a portion of Gravesend Bay until recently discovered military munitions are rendered safe and removed from the area. Entry into this zone would be prohibited unless authorized by the Captain of the Port New York or the designated on-scene representative.

DATES: Comments and related material must be received by the Coast Guard on or before March 10, 2011. Requests for public meetings must be received by the Coast Guard on or before February 23, 2011.

ADDRESSES: You may submit comments identified by docket number USCG–2010–1091 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov*.

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. *See* the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail LTJG Eunice James, Coast Guard; telephone (718) 354–4163, e-mail *Eunice.A.James@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2010–1091), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *http://www.regulations.gov*) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "USCG–2010–1091" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG–2010–1091" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

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).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one on or before February 23, 2011 using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Basis and Purpose

In response to media reports of military munitions found in Gravesend Bay by civilian divers, U.S. Navy Explosive Ordnance Disposal divers from Naval Weapons Station Earle conducted underwater surveys and confirmed the location of munitions on the bottom of Gravesend Bay. The

munitions consist of approximately 1500 rounds of 20mm ammunition, one 3-inch diameter projectile and two cartridge casings. The Captain of the Port (COTP) New York has established a temporary safety zone under docket number USCG–2010–1126 as an interim measure while this long-term rulemaking process is pursued.

In the interest of public safety, the U.S. Navy has requested that the Coast Guard limit access to the location in Gravesend Bay where the munitions are located until the ordnance can be rendered safe and removed.

This safety zone is necessary to ensure the safety of mariners, vessels, and civilian divers from the potential hazards associated with unexploded military munitions.

Discussion of Proposed Rule

The COTP New York proposes to establish a safety zone around the location of an unexploded munitions site to ensure the safety of mariners and vessels transiting near the location of the ordnance as well as divers intending to dive in the area.

The proposed safety zone will encompass all waters of Gravesend Bay within 110-yard radius of position 40°36′30″ N, 074°02′14″ W (NAD 83), approximately 70-yards southeast of the Verrazano Bridge Brooklyn tower.

Entry into the proposed safety zone by any person or vessel will be prohibited unless specifically authorized by the COTP New York, or the designated on-scene representative. Persons desiring to enter the safety zone may request permission to enter from the Coast Guard COTP via VHF Channel 16 or by contacting the Sector New York Command Center at (718) 354–4353.

The Coast Guard advises that entry into, transiting, diving, dredging, dumping, fishing, trawling, conducting salvage operations, remaining within or anchoring in this safety zone will be prohibited unless authorized by the COTP New York or the designated on-scene representative.

The "designated on-scene representative" is any Coast Guard commissioned, warrant, or petty officer who has been designated by the COTP New York to act on her behalf.

Regulatory Analyses

We developed this proposed 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 proposed 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.

Although this proposed rule restricts access to a small portion of Gravesend Bay until military munitions are rendered safe and removed, the effect of this regulation would not be significant due to the following reasons: the safety zone would cover only a small portion of the navigable waters within Gravesend Bay. Vessels would be able to safely transit around the area. In addition, vessels may be authorized to enter the zone with permission of the COTP New York.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 proposed rule would 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, fish, dive, or anchor in a portion of Gravesend Bay.

This proposed safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. This safety zone would limit access to a relatively small portion of the waterway. Vessel traffic could safely transit around the safety zone. Before the activation of the zone, we would issue maritime advisories widely available to users of the waterway in the vicinity of Gravesend Bay.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or e-mail LTJG Eunice James, Coast Guard Sector New York Waterways Management Division; telephone 718–354–4163, e-mail *Eunice.A.James@uscg.mil.* The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call 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 proposed 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 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not cause 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed 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 made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**. This proposed rule involves the establishment of a safety zone which can be categorically excluded, under figure 2–1, paragraph (34)(g), of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.171 to read as follows:

§ 165.171 Safety Zone; Underwater Hazard, Gravesend Bay, Brooklyn, NY.

(a) *Location.* The following area is a safety zone: All navigable waters of Gravesend Bay within a 110-yard radius of a point in position 40°36′30″ N, 074°02′14″ W (NAD 83), approximately 70-yards southeast of the Verrazano Bridge Brooklyn tower.

(b) *Effective date.* This safety zone is effective on July 01, 2011, twenty-four hours a day, seven days a week.

(c) *Regulations.* (1) The general regulation contained in 33 CFR 165.23 apply.

(2) Entry into, transiting, diving, dredging, dumping, fishing, trawling, conducting salvage operations, remaining within or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port New York or the designated on-scene representative.

(3) The "designated on-scene representative" is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port New York.

(4) Vessel operators desiring to enter or operate within the safety zone may contact the Captain of the Port New York or his designated representative at the Coast Guard Sector New York Command Center via VHF Channel 16 or by phone at (718) 354–4353 to request permission.

(5) Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port New York or the on-scene representative.

Dated: January 14, 2011.

L.L. Fagan,

Captain, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 2011–2689 Filed 2–7–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

[Docket No. FWS–R7–SM–2010–0066; [70101–1261–0000L6]

RIN 1018–AX33

Subsistence Management Regulations for Public Lands in Alaska—2012–13 and 2013–14 Subsistence Taking of Wildlife Regulations

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish regulations for hunting and trapping seasons, harvest limits, methods and means related to taking of wildlife for subsistence uses during the 2012–2013 and 2013–2014 regulatory years. The Federal Subsistence Board is on a schedule of completing the process of revising subsistence taking of wildlife regulations in even-numbered years and subsistence taking of fish and shellfish regulations in odd-numbered years; public proposal and review processes take place during the preceding year.

The Board also addresses customary and traditional use determinations during the applicable cycle. When final, the resulting rulemaking will replace the existing subsistence wildlife taking regulations. This rule would also amend the general regulations on subsistence taking of fish and wildlife.

DATES: *Public meetings:* The Federal Subsistence Regional Advisory Councils will hold public meetings to receive comments and make proposals to change this proposed rule on several dates between February 15 and March 24, 2011, and then hold another round of public meetings to discuss and receive comments on the proposals, and make recommendations on the proposals to the Federal Subsistence Board, on several dates between August 23 and October 13, 2011. The Board will discuss and evaluate proposed regulatory changes during a public meeting in Anchorage, AK, in January 2012. *See* **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings.

Public comments: Comments and proposals to change this proposed rule must be received or postmarked by March 24, 2011.

ADDRESSES: *Public meetings:* The Federal Subsistence Board and the Regional Advisory Councils' public meetings will be held at various locations in Alaska. *See* **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings.

Public comments: You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov* and search for FWS–R7–SM–2010–0066, which is the docket number for this rulemaking.
- *By hard copy:* U.S. mail or hand-delivery to: USFWS, Office of Subsistence Management, 1011 East Tudor Road, MS 121, *Attn:* Theo Matuskowitz, Anchorage, AK 99503–6199, or hand delivery to the Designated Federal Official attending any of the Federal Subsistence Regional Advisory Council public meetings. *See* **SUPPLEMENTARY INFORMATION** for additional information on locations of the public meetings.

We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (*see* the Public Review Process section below for more information).

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Peter J. Probasco, Office of Subsistence Management; (907) 786–3888 or *subsistence@fws.gov.* For questions specific to National Forest System lands, contact Steve Kessler, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 743–9461 or *skessler@fs.fed.us.*

SUPPLEMENTARY INFORMATION:

Background

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program. This program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. The Secretaries published temporary regulations to carry out this program in the **Federal Register** on June 29, 1990 (55 FR 27114), and final regulations were published in the **Federal Register** on May 29, 1992 (57 FR 22940). The Program has subsequently amended these regulations a number of times. Because this program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, "Parks, Forests, and Public Property," and Title 50, "Wildlife and Fisheries," at 36 CFR 242.1–28 and 50 CFR 100.1–28, respectively. The regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Consistent with subpart B of these regulations, the Secretaries established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board is currently made up of:

- A Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- The Alaska Regional Director, U.S. Fish and Wildlife Service;
- The Alaska Regional Director, U.S. National Park Service;
- The Alaska State Director, U.S. Bureau of Land Management;
- The Alaska Regional Director, U.S. Bureau of Indian Affairs; and
- The Alaska Regional Forester, U.S. Forest Service.

Through the Board, these agencies participate in the development of regulations for subparts C and D, which, among other things, set forth program eligibility and specific harvest seasons and limits.

In administering the program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Advisory Council. The Regional Advisory Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska. The Regional Advisory Council members represent varied geographical, cultural, and user interests within each region.

Public Review Process—Comments, Proposals, and Public Meetings

The Regional Advisory Councils have a substantial role in reviewing this proposed rule and making recommendations for the final rule. The Federal Subsistence Board, through the Regional Advisory Councils, will hold meetings on this proposed rule at the following locations in Alaska, on the following dates:

Region 1—Southeast Regional Council, Sitka, March 22, 2011
Region 2—Southcentral Regional Council, Anchorage, March 16, 2011
Region 3—Kodiak/Aleutians Regional Council, Kodiak, February 16, 2011
Region 4—Bristol Bay Regional Council, Naknek, March 9, 2011
Region 5—Yukon–Kuskokwim Delta Regional Council, Mtn. Village, February 23, 2011
Region 6—Western Interior Regional Council, Galena, March 1, 2011
Region 7—Seward Peninsula Regional Council, Nome, February 15, 2011
Region 8—Northwest Arctic Regional Council, Kotzebue, March 18, 2011
Region 9—Eastern Interior Regional Council, Fairbanks, March 3, 2011
Region 10—North Slope Regional Council, Barrow, March 7, 2011

During April 2011, the written proposals to change the subpart D, take of wildlife regulations and subpart C, customary and traditional use determinations, will be compiled and distributed for public review. During the 30-day public comment period, which is presently scheduled to end on May 15, 2011, written public comments will be accepted on the distributed proposals.

The Board, through the Regional Advisory Councils, will hold a second series of meetings in August through October 2011, to receive comments on specific proposals and to develop recommendations to the Board at the following locations in Alaska, on the following dates:

Region 1—Southeast Regional Council, Wrangell, September 27, 2011

Region 2—Southcentral Regional Council, Cantwell, October 3, 2011
Region 3—Kodiak/Aleutians Regional Council, Cold Bay, September 7, 2011
Region 4—Bristol Bay Regional Council, Dillingham, October 12, 2011
Region 5—Yukon–Kuskokwim Delta Regional Council, TBA, September 29, 2011
Region 6—Western Interior Regional Council, Aniak, October 4, 2011
Region 7—Seward Peninsula Regional Council, Nome, September 21, 2011
Region 8—Northwest Arctic Regional Council, TBA, August 23, 2011
Region 9—Eastern Interior Regional Council, Tanana, October 11, 2011
Region 10—North Slope Regional Council, TBA, August 23, 2011

A notice will be published of specific dates, times, and meeting locations in local and statewide newspapers prior to both series of meetings. Locations and dates may change based on weather or local circumstances. The amount of work on each Regional Advisory Council's agenda determines the length of each Regional Advisory Council meeting.

The Board will discuss and evaluate proposed changes to the subsistence management regulations during a public meeting scheduled to be held in Anchorage, AK, in January 2012. The Regional Advisory Council Chairs, or their designated representatives, will present their respective Councils' recommendations at the Board meeting. Additional oral testimony may be provided on specific proposals before the Board at that time. At that public meeting, the Board will deliberate and take final action on proposals received that request changes to this proposed rule.

Proposals to the Board to modify the general fish and wildlife regulations, wildlife harvest regulations, and customary and traditional use determinations must include the following information:

a. Name, address, and telephone number of the requestor;

b. Each section and/or paragraph designation in this proposed rule for which changes are suggested, if applicable;

c. A description of the regulatory change(s) desired;

d. A statement explaining why each change is necessary;

e. Proposed wording changes; and

f. Any additional information that you believe will help the Board in evaluating the proposed change.

The Board immediately rejects proposals that fail to include the above information, or proposals that are beyond the scope of authorities in § ___.24, subpart C (the regulations governing customary and traditional use determinations), and §§ ___.25 and ___.26, subpart D (the general and specific regulations governing the subsistence take of wildlife). During the January 2012 meeting, the Board may defer review and action on some proposals to allow time for cooperative planning efforts, or to acquire additional needed information. The Board may elect to defer taking action on any given proposal if the workload of staff, Regional Advisory Councils, or the Board becomes excessive. These deferrals may be based on recommendations by the affected Regional Advisory Council(s) or staff members, or on the basis of the Board's intention to do least harm to the subsistence user and the resource involved. A proponent of a proposal may withdraw the proposal provided it has not been presented to a Regional Advisory Council for action. The Board may consider and act on alternatives that address the intent of a proposal while differing in approach.

Tribal Consultation and Comment

As expressed in Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments," the Federal officials that have been delegated authority by the Secretaries are committed to honoring the unique government-to-government political relationship that exists between the Federal Government and Federally Recognized Indian Tribes (Tribes) as listed in 75 FR 60810 (October 1, 2010). Consultation with Alaska Native corporations is based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: "The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175."

The Alaska National Interest Lands Conservation Act does not provide rights to Tribes for the subsistence taking of wildlife, fish, and shellfish. However, because tribal members are affected by subsistence fishing, hunting, and trapping regulations, the Secretaries, through the Board, will provide Federally recognized Tribes and Alaska Native corporations an opportunity to consult on this rule.

The Board will engage in outreach efforts for this rule, including a notification letter, to ensure that Tribes and Alaska Native corporations are advised of the mechanisms by which they can participate. The Board provides a variety of opportunities for consultation: Proposing changes to the existing rule; commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, e-mail, or phone at any time during the rulemaking process. The Board will commit to efficiently and adequately providing an opportunity to Tribes and Alaska Native corporations for consultation in regard to subsistence rulemaking.

The Board will consider Tribes' and Alaska Native corporations' information, input, and recommendations, and address their concerns as much as practicable. The Board will inform the Tribes and Alaska Native corporations how their recommendations were considered.

Developing the 2012–13 and 2013–14 Wildlife Seasons and Harvest Limit Regulations

Subpart C and D regulations are subject to periodic review and revision. The Federal Subsistence Board currently completes the process of revising subsistence take of wildlife regulations in even-numbered years and fish and shellfish regulations in odd-numbered years; public proposal and review processes take place during the preceding year. The Board also addresses customary and traditional use determinations during the applicable cycle.

The text of the final rule published June 30, 2010 (75 FR 37918) for the 2010–12 subparts C and D regulations is the text of this proposed rule. These regulations will remain in effect until subsequent Board action changes elements as a result of the public review process outlined above in this document.

Compliance With Statutory and Regulatory Authorities

National Environmental Policy Act

A Draft Environmental Impact Statement that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The Final Environmental Impact Statement (FEIS) was published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual

regulatory cycle for subsistence regulations.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries and is available at the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

Section 810 of ANILCA

An ANILCA § 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final § 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Federal Subsistence Management Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of this rule was conducted in accordance with § 810. That evaluation also supported the Secretaries' determination that the rule will not reach the "may significantly restrict" threshold that would require notice and hearings under ANILCA § 810(a).

Paperwork Reduction Act

An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. This proposed rule does not contain any new collections of information that require OMB approval. OMB has reviewed and approved the following collections of information associated with the subsistence regulations at 36 CFR part 242 and 50 CFR part 100: Subsistence hunting and fishing applications, permits, and reports, Federal Subsistence Regional Advisory Council Membership Application/Nomination and Interview Forms (OMB Control No. 1018–0075 expires January 31, 2013).

Regulatory Planning and Review (Executive Order 12866)

The Office of Management and Budget (OMB) has determined that this proposed rule is not significant and has not reviewed this rule under Executive Order 12866. OMB bases its determination upon the following four criteria:

(a) Whether the rule will have an annual effect of $100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(b) Whether the rule will create inconsistencies with other agencies' actions.

(c) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(d) Whether the rule raises novel legal or policy issues.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of $3.00 per pound, this amount would equate to about $6 million in food value statewide. Based upon the amounts and values cited above, the Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

Unfunded Mandates Reform Act

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies and there is no cost imposed on any State or local entities or tribal governments.

Executive Order 12988

The Secretaries have determined that these regulations meet the applicable standards provided in §§ 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

In accordance with Executive Order 13132, the proposed rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

Executive Order 13175

The Alaska National Interest Lands Conservation Act does not provide rights to tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Board will provide Federally recognized Tribes and Alaska Native corporations an opportunity to consult on this rule. Consultation with Alaska Native corporations are based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: "The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175."

The Secretaries, through the Board, will provide a variety of opportunities for consultation: Commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Council meetings; engaging in dialogue at the Board's meetings; and providing

input in person, by mail, e-mail, or phone at any time during the rulemaking process.

Executive Order 13211

This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. However, this proposed rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

Drafting Information

Theo Matuskowitz drafted these regulations under the guidance of Peter J. Probasco of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by:

- Daniel Sharp, Alaska State Office, Bureau of Land Management;
- Sandy Rabinowitch and Nancy Swanton, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Jerry Berg, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Steve Kessler, Alaska Regional Office, U.S. Forest Service.

List of Subjects

36 CFR Part 242

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

50 CFR Part 100

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

Proposed Regulation Promulgation

For the reasons set out in the preamble, the Federal Subsistence Board proposes to amend 36 CFR part 242 and 50 CFR part 100 for the 2012–13 and 2013–14 regulatory years. The text of the proposed amendments to 36 CFR 242.24, 242.25, and 242.26 and 50 CFR 100.24, 100.25, and 100.26 is the final rule for the 2010–12 regulatory period (75 FR 37918; June 30, 2010), as modified by any subsequent Federal Subsistence Board action.

January 13, 2011.

Peter J. Probasco,

Acting Chair, Federal Subsistence Board.

January 13, 2011.

Steve Kessler,

Subsistence Program Leader, USDA–Forest Service.

[FR Doc. 2011–2679 Filed 2–7–11; 8:45 am]

BILLING CODE 3410–11–P; 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R9–IA–2008–0123; MO 92210–1113FWDB B6]

RIN 1018–AI83

Endangered and Threatened Wildlife and Plants; Reclassifying the Wood Bison *(Bison bison athabascae)* Under the Endangered Species Act as Threatened Throughout Its Range

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule and notice of 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to reclassify the wood bison (*Bison bison athabascae*) from endangered to threatened under the Endangered Species Act of 1973, as amended (Act). This proposed action is amended based on a review of the best available scientific and commercial data, which indicate that the endangered designation no longer correctly reflects the status of the wood bison. This proposal also constitutes our 12-month finding on the petition to reclassify this subspecies. We are seeking data and comments from the public on this proposed rule.

DATES: We must receive your written comments on this proposed rule by April 11, 2011 in order to consider them. We must receive your written request for a public hearing by March 25, 2011.

ADDRESSES: You may submit written comments and other information by either of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS–R9–IA–2008–0123; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (*see* the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Marilyn Myers at U.S. Fish and Wildlife Service, Fisheries and Ecological Services, 1011 E. Tudor Road, Anchorage, Alaska 99503, or telephone 907–786–3559 or by facsimile at (907) 786–3848. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule to reclassify the wood bison as threatened. The comments that will be most useful and likely to influence our decisions are those that are supported by data or peer-reviewed studies and those that include citations to, and analyses of, applicable laws and regulations. Please make your comments as specific as possible and explain the basis for them. In addition, please include sufficient information with your comments (such as scientific journal articles or other publications) to allow us to authenticate any scientific or commercial information you include. We particularly seek comments concerning:

(1) Information on taxonomy, distribution, habitat selection and use, food habits, population density and trends, habitat trends, disease, and effects of management on wood bison;

(2) Information on captive herds, including efficacy of breeding and reintroduction programs, origin of parental stock, stock supplementation for genetic purposes, growth rates, birth and mortality rates in captivity, location of captive herds in comparison to wild populations, effects of captive breeding on the species, and any other factors from captive breeding that might affect wild populations or natural habitat;

(3) Information on the adequacy of existing regulatory mechanisms; trends in domestic and international trade of live specimens, sport-hunted trophies, or other parts and products; poaching of wild wood bison; illegal trade and enforcement efforts and solutions; and

oversight of reintroduction or introduction programs;

(4) Information on the effects of other potential threat factors, including contaminants, changes of the distribution and abundance of wild populations, disease episodes within wild and captive populations, large mortality events, the effects of climate change, or negative effects resulting from the presence of invasive species;

(5) Information on management programs for wood bison conservation in the wild, including private, tribal, or governmental conservation programs that benefit wood bison; and

(6) Current or planned activities within the geographic range of the wood bison that may impact or benefit the species including any planned developments, roads, or expansion of agricultural enterprises.

Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) directs that a determination as to whether any species is a threatened or endangered species must be made "solely on the basis of the best scientific and commercial data available."

Prior to issuing a final rule on this proposed action, we will take into consideration all comments and any additional information we receive. Such information may lead to a final rule that differs from this proposal. All comments and recommendations, including names and addresses, will become part of the administrative record.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We will not accept comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section.

We will post your entire comments—including your personal identifying information—on *http://www.regulations.gov.* If your written comments provide personal identifying information, you may request at the top of your documents that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Anchorage Regional Office (*see* **FOR FURTHER INFORMATION CONTACT**).

Public Hearing

Section 4(b)(5)(E) of the Act provides for one or more public hearings on this proposal, if requested. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by the date shown in **DATES**. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings, as well as how to obtain reasonable accommodations, in the **Federal Register** at least 15 days before the first hearing.

Background

Section 4(b)(3)(A) of the Act requires the Service to make a finding known as a "90-day finding," on whether a petition to add, remove, or reclassify a species from the list of endangered or threatened species has presented substantial information indicating that the requested action may be warranted. To the maximum extent practicable, the finding shall be made within 90 days following receipt of the petition and published promptly in the **Federal Register**. If the Service finds that the petition has presented substantial information indicating that the requested action may be warranted (referred to as a positive finding), section 4(b)(3)(A) of the Act requires the Service to commence a status review of the species if one has not already been initiated under the Service's internal candidate assessment process. In addition, section 4(b)(3)(B) of the Act requires the Service to make a finding within 12 months following receipt of the petition on whether the requested action is warranted, not warranted, or warranted but precluded by higher-priority listing actions (this finding is referred to as the "12-month finding"). Section 4(b)(3)(C) of the Act requires that a finding of warranted but precluded for petitioned species should be treated as having been resubmitted on the date of the warranted but precluded finding, and is, therefore, subject to a new finding within 1 year and subsequently thereafter until we take action on a proposal to list or withdraw our original finding. The Service publishes an annual notice of resubmitted petition findings (annual notice) for all foreign species for which listings were previously found to be warranted but precluded.

In this notice, we announce a warranted 12-month finding and proposed rule to reclassify the wood bison from an endangered species to a threatened species under the Act.

Previous Federal Actions

The listing history is reconstructed here based on **Federal Register** documents and the Code of Federal Regulations (CFR). Wood bison became listed in the United States under the 1969 Endangered Species Conservation Act when it was included on the first List of Endangered Foreign Fish and Wildlife, which was published in the **Federal Register** on June 2, 1970 (35 FR 8491). A column labeled "where found" indicated "Canada," but the introduction to the list stated that "[t]he 'Where Found' column is a general guide to the native countries or regions where the named animals are found. It is not intended to be definitive."

In 1974, the first list under the 1973 Endangered Species Act appeared in the CFR. Because the wood bison was listed under the 1969 Endangered Species Conservation Act, there is not a separate **Federal Register** notice that defined the population(s) and analyzed threats to the species. Like the 1970 list, the list for foreign species at 50 CFR 17.11 listed the wood bison, with a "where found" column indicating "Canada." Section 17.11 further specified that "[t]he 'where found' column is provided for the convenience of the public, is not exhaustive, is not required to be given by law, and has no legal significance."

Population-based listings, the precursor to the current Distinct Population Segments (DPS) approach first appeared with the 1975 list. In the 1975 CFR, wood bison appeared listed with "N/A" (not applicable) under "Population." Section 17.11(b) stated that the "Population" column, along with the scientific and common names, "define[s] the 'species' of wildlife within the meaning of the Act." This section for the first time also indicated that "[t]he prohibitions in the Act and in this Part 17 apply to all specimens of the 'species' listed, wherever they are found, and to their progeny." The "Known Distribution" column for wood bison again indicated "Canada." Paragraph (d) of § 17.11 reiterated that the "known distribution" column was "[f]or information purposes only" and also advised that the column "does not imply any limitation on the application of the prohibitions in the Act and in this Part 17. Such prohibitions apply to all specimens of the species, wherever found." Wood bison remained listed in this manner until 1979.

In 1979, the Service published a notification in the **Federal Register** that questioned the listing status of the wood bison along with six other species. The

notification advised that the Service had failed to follow a procedural requirement of the 1969 Act for these species (consulting with the governor of any state in which the species is found), and thus concluded that the U.S. populations of these species were not covered by the listing, although the foreign populations would continue to be covered. The notice was also clear that the Service had always intended for all populations—foreign and domestic—of all seven species to be covered by the listing. The Service followed up on the notification on July 25, 1980, with a rule for five of the species in which it proposed to include the U.S. populations in the listing to correct the procedural error (45 FR 49844). The 1980 proposed rule did not include the wood bison. The Service indicated that the procedural error did not apply to wood bison because no non-hybridized wood bison were found in the United States. If no pure wood bison occurred in the United States as of the subspecies' listing under the 1969 Act, there would have been no States to consult with and, therefore, no procedural listing error.

Although the Service had found no error with the original listing of the entire wood bison subspecies, the 1980 CFR for the first time mistakenly indicated that the listed entity for wood bison was a DPS. The CFR indicated "Canada" in the "Vertebrate population where endangered or threatened" column. The listing has remained in this form through the current CFR. Despite this 1980 designation, it is clear that the wood bison is listed at the subspecies level. The CFR through 1980 indicates the Service's intent of the original listing, and we have conducted no rulemaking since that time to change the scope of the listed entity. The entire "population" of wood bison in Canada is the full extent of the subspecies' current range and no individuals occur in the wild outside this population. Therefore, the wood bison in Canada would not qualify for a population-based listing (*i.e.,* a DPS).

On May 14, 1998, the Service received a petition from a private individual requesting that the Service remove the wood bison from the List of Endangered and Threatened Wildlife, primarily because it had been downlisted under CITES. In a 90-day finding published on November 25, 1998 (63 FR 65164), we found that the petitioner did not provide substantial information to indicate that the delisting may be warranted.

On November 26, 2007, we received a petition from the co-chairs of Canada's National Wood Bison Recovery Team requesting that we reclassify the wood bison from endangered to threatened. The petition contained information about recovery efforts in Canada and referred to information provided to the Service. On February 3, 2009, we published a 90-day finding (74 FR 5908) acknowledging that the petition provided sufficient information to indicate that reclassification may be warranted and that we would initiate a status review. This document represents both our 12-month finding for wood bison and a proposed rule to downlist the species.

Species Information

Taxonomy and Species Description

Wood bison (*Bison bison athabascae*) belongs to the family Bovidae, which also includes cattle, sheep and goats. Debate over the generic name *Bison* continues with some authorities using *Bos* and others using *Bison* depending on the methodology used to determine relationships among members of the tribe Bovini (Asian water buffalo, African buffalo, cattle and their wild relatives, and bison) (Boyd *et al.* 2010, pp. 13–15.). In this discussion, we will use *Bison,* which is consistent with "Wild Mammals of North America" (Reynolds *et al.* 2003, p. 1010), "Mammal Species of the World" (Wilson and Reeder 2005, p. 689), and the Wood Bison Recovery Team (Gates *et al.* 2001, p. 25). Wood bison was first described as a subspecies in 1897 (Rhoads 1897, pp. 498–500). One other extant bison subspecies, the plains bison (*B. b. bison*), occurs in the United States and Canada. Based on the historical physical separation, and quantifiable behavioral, morphological, and phenological (appearance) differences between the two subspecies, the scientific evidence indicates that subspecific designation is appropriate (van Zyll de Jong *et al.* 1995, p. 403; FEAP 1990, p. 24; Reynolds *et al.* 2003, p. 1010; Gates *et al.* 2010, pp. 15–17).

Wood bison is the largest native extant terrestrial mammal in North America (Reynolds *et al.* 2003, p. 1015). Average weight of mature males (age 8) is 910 kilograms (kg) (2,006 pounds (lb)) and the average weight of mature females (age 13) is 440 kg (970 lb) (Reynolds *et al.* 2003, p. 1015). They have a large triangular head, a thin beard and rudimentary throat mane, and a poorly demarcated cape (Boyd *et al.* 2010, p. 16). In addition, the highest point of their hump is forward of their front legs; they have reduced chaps on their front legs; and their horns usually extend above the hair on their head (Boyd *et al.* 2010, p. 16). These physical characteristics distinguish them from the plains bison (Reynolds *et al.* 2003, p. 1015; Boyd *et al.* 2010, p. 16).

Distribution

The exact extent of the original range of wood bison cannot be determined with certainty based on available information, but was limited to North America (Gates *et al.* 2001, p. 11). However, historically, the range of the wood bison was generally north of that occupied by the plains bison and included most boreal regions of northern Alberta; northeastern British Columbia east of Cordillera; a small portion of northwestern Saskatchewan; the western Northwest Territories south and west of Great Slave Lake; the Mackenzie River Valley; most of The Yukon Territory; and much of interior Alaska (Reynolds *et al.* 2003, pp. 1011–1012). Skinner and Kaisen (1947, pp. 158, 164) suggested that the prehistorical U.S. range extended from Alaska to Colorado, and Stephenson *et al.* (2001, p. 140) concluded that wood bison were present within the boundaries of what is now defined as Alaska until their disappearance during the last few hundred years. Currently, there is neither a wild population in Alaska nor the continental United States (Harper and Gates 2000, p. 917; Stephenson *et al.* 2001, p. 140).

During the early 1800s, wood bison numbers were estimated at 168,000, but by the late 1800s, the subspecies was nearly eliminated with only a few hundred remaining (Gates *et al.* 2001, p. 11). In the words of Soper (1941, p. 362), wood "bison appear to have been practically exterminated," and based on the fate of plains bison, in which 40 to 60 million animals were reduced to just over 1,000 animals in less than 100 years (Hornaday 1889; Wilson and Strobeck 1998, p. 180), overharvest may have been the cause for the decline (Harper and Gates 2000, p. 915). The fact that populations began to rebound once protection was in place and enforced supports this idea (Soper 1941, pp. 362–363). In 1922, Wood Buffalo National Park (WBNP) was set aside for the protection of the last remnant population of wood bison. Since that time several additional herds have been established (Table 1).

TABLE 1—SIZES OF WOOD BISON HERDS IN CANADA FROM 1978 TO 2008 (DATA PROVIDED BY CANADIAN WILDLIFE SERVICE)

Herd category and name	1978	1988	2000	2002	2004	2006	2008
Free-ranging, disease-free herds:							
Mackenzie	300	1718	1908	2000	2000	~2000	1600
Nahanni	.....	30	160	170	399	400	400
Aishihik	.....	.....	500	530	550	700	1100
Hay-Zama	.....	.....	130	234	350	600	750
Nordquist	.....	.....	50	60	112	140	140
Etthithun	.....	.....	.....	43	70	124	124
Chitek Lake	.....	.....	70	100	150	225	300
Free-ranging, diseased herds:							
Wood Buffalo [1] National Park	.....	.....	2178	4050	[2] 4947	[3] 5641	[4] 4639

[1] Excluding adjacent diseased Wentzel, Wabasca, and Slave River Lowlands herds.
[2] Population estimate for year 2003.
[3] Population estimate for year 2005.
[4] Population estimate for year 2007.

Another factor that is thought to have played a role in the decline in wood bison is a gradual loss of meadow habitat through forest encroachment (Stephenson *et al.* 2001, p. 143; Quinlan *et al.* 2003, p. 343; Strong and Gates 2009, p. 439). Although not quantified, it is likely that because of fire suppression, and subsequent forest encroachment on meadows, there was a net loss of suitable open meadow habitat for wood bison throughout their range through about 1990. More intensive fire management began in Canada in the early 1900s with the philosophy that fire was destructive and should be eliminated to protect property and permit proper forest management (Stocks *et al.* 2003, p. 2). However, wildfire is an integral component of boreal forest ecology (Weber and Flannigan 1997, p. 146; Rupp *et al.* 2004, p. 213; Soja *et al.* 2007, p. 277). Without fire, trees encroach on meadows and eventually the meadow habitat is lost and replaced by forest.

Habitat

The foraging habitats most favored by wood bison are grass and sedge meadows occurring on alkaline soils. These meadows are typically interspersed among tracts of coniferous forest, stands of poplar or aspen, bogs, fens, and shrublands. Meadows typically represent 5 to 20 percent of the landscape occupied by wood bison (Larter and Gates 1991a, p. 2682; Gates *et al.* 2001, p. 23). Wet meadows are rarely used in the summer, probably because of the energy required to maneuver through the mud, but they are used in late summer when they become drier, and in the winter when they freeze (Larter and Gates 1991b, pp. 133, 135; Strong and Gates 2009, p. 438). In the summer, when daily access to surface water is required for hydration, availability of water is also important (Fortin *et al.* 2003, pp. 223, 225).

Biology

Characteristic of other grazing ruminants, bison have a four-chambered stomach that efficiently processes and digests a diet of grasses high in roughage (Reynolds *et al.* 2003, p. 1019). Because they can thrive on coarse grasses and sedges, they occupy a niche within the boreal forest that is not utilized by other northern herbivores such as moose or caribou (Gates *et al.* 2001, p. 25). Several studies indicate that wood bison prefer sedges (*Carex* spp.), which can comprise up to 98 percent of the winter diet (Reynolds *et al.* 1978, p. 586; Smith 1990, p. 88; Larter and Gates 1991a, p. 2679; Fortin *et al.* 2003, pp. 224–225). Seasonally, other important diet items include grasses, willow, and lichen (Reynolds *et al.* 1978, p. 586; Smith 1990, p. 88; Larter and Gates 1991a, pp. 2680–2681; Fortin *et al.* 2003, pp. 224–225).

Wood bison are gregarious, with cows, calves, and yearlings found in matriarchal groups ranging up to a few dozen animals (Stephenson *et al.* 2001, p. 125; Strong and Gates 2009, p. 438). Mature bulls seldom form groups of more than a few animals, and solitary bulls are common (Fuller 1960, p. 11). Wood bison home range size varies with age, sex, and availability of forage (Larter and Gates 1994, p. 147). Home ranges of females are larger than those of males (Larter and Gates 1994, p. 147). For wood bison in the Mackenzie Bison Sanctuary, mean area of home range for females was 897 square kilometers (km^2) (346 square miles (mi^2) and for males 433 km^2 (167 mi^2) (Larter and Gates 1994, p. 146). Most likely females need larger areas because they occur in larger groups than the males (Larter and Gates 1994, p. 142). The large home ranges of both sexes may be a response to limited forage availability and widely spaced meadows (Strong and Gates 2009, p. 438).

Free-ranging wood bison roam extensively with annual maximum traveling distance from each individual's center-of-activity averaging from 45 to 50 km (28 to 31 mi) (Chen and Morley 2005, p. 430). However, some captive animals released into the wild have traveled over 250 km (155 mi) (Gates *et al.* 1992, pp. 151–152). Herds are fluid and individuals interchange freely (Fuller 1960, p. 15; Wilson *et al.* 2002, p. 1545). Wood bison travel between favored foraging habitats along direct routes including established trails, roads, river corridors, and transmission lines (Reynolds *et al.* 1978, p. 587; Mitchell 2002, p. 50). Bison are also powerful swimmers and will cross even large rivers such as the Peace, Slave, Liard, and Nahanni to reach forage, provided that there are low banks for entry and exit (Fuller 1960, p. 5; Mitchell 2002, pp. 32, 50; Larter *et al.* 2003, pp. 408–412).

The wood bison's breeding season is from July to October. The age of first reproduction depends on nutritional condition and disease status and is, therefore, variable (Gates *et al.* 2010, p. 49). Females typically produce their first calf when they are 3 years old and may be reproductively successful up to age 20 (Wilson *et al.* 2002, p. 1545). Although capable of reproduction at age 2, males typically do not participate in the rut until they are 5 or 6, and reproductive success is at its maximum between ages 7 and 14 (Wilson *et al.* 2002, pp. 1538, 1544). Bison have a polygynous mating system, in which one male mates with several females (Wilson *et al.* 2002, p. 1538). When habitat is adequate and there are no other limiting factors such as disease and predation, wood bison populations have expanded exponentially (FEAP

1990, pp. 34–35; Gates and Larter 1990, p. 233). Consequently, newly introduced populations have the capacity to grow quickly, as demonstrated by the Mackenzie herd (Gates and Larter 1990, p. 235).

Wood bison are susceptible to a variety of diseases that may affect their population dynamics. The most important are anthrax, bovine brucellosis, and bovine tuberculosis, none of which are endemic to wood bison (Gates *et al.* 2010, pp. 28–32). Anthrax is an infectious bacterial disease that is transmitted through the inhalation or ingestion of endospores (Gates *et al.* 2010, p. 28). The disease is rapidly fatal with death usually occurring within several days once the clinical signs appear (Dragon *et al.* 1999, p. 209). Between 1962 and 1993, nine outbreaks were recorded in northern Canada, killing at least 1,309 bison (Dragon *et al.* 1999, p. 209). Additional outbreaks continued to occur through at least 2007 (GNT 2009, p. 13). Factors associated with outbreaks are high ambient temperatures, high densities of insects, and high densities of bison as they congregate in areas of diminishing forage and water (Dragon *et al.* 1999, p. 212). Sexually mature males are more susceptible than cows, juveniles, or calves, perhaps because of elevated levels of testosterone (Dragon *et al.* 1999, p. 211). Anthrax is not treatable in free-ranging wildlife, but captive bison can be vaccinated effectively and treated with antibiotics (Gates *et al.* 2001, p. 22).

Bovine brucellosis is caused by the bacterium *Brucella abortus* (Tessaro 1989, p. 416). Although the primary hosts are bovids, other ungulates such as elk can be infected. The disease is primarily transmitted through oral contact with aborted fetuses, contaminated placentas, and uterine discharges. Greater than 90 percent of infected female bison abort during their first pregnancy (Gates *et al.* 2010, p. 30). Naturally acquired immunity reduces the abortion rate with subsequent pregnancies (Aune and Gates 2010, p. 30). Male bison experience inflammation of their reproductive organs and in advanced cases, sterility. Both sexes are susceptible to bursitis and arthritis caused by concentrations of the bacterium in the joints, which may make them more susceptible to predation (Joly 2001, pp. 97–98). Two vaccines, S19 and SR B51, have been developed in an attempt to prevent bovine brucellosis (Aune and Gates 2010, pp. 30–31). S19 induces abortion in cows and is only about 39 percent effective in preventing infection (Davis *et al.* 1991, p. 262). SR B51 also induces abortion in pregnant cows, but calfhood vaccination appears to be an effective tool in preventing transmission of the disease (Palmer *et al.* 1996, p. 1607; Olsen *et al.* 2003, p. 22). Brucellosis is extremely difficult to eradicate in ungulates; the combined use of quarantine protocols, serum testing, slaughter, and vaccination is being explored as a means of controlling the disease (Nishi *et al.* 2002, pp. 230–233; Bienen and Tabor 2006, pp. 324–325; Aune and Gates 2010, p. 31).

Bovine tuberculosis is a chronic infectious disease caused by the bacterium *Mycobacterium bovis* (Tessaro 1989, p. 417). Historical evidence indicates that bovine tuberculosis did not occur in bison prior to contact with infected domestic cattle (Tessaro 1989, p. 416). Wood bison were infected in the 1920s when plains bison were introduced into the range of wood bison (Tessaro 1989, p. 417). Currently, the disease is concentrated in bison in and near (Wabasca, Wentzel, and Slave River Lowlands herds) WBNP. The disease is primarily transmitted by inhalation and ingestion of the bacterium, but may also pass to offspring through the placenta or contaminated milk (FEAP 1990, p. 11). Bovine tuberculosis is a chronic disease that progressively becomes debilitating; advanced cases are fatal. There is not an effective vaccine for immunization against tuberculosis (FEAP 1990, p. 2).

Wood bison herds in and around WBNP, Alberta and the Northwest Territories, Canada, are infected with brucellosis and bovine tuberculosis. These diseased herds account for about half of the free-ranging wood bison and are the only known reservoirs of tuberculosis and brucellosis among the herds (Gates *et al.* 2010, pp. 4, 35). Approximately 30 percent of the animals in these herds test positive for brucellosis and 21 to 49 percent test positive for tuberculosis. The combined prevalence of the two diseases is 42 percent (Tessaro *et al.* 1990, p. 174; Gates *et al.* 2010, p. 35). Wood bison cows infected with both tuberculosis and brucellosis are less likely to be pregnant, and infected herds are more likely to have their populations regulated by wolf predation (Tessaro *et al.* 1990, p. 179; Joly and Messier 2004, p. 1173; Joly and Messier 2005, p. 549). Unlike anthrax which occurs in outbreaks in which many animals die at one time, brucellosis and tuberculosis are chronic diseases that weaken animals over time.

Conservation Status

In Canada, the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) was established in 1977, to assess species' status and evaluate their risk of extinction. In 1978, the COSEWIC designated wood bison as endangered based primarily on the fact that there were only about 400 disease-free wood bison; 100 in a captive herd and 300 in a free-ranging herd. In 1988, wood bison was downlisted to threatened in Canada because of data presented in a status report prepared by the National Wood Bison Recovery Team which documented progress towards recovery (Gates *et al.* 2001, p. 28; Gates *et al.* 2010, p. 65). A review by the COSEWIC in 2000 confirmed that "threatened" was the appropriate designation at that time (Gates *et al.* 2010, p. 65).

The wood bison was placed in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) on July 1, 1975, when the treaty first went into effect. On September 28, 1997, it was downlisted to Appendix II based on a proposal from Canada that described progress in implementation of the Canadian recovery plan (Government of Canada 1997, entire). CITES Appendix-II species are not necessarily considered to be threatened with extinction now but may become so unless trade in the species is regulated. The United States voted in support of the downlisting.

Recovery Actions

Section 4(f) of the Act directs us to develop and implement recovery plans for the conservation and survival of endangered and threatened species, unless the Director determines that such a plan will not promote the conservation of the species. The Service has not developed a recovery plan for wood bison, because no wild populations of wood bison currently exist in the United States. In Canada, the National Wood Bison Recovery Team published a national recovery plan in 2001 (Gates *et al.* 2001) and is currently preparing a revision to the plan. The purpose of the recovery plan is to advance the recovery of the wood bison; specific criteria for delisting under SARA were not specified. Management plans for the provinces support the goals and objectives of the National Recovery Plan (*e.g.,* Harper and Gates 2000, p. 917; GNT 2009, p. 4). Four goals were established to advance the recovery of wood bison (Gates *et al.* 2001):

(1) To reestablish at least four discrete, free-ranging, disease-free, and viable populations of 400 or more wood bison in Canada, emphasizing recovery in their original range, thereby

enhancing the prospects for survival of the subspecies and contributing to the maintenance of ecological processes and biological diversity.

(2) To foster the restoration of wood bison in other parts of their original range and in suitable habitat elsewhere, thereby ensuring their long-term survival.

(3) To ensure that the genetic integrity of wood bison is maintained without further loss as a consequence of human intervention.

(4) To restore disease-free wood bison herds, thereby contributing to the aesthetic, cultural, economic, and social well-being of local communities and society in general.

Revisions to the List of Endangered and Threatened Wildlife (adding, removing, or reclassifying a species) must reflect determinations made in accordance with sections 4(a)(1) and 4(b) of the Act. Section 4(a)(1) requires that the Secretary determine whether a species is endangered or threatened, as defined by the Act, because of one or more of the five factors outlined in section 4(a)(1). In other words, an analysis of the five factors under 4(a)(1) can result in a determination that a species is no longer endangered or threatened. Section 4(b) requires the determination made under section 4(a)(1) be based on the best scientific and commercial data available and after taking into account those efforts, if any, being made by any State or foreign nation to protect such species. In the absence of a recovery plan for wood bison in the United States, we rely on the five-factor analysis and progress towards meeting the recovery goals outlined in the Canadian recovery plan in this proposed rule to determine if it is appropriate to reclassify wood bison. We also take into consideration the conservation actions that have occurred, are ongoing, and are planned.

In 1978, there was one free-ranging, disease-free herd with 300 individuals, the MacKenzie herd (Table 1). By 2000, when the last Canadian status review was conducted, the number of disease-free herds had grown to 6, with a total of approximately 2,800 individuals (Table 1). Since 2000, an additional herd has been established bringing the total number to 7, and the number of disease-free, free-ranging bison has increased to approximately 4,400 (Table 1). Four of the herds have a population of 400 or more, meeting recovery goal number 1 (Table 1). The free-ranging, disease-free herds are discussed in detail below.

Free-ranging Herds, Disease-free Herds

The Mackenzie bison herd was established in 1963 with the translocation of 18 wood bison that were originally captured in an isolated area of WBNP. This herd is currently the largest free-ranging, disease-free herd of wood bison, with approximately 1,600 to 2,000 animals (Reynolds *et al.* 2004, p. 7). The Mackenzie Bison Sanctuary was established in 1979 and encompasses an area of 6,300 km^2 (2,432 mi^2) northwest of Great Slave Lake. The current range of the Mackenzie bison herd (12,000 km^2 (4,633 mi^2)) extends well beyond the boundaries of the sanctuary. Habitat protection within the range of the Mackenzie bison herd is facilitated through the SARA, Canada's equivalent to the Act, and the Mackenzie Valley Resource Management Act of 1998. Although the Mackenzie Valley Resource Management Act does not specifically provide protection to wood bison, it did create a Land and Water Board (LWB), which is given the power to regulate the use of land and water, including the issuance of land use permits and water licenses. Under current management, an annual harvest is allowed (described in Factor B below), and the Mackenzie herd size has been greater than the recovery target of 400 since 1987, with approximately 1,600 to 2,000 animals (Gates and Larter 1999, p. 233; Table 1). Thus, the Mackenzie herd contributes to recovery goals 1 and 4.

Five releases of wood bison totaling 170 animals from 1988 to 1991 established the Aishihik herd in southwestern Yukon, in a remote area west of Whitehorse, Canada. Herd size has totaled over 400 since 1999 (Gates *et al.* 2001, p. 14; Table 1). With a current population of approximately 1,000 animals, it is the second-largest herd. The herd inhabits approximately 9,000 km^2 (3,475 mi^2) of largely undeveloped habitat near the community of Haines Junction, adjacent to Kluane National Park. Less than 5 percent of the range of the Aishihik herd is on private lands (First Nation Settlement Lands), and these landowners participate in a management planning team specifically for this herd. The remainder of the herd's range is owned by the Government of Canada, and there are no threats to habitat in this area (Reynolds *et al.* 2004, p. 9). The herd has room to expand or shift its range, because there are no large-scale developments east, west, or north of the present range for several hundred kilometers. Small-scale agricultural development to the south of the present range, however, could restrict range expansion in that direction (Reynolds *et al.* 2004, p. 9). Regulated hunting occurs on this herd (described in Factor B below). Other than regulated harvest, no other limiting factors have been identified (Reynolds *et al.* 2004, p. 17). The Aishihik herd contributes to recovery goals 1, 2, and 4.

The Hay-Zama herd was established in 1984, when 29 wood bison were transferred from Elk Island National Park to the holding corral site near Hay-Zama Lakes, Alberta (Gates *et al.* 2001, p. 17). A herd of 48 wood bison became free-ranging when portions of the corral they were being held in collapsed in 1993 (Gates *et al.* 2001, p. 17). Since then, the free-ranging herd has grown to approximately 750 animals (Table 1), thus contributing to recovery goals 1, 2, and 4. In 1995, the Government of Alberta established a 36,000 km^2 (13,900 mi^2) Bison Management Area around the Hay-Zama herd in the northwestern corner of the province. In this area, all wood bison are legally protected from hunting under Alberta's Wildlife Act; outside of the area they are not protected. Collisions with vehicles are the largest source of known mortality for individuals in this herd (Mitchell and Gates 2002, p. 9).

The Nahanni herd, established in 1980 with the release of 28 wood bison, occurs primarily in southeast Yukon and northeast British Columbia. Population size has been approximately 400 animals or more since 2004 (Table 1). Availability of suitable habitat may limit this herd's size (Gates *et al.* 2001, p. 17). The Nordquist herd was established in 1995, near the Laird River in northeastern British Columbia (Table 1). Because the majority of the herd occupies habitat near the Alaska Highway, vehicle collisions are the primary source of mortality (Reynolds *et al.* 2009, p. 6). It is anticipated that the Nordquist and Nahanni herds will eventually coalesce into one herd because of their close proximity and the presence of river corridors that provide travel corridors (Gates *et al.* 2001, p. 18). Although it has not yet occurred, combination of the two herds would create a herd with numbers that exceed the recovery criterion of 400 (Table 1).

The Etthithun herd was established in 2002, near Etthithun Lake, British Columbia. Factors limiting the size of this herd include the amount and location of suitable habitat, conflicts with humans and industrial development, and potential contact with commercial plains bison (BC MOE, pers. comm., 2010). Current population size is approximately 124 (Table 1);

consequently, this herd does not currently meet the recovery criterion of 400 individuals. However, it does contribute to recovery goals 2 and 4.

The Chitek Lake herd was established in 1991, in Manitoba, Canada. The Chitek Lake Wood Bison Management Committee plans to maintain the herd at approximately 300 animals to keep the herd within carrying capacity of the habitat. The 100,300 hectare (ha) (25,452 acre (ac)) Chitek Lake Park Reserve provides habitat protection for the core range of the herd. Limiting factors for the herd include accidental mortality from drowning, starvation in bad winters, and predation from wolves (Manitoba Conservation, pers. comm., 2010). Although outside of the historic range of wood bison, Chitek Lake herd plays an important role in wood bison conservation because it is an isolated disease-free herd and, consequently, provides security to the species through population redundancy, thus contributing to recovery goal 2.

Captive Disease-free Herds

In addition to the free-ranging wood bison herds discussed above, four captive herds have been established, although only three are currently viable. The Elk Island National Park herd in Alberta, Canada, was established in 1965 from wood bison transferred from an isolated portion of WBNP. It is the national conservation herd and has provided disease-free stock for six of the free-ranging populations and several captive breeding herds in zoos and private commercial ranches (Gates *et al.* 1992, p. 153). Carrying capacity at Elk Island National Park is approximately 350 animals; animals above this number are regarded as surplus and are removed to establish and supplement free-roaming populations in former areas of their historic range (Parks Canada 2009a, unpaginated). Although the herd is fenced, the animals are semi-wild and spend the majority of their time roaming the 65 km^2 (25 mi^2) enclosure, interacting with the environment in a largely natural manner (Gates *et al.* 2001, p. 18). The herd is rounded up annually to test for disease and to vaccinate for common cattle diseases. The age, sex, and condition of all the individuals are determined to inform management decisions. Using this information, individuals are selected for sale, donation, or the establishment of new herds, which also controls the population size of the herd (Parks Canada 2009b, unpaginated). This conservation herd contributes to recovery goals 2, 3, and 4.

The Hook Lake Wood Bison Recovery Project was initiated to establish a captive, disease-free herd from a wild herd infected with brucellosis and tuberculosis. The overall objective of the project was to determine the feasibility of genetic salvage from a diseased herd (Nishi *et al.* 2002, p. 230). Specific objectives of the project were to conserve the genetic integrity of the wild herd by capturing an adequate number of calves; provide intensive veterinary and preventative drug treatment to eliminate disease from the calves; and raise a disease-free herd from the salvaged calves (Nishi *et al.* 2002, p. 229). From 1996 to 1998, 62 calves were captured. The disease eradication protocol included orphaning new-born wild-caught calves to minimize their exposure to *B. abortus* and *M. bovis,* testing calves for antibodies to brucellosis prior to inclusion in the new herd, treatment with antimycobacterial and anti-*Brucella* drugs, and intensive whole-herd testing for both diseases (Nishi *et al.* 2002, p. 229). By 2002, the herd size was 122. In 2006, after 9 years of intensive management, the herd was destroyed because bovine tuberculosis was discovered in 2005 in 2 founding animals and 10 captive-born animals, even though all animals initially tested disease-free. The herd provided valuable information on genetic salvage, genetic management, captive breeding for conservation, disease testing, and the difficulties involved in eradicating disease (Wilson *et al.* 2003, pp. 24–35). The Hook Lake Herd contributed to recovery goal 3.

In April 2006, 30 wood bison calves were transferred from Elk Island National Park to Lenski Stolby Nature Park near Yakutsk, Sahka Republic (Yakutia), Russia. An additional 30 head are to be transferred in 2011. Although outside the historical range, this was an opportunity to create another geographically separate population which provides added security to the species through population redundancy, thereby contributing to recovery goal 2. Transfer of wood bison to Russia was specifically mentioned in the recovery plan because it would contribute to the global security of the species (Gates *et al.,* 2001, p. 14).

In June 2008, 53 disease-free wood bison were transferred from Elk Island National Park to the Alaska Wildlife Conservation Center in Portage, Alaska. Consequently, this captive herd currently contributes to recovery goal number 2 through population redundancy. Ultimately, the Alaska Department of Fish and Game (ADFG) plans to restore wood bison populations in one to three areas in interior Alaska, with potential herd size of 500 to 2,000 or more depending on the location (ADF&G 2007, p. 79). Environmental analysis of the project is currently under review. The National Wood Bison Recovery Team in Canada recommended establishing one or more populations in Alaska in areas that can support 400 or more animals (Gates *et al.* 2001, p. 31). Establishment of one or more herds in Alaska would be a significant contribution to increasing the number of secure, disease-free, free-roaming herds.

Summary of Progress Toward Recovery

In summary, since 1978, the number of free-ranging, disease-free herds has increased from 1 to 7, and the number of wood bison has increased from approximately 400 to over 4,000. The first recovery goal of establishing 4 free-ranging, disease-free herds with 400 or more animals has been met, and planning is underway to create one or more herds in Alaska. Although the number of herds needed to meet recovery goal 2 was not specified, progress has been made on the second goal with the establishment of disease-free herds in Russia; Manitoba, Canada; and Alaska. The Hook Lake Bison Recovery Project was a well-planned, science-based attempt to conserve the genetic diversity of a diseased herd and would have contributed greatly to recovery goal 3. Although ultimately the project was unsuccessful, a great deal of knowledge was gained (Wilson *et al.* 2003, pp. 62–67). The wood bison recovery team is very aware of the need to maintain genetic diversity in the herds and establishes new herds with the goal of maintaining genetic diversity through multiple introductions (*i.e.,* the Aishihik herd and Hook Lake herd). The establishment of six additional herds on the landscape since 1978 contributes to recovery goal 4. In addition, the captive population at Elk Island National Park has provided disease-free stock for those six additional herds and two captive herds. It is clear that there is active management of the herds, and multiple avenues of research are being funded and pursued regarding the biology and management of wood bison. Progress towards the recovery goals outlined in the national recovery plan, published by the National Wood Bison Recovery Team, is moving forward steadily.

Summary of Factors Affecting the Subspecies

Section 4 of the Act and implementing regulations (50 CFR part 424) set forth procedures for adding species to, removing species from, or reclassifying species on the Federal Lists of Endangered and Threatened

Wildlife and Plants. Changes in the List can be initiated by the Service or through the public petition process. Under section 4(a)(1) of the Act, a species may be determined to be endangered or threatened based on any of the following five factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

We must consider these same factors in downlisting a species. In making this 12-month finding on the petition, we evaluate whether the species must be listed as endangered or threatened because of one or more of the five factors described in section 4(a)(1) of the Act. For species that are already listed as endangered or threatened, we evaluate both the threats currently facing the species and the threats that are reasonably likely to affect the species in the foreseeable future following the delisting or downlisting and the removal or reduction of the Act's protections.

Under section 3 of the Act, a species is "endangered" if it is in danger of extinction throughout all or a significant portion of its range and is "threatened" if it is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. "Foreseeable future" is determined by the Service on a case-by-case basis, taking into consideration a variety of species-specific factors such as lifespan, genetics, breeding behavior, demography, threat projections timeframes, and environmental variability. The word "range" in the phrase "significant portion of its range" (SPR) refers to the range in which the species currently exists, and the word "significant" refers to the value of that portion of the range being considered to the conservation of the species.

For the purposes of this analysis, we will evaluate all five factors currently affecting, or that are likely to affect, the wood bison to determine whether the currently listed species is threatened or endangered.

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Loss of Foraging Habitat

Fire Suppression

Wood bison depend on a landscape that includes sufficient grasslands and meadows for foraging habitat (Larter and Gates 1991b, p. 133). It appears that primarily through fire suppression, there was an overall loss of meadow habitat in Canada through the 1900s. More intensive fire management began in Canada in the early 1900s with the philosophy that fire was destructive and should be eliminated to protect property and permit proper forest management (Stocks *et al.* 2003, p. 2). However, wildfire is an integral component of boreal forest ecology (Weber and Flannigan 1997, p. 146; Rupp *et al.* 2004, p. 213; Soja *et al.* 2007, p. 277). Without fire, trees encroach on meadows and eventually the meadow habitat is lost and replaced by forest.

Fire alone, or in combination with grazing, can facilitate the conversion and maintenance of grasslands (Lewis 1982, p. 24; Chowns *et al.* 1997, p. 205; Schwarz and Wein 1997, p. 1369). Burning by Native groups within the range of wood bison was apparently a common practice through the 1940s outside WBNP but ended within the park when it was established in 1922 (Lewis 1982, pp. 22–31; Schwarz and Wein 1997, p. 1369). An examination of aerial photographs taken at WBNP over time showed that a semi-open grassland that covered about 85 ha (210 ac) in 1928 supported a grassland of only 3 ha (7.4 ac) in 1982 (Schwarz and Wein 1997, p. 1369). In addition, a number of sites previously identified as prairie are now dominated by trembling aspen (Schwarz and Wein 1997, p. 1369). Although not quantified, it is likely that because of fire suppression and forest encroachment on meadows, there was a net loss of suitable open meadow habitat for wood bison throughout their range through about 1990. More recently, several factors may be counteracting the loss of open meadow habitat including controlled burns, timber harvest, oil and gas development, and the effects of climate change, as discussed below.

Controlled Burns

Controlled burns have been implemented since 1992 in wood bison habitat in the Northwest Territories to increase meadow habitat (Chowns *et al.* 1997, p. 206). Approximately 4,400 to 26,900 ha (10,873 to 66,471 ac) were burned from 1992 to 1997 with some sites being burned up to three times (Chowns *et al.* 1997, pp. 206–207). In addition, lightning fires burned 300,000 ha (741,316 ac), or almost 20 percent of the wood bison range in this area, from 1994 to 1996 (Chowns *et al.* 1997, p. 209). Plants favored by bison were more abundant in unburned areas and in meadows that had burned only once (Quinlan *et al.* 2003, p. 348), indicating that prescribed burns must be used judiciously to be effective in creating foraging habitat for wood bison. A study of vegetation recovery and plains bison use after a wildfire near Farewell, Alaska (Campbell and Hinkes 1983, p. 18) showed that grass and sedge-dominated communities increased from 38 percent to approximately 97 percent of the study area. Plains bison use also increased in subsequent years after the fire, and winter distribution of the Farewell herd expanded due to fire-related habitat changes (Campbell and Hinkes 1983, pp. 18–19). Because sedges are important winter forage for wood bison, the amount of such habitat has a major influence on herd size. Newly created habitats will be used by wood bison when these habitats are contiguous with existing summer or winter ranges (Campbell and Hinkes 1983, p. 20).

In summary, studies that have looked at the exclusion of fire or the effect of wildfire on wood bison habitat have concluded that fire is a necessary component of the landscape to maintain clearings and create conditions that favor forage preferred by wood bison. Controlled burns can have the same effect as wildfire by creating openings in the forest. However, repeated burns in the same location can be detrimental to creating suitable forage.

Timber Harvest

The volume of timber logged in Canada rose 50 percent from 1970 to 1997; in Alberta, the logging rate increased 423 percent from 3.4 to 17.8 million m^3 (120 to 628 million feet $(ft)^3$) per year during the same time (Timoney and Lee 2001, p. 394). These values are conservative because forests logged on private land and those harvested on government land after fire, insect outbreaks, or disease may go unrecorded (Timoney and Lee 2001, p. 395). The primary method of harvest is clearcutting (Timoney and Lee 2001, p. 394). Compared to a closed canopy forest, clearcuts improve the amount of suitable habitat available to wood bison because they create openings and increase the amount of summer forage available. However, the quantity and quality of forage is less than what is found in preferred wood bison foraging

habitats, and the increased productivity seen after a clearcut is not maintained, as woody vegetation becomes more dominant over time (Redburn *et al.* 2008, p. 2233). In addition, clearcuts do not provide adequate winter forage because wood bison's preferred food, sedges, typically do not colonize these areas. Clearcutting is not being used as a management tool to increase wood bison habitat currently, and whatever gains in habitat that have occurred from clearcutting are most likely low.

In summary, although timber harvest occurs throughout the range of wood bison, it is unclear to what extent it is creating suitable habitat. Clear cuts can increase summer forage, but they need to be in proximity to sedge meadows (wintering habitat) to increase the annual carrying capacity for wood bison, and the openings created by the clear cuts must be maintained over time. Although timber harvest has the potential to increase the amount of suitable habitat for wood bison, the amount that may have been created is most likely low and is undocumented.

Oil and Gas Development

Oil and gas exploration and production in Canada has increased in the last 20 years (Timoney and Lee 2001, pp. 397–398). Seismic mapping to determine the oil and gas reserves below the surface involves cutting paths 5 to 8 meters (m) (16.4 to 26 ft) wide across the landscape. The seismic lines become persistent features in the forested boreal landscape (Lee and Boutin 2006, p. 249). Approximately 70 percent of landscape disturbance for non-renewable resource extraction in Alberta is due to seismic lines (Timoney and Lee 2001, p. 397). There are an estimated 1.5 to 1.8 million km (932,000 to 1,100,000 mi) of seismic lines in Alberta (Timoney and Lee 2001, p. 397). Lee and Boutin (2006, p. 244) found that only 8.2 percent of seismic lines in Alberta's northeastern forested stands recovered to greater than 50 percent woody vegetative cover after 35 years, and 64 percent of these seismic lines maintained a cover of grasses and herbs. In terms of creating forest openings, more suitable foraging habitat, and linear paths, seismic lines may be beneficial for wood bison. However, because vehicular routes were established in 20 percent of the seismic lines, they also become corridors for off-road vehicles, recreationalists, and poachers (Trombulak and Frissell 2000, pp. 19–20; Timoney and Lee 2001, p. 400; Lee and Boutin 2006, p. 244). Although wood bison are known to occupy linear clearings such as roads, and seismic lines have increased dramatically within their range, potentially creating suitable habitat, we do not have documentation of wood bison use of this type of habitat.

Agricultural Development

The popularity of bison as an alternative to beef in human diets has led to a growth of commercial bison ranches in Canada and the United States (Gates *et al.* 1992, p. 155). Exports of bison meat from Canada doubled to over 2 million kilograms (2.3 tons) from 2001 to 2006 (Statistics Canada 2009a, unpaginated). Plains bison dominate agricultural production in Canada because commercial production of this subspecies has been in place much longer than it has been for wood bison (Gates *et al.* 1992, p. 156; Harper and Gates 2000, p. 919). Bison production in Canada is concentrated in the western provinces, within the historical range of wood bison. In 2006, there were 195,728 plains bison on 1,898 farms reporting in the Canadian National Census; an increase of 35 percent from 2001 (Statistics Canada 2009b, unpaginated). Thus, plains bison represented approximately 95 percent of the total bison on the landscape in Canada in 2006. Existence and expansion of commercial plains bison production reduces the amount of land available for wild wood bison populations and increases the risk of hybridization when plains bison escape captivity (Harper and Gates 2000, p. 919; Gates *et al.* 2001, pp. 24, 29). Demand currently exceeds supply; therefore, expansion of commercial plains and wood bison operations is expected to continue (Gates *et al.* 2001, p. 24)

Escape of plains bison from fenced enclosures within the range of the wood bison in Canada poses a threat to the genetic integrity of wood bison (Gates *et al.* 1992, p. 156; Gates *et al.* 2001, p. 24). Because of their size, strength, and undomesticated nature, typical fences are insufficient to restrain bison (FEAP 1990, p. 29; Harper and Gates 2000, p. 919). Maintenance of fences can be a challenge in harsh environments where tree-fall, snow, ice, and frost heave can impair the integrity of the fence and necessitate frequent repairs. The import of plains bison to a private ranch near Pink Mountain, British Columbia, led to the establishment of a free-ranging herd of plains bison after they escaped their enclosure (Gates *et al.* 1992, p. 156).

In addition to commercial production, free-ranging, publicly managed plains bison herds have been established outside their historical range and within the historical range of wood bison in Alaska and Canada (Gates *et al.* 2010, p. 56). Because of the potential for hybridization, these herds limit where wood bison can be reintroduced. Five plains bison herds occur in Alaska and one occurs in British Columbia, Canada (Gates *et al.* 2010, p. 56). None of these plains bison herds occur in close proximity to free-ranging wood bison herds with the exception of one herd—the Pink Mountain herd, British Columbia, which also occupies habitat that could have been used for wood bison (Harper *et al.* 2000, p. 11). Preventing interbreeding between free-ranging plains bison and wood bison is a management objective in British Columbia and is accomplished by maintaining a large physical separation between the herds and having a management zone around the plains bison herd that allows harvest of plains bison within this zone (Harper *et al.* 2000, p. 23).

Agricultural development, including plains bison ranching, is the least compatible land use for wood bison recovery (Harper and Gates 2000, p. 921). Loss of habitat for agricultural production is a threat to wood bison because of the large areas involved. Agricultural development near Fort St. John and Fort Nelson, British Columbia, has reduced habitat for wood bison, and continuing expansion of agriculture in the north will further limit the ability to meet population recovery objectives (Harper and Gates 2000, p. 921). Based on a conservative estimate of historical habitat only in Canada, Gates *et al.* (1992, p. 154) estimated that human activities and development exclude wood bison from approximately 34 percent of their historic range. When an updated Canadian historical range (Stephenson *et al.* 2001, p. 136) and the Alaskan historical range are included in the calculation, the amount of compromised habitat drops to approximately 16.5 percent if only Canada is considered, and 13 percent if the historical habitat in Canada and Alaska are combined (Stephenson 2010, pers. comm.). Sanderson *et al.* (2002, pp. 894–896; 2008, p. 257) found that the level of human influence in the range occupied by wood bison to be extremely low (less than 10 percent). Although human development and influence is very low over the majority of range occupied by wood bison, we assume that because of human population growth, increased commercial production of plains bison, and increased agricultural production, there will be continued loss of suitable wood bison habitat into the foreseeable future.

Climate Change

Climate change models project that the largest temperature increases will occur in the upper latitudes of the northern hemisphere, and that there will be an increase in extreme climate events in these areas (IPCC 2007, 11.5.3.1). This area includes the boreal forest of Canada and Alaska in the range of wood bison. Some of the predicted outcomes of climate change are: an increase in temperature; an increase in insect outbreaks; an increase in wildfire severity, area burned, and fire season length with potential landscape scale ecotype effects; and a shift northward of boreal forest (Hamann and Wang 2006, pp. 2780–2782; Soja *et al.* 2007, p. 277). These aspects of climate change have the potential to increase the amount of habitat suitable for wood bison over the next 100 years.

The mean annual temperature of interior Alaska and northern Canada has increased by 2 degrees Celsius (°C) (3.6 degrees Fahrenheit (°F)) in the last four decades (Serreze *et al.* 2000, p. 163). Warming has triggered bark beetle outbreaks in western North America, including south-central Alaska and British Columbia. In British Columbia, by the end of 2006, 130,000 km^2 (50,193 mi^2) of forested lands were affected (Kurz *et al.* 2008, p. 987). The outbreak in British Columbia was an order of magnitude greater in area and severity than all previous recorded outbreaks (Kurz *et al.* 2008, p. 987). In the boreal regions of Alaska, the cumulative insect damage from 1993 to 1998 was 1.6 to 2.4 million ha (3.9 to 5.9 million ac) (Matthews 1997, p. 4; Malström and Raffa 2000, p. 36) with 90 percent of the spruce on the Kenai Peninsula being affected (Soja *et al.* 2007, p. 282).

The warmer minimum winter temperatures increased survival of beetles during the winter, while increased summer temperatures and reduced summer precipitation stressed the trees and contributed to the intensity of the bark beetle infestation (Kurz *et al.* 2008, p. 987). In addition, the warmer temperatures quickened the maturation rate of the beetles from 2 years to 1 year, hastening population growth (Berg *et al.* 2006, p. 219; Werner *et al.* 2006, p. 195). The effect of insect outbreaks on wood bison habitat includes a potential increase in suitable wood bison habitat, and an increase in susceptibility to fire. In insect-infested plots studied on the Kenai Peninsula, cover of bluejoint grass (*Calamagrostis canadensis*), a summer forage species, increased to more than 50 percent compared to uninfested forest stands (Werner *et al.* 2006, p. 198). These results indicate forests affected by beetle kill may become more suitable to wood bison by creating openings and changing the vegetative composition. This would be particularly true in areas where, because of climate change, there was a permanent change in landscape cover from forest to grassland (Rizzo and Wiken 1992, p. 53; Flannigan *et al.* 2000, pp. 226–227). Werber and Flannigan (1997, p. 157), and Malmström and Raffa (2000, p. 36), indicate that insect outbreaks increase an area's susceptibility to fire ignition and spread.

Since the mid-1980s, wildfire frequency in western forests has nearly quadrupled compared to the average frequency during the period 1970–1986. The total area burned is more than six and a half times the previous level (Westerling *et al.* 2006, p. 941). In addition, the average length of the fire season during 1987–2003 was 78 days longer compared to that during 1970–1986, and the average time between fire discovery and control was 29.6 days longer (Westerling *et al.* 2006, p. 941). In Alaska, the largest fire on record was in 2004, and the third largest was in 2003 (Soja *et al.* 2007, p. 281).

The area burned by forest fires in Canada has increased over the past 4 decades (Stocks *et al.* 2003, p. 2; Gillett *et al.* 2004, p. 4; Soja *et al.,* 2007, p. 281). In Canada, weather/climate is the most important natural factor influencing forest fires (Gillett *et al.* 2004, p. 2; Flannigan *et al.* 2005, p. 1). Projections based on the Canadian and Hadley General Circulation Models, which predict future carbon dioxide and temperature increases, indicate that the area burned in boreal forests of Canada will double by the end of the century (Flannigan *et al.* 2005, pp. 11–12), the area exhibiting high to extreme fire danger will increase substantially, and the length of the fire season will increase (Stocks *et al.* 1998, pp. 5–11).

In the absence of fire, vegetation changes would occur relatively slowly in response to relatively slow changes in the climate. Because of its immediate and large-scale effect, fire is seen as an agent of change that will hasten the modification of the landscape to a new equilibrium with climate. Area burned may overshadow the direct effects of climate change on plant species distribution and migration (Werber and Flannigan 1997, p. 157). The new fire regime is expected to affect the age class distribution, species composition, landscape mosaics, and boundaries, including a retraction of the southern boreal forest (Werber and Flannigan 1997, pp. 157, 160).

The increase in temperature, predicted by the Canadian and Hadley General Circulation Models described above, is expected to cause major shifts in ecosystems (Rizzo and Wiken 1992, p. 37; Hogg and Schwarz 1997, p. 527). The amount of grassland in Canada may increase by about 7 percent and shift northward (Rizzo and Wiken 1992, p. 52). Several modeling efforts suggest that boreal forests will shift northward into the area now characterized as subarctic (Rizzo and Wiken 1992, pp. 48–50; Rupp *et al.* 2002, p. 214). These changes may favor the expansion of suitable habitat for wood bison over the next century. Because one of the anticipated outcomes under climate change and the new fire regime is a retraction of the southern boreal forest and expansion of grasslands, we anticipate that habitat for wood bison, which require meadows intermixed with forest, will increase over the next century.

Summary of Factor A

Our analysis of habitat threats to wood bison under Factor A includes management actions that are being taken (controlled burns, timber harvest, oil and gas development), anticipated changes to the landscape based on climate change (increased insect outbreaks, increased fire, ecotype transition), and agricultural development. In summary, most likely there was loss of suitable meadow foraging habitat for wood bison from fire suppression in the 20th century. Several factors including fire, timber harvest, oil and gas exploration, and insect infestations could create more forest openings and grassland habitat. However, neither the loss, nor potential gain in habitat from these sources has been quantified, and the suitability of habitat for wood bison created as a by-product of resource development is largely unknown. The primary loss of habitat for wood bison has occurred from agricultural development (including commercial production of plains bison). Although the current level of human influence in the range of wood bison is low, we anticipate human population growth will continue, and loss of suitable habitat from agricultural development is expected in the foreseeable future. In the short term, habitat loss is expected to outstrip gain because of the increasing demand and production of commercial bison. Based on model projections of the effects of climate change, it is anticipated that there will be increased insect infestations, increased fire frequency and area burned, and warmer temperatures, leading to shifts in

ecosystems. In the long term, these changes will likely create more forest openings and landscapes in early successional stages and may increase the amount of suitable habitat available to wood bison. Whether the potential gain in habitat will offset the loss from development in the long term is unknown. Consequently, based on the best scientific and commercial data available, we conclude that loss of habitat remains as a significant threat to wood bison in the foreseeable future.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Overharvesting for the fur trade and westward expansion by Europeans resulted in near extinction of wood bison by the late 1800s (Gates *et al.* 1992, pp. 143–145). Currently, the utilization of free-ranging, disease-free wood bison populations is closely regulated and managed for sustainability. Under the Species at Risk Act (SARA), a species listed as threatened may not be killed on Federal lands such as National Parks or National Wildlife Areas, except where permitted under a national recovery strategy (GNT 2009, p. 15). Harvest is used as a recovery management tool to regulate herd size when other limiting factors, such as predation or disease, do not. Without harvest, herd size can expand beyond the carrying capacity of the landscape, may grow to the point where overlap with either plains bison or diseased herds is more likely, or may expand into areas such as highway right-of ways. Regulated harvest is allowed from the disease-free Mackenzie herd, Nahanni herd (quota of two bison annually), the Aishihik herd, and the Hay-Zama herds under permit systems controlled by the respective territorial wildlife agencies, and is managed on a conservative sustained-yield basis. The regulated harvests for the Mackenzie, Aishihik, and Hay-Zama herds are described below.

Hunting of the Mackenzie wood bison herd is regulated under a quota system based on population size, and through consideration of Native community interests in subsistence hunting, through a co-management process with the Fort Providence Resource Management Board. Regulated hunting was initiated in 1987. Non-resident hunting licenses were first issued for the winter hunt in 1992/1993. The quota for resident and non-residents has been adjusted over time based on herd size and community input. The allowable quota for harvest has never been taken and has ranged from 20 to 93.6 percent of the quota (Reynolds *et al.* 2004, p. 39). The current annual allowable harvest is 47 bison, which is 2.5 percent of the population estimate (Reynolds *et al.* 2004, pp. 15, 39).

Sport hunting is the primary method of regulating the growth of the Aishihik herd, because natural predation on the herd is low. The Yukon Wood Bison Technical Team provides advice on wood bison management that is sensitive to local conditions (*i.e.,* to remove wood bison from highway right-of-ways, competition of bison with other native ungulates), and consistent with the National Wood Bison Recovery Plan (Yukon Environment 2009, p. 1). The annual allowable harvest is determined each year based on population size and calf recruitment rate. Harvest from 1999 to 2007/2008 winter season ranged from 65 to 75 animals. In the 2008/2009 winter season, the allowable harvest increased to 200 because the population continued to grow under the old quota. Increased harvest is expected to restrict the movement of wood bison away from their traditional range, address highway safety concerns, and achieve bison management objectives (Government of Yukon 2009, p. 1). Resident, non-resident, and First Nations hunters are required to have a permit to hunt wood bison. Harvest regulations are strictly enforced by Yukon Department of Environment conservation officers, often in collaboration with local First Nations Game Guardians.

Hunting in the Hay-Zama herd began in 2008 for the first time. Hunting was initiated to regulate the population size, reduce wood bison conflicts with humans in the communities of Zama City and Chatey, reduce wood bison-vehicle collisions on two highways, and limit wood bison distribution eastward, preventing potential contact with diseased bison from WBNP (Government of Alberta 2010a, unpaginated). Harvest removed 128 and 155 animals in the 2008/09 and 2009/10 seasons, respectively (Government of Alberta 2010b, unpaginated). Three hundred licenses were issued each year, 200 to Aboriginal hunters and 100 to recreational hunters. Because the objectives of reducing herd size and human conflicts have been met, the total number of licenses has been reduced in the 2010/11 season to 105 (Government of Canada 2010b, unpaginated). Based on the success rate of the past two seasons, approximately 50 animals will likely be harvested. It is estimated that a population objective of 400–600 wood bison can be sustained by harvesting approximately 60 to 70 animals per season (Government of Canada 2010b, unpaginated).

In addition to regulating herd size, harvest is also used to prevent the spread of bovine tuberculosis and brucellosis infection in wood bison. Under the Northwest Territories Big-Game Hunting Regulations, hunters may shoot any bison sighted within the Bison Control Area (BCA), an area located between the WBNP diseased herd and the Mackenzie and Nahanni disease-free herds. The goal is to reduce the risk of bovine tuberculosis and brucellosis infection of the Mackenzie and Nahanni herds by removing infected animals dispersing from WBNP (see discussion under Factor C). Thirteen bison were removed from the BCA in the mid-1990s (Nishi 2002, pp. 12–13). There is currently no authorized harvest of wood bison in British Columbia.

Under Canada's SARA, all collection of listed species such as wood bison for scientific purposes is closely regulated. Scientific research on disease, genetics, diet, and other aspects of wood bison life history can and has been done using animals that have been legally taken by hunters, animals that died through natural factors, or road kill (*e.g.,* Tessaro *et al.* 1990, p. 175). Scientific research must relate to the conservation of the species and be conducted by qualified persons; the activity must benefit the species or enhance its chance of survival in the wild. In addition, activities affecting the species must be incidental to carrying out an otherwise lawful activity. Researchers must demonstrate awareness of the provisions of SARA, that measures are being taken to minimize harm to listed species, and that the most effective measures for minimizing harm are adopted.

Harvest of wood bison does not occur and only a small number of wood bison have been sporadically taken from disease-free herds for display in zoos or wildlife parks. This occurs only when surplus animals are available and these surplus animals have typically come from Elk Island National Park (Gates *et al.* 2010, p. 81).

The wood bison was placed in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) on July 1, 1975, when the treaty first went into effect. CITES is an international agreement between governments to ensure that the international trade of CITES-listed plant and animal species does not threaten species' survival in the wild. There are currently 175 CITES Parties (member countries or signatories to the Convention). Under this treaty, CITES Parties regulate the import, export, and reexport of CITES-protected plants and

animal species (also see Factor D). Trade must be authorized through a system of permits and certificates that are provided by the designated CITES Scientific and Management Authorities of each CITES Party (CITES 2010, unpaginated). Species included in CITES Appendix I are considered threatened with extinction, and international trade is permitted only under exceptional circumstances, which generally precludes commercial trade.

Beginning in 1993, the European Economic Community CITES Working Group authorized the import of wood bison trophies from the Mackenzie population, one of the disease-free herds with regulated harvest. On September 28, 1997, the wood bison was downlisted to Appendix II based on a proposal from Canada, which described progress made in recovery plan implementation (Government of Canada 1997, entire). The United States voted in support of the downlisting. Appendix II allows for regulated trade, including commercial trade, as long as the exporting country issues a CITES permit based on findings that the specimen was legally acquired and the export will not be detrimental to the survival of the species.

Between the time the wood bison was first listed in CITES in 1975 and 2009, 169 CITES-permitted shipments have been reported to the United Nations Environment Programme–World Conservation Monitoring Center (UNEP–WCMC). Of these, 132 shipments have occurred since 1997, when the wood bison was downlisted to Appendix II. Of these 132 shipments, 49 (37 percent) were reportedly imported into the United States and six (four percent) were shipments permitted for export from the United States (UNEP–WCMC 2010, unpaginated). With the information given in the UNEP–WCMC database, of the 132 shipments recorded between 1997 and 2009, approximately 17 shipments consisted of live wood bison: 13 shipments (165 individuals) of captive-born/captive-bred wood bison were traded for commercial, zoological, or captive-breeding purposes; two shipments of ranched wood bison (13 individuals) were traded for commercial purposes; and two shipments of wild wood bison (18 individuals) were traded for commercial and captive-breeding purposes. There has been no trade in live, wild wood bison reported since 2002. The other 115 shipments since 1997 involved trade in parts and products (15 trophies, 1,628 kg (3,589 lb) of meat, 9 carvings, 8 skulls and horns, 304 teeth, 17 skins, 629 scientific specimens, and 6 garments, leather products, and hair) of wild, captive-born/captive-bred, pre-Convention, and confiscated wood bison.

As a species listed in Appendix II of CITES, commercial trade of wood bison is allowed. However, CITES requires that before an export can occur, a determination must be made that the specimens were legally obtained (in accordance with national laws) and that the export will not be detrimental to the survival of the species in the wild. Because CITES requires that all international shipments of wood bison must be legally obtained and not detrimental to the survival of the species, we believe that international trade controlled via valid CITES permits is not a threat to the species. Furthermore, we have no information indicating that illegal trade is a threat to this species.

Summary of Factor B

It is possible that, with the ongoing recovery actions, a status review of wood bison in Canada could lead to delisting under SARA within the next 10 years. If this were to happen, we expect that regulations for recreational hunting, import of wood bison trophies, and permitting would change. Our ability to predict how these changes would affect the status of the species is limited; consequently we can only reliably project for a short time into the future.

Because harvest rates of free-ranging wood bison are based on sustainability, harvest is closely monitored and regulated, scientific collecting is tightly controlled, commercial harvest does not occur in wild populations, and import and export are controlled via CITES permits, we have determined that overutilization for commercial, recreational, scientific, or educational purposes is not a threat to wood bison now or in the foreseeable future.

C. Disease or Predation

Disease

A decision in the early 1920s led to the transfer of 6,673 plains bison into WBNP, Alberta, Canada, where approximately 1,500 disease-free wood bison resided (FEAP 1990, p. 6; Gates *et al.* 1992, pp. 146–147). Although initially separated by fairly large distances, the plains bison eventually co-occurred and interbred with the wood bison and also transmitted bovine tuberculosis and brucellosis to them (FEAP 1990, p. 6; Gates *et al.* 1992, pp. 146–147). By the late 1940s and early 1950s, the population of wood bison in WBNP increased to between 12,500 and 15,000 animals (Fuller, 1950, p. 450). From that level, wood bison numbers began to decline from 11,000 in 1971 to approximately 2,300 by 1998 (Carbyn *et al.* 1998, p. 464). The reasons for the population decline are not known with certainty, but disease, predation by wolves, and habitat condition may all have played a role (Carbyn *et al.* 1998, pp. 467–468; Joly and Messier 2004, pp. 1165–1166). Population numbers at WBNP have stabilized at about 4,000 to 5,000 since 2002 (Table 1).

Bovine tuberculosis and bovine brucellosis receive special attention because they cause production losses in domestic animals, they can potentially infect humans, and they are required to be reported under the Canadian Food and Inspection Agency's (CFIA) Health of Animals Act and Regulations (FEAP 1990, p. 7). Although wildlife is not under their jurisdiction, the CFIA recognizes the threat of reportable diseases to the commercial livestock industry and international trade. The CFIA follows a strict testing and eradication program for bovine tuberculosis and brucellosis in domestic animals, requiring that all infected animals and all exposed susceptible animals be destroyed (Canadian Food Inspection Agency 2002, unpaginated). Consequently, there is great concern from the Canadian cattle industry, which is currently recognized as disease-free, that disease will spread from the wood bison to domestic cattle (GNT 2009, p. 13). The goal of the CFIA's National Bovine Tuberculosis/Brucellosis Eradication Program is to detect and eradicate tuberculosis and brucellosis in farmed animals in Canada in order to protect the health of food-producing and companion animals, safeguard human health, and safeguard the health of free-roaming wildlife. Canada recognizes an obligation to detect, identify, report, and contain important diseases in wildlife, especially those with the potential to impact biodiversity, human and livestock health, the environment, and the economy within and beyond their borders.

The wood bison in and around WBNP are a reservoir for bovine brucellosis and bovine tuberculosis. Because there is a risk that these diseases could spread to uninfected free-ranging bison herds or to commercial cattle and bison operations, limits are placed on herd expansion to minimize the chance that the diseased animals come into contact with either free-ranging, disease-free herds, or domestic cattle or bison operations. In addition, the diseased herds occupy suitable habitat that could be used for the establishment of disease-free herds of wood bison. Therefore, the existence of diseased bison herds in and

around WBNP compromises further recovery of wood bison in northern Alberta, the Northwest Territories, and British Columbia (Gates *et al.* 2001, p. 29). The total area compromised by diseased herds is approximately 218,516 km^2 (84,369 mi^2) or about 12 percent of the original range of the wood bison in Canada (Gates *et al.* 2001, p. 24). As mentioned earlier there are no effective vaccines for the treatment of animals in free-ranging populations.

The disease-free herds most at risk from infection from animals at WBNP are the Mackenzie, Hay-Zama, and Nahanni. Regulated harvest is allowed from the Mackenzie herd, Nahanni herd, and the Hay-Zama herds under permit systems (as described under Factor B), in part to prevent overlap with the diseased herd. In addition, the Governments of the Northwest Territories, Alberta, and British Columbia have designated management zones to reduce the risk of dispersing animals transmitting disease to disease-free herds in their provinces. In 1987, the Government of the Northwest Territories implemented a program to reduce the risk of contact between infected bison in and around WBNP and disease-free bison in the Mackenzie and Nahanni herds by establishing a Bison Free Management Area (BFMA) (Nishi 2002, pp. 5–6). The BFMA (39,000 km^2 (15,058 mi^2) encompasses the area between the Alberta–Northwest Territories border and southern shoreline of the Mackenzie River. In 1992, the Government of the Northwest Territories established the Nuisance Bison Control Regulations under the Northwest Territories Wildlife Regulations Act, permitting eligible hunters to legally shoot any bison sighted in the BFMA. All bison within this area are presumed disease carriers. The objectives of the program are to detect and remove any bison, and to prevent establishment of herds in the management area (Nishi 2002, p. 6). No bison were observed in the area during annual aerial surveys in the period 1988–2006, but 13 bison were killed in the mid-1990s (Nishi 2002, pp. 12–13; Hartop *et al.* 2009, p. 41). Aerial surveillance occurs annually.

In 1995, the Government of Alberta established a 36,000 km^2 (13,900 mi^2) bison management area around the Hay-Zama herd to protect all bison from hunting. Within this area, all wood bison are legally protected under Alberta's Wildlife Act; outside of the area they are not protected and can be hunted. The area outside of the protected management area creates a large buffer zone between the disease-free Hay-Zama herd and the diseased herds within WBNP (Gates *et al.* 2001, p. 38).

Control areas and buffer zones between diseased and non-diseased populations may not prevent disease transmission (Canadian Food Inspection Agency 2002, unpaginated) because they are sporadically patrolled and imperfectly enforced. As discussed earlier, fences are an ineffective method to contain herds long term, especially those in large areas (FEAP 1990, p. 29). Consequently, a long-term, more sustainable solution is needed to address this problem.

A Federal Environmental Assessment Panel (FEAP) was assembled to evaluate four courses of action to address the diseased herds at WBNP. These actions were initially proposed by the Bison Disease Task Force: (1) Do nothing; (2) fence WBNP to contain the diseased bison and prevent the spread of disease; (3) use a combination of strategically placed fences, buffer zones exterior to the Park from which all bison would be eliminated, and institute land-use restrictions on cattle grazing; and (4) phased elimination of the diseased herd and replacement with disease-free wood bison (FEAP 1990, p. 15). After public hearings, and consultation with technical experts, the panel recommended eradication of the existing diseased bison population to eliminate the risk of transmission of disease from bison in and around WBNP to domestic cattle, wood bison, and humans (FEAP 1990, p. 2). Public response to this recommendation was largely negative (Carbyn *et al.* 1998, p. 464). The recommendation was not implemented; consequently, control of disease spread currently depends on the buffer zones.

Annual examinations and serological studies of bison harvested from the Mackenzie herd indicate that the herd continues to be disease free (Nishi 2002, p. 23). Over 220 samples from the Hay-Zama herd were received as a result of the hunts that could be tested for disease. All samples tested negative (Government of Canada 2010a, unpaginated). There is also no evidence of bovine brucellosis and bovine tuberculosis in reintroduced herds in the Yukon Territory, British Columbia, western Alberta, or Manitoba. Free-ranging, disease-free herds currently include approximately 4,414 wood bison (Table 1). Because of their distance from WBNP, the Aishihik and Chitek Lake herds are the most secure from disease.

Recovery and conservation efforts for wood bison emphasize the importance of preventing the spread of tuberculosis and brucellosis to disease-free populations, and eliminating diseases in infected populations (Gates *et al.* 2001, p. 30). The focus on disease prevention and control is consistent with the recovery goals of increasing the number of disease-free populations. Parks Canada, through Elk Island National Park, has worked with the recovery team and others to develop and maintain a disease-free captive-breeding herd, which has provided healthy stock for several restoration projects (Gates *et al.* 2001, p. 18).

Because the northern latitudes are experiencing the greatest changes in climate, this area may also be at the greatest risk for the emergence of diseases and parasites that may threaten the stability of wildlife populations (Kutz *et al.* 2004, pp. 109, 114). Warming may be of particular concern for wildlife in northern regions because the life-history patterns of most hosts and parasites are currently constrained by climatic conditions (Kutz *et al.* 2004, p. 114). Researchers have hypothesized that climate change will accelerate pathogen development rates, lead to greater overwinter survival of pathogens, and modify host susceptibility to infection in such a way that the effects of disease will increase (Ytrehus *et al.* 2008, p. 214). Wood bison are susceptible to many diseases and parasites (Reynolds *et al.* 2003, pp. 1030–1032). How climate change may affect the number of animals infected, the pathogen virulence, and, consequently, wood bison viability is unknown.

One potential effect of climate change may be an increase in anthrax outbreaks because of increased summer air temperatures. Between 1962 and 1993, nine anthrax outbreaks were recorded in northern Canada, killing at least 1,309 wood bison (Dragon *et al.* 1999, p. 209). Additional outbreaks continued to occur through at least 2007 (GNT 2009, p. 13). Wood bison appear most susceptible to outbreaks when they are stressed, including heat stress and high densities of biting insects (Dragon *et al.* 1999, p. 212; Gates *et al.* 2010, p. 28). In addition, if climate change leads to widespread or intense drought, there could be changes in the quality and availability of forage that may cause animals to concentrate around available food and water. These factors could contribute to stress levels and increase susceptibility to anthrax (Dragon *et al.* 1999, p. 212; Gates *et al.* 2010, p. 28). Although isolated anthrax outbreaks occur currently, it is possible that outbreaks may become more frequent, widespread, or affect a greater number of animals in the future. Thus far, anthrax outbreaks have occurred

sporadically when the necessary factors have come together to affect portions of one herd at a time. Anthrax is not currently having a population-level effect, and we do not have enough information to predict with confidence if anthrax will have a population-level effect on wood bison in the future as a result of climate change.

Predation

Wolf predation can be a significant limiting factor for diseased populations of wood bison (Reynolds *et al.* 1978, p. 581; Van Camp 1987, p. 25). Wood bison were the principle food of two wolf packs from 1975 to 1977 in the Slave River lowlands (Van Camp 1987, pp. 29, 32). Of the adult and subadult wood bison that died in 1976–1977, wolves killed 31 percent; however, hunters killed 39.3 percent (Van Camp 1987, p. 33). Joly and Messier (2004, p. 1173) found that productivity of the diseased WBNP herd was insufficient to offset losses to both predation and disease, but that in the absence of either factor, positive population growth was possible. Presence of disease likely increased the killing success of wolves through bison debilitation (Joly and Messier 2004, p. 1174). Wood bison evolved with wolves and we have no data showing that predation by wolves is limiting the recovery of any of the disease-free herds or would cause the extirpation of a herd (ADF&G 2007, p. 98).

Summary of Factor C

The presence of disease and diseased herds is recognized as a factor limiting recovery (Mitchell and Gates 2002, p. 12). The effectiveness of current management actions such as maintaining spatial separation between diseased and disease-free herds by limiting herd size is yet to be determined over long timeframes. Research is continuing on creation of disease-free herds. No effective vaccines exist for brucellosis, tuberculosis, or anthrax for free-ranging populations. In addition, although recommendations for the management of the diseased herds in and around WBNP have been suggested (FEAP 1990, p. 2) they have not yet been implemented, it is unknown if they will be implemented, or how implementation of the recommendations would affect the status of the subspecies.

Predation by wolves is a natural threat that will persist indefinitely into the future. Although diseased herds may be more susceptible to predation, healthy herds, which now represent approximately half of the free-ranging wood bison, are not. As long as wolves are present on the landscape, they will present an ongoing, low level of threat, especially to diseased herds.

The presence of disease in the largest potential donor population of wood bison (WBNP herd) has limited the number of animals available for establishing or augmenting herds throughout the wood bison's historical range and has removed otherwise optimal habitat from consideration for expansion of wild populations. The presence of reportable diseases will continue to lead to actions that impact conservation, in particular restriction of herd expansion and the reintroduction of herds in particular areas. Although brucellosis and tuberculosis may limit wood bison population growth and productivity in some herds, they are unlikely to cause extirpation of any population (Bradley and Wilmshurst 2005, p. 1204; Gates *et al.* 2010, p. 60), but when combined with predation herd size can be limited. Anthrax outbreaks occur sporadically when critical factors come together. Climate change could affect the frequency of outbreaks if increased temperatures or drought caused increased levels of stress in the animals, especially during the rut. Because disease constrains and inhibits full recovery of the species, until a solution for the diseased animals at WBNP is found, or effective vaccines are discovered and utilized, disease will continue to be a threat to wood bison now and in the foreseeable future.

D. The Inadequacy of Existing Regulatory Mechanisms

The first protective legislation for wood bison, making it illegal for anyone to molest the species, was passed by the Canadian Government in 1877, but not until the law was enforced beginning in 1897 did the population increase (Soper 1941, pp. 362–363; Gates *et al.* 2001, p. 12).

As previously mentioned, the wood bison was recognized by the COSEWIC as an endangered subspecies of Canadian wildlife in 1978. It was reclassified to threatened in June 1988, based on a status report prepared by the National Wood Bison Recovery Team.

The Species at Risk Act (SARA), enacted on December 12, 2002, became fully effective on June 1, 2004, and is the Canadian counterpart to the U.S. Endangered Species Act. The purpose of SARA is to prevent listed wildlife species from becoming extinct or lost from the wild (extirpated); to help in the recovery of extirpated, endangered, or threatened species; and to ensure that species of special concern do not become endangered or threatened. SARA also requires the development of recovery strategies and action plans for covered species. In the SARA, the COSEWIC was established as the scientific body that identifies and assesses a species' status; however, the government makes the final decision on whether to list a species.

Species such as wood bison that were designated as threatened or endangered by the COSEWIC before SARA had to be reassessed before being included on the official list of wildlife species under SARA. The wood bison is currently listed as a threatened species under Schedule 1 of SARA. The National Recovery Plan for wood bison was published in 2001 (Gates *et al.* 2001) and is currently under revision. As discussed in the Recovery section above, many recovery actions have been implemented and more are in progress. As discussed under Factor B, SARA requires permits for all scientific collection of listed species.

The SARA covers all species on Federal lands such as national parks, national wildlife areas, Prairie Farm Rehabilitation Administration pastures, aboriginal reserve lands, and military training areas. It prohibits the killing, harming, harassing, or taking of extirpated, endangered, or threatened species, and the destruction of their residences (*e.g.,* nest or den) on Federal lands, except where permitted under a national recovery strategy (GNT 2009, p. 15). Because the recovery strategy includes managing herd size for the health of the habitat and herds (Gates *et al.* 2001, pp. 35–39), bison hunting is allowed under a quota system in the Nahanni, Mackenzie, and Aishihik herds (described under Factor B). The Northwest Territories *Big Game Hunting Regulations* consider bison in the Slave River Lowlands to be hybrids, which General Hunting License holders may hunt without limit or closed season. In the Yukon, the Aishihik herd size is managed through hunting. In Alberta, Hay-Zama herd size is managed by hunting to reduce the likelihood that the herd will come into contact with animals from WBNP (GNT 2009, p. 15).

Habitat protection within the range of the Mackenzie bison herd is facilitated through the SARA and the Mackenzie Valley Resource Management Act of 1998. Although the Mackenzie Valley Resource Management Act does not specifically provide protection to wood bison, it did create a Land and Water Board (LWB), which is given the power to regulate the use of land and water, including the issuance of land use permits and water licenses. The LWB's Environmental Impact Review Board is the main instrument in the Mackenzie Valley for the examination of the

environmental impact of proposed developments. The LWB's Land Use Planning Board is given the power to develop land use plans and to ensure that future use of lands is carried out in conformity with those plans.

As described below, several wood bison herds occur wholly or partially in National Parks, ecological reserves, or Provincial Parks (Table 2). In 1922, WBNP was established in Alberta and the Northwest Territories for the protection of wood bison. Habitat protection of 44,807 km² (17,300 mi²) within WBNP occurs through the Canada National Parks Act, the purpose of which is to maintain or restore the ecological integrity of parks, through the protection of natural resources and natural processes. With respect to a park, ecological integrity means a condition characteristic of its natural region, including abiotic (nonliving) components and the composition and abundance of native species and biological communities. Renewable harvest activities can be regulated or prohibited, and is enforced through this legislation (Canada National Parks Act, 2000). National parks are protected by Federal legislation from all forms of extractive resource use such as mining, forestry, agriculture, and sport hunting. Only activities consistent with the protection of park resources are allowed. Efforts are directed at maintaining the physical environment in as natural a state as possible. Sport hunting is prohibited; however, traditional subsistence-level harvesting by First Nations is allowed in some areas as long as the resources are conserved (The Canadian Encyclopedia 2010a, unpaginated).

Ecological reserves are established in part for the protection of rare and endangered plants and animals in their natural habitat; preservation of unique, rare, or outstanding botanical, zoological, or geological phenomena; and perpetuation of important genetic resources. Research and educational functions are the primary uses for ecological reserves, but are open to the public for non-consumptive, observational uses. Plans are developed by the Ministry of Environment to provide protection and management to ensure long-term maintenance. Resource use, such as tree cutting, hunting, fishing, mining, domestic grazing, camping, lighting of fires and removal of materials, plants or animals, and the use of motorized vehicles are prohibited (British Columbia 2010, unpaginated).

Although there are numerous parks and ecological reserves throughout the range of the wood bison, these areas do not necessarily encompass all of the individuals of a herd. Individuals frequently move into and out of these areas; therefore, wood bison herds are only afforded protection while within the boundaries of the park or ecological reserve.

TABLE 2—FREE-RANGING WOOD BISON HERDS AND LAND MANAGEMENT UNITS THAT PROVIDE PROTECTION TO THEM

Herd category and name	Canadian province	Protected area
Free-ranging, disease-free herds:		
Mackenzie	Northwest Territories	Mackenzie Bison Sanctuary.
Aishihik	Yukon	None identified, but occupied habitat is government-owned.
Hay-Zama	Alberta	Wildlife Management Area.
Nordquist	British Columbia	Portage Brule Rapids Ecological Reserve, Smith River Ecological Reserve, Smith River Falls—Fort Halkett Park, Liard River Corridor Park, Liard River Hotsprings Park, Liard River West Corridor Park, Liard River Corridor Protected Area, Hyland River Park, Muncho Lake Park, and Milligan Hills Park.
Etthithun	British Columbia	
Nahanni	British Columbia, Northwest Territories	
Chitek Lake	Manitoba	Chitek Lake Reserve.
Free-ranging, diseased herds:		
Wood Buffalo National Park.	Alberta, Northwest Territories.	Wood Buffalo National Park.

The Federal Environmental Assessment and Review Process (EARP) was introduced in Canada in 1973. In 1995, the Canadian Environmental Assessment Act replaced EARP and strengthened the Environmental Impact Assessment (EIA). The Canadian Environmental Assessment Act outlines responsibilities and procedures for the EIA of projects for which the Federal Government holds decisionmaking authority. The purposes of EIAs are to minimize or avoid adverse environmental effects before they occur and incorporate environmental factors into decisionmaking. All projects in National Parks must have an EIA. An EIA is also required under the law of the provinces and territories. Municipalities and corporations are subject to the EIA requirements of their respective provincial, territorial, or land claim jurisdictions, and are also subject to the Canadian Environmental Assessment Act if the Federal Government holds some decisionmaking authority concerning the proposed development or the acceptability of its impacts. This legislation ensures that any projects conducted on Federal lands, including National Parks, are carefully reviewed before Federal authorities take action so that projects do not cause significant adverse environmental effects, including areas surrounding the project. It encourages Federal authorities to take actions that promote sustainable development (Canadian Environmental Assessment Agency 2010, unpaginated). If a project is likely to cause significant adverse environmental effects that cannot be justified in the circumstances, even after taking into account appropriate mitigation measures the project shall not be carried out in whole or in part (Canadian Environmental Assessment Act (20)(b) and (37)(b)).

The wood bison is listed on Appendix II of CITES. CITES, an international treaty among 175 nations, including Canada and the United States, became effective in 1975. In the United States, CITES is implemented through the U.S. Endangered Species Act. The Secretary of the Interior has delegated the Department of the Interior's responsibility for CITES to the Director of the Service and established the CITES Scientific and Management Authorities to implement the treaty.

CITES provides varying degrees of protection to more than 32,000 species of animals and plants that are traded as whole specimens, parts, or products. Under this treaty, member countries work together to ensure that international trade in animal and plant species is not detrimental to the survival

of wild populations by regulating the import, export, and reexport of CITES-listed animal and plant species (USFWS 2010, unpaginated). Under CITES, a species is listed on an Appendix and receives varying levels of regulation in international trade through permit and certification requirements depending upon the particular Appendix in which the species is listed (CITES 2010b, unpaginated). CITES Appendix-II species are not necessarily considered to be threatened with extinction now but may become so unless trade in the species is regulated. Appendix II allows for regulated trade, including commercial trade, as long as the exporting country issues a CITES permit based on findings that the specimen was legally acquired and the export will not be detrimental to the survival of the species. As discussed under Factor B, we do not consider international trade to be a threat impacting the wood bison. Therefore, protection under this treaty is an adequate regulatory mechanism.

Provincial and territorial governments within Canada can use the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (WAPPRIITA) to control transport of wood bison across their borders. This law applies to wood bison because it is on the CITES control list. The WAPPRIITA prohibits the import, export, and interprovincial transportation of CITES-listed species or any Canadian species whose capture, possession, and transportation are regulated by provincial or territorial laws, unless the specimens are accompanied by the appropriate documents (licenses, permits). In all cases, the WAPPRIITA applies to the animal, alive or dead, as well as to its parts and any derived products (Environment Canada 2010, p. 1).

In addition to national-level legislation that provides protection to wood bison, there is also protection at the provincial level. Alberta, the Northwest Territories, British Columbia, Manitoba, and the Yukon Territory classify wood bison as wildlife, which is the property of the provincial or territorial government. In 1995, the Government of Alberta established a Wildlife Management Area to protect the Hay-Zama herd and listed the wood bison as endangered within the protected area under the Alberta Wildlife Act (Gates *et al.* 2010, p. 71). In this area, all wood bison are legally protected from hunting; outside of the area they are not protected.

The Northwest Territories Wildlife Act enables the Minister of the Department of Resources, Wildlife, and Economic Development to prohibit the importation of any wildlife into the Northwest Territories without a permit. This prohibits uncontrolled importation of plains bison. In May 1964, wood bison were declared in danger of becoming extinct under the Northwest Territories Act and are now designated as a protected species in the Northwest Territories. As such, sport hunting and subsistence hunting by aboriginal people may occur, but is regulated.

Wood bison are on British Columbia's Red List of species and subspecies that are candidates for legal designation as endangered or threatened under the Wildlife Act (Harper 2002, p. 3). Wood bison are an endangered species under the Yukon Act and a "specially protected species" under the Wildlife Act (Yukon legislation) and are listed as protected under Manitoba's Wildlife Act. Bison are considered domestic when held in captivity under permit or license for game farming purposes. If a wood bison escapes captivity, the provincial or territorial government acquires ownership of the animal and it, therefore, becomes protected (Harper and Gates 2000, p. 919).

In the United States, as an endangered species under the Act, pure wood bison can be imported only by permit for scientific research or enhancement of propagation or survival of the species. Wood/plains bison hybrids, however, are not protected by the Act and can be imported if the required CITES Foreign Export Permits are obtained from Canada prior to the import. If the wood bison is reclassified to threatened, import of trophies legally taken and properly permitted under the Act could also occur. Because of the regulations in place in Canada for all hunts and the permits required for import/export under CITES, we do not anticipate that reclassification would cause any increase in the number of animals killed or have any effect on the herds that are hunted.

In addition to the protection of CITES and the Endangered Species Act, the import of live wood bison and trophies is also regulated by the U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Veterinary Services for health purposes (APHIS 2007, entire). Imported wood bison must be accompanied by a health certificate that certifies, among other things, that the animal is free of any evidence of communicable disease, was not in quarantine in Canada, is from a brucellosis-free province or territory, and has continuously resided in a tuberculosis accredited-free province.

Although there is tight control over the transmission of disease across the Canadian border, control of disease within Canada is more challenging. As explained above (Factor C), there is a program to detect and eradicate tuberculosis and brucellosis in farmed animals in Canada in order to protect the health of food-producing and companion animals, safeguard human health, and safeguard the health of free-roaming wildlife. In addition, buffer zones in which dispersing animals may be harvested have been created around the diseased herds to reduce the risk of bovine tuberculosis and brucellosis infection of the Mackenzie and Nahanni herds, which are most at risk from infection from animals at WBNP. In addition, the Governments of the Northwest Territories, Alberta, and British Columbia have designated management zones to reduce the risk of dispersing animals transmitting disease to disease-free herds in their provinces. However, as noted above, buffer zones are not ideal for preventing the spread of disease because they are sporadically patrolled and imperfectly enforced. Existing regulations and policies address the transmission of disease within Canada, but it is impossible to regulate the movement of wild animals across a large, mostly uninhabited landscape. Thus, we conclude that regulatory mechanisms are in place to minimize the spread of disease but because of the difficulty in containing herds of wild animals, the mechanisms are inadequate to prevent the spread of disease.

Under Factor E, we conclude that loss of genetic integrity through hybridization is a threat to wood bison. Preventing hybridization between plains bison and free-roaming wood bison is a goal of the recovery plan and is important to the conservation of the subspecies (Gates *et al.* 2001, p. 33). There is one free-ranging plains bison herd in Canada, in British Columbia, which was established as a result of the plains bison escaping from their enclosure. Preventing interbreeding between free-ranging plains bison and wood bison is a management objective in British Columbia and is accomplished by maintaining a large physical separation between the herds and having a management zone around the plains bison herd that allows harvest of plains bison within this zone (Harper *et al.* 2000, p. 23).

As discussed earlier under Factor A, plains bison presence on the landscape is increasing and commercial plains bison operations in Canada are expanding. The presence of plains bison within the historical range of wood bison increases the probability that wood bison will come into contact with

them. Ranchers are most likely highly motivated by economics to prevent the escape of their animals and to recapture them if they do escape. It is unlikely that additional government regulations would improve on this basic incentive; therefore, although there may not be specific regulations regarding how plains bison should be contained, such regulations are not viewed as necessary or effectual. As mentioned above, buffer zones are not ideal for preventing the movement of free-ranging bison. Thus, although regulations are in place by which the Pink Mountain plains bison herd (a free-ranging herd) can be managed, and there is no indication that they have not been effective, they may not be 100 percent effective in preventing hybridization in the future because of the difficulty of managing wild animals over large areas of forested landscape.

Summary of Factor D

The wood bison is currently protected through a variety of regulatory mechanisms, and we anticipate those protections to continue. The wood bison is protected by Canadian Federal, provincial, and territorial law. Internationally, its trade is regulated by CITES. International trade is limited to animals surplus to recovery needs in Canada, as determined under guidance of the National Wood Bison Recovery Team. In the United States, activities involving wood bison are regulated by the Endangered Species Act, and with reclassification, they will continue to be regulated. Federal agencies will need to consult with the Service on activities that may affect the species, and Federal permits will be required for scientific collection or any other form of take.

Disease and hybridization have been identified as threats to wood bison. Although buffer zones have been established and regulations implemented for the management of the buffer zones to minimize the potential of disease spread and hybridization, buffer zones have limitations and are an imperfect means by which to prevent animal movement. Therefore, we conclude that existing regulatory mechanisms are inadequate to completely protect wood bison from these threats.

E. Other Natural or Manmade Factors Affecting its Continued Existence

Accidental Mortality

Because bison follow linear landmarks and prefer open areas, vehicles on roads and other linear developments, such as railroad lines, present a hazard to wood bison. Collisions with vehicles are the largest source of known mortality for individuals in the Hay-Zama herd (Mitchell and Gates 2002, p. 9). For the Nordquist herd, vehicle collisions are a significant mortality factor (Wildlife Collision Prevention Program. 2010, pp. 22–23). The herd was established in the Nordquist Flats area, near the Liard River in northeastern British Columbia; however, individuals, and then the majority of the herd, moved to the Alaska Highway corridor. In January 2007, a limited aerial survey counted 97 wood bison, all of which were on the highway right-of-way, except for four bulls, which were observed within 500 m (1,640 ft) of the road (Reynolds *et al.* 2009, p. 6). Three of 15 wood bison introduced to the Etthithun Lake area in 1996 were killed in collisions with industrial road traffic during the first winter (Harper and Gates 2000, p. 921). The Yukon government has a "bison-free" policy in the vicinity of the Alaska Highway that includes deterrence, capture, and ultimately the destruction of problem animals (Yukon Fish and Wildlife Co-management undated, p. 1). During the growth phase of the Aishihik herd from 1988 to 1993, 49 wood bison were removed from the Alaska Highway right-of-way because of vehicle collisions and problem wildlife complaints (Boyd 2003, p. 187). Of these, 36 were captured and moved to a game farm, 8 were killed in collisions, and 5 were intentionally killed (Wildlife Collision Prevention Program 2010, unpaginated). From 1989 to 2007, collisions with vehicles killed from 1 to 30 wood bison annually from three herds combined in the Northwest Territories; fewer than 10 were killed annually in 11 of the 18 years (GNT 2009, p. 17; Wildlife Collision Prevention Program 2010, unpaginated).

Because of continued or increased resource development, tourism, and off-road vehicle use, it is anticipated that mortality from collisions with vehicles will be a source of individual mortality for several populations. Because mortality from road collisions represents a small portion of the total subspecies population, and efforts are made to reduce bison/highway conflicts, this source of mortality is not expected to have a significant impact at the subspecies population level.

Spring flooding in the Peace-Athabasca River Delta in 1958, 1961, and 1974 killed approximately 500, 1,100, and 3,000 wood bison, respectively (Reynolds *et al.* 2003, p. 1029). Autumn flooding in the same area in 1959 killed an estimated 3,000 (Reynolds *et al.* 2003, p. 1029). This region is within WBNP where the diseased herds reside. Most likely a small number of animals drown each year when caught by floods or when they break through ice (Soper 1941, p. 403). Large drowning events have not been documented from other rivers, and no large mortality events have been documented in recent years. Drowning is also recognized as a cause of mortality in the Chitek Lake herd. Because mortality due to drowning typically affects only a portion of a herd and herd sizes are increasing (Table 1), drowning does not appear to be having a population-level effect on wood bison.

Although wood bison are hardy and very cold tolerant (Gates *et al.* 2010, p. 24), above-average snowfall, long periods of sub-zero temperatures, and midwinter thaws followed by freezing can cause mortality. Such severe winter conditions reduce forage availability (Reynolds *et al.* 2003, p. 1030). Rain on snow events can also form an ice layer that creates a barrier to forage for herbivores (Putkonen 2009, p. 221). Freezing rain in autumn that causes ground-fast ice to form before snow cover accumulates, ice layering in the snow cover, crusting of the snow, and the formation of ground-fast ice in spring increase the energy required to obtain forage or make forage unobtainable (Gunn and Dragon 2002, p. 58). Soper (1941, pp. 403–404) recounts several stories in which excessive snowfall caused mass mortalities of wood bison, and Van Camp and Calef (1987, p. 23) report that 33 percent of the diseased wood bison herd in the Slave River lowlands was lost during the severe winter of 1974–1975. Starvation in bad winters is recognized as a source of mortality for wood bison in the Chitek Lake herd. We have no information indicating that starvation is having a population-level effect on any of the herds currently.

Rain on snow events may likely increase in the face of climate change (Rennert *et al.* 2009, p. 2312). A doubling of carbon dioxide is estimated to cause a 40 percent increase in the area impacted by rain on snow events in the Arctic by 2080 (Rennert *et al.* 2009, p. 2312). Rain on snow events may become more prevalent primarily in northwestern Canada, Alaska, and eastern Russia (Rennert *et al.* 2009, p. 2312). We have no reports that rain on snow events have led to the deaths of bison, but they could be susceptible to starvation by such events.

Genetic Issues

Genetic diversity in wood bison has been reduced through the large historic reduction in overall population size and the starting of new populations with

very few individuals (founder effect). Genetic diversity is the primary means by which organisms can adapt to changing environmental conditions over time. Low levels of genetic diversity can reduce the ability of a population to respond to environmental changes. Current wood bison herds were established from relatively few founders (Wilson and Strobeck 1999, pp. 484–486). For example, the Elk Island National Park herd was started from 11 individuals, and the Mackenzie herd was started from 16 (Gates *et al.* 1992, p. 150; Wilson and Strobeck 1999, p. 494). Inbreeding, the mating of related individuals, can lead to lower fecundity, abnormalities, reduced growth rates, and other issues. Although inbreeding is more likely to occur in small herds or in herds that are isolated, it has not been documented in wood bison. Starting new populations with multiple groups of animals is one way to avoid or minimize the founder effect as was done in the establishment of the Aishihik herd. Moving disease-free animals from one herd to another is another method to maintain genetic diversity. One of the wood bison recovery goals is to ensure that the genetic integrity of wood bison is maintained. Because no effects of inbreeding have been documented and management actions have been shown to be effective, we conclude that loss of genetic diversity is not a threat to wood bison now or in the foreseeable future.

Hybridization occurs when individuals from genetically distinct groups such as wood bison and plains bison interbreed. The introduction of plains bison to WBNP in the 1920s put the two distinct subspecies in contact with each other and threatened the genetic purity of wood bison (Gates *et al.* 2010, p. 17). The discovery of an isolated subpopulation of wood bison in 1957, and subsequent translocation of individuals, created the Mackenzie and Elk Island National Park herds, which were thought to be pure wood bison. Genetic analysis has indicated that these bison did have limited contact with plains bison, but it was minimal enough that the animals exhibit predominantly wood bison traits and wood bison herds originating from these founders are genetically more similar to one another than they are to plains bison (van Zyll de Jong *et al.* 1995, pp. 401–404; Wilson and Strobeck 1999, p. 493). Although recovery actions emphasize maintaining the genetic integrity of wood bison (*i.e.,* recovery goal number 3) (Gates *et al.* 2001, p. 33), as discussed earlier under Factor A, plains bison presence on the landscape is increasing. Commercial plains bison operations in Canada are expanding, and the Pink Mountain plains bison herd was established in British Columbia as a result of plains bison escaping from an enclosure. The commercial plains bison operations and plains bison herds remove potential habitat for wood bison, and the presence of plains bison within the historical range of wood bison increases the probability that wood bison will come into contact with them. For these reasons, loss of genetic integrity through hybridization is a threat to wood bison and will remain so in the foreseeable future.

Summary of Factor E

Accidental mortality typically occurs randomly and cannot be predicted. We expect accidents to continue at the same rate and scale as they have in the past, into the future, but only expect this to effect individuals and not be significant enough to affect the species as a whole. Relative to genetic diversity, inbreeding in wood bison has not been documented, and management actions are in place to prevent further loss of genetic diversity. The status of genetic issues relating to hybridization could change relatively rapidly, especially if plains bison were to escape from captivity in close proximity to a wood bison herd. Currently, free-ranging wood bison and plains bison herds are widely separated from one another, but as herd size grows, the separation shrinks, increasing the odds that they may come into contact with one another. Furthermore, bison are difficult animals to contain, they can travel long distances, and the wood and plains bison can readily interbreed.

In summary, accidental mortality will continue to occur regularly, primarily through collisions with vehicles and drowning. In addition, climate change may create localized weather conditions such as above-average snowfall, long periods of sub-zero temperatures, or ground-fast ice formation that can lead to winter mortality of portions of herds. Given the number of herds and their wide distribution across the landscape, we conclude that accidental mortality and starvation are not threats to wood bison now or in the foreseeable future. It is recognized that genetic diversity in wood bison is relatively low, and that the herds must be managed to maintain genetic diversity. Loss of genetic diversity is a factor that may limit the ability of wood bison to adapt to changing conditions in the future, but the magnitude of that limitation, if it exists, is unknown. Lack of genetic diversity is potentially limiting over the long term depending on the magnitude of environmental change wood bison may face. Because no effects of inbreeding have been documented and management actions have been shown to be effective, we conclude that loss of genetic diversity is not a threat to wood bison now or in the foreseeable future. Hybridization with plains bison is a threat that most likely will increase in the future. Because of consumer demand for bison meat we expect commercial bison production will continue to expand, removing suitable habitat for wood bison recovery herds, and increasing the probability that escaped plains bison will be free on the landscape. Hybridization is a threat to wood bison now and in the foreseeable future.

Finding

As required by the Act, we considered the five factors in assessing whether the wood bison is threatened or endangered throughout all or a significant portion of its range. We reviewed the petition, information available in our files, comments and information received after the publication of our 90-day finding (74 FR 5908), and other available published and unpublished information, and consulted with recognized experts. We have carefully assessed the best available scientific and commercial data regarding the past, present, and future threats faced by wood bison. This status review found that threats to wood bison are still present in factors A, C, D, and E. Habitat loss has occurred from agricultural development, and we expect losses will continue in concert with human growth and expansion of agriculture, including commercial bison production. The presence of bovine brucellosis and bovine tuberculosis constrains herd growth as managers attempt to maintain physical separation between diseased and disease-free wood bison and cattle herds, the diseased herds are occupying habitat that could be restored with disease-free herds, and disease in the largest potential donor population (WBNP herd) prevents those animals from being used in reintroduction projects. Plains bison are commercially produced in historical wood bison habitat. These operations remove potential habitat from wood bison recovery efforts and the escape of plains bison poses a threat to wood bison because of hybridization and the loss of genetic integrity. Finally, we found that regulatory mechanisms are inadequate to prevent disease transmission within Canada, and to prevent hybridization.

In addition to the five factor analysis, we also considered the progress towards meeting the recovery goals outlined in the Canadian recovery plan to

determine if it is appropriate to reclassify the wood bison under the Act. We took into consideration the conservation actions that have occurred, are ongoing, and are planned. Since listing, the subspecies' status has improved as a result of the following:

- Enactment and enforcement of national and international laws and treaties have minimized the impacts of hunting and trade.
- Reintroduction of disease-free herds has increased the number of free-ranging herds from 1 population of 300 in 1978 to 7 populations totaling 4,414 bison in 2008.
- Diseased and disease-free, free-ranging populations are stable or increasing.

In sum, the continued reintroduction of disease-free herds, the ongoing development and updating of management plans, the active management of herds, the ongoing research, and the protections provided by laws and protected lands provide compelling evidence that recovery actions have been successful at reducing the threats posed to the species.

The primary factor that led to the listing of the wood bison was the small number of free-ranging, disease-free animals on the landscape. However, the trend today is towards increasing numbers of disease-free herds and population sizes. We find that the threats identified under factors A, C, D, and E, when combined with the increase in number of herds and population sizes, ongoing active management, and protections provided by laws, are not of sufficient imminence, intensity, or magnitude to indicate that the wood bison is presently in danger of extinction and is, therefore, not endangered. However, threats to wood bison still exist and will continue into the foreseeable future. Consequently, we have determined that wood bison should be reclassified from endangered to threatened.

We next consider whether a distinct vertebrate population segment (DPS) exists or whether any significant portion of the wood bison range meets the definition of endangered.

Distinct Vertebrate Population Segment

Under the Service's "Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act" (61 FR 4722, February 7, 1996), three elements are considered in the decision concerning the establishment and classification of a possible DPS. These elements, which are applied similarly for additions to or removal from the Federal List of Endangered and Threatened Wildlife, include:

(1) The discreteness of a population in relation to the remainder of the species to which it belongs;

(2) The significance of the population segment to the species to which it belongs; and

(3) The population segment's conservation status in relation to the Act's standards for listing, delisting, or reclassification (*i.e.,* is the population segment endangered or threatened).

Discreteness

Under the DPS policy, a population segment of a vertebrate taxon may be considered discrete if it satisfies either one of the following conditions:

(1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors. Quantitative measures of genetic or morphological discontinuity may provide evidence of this separation.

(2) It is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the Act.

Free-ranging wood bison herds do not cross international boundaries; no herds are discrete based on this criterion. There is marked geographic separation of the Aishihik and Chitek Lake herds from those centered more closely around WBNP, and there is no possibility of gene exchange between the Aishihik and Chitek Lake herds and those near WBNP. Because all extant wood bison herds originated from the same founders, there is no reason to maintain genetic distinctness among the herds. One of the recovery goals is to "ensure that the genetic integrity of wood bison is maintained." Because this goal can be accomplished through the movement of relatively few animals among the herds, it is reasonable to expect that this is a strategy that may be employed in the future to maintain genetic integrity. However, to our knowledge this strategy has not been used; therefore, because of marked geographical separation, the Aishihik and Chitek Lake herds are determined to be discrete.

Significance

Under our DPS Policy, in addition to our consideration that a population segment is discrete, we consider its biological and ecological significance to the taxon to which it belongs. This consideration may include, but is not limited to: (1) Evidence of the persistence of the discrete population segment in an ecological setting that is unique or unusual for the taxon; (2) evidence that loss of the population segment would result in a significant gap in the range of the taxon; (3) evidence that the population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historical range; and (4) evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics (61 FR 4721; February 7, 1996).

None of the wood bison herds occur in unique or unusual ecological settings; they are either in typical historical habitat or have been established in habitat that mimics historical habitat (Chitek Lake herd). Wood bison herds are currently in a growth phase and are beginning to fill in gaps in what was once a much more extensive range. There are already significant gaps in its distribution compared to the historical condition, and no one herd is more important than another in this regard. In the unlikely event of a herd being extirpated, it could be replaced through management actions that have been refined and implemented over the last 20 years. Six of the seven free-ranging, disease-free herds are within the historical range of the species. Only the Chitek Lake population is outside of what is considered the historical range. All of the herds, except the Mackenzie herd, were started with animals from Elk Island National Park, and both the Mackenzie and Elk Island National Park herds were initiated from animals from WBNP.

Because of the founder effect (a small number of founders which represented only a portion of the genetic variability available) and genetic drift, there are currently distinct, but low, genetic differences among the herds (Wilson and Strobeck 1999, p. 493). Wilson and Strobeck (1999, p. 494) note the power of the founder effect to lead to genetically distinct populations even when the populations were started at about the same time with animals taken from the same locale. The low level of genetic differences among the herds is an artifact of management actions and the differences do not represent significant, unique or special genetic traits. Therefore, although the Chitek and Aishihik herds are discrete, we find that they are not significant and no herds qualify as a DPS.

Significant Portion of the Range

Having determined that the wood bison does not meet the definition of an

endangered species throughout its range, we must next consider whether there is a significant portion of the range where the wood bison is in danger of extinction. A portion of a species' range is significant if it is part of the current range of the species and is important to the conservation of the species because it contributes meaningfully to the representation, resiliency, or redundancy of the species. The contribution must be at a level such that its loss would result in a decrease in the ability to conserve the species.

We evaluated the wood bison's range in the context of whether any potential threats are concentrated in a significant portion of the range such that if there were concentrated impacts, those wood bison populations might be in danger of extinction.

The herds in and around WBNP, which represent approximately half of the free-ranging wood bison, have tested positive for bovine brucellosis and/or tuberculosis. Approximately 30 percent of the wood bison in this area test positive for brucellosis, 21 to 49 percent test positive for tuberculosis, with a combined prevalence of 42 percent (Tessaro *et al.* 1990, p. 174; Gates *et al.* 2010, p. 35). It could be argued that the threat of disease to these populations is concentrated. However, as discussed above, these diseases are chronic and cause slow debilitation, not acute mortality of large numbers of animals at one time. The population at WBNP has persisted with these diseases since the 1920s, and population numbers have been stable at 4,000 to 5,000 since 2002 (Table 1).

Research into solutions on how to manage the diseased herds in and around WBNP continues. In 2005, a technical workshop was convened to determine in part if it was technically possible to remove disease from the wood bison herds in and around WBNP (Shury *et al.* 2006). Technical success was defined as reestablishing a disease-free bison population at a similar level to the current population without any loss in genetic diversity. The team determined that:

1. Eradication of bovine tuberculosis and brucellosis through lethal removal and reintroduction is technically feasible, and under controlled conditions there would be a very high probability of eradicating both diseases.

2. The eradication of these diseases would be a long-term project, taking 15–20 years.

3. The cost was estimated to be between 62 and 78 million dollars over 20 years with the greatest costs being incurred during the first 4 years (Shury *et al.* 2005, pp. 1–2).

Although the diseases affect the fitness of the herds and cause occasional mortalities, they will not cause herd extirpation. We are not aware of any other threat within this area that would act synergistically with disease and heighten our level of concern for these herds. Consequently, although we recognize that it is desirable to eradicate these diseases, we conclude that the threat they present is not of a magnitude that leads us to delineate the herds in and around WBNP as being more in danger of extinction than the other herds, and, as being a significant portion of the wood bison range.

In summary, the primary threats to the wood bison are relatively uniform throughout the species' range. We have determined that none of the existing or potential threats currently place wood bison in danger of extinction throughout all or a significant portion of its range.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and encourages and results in conservation actions by Federal governments, private agencies and groups, and individuals.

Section 7(a) of the Act, as amended, and as implemented by regulations at 50 CFR part 402, requires Federal agencies to evaluate their actions within the United States or on the high seas with respect to any species that is proposed or listed as endangered or threatened, and with respect to its critical habitat, if any is being designated. However, given that there are no wild populations of wood bison in the United States, critical habitat is not being designated for this species under section 4 of the Act.

Section 8(a) of the Act authorizes limited financial assistance for the development and management of programs that the Secretary of the Interior determines to be necessary or useful for the conservation of endangered and threatened species in foreign countries. Sections 8(b) and 8(c) of the Act authorize the Secretary to encourage conservation programs for foreign endangered species and to provide assistance for such programs in the form of personnel and the training of personnel.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered and threatened wildlife. As such, these prohibitions would be applicable to the wood bison. These prohibitions, under 50 CFR 17.21 (17.31 for threatened wildlife species), make it illegal for any person subject to the jurisdiction of the United States to "take" (take includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or to attempt any of these) within the United States or upon the high seas, import or export, deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of a commercial activity, or to sell or offer for sale in interstate or foreign commerce, any endangered wildlife species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken in violation of the Act. Certain exceptions apply to agents of the Service and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving endangered and threatened wildlife species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 for endangered species, and at § 17.32 for threatened species. With regard to endangered wildlife, a permit must be issued for the following purposes: For scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities. For threatened species, a permit may be issued for the same activities, as well as zoological exhibition, education, and special purposes consistent with the Act.

Effects of This Proposed Rule

If made final, this rule would revise 50 CFR 17.11(h) to reclassify the wood bison from endangered to threatened. The prohibitions and conservation measures provided by the Act, particularly through sections 4(d) and 9 would still apply to this species. Because there are no wild populations of wood bison in the United States, no critical habitat was designated, and consequently none will be affected. We are also correcting the 1980 listing to include Alaska in the historical range based on the best available scientific information (Skinner and Kaisen 1947, p. 158; Stephenson *et al.* 2001, p. 140; Rasic and Matheus 2007, p. 385). In addition, because the 1980 CFR indicated that the listed entity for wood bison was a DPS, we are correcting that mistake. Despite the 1980 designation, it is clear that the wood bison is listed at the subspecies level. The CFR through 1980 indicated the Service's intent of the original listing; because we have conducted no rulemaking since that time, we are making the correction here to change the scope of the listed entity.

The entire "population" of wood bison in Canada is the full extent of the subspecies' current range and no individuals occur in the wild outside this population.

Peer Review

Under our peer review policy (59 FR 34270; July 1, 1994), we will solicit the expert opinions of three appropriate and independent specialists regarding pertinent scientific or commercial data and assumptions relating to the taxonomy, population models, and supportive biological and ecological information on this proposed rule. The purpose of such review is to ensure that we base listing decisions on scientifically sound data, assumptions, and analysis. To that end, we will send copies of this proposed rule to these peer reviewers immediately following publication in the **Federal Register**.

Required Determinations

National Environmental Policy Act

We have determined that we do not need to prepare an Environmental Assessment or Environmental Impact Statement, as defined under the authority of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of the references cited may be obtained from the Alaska Regional Office (*see* **FOR FURTHER INFORMATION CONTACT**).

Author

The primary author of this rule is Marilyn Myers, Ph.D., Ecological Services, Alaska Regional Office, 1011 E. Tudor Road, Anchorage, Alaska, 99503, (907) 786–3559.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

We propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

Part 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by revising the entry "Bison, wood" under MAMMALS in the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
*	*	*	*	*	*		*
Bison, wood	*Bison bison athabascae*.	Canada, Alaska	Entire	T	3	NA	NA
*	*	*	*	*	*		*

Dated: January 28, 2011.

Larry Williams,

Acting Director, Fish and Wildlife Service.

[FR Doc. 2011–2529 Filed 2–7–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

RIN 0648–XZ59

Endangered and Threatened Species; Extension of Public Comment Period on Proposed Threatened Status for Subspecies of the Ringed Seal

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

ACTION: Proposed rule; extension of public comment period.

SUMMARY: We, NMFS, are extending the date by which public comments are due concerning the proposed rule to list the Arctic (*Phoca hispida hispida*), Okhotsk (*Phoca hispida ochotensis*), Baltic (*Phoca hispida botnica*), and Ladoga (*Phoca hispida ladogensis*) subspecies of the ringed seal as threatened under the Endangered Species Act of 1973, as amended (ESA). On December 10, 2010, we published a proposed rule to list these subspecies as threatened. As part of that proposal, we announced a public comment period to end on February 8, 2011. Today we extend the public comment period to March 25, 2011.

DATES: The deadline for receipt of comments on the proposed rule published on December 10, 2010 (75 FR 77476), is extended from February 8, 2011, to March 25, 2011.

ADDRESSES: Send comments to Kaja Brix, Assistant Regional Administrator, Protected Resources Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by RIN 0648–XZ59, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov.*
- *Mail:* P.O. Box 21668, Juneau, AK 99802.
- *Fax:* (907) 586–7557.
- *Hand delivery to the Federal Building:* 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record. No comments will be posted to *http://www.regulations.gov* for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

We will accept anonymous comments (enter N/A in the required fields, if you

wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

The proposed rule, status review report, and other materials relating to this proposal can be found on the Alaska Region Web site at: *http://alaskafisheries.noaa.gov/.*

FOR FURTHER INFORMATION CONTACT: Tamara Olson, NMFS Alaska Region, (907) 271–5006; Kaja Brix, NMFS Alaska Region, (907) 586–7235; or Marta Nammack, Office of Protected Resources, Silver Spring, MD (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Background

On December 10, 2010 (75 FR 77476), we published a proposed rule to list the Arctic, Okhotsk, Baltic, and Ladoga subspecies of the ringed seal as threatened under the ESA. Based on the status of these subspecies, we also proposed protective regulations pursuant to section 4(d) of the ESA for these subspecies to include all of the prohibitions in section 9(a)(1) of the ESA.

We received requests to extend the public comment period on the proposed rule due to partial overlap of the comment period with the holiday season, and also because the comment period is scheduled concurrently with the comment period for the proposed listing of the Beringia and Okhotsk Distinct Population Segments (DPSs) of the bearded seal (*Erignathus barbatus*) (75 FR 77496). Three requesters asked for an additional 30 days; and one requester asked for an additional 60 days. We have considered these requests and conclude that a 45-day extension should allow sufficient time for responders to submit comments without significantly delaying this rulemaking process. We are therefore extending the public comment period, which was scheduled to end February 8, 2011, to March 25, 2011, to allow additional time for public comment. A 45-day extension of the public comment period on the proposed rule to list DPSs of the bearded seal is published concurrently as a separate notice.

Authority: 16 U.S.C. 1533 *et seq.*

Dated: January 31, 2011.

James H. Lecky,

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

[FR Doc. 2011–2752 Filed 2–7–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

RIN 0648–XZ58

Endangered and Threatened Species; Extension of Public Comment Period on Proposed Threatened Status for Distinct Population Segments of the Bearded Seal

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

ACTION: Proposed rule; extension of public comment period.

SUMMARY: We, NMFS, are extending the date by which public comments are due concerning the proposed rule to list the Beringia and Okhotsk Distinct Population Segments (DPSs) of the bearded seal (*Erignathus barbatus*) as threatened under the Endangered Species Act of 1973, as amended (ESA). On December 10, 2010, we published a proposed rule in the **Federal Register** to list these DPSs as threatened. As part of that proposal, we announced a public comment period to end on February 8, 2011. Today we extend the public comment period to March 25, 2011.

DATES: The deadline for receipt of comments on the proposed rule published on December 10, 2010 (75 FR 77496), is extended from February 8, 2011, to March 25, 2011.

ADDRESSES: Send comments to Kaja Brix, Assistant Regional Administrator, Protected Resources Division, Alaska Region, NMFS, *Attn:* Ellen Sebastian. You may submit comments, identified by RIN 0648–XZ58, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov.*
- *Mail:* P.O. Box 21668, Juneau, AK 99802.
- *Fax:* (907) 586–7557.
- *Hand delivery to the Federal Building:* 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record. No comments will be posted to *http://www.regulations.gov* for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

We will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

The proposed rule, status review report, and other materials relating to this proposal can be found on the Alaska Region Web site at: *http://alaskafisheries.noaa.gov/.*

FOR FURTHER INFORMATION CONTACT: Tamara Olson, NMFS Alaska Region, (907) 271–5006; Kaja Brix, NMFS Alaska Region, (907) 586–7235; or Marta Nammack, Office of Protected Resources, Silver Spring, MD (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Background

On December 10, 2010 (75 FR 77496), we published a proposed rule to list the Beringia and Okhotsk DPSs of the bearded seal as threatened under the ESA. Based on the status of these DPSs, we also proposed protective regulations pursuant to section 4(d) of the ESA for these DPSs to include all of the prohibitions in section 9(a)(1) of the ESA.

We received requests to extend the public comment period on the proposed rule due to partial overlap of the comment period with the holiday season, and also because the comment period is scheduled concurrently with the comment period for the proposed listing of subspecies of the ringed seal (*Phoca hispida*) (75 FR 77476). Three requesters asked for an additional 30 days; and one requester asked for an additional 60 days. We have considered these requests and conclude that a 45-day extension should allow sufficient time for responders to submit comments without significantly delaying this rulemaking process. We are therefore extending the public comment period, which was scheduled to end February 8, 2011, to March 25, 2011, to allow additional time for public comment. A 45-day extension of the public comment period on the proposed rule to list subspecies of the ringed seal is published concurrently as a separate notice.

Authority: 16 U.S.C. 1533 *et seq.*

Dated: January 31, 2011.

James H. Lecky,

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

[FR Doc. 2011–2753 Filed 2–7–11; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 76, No. 26
Tuesday, February 8, 2011

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

FINANCIAL STABILITY OVERSIGHT COUNCIL

Recommendations Regarding Modifications to the Concentration Limit on Large Financial Companies

AGENCY: Financial Stability Oversight Council.

ACTION: Notice and request for comment.

SUMMARY: Section 622 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act" or "Dodd-Frank Act") establishes a financial sector concentration limit that generally prohibits a financial company [1] from merging or consolidating with, acquiring all or substantially all of the assets of, or otherwise acquiring control of, another company if the resulting company's consolidated liabilities would exceed 10 percent of the aggregate consolidated liabilities of all financial companies.[2] This concentration limit is intended, along with a number of other provisions in the Dodd-Frank Act, to promote financial stability and address the perception that large financial institutions are "too big to fail." Section 622 of the Act also requires the Financial Stability Oversight Council (the "Council") to: (i) Complete a study of the extent to which the concentration limit would affect financial stability, moral hazard in the financial system, the efficiency and competitiveness of United States financial firms and financial markets, and the cost and availability of credit and other financial services to households and businesses in the United States; and (ii) make recommendations regarding any modifications to the concentration limit that the Council determines would more effectively implement section 622.[3] On January 18, 2011, the Council approved and issued its concentration limit study and the recommendations on how to effectively implement section 622. The Council seeks public comment on the Council recommendations described below. The Council will review and, if appropriate, revise its recommendations in response to the public comments it receives.

DATES: Comments must be received on or before March 10, 2011.

ADDRESSES: Interested persons are invited to submit comments regarding this notice according to the instructions below. All submissions must refer to the document title. The Council encourages the early submission of comments.

Electronic Submission of Comments. Interested persons must submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt, and enables the Council to make them available to the public. Comments submitted electronically through the *http://www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Mail: Send comments to Financial Stability Oversight Council, *Attn:* Amias Gerety, 1500 Pennsylvania Avenue, NW., Washington DC 20220.

Note: To receive consideration as public comments, comments must be submitted through the methods specified above. Again, all submissions must refer to the title of the notice.

Public Inspection of Public Comments. All properly submitted comments will be available for inspection and downloading at *http://www.regulations.gov.*

Additional Instructions. In general comments received, including attachments and other supporting materials, are part of the public record and are immediately available to the public. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: For further information regarding this Notice and Request for Comment contact Amias Gerety, Office of Domestic Finance, Treasury, at (202) 622–8716 or Jeff King, Office of the General Counsel, Treasury, at (202) 622–1978. All responses to this Notice and Request for Comment should be submitted via *http://www.regulations.gov* to ensure consideration.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to section 622 of the Dodd-Frank Act, on January 18, 2011, the Council approved and issued the concentration limit study including recommendations on how to effectively implement section 622. The full text of the concentration limit study and recommendations can be viewed at *http://www.treasury.gov/initiatives/Documents/Study%20on%20Concentration%20Limits%20on%20Large%20Firms%2001-17-11.pdf.*

The Council believes that the concentration limit will have a positive impact on U.S. financial stability. Specifically, the Council believes that the concentration limit will reduce the risks to U.S. financial stability created by increased concentration arising from mergers, consolidations or acquisitions involving the largest U.S. financial companies. In addition, restrictions on future growth through acquisition by the largest financial companies ultimately will prevent acquisitions that could make these firms harder for their officers and directors to manage, for the financial markets to understand and discipline, and for regulators to supervise. The concentration limit, as structured, could also have the beneficial effect of causing the largest financial companies to either shed risk or raise capital to reduce their liabilities so as to permit additional acquisitions under the concentration limit. Such actions, other things equal, would tend

[1] Section 622's concentration limit applies only to a "financial company," which is defined as: (i) An insured depository institution; (ii) a bank holding company; (iii) a savings and loan holding company; (iv) a company that controls an insured depository institution; (v) a nonbank financial company supervised by the Board of Governors of the Federal Reserve System under title I of the Dodd-Frank Act; and (vi) a foreign bank or company that is treated as a bank holding company for purposes of the Bank Holding Company Act.

[2] Public Law 111–203, 124 Stat. 1376 (2010). We refer to the limit established by section 622 generally as the "concentration limit." This concentration limit was adopted as a new section 14 to the Bank Holding Company Act of 1956 (the "BHC Act") (to be codified at 12 U.S.C. 1852).

[3] *See* 12 U.S.C. 1852(e).

to reduce the chance that the firm would fail. Moreover, the concentration limit should provide a more comprehensive limitation on growth through acquisition than the 10 percent nationwide deposit cap imposed by the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 [4] because it also takes into account non-deposit liabilities and off-balance sheet exposures, limiting incentives to shift liabilities from deposits to potentially more volatile on and off-balance-sheet liabilities.

Although the Council expects the impact of the concentration limit on moral hazard, competition, and the availability of credit in the U.S. financial system to be generally neutral over the short- to medium-term, over the long term the Council expects the concentration limit to enhance the competitiveness of U.S. financial markets by preventing an increased dominance of those markets by a very small number of firms.

The Act specifically provides that the concentration limit set forth in section 622 is "subject to," and thus may be modified by, the recommendations made by the Council.[5] The Board of Governors of the Federal Reserve System (the "Board") is thus required to adopt regulations that reflect and are in accordance with the Council's recommendations to implement section 622.[6] The Board must prescribe these rules no later than 9 months after completion of the Council's study. The Board also is authorized to issue interpretations or guidance regarding application of the concentration limit to an individual financial company or financial companies generally.

To more effectively implement section 622, the Council has recommended: (i) Modifying the statutory definition of "liabilities" for certain companies that do not currently calculate or report risk-weighted assets; (ii) modifying the calculation of aggregate financial sector liabilities to use a two-year rolling average instead of a single year for purposes of calculating the denominator of the limit and requiring the Board to publicly report, on an annual basis and no later than July 1 of any calendar year, a final calculation of the aggregate consolidated liabilities of all financial companies as of the end of the preceding calendar year; and (iii) extending the exception provided in the statute for the acquisition of failing banks to other failing insured depository institutions. The specific recommendations made by the Council are set forth below. For further information on the recommendations, please see the full text of the concentration limit study and recommendations at *http://www.treasury.gov/initiatives/Documents/Study%20on%20Concentration%20Limits%20on%20Large%20Firms%2001-17-11.pdf*. As noted above, the Council will review and, if appropriate, revise its recommendations in response to the public comments it receives.

II. Solicitation for Public Comments on the Concentration Limit Recommendations

The Council seeks public comment on the Council recommendations as follows:

1. Definition of "Liabilities" for Certain Companies

Council Recommendation: The concentration limit under Section 622 should be modified so that the liabilities of any financial company (other than an insurance company, a nonbank financial company supervised by the Board, or a foreign bank or a foreign-based financial company that is or is treated as a bank holding company) that is not subject to consolidated risk-based capital rules that are substantially similar to those applicable to bank holding companies shall be calculated for purposes of the concentration limit pursuant to GAAP or other appropriate accounting standards applicable to such company, until such time that these companies may be subject to risk-based capital rules or are required to report risk-weighted assets and regulatory capital.

2. Collection, Aggregation and Public Dissemination of Concentration Limit Data

Council Recommendation: The concentration limit under Section 622 should be modified to provide that a transaction covered by section 622 shall be considered to have violated the concentration limit if the total consolidated liabilities of the acquiring financial company upon consummation of the transaction would exceed 10 percent of the average amount of aggregate consolidated liabilities of all financial companies as reported by the Board as of the end of the two most recent calendar years. For this purpose, rules issued under section 622 shall provide for the Board to publicly report, on an annual basis and no later than July 1 of any calendar year, a final calculation of the aggregate consolidated liabilities of all financial companies as of the end of the preceding calendar year.

3. Acquisition of Failing Insured Depository Institutions

Council Recommendation: The concentration limit under section 622 should be modified to provide that, with the prior written consent of the Board, the concentration limit shall not apply to an acquisition of any type of insured depository institution in default or in danger of default.

Dated: January 31, 2011.

Alastair Fitzpayne,

Deputy Chief of Staff and Executive Secretary, Department of the Treasury.

[FR Doc. 2011–2717 Filed 2–7–11; 8:45 am]

BILLING CODE 4810–25–P

[4] Public Law 103–328, 108 Stat. 2338 (1994). Currently, the Riegle-Neal Act deposit cap prohibits a depository institution, bank holding company or savings and loan holding company from acquiring or merging with an insured depository institution in another state if, after consummation of the acquisition, the applicant would control more than 10 percent of the total amount of deposits of insured depository institutions in the United States. *See* 12 U.S.C. 1828(c), 1843(i), and 1467a(e)(2).

[5] *See* 12 U.S.C. 1852(b).

[6] *See* 12 U.S.C. 1852(d).

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

February 3, 2011.

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

within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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

Food and Nutrition Service

Title: Issuance Reconciliation Report, FNS–46.

OMB Control Number: 0584–0080.

Summary of Collection: Section 7(d) of the Food and Nutrition Act of 2008, as amended, (the Act) (7 U.S.C. 2016(d)) and Regulations at 7 CFR 274.4(a) and 274.4(b)(2), requires State agencies to report on their Supplemental Nutrition Assistance Program (SNAP) benefit issuance operations not less than monthly, through a reconciliation process. The Food and Nutrition Service (FNS), administers the SNAP in cooperation with State and local governments. States are held liable by Section 7(f) of the Act, for any financial losses involved in the issuance of SNAP benefits.

Need and Use of the Information: FNS uses form FNS–46 form, Issuance Reconciliation Report, to ensure that State agencies are responsible for preventing losses or shortages of Federal funds in the issuance of benefits. The FNS–46 is used as a management tool used for the analysis of other problems in the issuance of Program benefits that are not liabilities of the State agency but are indicators of administrative problems. The FNS–46 report enables State agencies to identify other acts of fraud and/or waste so that corrective action can be taken. The data from the FNS–46 report is also used for reports to Congress, to establish State issuance liabilities, and to determine national performance measures for Quality Control.

Description of Respondents: State, Local, or Tribal Government.

Number of Respondents: 54.

Frequency of Responses: Reporting: Monthly.

Total Burden Hours: 2,592.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2011–2730 Filed 2–7–11; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

February 3, 2011.

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

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.

Rural Housing Service

Title: 7 CFR 1902–A, Supervised Bank Accounts.

OMB Control Number: 0575–0158.

Summary of Collection: 7 CFR 1902–A, Supervised Bank Accounts, prescribes the policies and procedures for disbursing loan and grant funds, establishing and closing supervised accounts, and placing Multi-Family housing reserve accounts in supervised accounts. Supervised accounts are accounts with a financial institution in the names of a borrower and the United States Government, represented by Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, (Agency). Section 339 of the Consolidated Farm and Rural Development Act, 7 U.S.C. 1989 and Section 510 of the Housing Act of 1949, as amended, (42 U.S.C. 1480) are the legislative authorities requiring the use of supervised accounts.

Need and Use of the Information: The agency's state and field offices will collect information from borrowers and financial institutions and use the information to monitor compliance with agency regulations governing supervised accounts, such as establishing, maintaining, and withdrawing funds. In addition, the information will be used to ensure that the borrowers operate on a sound basis and use the loan and grant funds for authorized purposes.

Description of Respondents: Business or other for-profit.

Number of Respondents: 20,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 26,969.

Rural Housing Service

Title: Rural Rental Housing Program, 7 CFR Part 3560.

OMB Control Number: 0575–0189.

Summary of Collection: The programs covered by 7 CFR part 3560 provide financing to support the development of adequate, affordable housing and rental units for very low-, low-, and moderate-income households, and farm workers. Rural Housing Service (RHS) is authorized to collect the information needed to administer these various programs under Title V of the Housing Act of 1949, Section 515 Rural Rental Housing, Sections 514 and 516 Farm Labor Housing loans and grants, and Section 521 Rental Assistance.

Need and Use of the Information: The information collected by RHS is used to plan, manage, evaluate and account for Government resources. The reports are required to ensure the proper and judicious use of public funds. The purpose of the Multi-Family Housing programs is to provide adequate, affordable, decent, safe, and sanitary rental units for very low-, low-, and moderate-income households and farm workers in rural areas.

Description of Respondents: Business or other for profit: Individual or households; Farms; Not-for-profit institutions; State, Local, or Tribal Government.

Number of Respondents: 500,000.

Frequency of Responses: Recordkeeping; Reporting: Quarterly; Monthly, Annually.

Total Burden Hours: 1,091,785.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2011–2733 Filed 2–7–11; 8:45 am]

BILLING CODE 3410–XT–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

February 3, 2011.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques and 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, D.C. 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: Contract Operations and Administration.

OMB Control Number: 0596–NEW.

Summary of Collection: The Forest Service (FS) is authorized under the National Forest Management Act (16 U.S.C. 472a); Food, Conservation, and Energy Act of 2008; 7 CFR 3017; Executive Order 11246, as amended by EO 11375 and EO 12086; 36 CFR 223.30–60 and 36 CFR 223.110–118; 40 CFR 112 and Forest Resources Conservation and Shortage Relief Act of 1990, § 620d Monitoring and Enforcement, as amended in 1997 by Public Law 105–83 and current through Public Law 110–450 to collect information associated with operations and administration of bilateral contracts for the sale of timber and other forest products.

Need and Use of the Information: The information is needed by the FS for a variety of uses associated with operations and administration of contracts for the sale of timber and other forest products. The information collected includes plans, requests, agreements and notices necessary for operations under the terms of the contracts. Each contract specifies the information the contractor will be required to provide, including the timing and frequency of the information collection. The information is submitted in a variety of formats including FS forms; Government Standard forms; forms developed by individual contractors, charts, maps, e-mail messages and letters.

Description of Respondents: Business or other for-profit; Farms; Not-for-profit institutions.

Number of Respondents: 1,539.

Frequency of Responses: Reporting: Annually; Semi-annually; Monthly; On occasion.

Total Burden Hours: 91,355.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2011–2728 Filed 2–7–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2010–0047]

Monsanto Company and KWS SAAT AG; Decision With Respect to the Petition for Partial Deregulation of Genetically Engineered Roundup Ready Sugar Beets

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our decision to "partially deregulate" Roundup Ready® sugar beets developed by the Monsanto Company (Monsanto) and KWS SAAT AG (KWS), designated as event H7–1, in response to a supplemental Monsanto/KWS petition requesting partial deregulation of event H7–1. APHIS has determined that it will, for an interim period of time, grant the petition in part. APHIS will grant a partial deregulation for event H7–1 sugar beet root crop production activities when conducted under certain mandatory conditions. APHIS has decided not to grant partial deregulation for event H7–1 sugar beet seed crop production. Rather, APHIS has decided that event H7–1 sugar beet seed production shall remain regulated under APHIS' regulations governing the introduction of certain genetically engineered organisms. Our decision granting the petition in part on an interim basis is based on our evaluation of data submitted by Monsanto and KWS in its supplemental petition for a determination of "partial deregulation," our analysis of other scientific data, and comments received from the public in response to our previous notice announcing the availability of the environmental assessment (EA) associated with the supplemental petition for partial deregulation. This notice also announces the availability of our written decision, final EA, and finding of no significant impact.

DATES: *Effective Date:* February 8, 2011.

ADDRESSES: You may read the documents referenced in this notice and the comments we received in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Documents referenced in this notice are also available on the Internet at *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS–2010–0047.*

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. David Reinhold, Assistant Director, Environmental Risk Analysis Programs, BRS, APHIS, 4700 River Road Unit 146, Riverdale, MD 20737–1238; (301) 734–0660.

To enter into a compliance agreement to introduce event H7–1 sugar beet root crop, contact APHIS' Regulatory Operations Programs at (301) 734–5301. To obtain copies of the documents referenced in this notice, contact Ms. Cindy Eck at (301) 734–0667, *e-mail: cynthia.a.eck@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests," regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered "regulated articles."

On November 4, 2010, the Animal and Plant Health Inspection Service (APHIS) published a notice [1] in the **Federal Register** (75 FR 67945–67946, Docket No. APHIS–2010–0047) announcing the availability of an environmental assessment for a supplemental petition from the Monsanto Company (Monsanto) and KWS SAAT AG (KWS) requesting "partial deregulation" or similar administrative action under 7 CFR part 340 (referred to below as the regulations) for sugar beets (*Beta vulgaris* ssp. *vulgaris*) designated as event H7–1. These sugar beets have been genetically engineered for tolerance to the herbicide glyphosate and are considered regulated articles under the regulations in 7 CFR part 340. The supplemental petition seeks action by APHIS that would authorize the continued cultivation of H7–1 sugar beets, subject to carefully tailored interim measures.

APHIS received 3,722 comments during the comment period. There were 3,058 comments from groups or individuals who supported the "partial deregulation" and 633 from those who opposed the "partial deregulation." APHIS has addressed the issues raised during the comment period and has provided responses to these comments as an attachment to the finding of no significant impact.

[1] To review the notice and the supporting and related material, go to *http://www.regulations.gov;fdmspublic/component/main?main=DocketDetail&d=APHIS–2010–0047.*

The supplemental petition is related to a petition submitted by Monsanto and KWS to APHIS on November 19, 2003, seeking a determination of nonregulated status for event H7–1 sugar beets (Petition 03–323–01). On October 19, 2004, APHIS published a notice in the **Federal Register** (69 FR 61466–61467, Docket No. 04–075–1) announcing that the Monsanto/KWS petition and an environmental assessment (EA) were available for public review. On March 17, 2005, we published a notice in the **Federal Register** (70 FR 13007–13008, Docket No. 04–075–2) advising the public of our determination, effective March 4, 2005, that event H7–1 sugar beets were fully deregulated and no longer considered a regulated article under the regulations. On September 21, 2009, the U.S. District Court for the Northern District of California issued a ruling in a lawsuit challenging APHIS' decision to deregulate event H7–1 sugar beets, finding that APHIS should have completed an environmental impact statement (EIS) prior to granting full deregulation of H7–1 sugar beets. Later, on August 13, 2010, the Court vacated APHIS' decision to deregulate event H7–1 sugar beets until APHIS prepares a full EIS prior to a further decision on the petition for full deregulation and remanded the matter to APHIS. Accordingly, event H7–1 sugar beets once again became a regulated article subject to APHIS' regulatory oversight under 7 CFR part 340 and the Plant Protection Act.

National Environmental Policy Act

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with Monsanto/KWS' petition for "partial deregulation" for event H7–1 sugar beets, an EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The draft EA considered and evaluated a range of alternatives. APHIS' preferred alternative is an interim partial deregulation—a combination of alternatives 2 and 3. The preferred alternative incorporates specific aspects of both alternatives 2 and 3. Under this preferred alternative, pursuant to § 340.6 of the regulations, APHIS will partially deregulate the event H7–1 sugar beet root crop. APHIS has determined that they will not be subject to requirements of 7 CFR part 340 if they are grown under the mandatory conditions established by APHIS. Event H7–1 sugar beet root crop production activities conducted under these mandatory conditions will not be considered regulated under 7 CFR part 340. Event H7–1 sugar beet seed crop will remain regulated subject to requirements of 7 CFR part 340, requiring a permit or notification for movement and environmental release.

Under the partial, conditional deregulation, APHIS will require compliance with mandatory conditions for the root crop that will restrict its movement and environmental release via APHIS compliance agreements authorized under the Plant Protection Act. Any person who wants to enter into a compliance agreement must first contact APHIS' Regulatory Operations Programs by calling the phone number listed under **FOR FURTHER INFORMATION CONTACT** to enter into a compliance agreement in advance of the introduction.

This preferred alternative, including a conditional, partial deregulation, is an interim action that is limited in scope and duration and will neither result in significant impacts to the human environment nor prejudice any decision to be analyzed in the forthcoming EIS for a determination regarding full deregulation of event H7–1 sugar beets. APHIS has determined that the mandatory conditions imposed pursuant to the partial deregulation of event H7–1 sugar beet root crop, as well as permitting of the seed crop under 7 CFR part 340, ensures that the implementation of this interim regulatory action will not result in any environmental impacts which may significantly affect the quality of the human environment. The mandatory conditions will also effectively ensure that no potentially harmful economic or marketing impacts will occur in the interim while APHIS completes its EIS prior to making a determination on whether or not to grant full nonregulated status to event H7–1 sugar beets.

Determination

Based on APHIS' analysis of data submitted by Monsanto and KWS, references provided in the petition, information analyzed in the plant pest risk assessment and the EA, comments provided by the public, and information provided in APHIS' response to those public comments, APHIS has determined that event H7–1 sugar beet root crop grown under mandatory conditions is unlikely to pose a plant

pest risk and should not be subject to the requirements of 7 CFR part 340. APHIS has reached this determination based on its plant pest risk assessment. APHIS has determined that event H7–1 sugar beet root crop production does not pose a plant pest risk and should not be subject to the requirements of our regulations in 7 CFR part 340 if grown under the mandatory conditions established by APHIS. Further, APHIS has concluded that granting partial deregulation of the H7–1 sugar beet root crop under certain conditions and allowing the seed crop to be planted under the requirements of 7 CFR part 340 will have no significant environmental effect on the human environment.

This granting of a partial deregulation for root crop production is an interim partial deregulation for the root crop with required conditions until an EIS is completed regarding the Monsanto/KWS petition for a full deregulation of event H7–1. APHIS expects to complete the EIS by May 2012, but unforeseen conditions may affect the specific completion date of the EIS. This interim partial deregulation of event H7–1 root crop and root production activities, along with the interim permitting of event H7–1 seed crop under 7 CFR part 340, will remain in effect through December 31, 2012, to allow the harvesting and processing of the 2012 commercial root crop and seed crop unless APHIS issues a final EIS, record of decision, and a determination decision for a full deregulation of event H7–1 sugar beets before those harvests are completed in 2012.

Copies of the signed determination document, as well as copies of the petition, pest risk assessment, EA, finding of no significant impact, and response to comments are available as indicated in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections of this notice.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 4th day of February 2011.

Cindy J. Smith,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2011–2878 Filed 2–7–11; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Daniel Boone National Forest Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Daniel Boone National Forest Resource Advisory Committee will meet in London, Kentucky. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act. The primary objective of the meeting is to review proposed project applications.

DATES: The meeting will be held on Monday, March 7, 2011 at 6 p.m. EST.

ADDRESSES: The meeting will be held at the Cumberland Valley Area Development District, 342 Old Whitley Road, London, KY 40744 in a meeting room on the basement floor. Written comments should be sent to Kimberly Morgan, Daniel Boone National Forest, 1700 Bypass Road, Winchester, KY 40391. Comments may also be sent via e-mail to *kmorgan@fs.fed.us* or via facsimile to 859–744–1568. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect received comments at Daniel Boone National Forest, 1700 Bypass Road, Winchester, KY 40391. Visitors are encouraged to call ahead at 859–745–3100 to arrange an appointment.

FOR FURTHER INFORMATION CONTACT: Kimberly Morgan, RAC Coordinator, USDA, Daniel Boone National Forest, 1700 Bypass Road, Winchester, KY 40391; (859) 745–3100; E-mail *kmorgan@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The following business will be conducted: (1) Review committee operating guide; (2) Discuss mileage reimbursement for committee members; (3) Review and discuss submitted project applications; (4) Vote to approve project proposals; and (5) Public Comments. Persons who wish to bring related matters to the attention of the Resource Advisory Committee may file written statements with the committee staff before or after the meeting.

Dated: February 1, 2011.

Frank R. Beum,

Forest Supervisor, Daniel Boone National Forest.

[FR Doc. 2011–2682 Filed 2–7–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Federal Advisory Committee Meeting To Be Held Authorized Under the Secure Rural Schools Act and Community Self-Determination Act, Public Law 110–343

AGENCY: Forest Service, USDA

ACTION: Announcement of meeting.

SUMMARY: On February 28, 2011, the U.S. Forest Service will host a meeting of the federally designated Secure Rural Schools Resource Advisory Committee (RAC). The public is invited to attend the meeting and provide input. A Secure Rural Schools RAC provides advice and recommendations to the Forest Service on the development and implementation of special projects as authorized under the Secure Rural Schools and Community Self-Determination Act, Public Law 110–343.

DATES: The meeting will be held on February 28, 2011 from 12–4.

ADDRESSES: The meeting location is U.S. Forest Service, Osceola Ranger District, 24874 U.S. Highway 90, Olustee, Florida 32072.

FOR FURTHER INFORMATION CONTACT: Denise Rains, Public Services Staff Officer, 850–523–8568, e-mail *drains@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Florida's RAC consists of 15 people selected to serve on the committee by Secretary of Agriculture Tom Vilsack. Members are from throughout the state and represent varied interests and areas of expertise. They will work collaboratively to improve working relationships among community members and national forest personnel.

Five Florida counties, Liberty, Wakulla, Columbia, Baker and Marion, elected to set aside a percentage of their Secure Rural Schools payment. Counties receive a payment annually for having National Forest lands within their boundaries. The RAC will ultimately review and recommend projects to be funded from this money.

Projects approved must benefit National Forests lands and can maintain infrastructure, improve the health of watersheds and ecosystems, protect communities, and strengthen local economies.

Dated: February 2, 2011.

Susan Jeheber-Matthews,

Forest Supervisor.

[FR Doc. 2011–2690 Filed 2–7–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Publication of Depreciation Rates

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Utilities Service (RUS), an agency of the United States Department of Agriculture (USDA), announces the depreciation rates for telecommunications plant for the period ending December 31, 2009.

DATES: These rates are effective immediately and will remain in effect until rates are available for the period ending December 31, 2010.

FOR FURTHER INFORMATION CONTACT: Jonathan P. Claffey, Deputy Assistant Administrator, Telecommunications Program, Rural Utilities Service, STOP 1590—Room 5151, 1400 Independence Avenue, SW., Washington, DC 20250–1590. *Telephone:* (202) 720–9556.

SUPPLEMENTARY INFORMATION: In the Rural Utilities Service regulation, 7 CFR part 1737, Pre-Loan Policies and Procedures Common to Insured and Guaranteed Telecommunications Loans, § 1737.70(e) explains the depreciation rates that are used by RUS in its feasibility studies. § 1737.70(e)(2) refers to median depreciation rates published by RUS for all borrowers. The following chart provides those rates, compiled by RUS for the reporting period ending December 31, 2009:

MEDIAN DEPRECIATION RATES FOR RURAL UTILITIES SERVICE BORROWERS BY EQUIPMENT CATEGORY FOR PERIOD ENDING DECEMBER 31, 2009

Telecommunications plant category	Depreciation rate
1. Land and Support Assets:	
a. Motor vehicles	16.00
b. Aircraft	11.70
c. Special purpose vehicles	12.50
d. Garage and other work equipment	10.00
e. Buildings	3.30
f. Furniture and office equipment	10.00
g. General purpose computers	20.00
2. Central Office Switching:	
a. Digital	8.80
b. Analog & Electro-mechanical	9.56
c. Operator Systems	8.69
3. Central Office Transmission:	
a. Radio Systems	9.21
b. Circuit equipment	10.00
4. Information origination/termination:	
a. Station apparatus	12.00
b. Customer premises wiring	10.00
c. Large private branch exchanges	11.20
d. Public telephone terminal equipment	10.82
e. Other terminal equipment	10.10
5. Cable and wire facilities:	
a. Aerial cable—poles	6.19
b. Aerial cable—metal	5.80
c. Aerial cable—fiber	5.10
d. Underground cable—metal	5.00
e. Underground cable—fiber	5.00
f. Buried cable—metal	5.00
g. Buried cable—fiber	5.00
h. Conduit systems	3.50
i. Other	6.00

Dated: January 7, 2011.

Jonathan Adelstein,

Administrator, Rural Utilities Service.

[FR Doc. 2011–2652 Filed 2–7–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–965]

Drill Pipe From the People's Republic of China: Amended Final Determination of Critical Circumstances

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

DATES: *Effective Date:* February 8, 2011.

FOR FURTHER INFORMATION CONTACT: Toni Dach, Susan Pulongbarit, or Matthew Renkey, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; *telephone:* (202) 482–1655, (202) 482–4031, or (202) 482–2312, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 11, 2011, the Department of Commerce ("Department") published in the **Federal Register** the final determination in the antidumping duty

investigation of drill pipe from the People's Republic of China ("PRC").[1]

On January 12, 2011, VAM Drilling USA, Inc., Texas Steel Conversion, Inc., Rotary Drilling Tools, TMK IPSCO, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO–CLC (collectively "Petitioners"); and Baoshan Iron & Steel Co., Ltd. ("Baoshan") filed timely allegations that the Department made various ministerial errors in the *Final Determination* and requested, pursuant to 19 CFR 351.224, that the Department correct the alleged ministerial errors. No other party in this proceeding submitted comments on the Department's final margin calculations.

Based upon our analysis of the comments and allegations of ministerial errors, we made changes to the determination of critical circumstances for DP–Master Manufacturing Co., Ltd. and Jiangyin Liangda Drill Pipe Co., Ltd. (collectively "the DP–Master Group"). Furthermore, as a result of correcting the errors in the final determination of critical circumstances for the DP–Master Group, the determination of critical circumstances for the companies granted separate-rate status [2] was also revised because the change in import volumes for those companies were derived from the calculation of changes in import volumes of the DP–Master Group, Baoshan, and Shanxi Yida Special Steel Imp. & Exp. Co., Ltd. ("Yida"). However, we have determined that, pursuant to 19 CFR 351.224(e), it is not appropriate to make changes to our calculation of freight with respect to Baoshan because this correction would not alter the *de minimis* margin found for Baoshan in the *Final Determination.*

Scope of the Investigation

The products covered by the investigation are steel drill pipe, and steel drill collars, whether or not conforming to American Petroleum Institute ("API") or non-API specifications. Included are finished drill pipe and drill collars without regard to the specific chemistry of the steel (i.e., carbon, stainless steel, or other alloy steel), and without regard to length or outer diameter. Also included are unfinished drill collars (including all drill collar green tubes) and unfinished drill pipe (including drill pipe green tubes, which are tubes meeting the following description: Seamless tubes with an outer diameter of less than or equal to 6⅝ inches (168.28 millimeters), containing between 0.16 and 0.75 percent molybdenum, and containing between 0.75 and 1.45 percent chromium). The scope does not include tool joints not attached to the drill pipe, nor does it include unfinished tubes for casing or tubing covered by any other antidumping or countervailing duty order.

The subject products are currently classified in the following Harmonized Tariff Schedule of the United States ("HTSUS") categories: 7304.22.0030, 7304.22.0045, 7304.22.0060, 7304.23.3000, 7304.23.6030, 7304.23.6045, 7304.23.6060, 8431.43.8040 and may also enter under 8431.43.8060, 8431.43.4000, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.49.0015, 7304.49.0060, 7304.59.8020, 7304.59.8025, 7304.59.8030, 7304.59.8035, 7304.59.8040, 7304.59.8045, 7304.59.8050, and 7304.59.8055.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Amended Final Results of the Investigation

The Tariff Act of 1930, as amended (the "Act"), defines a "ministerial error" as including "errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial." *See* section 735(e) of the Act. After analyzing Petitioners' and Baoshan's comments, we have determined that we made certain ministerial errors, as defined by section 735(e) of the Act, in our calculations for the *Final Determination* with respect to our determination of critical circumstances for the DP–Master Group and our calculation of freight expenses for certain inputs for Baoshan. However, as noted above, we have found that, pursuant to 19 CFR 351.224(e), it is only appropriate to amend *the Final Determination* with respect to the DP–Master Group and the Separate Rate Respondents. For a detailed discussion of these ministerial errors, as well as the Department's analysis of these errors, see Memorandum to James C. Doyle, through Paul Walker, from Susan Pulongbarit and Toni Dach, regarding "Investigation of Drill Pipe from the People's Republic of China: Ministerial Error Memorandum," dated concurrently with this notice.

Because we have revised the determination of critical circumstances for the DP–Master Group, we are also revising the determination of critical circumstances for the Separate Rate Respondents because the calculation of changes in import volumes for those companies was calculated as the weighted average of the changes in import volumes for DP–Master Group, Baoshan and Yida. In accordance with section 735(e) of the Act, we are amending the *Final Determination.* As a result of correcting the ministerial error discussed above, we determine that critical circumstances exist for the DP–Master Group and the Separate Rate Respondents.

Cash Deposit Requirements

The Department will instruct U.S. Customs and Border Protection ("CBP") to suspend liquidation of all entries of the merchandise under consideration from the PRC entered, or withdrawn from warehouse, for consumption on or after May 20, 2010, with respect to the DP–Master Group and the Separate Rate Respondents, which is 90 days prior to the date on which the suspension of liquidation was first ordered, *i.e.,* 90 days prior to the date of publication of the *Preliminary Determination* [3] in the **Federal Register.** CBP shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown above. These instructions suspending liquidation will remain in effect until further notice. For a general discussion of the application of cash deposits, *see Final Determination,* 76 FR at 19706.

Administrative Protective Order

This notice also is 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 written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

[1] *See Drill Pipe From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances,* 76 FR 1966 (January 11, 2011) ("*Final Determination*").

[2] Shanxi Fenglei Drilling Tools Co., Ltd., Jiangsu Shuguang Huayang Drilling Tool Co., Ltd., and Jiangyin Long-Bright Drill Pipe Manufacturing Co., Ltd. (collectively "Separate Rate Respondents").

[3] *Drill Pipe From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, and Postponement of Final Determination,* 75 FR 51004 (August 18, 2010).

This amended final determination and notice are issued and published in accordance with sections 735(e), and 777(i)(1) of the Act, and 19 CFR 351.224.

Dated: February 1, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011–2751 Filed 2–7–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. PTO–P–2011–0002]

Notice of Roundtable and Request for Comments on How To More Effectively Use the Patent and Trademark Depository Library Program

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The United States Patent and Trademark Office (USPTO) wants to increase transparency by making USPTO information and materials more publicly available. USPTO information is currently disseminated through a variety of means, including through the Patent and Trademark Depository Library Program (PTDLP). The PTDLP allows the USPTO, through public laws, to partner with state and municipal libraries around the United States to develop core expertise in patents and trademarks to ensure that potential filers have local resources to draw on for assistance and support. The USPTO has undertaken an overall revitalization of the PTDLP to reflect the new 21st Century electronic approach to customer service. As part of this initiative, the USPTO is conducting a public roundtable to obtain input from organizations and individuals on current use of the Patent and Trademark Depository Libraries (PTDLs) and how to more effectively use the PTDLP in the future.

DATES: The first roundtable will be held on Tuesday, February 15, 2011, beginning at 1:30 p.m. Eastern Standard Time (EST) and ending at 3 p.m. EST.

The deadline for receipt of written comments is March 17, 2011.

ADDRESSES: The roundtable will be held at the USPTO in the Madison Auditorium on the concourse level of the Madison Building, which is located at 600 Dulany Street, Alexandria, Virginia 22314.

Written comments should be sent by electronic mail message over the Internet addressed to *PTDL_comments@uspto.gov.* Comments may also be submitted by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450, marked to the attention of Elizabeth L. Dougherty. Although comments may be submitted by mail, the USPTO prefers to receive comments via the Internet.

The written comments and list of the roundtable participants and their associations will be available for public inspection at the Office of the Commissioner for Patents, located in the Madison East Building, Tenth Floor, 600 Dulany Street, Alexandria, Virginia, and will be available via the USPTO Internet Web site (*address: http://www.uspto.gov*). Because comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

FOR FURTHER INFORMATION CONTACT: Martha Sneed, Office of Public Search Services Division, by telephone at (703) 756–1236, or by electronic mail message at *martha.sneed@uspto.gov.*

SUPPLEMENTARY INFORMATION: The PTDLP disseminates patent and trademark information and provides training and outreach support to a network of over 80 academic, public, state and special libraries, located in 45 states, the District of Columbia, and Puerto Rico. PTDLs provide walk-in, telephone, and Internet assistance for independent inventors, researchers, students, small- and medium-sized businesses and other members of the public across the United States.

The PTDLP has changed dramatically over the years, from being strictly a "depository" program, where the USPTO provided paper copies of patents and trademarks and support materials, to an electronic program, where data and materials are provided on-line and in computer-readable media. In addition to the array of USPTO search tools now available on the Web, every PTDL provides public access to PubWEST (Web-based Examiner Search Tool), providing the public with one of the same powerful search tools that patent examiners have.

Today's PTDLs provide free, personalized assistance to their communities on how to use the array of patent and trademark resources now available on the Web. As the USPTO has shifted to a paperless agency model, the PTDLP has assumed a greater role in the USPTO's overall outreach program. The PTDLP provides a ready-made network for USPTO policy makers and knowledgeable staff at those venues to help share information about USPTO and its many programs and initiatives. Today's PTDLs are no longer simply maintaining patent and trademark collections—*i.e.,* they are no longer mere "depositories" of information—but are centers of innovation. Specially designated staff educate customers on how to perform preliminary prior art searches, provide classes in searching the USPTO Web site, show how to move their invention from inventive concept to the marketplace, show how to track down prior art disclosed in foreign patent publications and non-patent literature, and provide other individualized services.

The shift to electronic resources has enabled the PTDLP to more effectively train PTDL staff and the public to better use the tools and data available to them. More specifically, the USPTO trains PTDL staff, who, in turn, provide assistance and training to public customers. As the PTDLP continues to move away from the physical distribution of hard-copy information, the USPTO is interested in what types of new and different services the PTDLP of the future should offer its customers. PTDLs are the face of USPTO in their local communities. For this reason, the USPTO is seeking recommendations from stakeholders on the role they envision the PTDLs playing in the USPTO's outreach efforts, and how the PTDLP can be used to provide more effective communication and transparent information to its customers.

Toward that end, the USPTO is conducting a roundtable to obtain public input from organizations and individuals on the future character of the PTDLs. The number of participants in the roundtable is limited to ensure that all who are speaking will have a meaningful chance to do so. The USPTO plans to invite participants from patent user groups, practitioners, industry, independent inventor organizations, academia, and government. The roundtables are open to the public.

The USPTO will provide an agenda, list of known participants, and preparatory materials (if any) to the participants prior to the roundtable in order to focus the discussion and enhance the efficiency of the proceedings. All such materials will be posted on the USPTO's Internet Web site. The USPTO plans to make the roundtable available via Web cast. Web cast information will be available before the roundtable on the USPTO's Internet Web site. Any slides or handouts

distributed at the roundtable and the list of the roundtable participants for the roundtable and their associations will also be posted on the USPTO's Internet Web site.

Dated: January 28, 2011.

David J. Kappos,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2011–2661 Filed 2–7–11; 8:45 am]

BILLING CODE 3510–16–P

CONSUMER PRODUCT SAFETY COMMISSION

Consumer Product Safety Act: Notice of Commission Action on the Stay of Enforcement of Testing and Certification Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Revision of terms of stay of enforcement.

SUMMARY: The Consumer Product Safety Commission ("CPSC" or "Commission" or "we") is announcing its decision to revise the terms of its stay of enforcement of certain testing and certification provisions of section 14 of the Consumer Product Safety Act ("CPSA") as amended by section 102 of the Consumer Product Safety Improvement Act of 2008 ("CPSIA"). Through this notice, the Commission announces an extension of the stay of enforcement pertaining to total lead content in children's products (except for metal components of children's metal jewelry), and certain related products, until December 31, 2011.[1]

DATES: The stay of enforcement pertaining to total lead content in children's products (except for metal components of children's metal jewelry), and certain related products, is extended until December 31, 2011, upon which date the stay will expire.

FOR FURTHER INFORMATION CONTACT: Robert "Jay" Howell, Acting Assistant Executive Director for the Office of Compliance and Field Operations, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814; e-mail *rhowell@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 14 of the CPSA requires that every manufacturer of a product (and the private labeler, if the product bears a private label) that is subject to a consumer product safety rule, ban, standard, or regulation enforced by the Commission certify, based on testing, that its product complies with the applicable safety rule, ban, standard, or regulation. For nonchildren's products, the certification must be based on a test of each product or a reasonable testing program. For children's products, the certification must be based on testing conducted by a CPSC-accepted third party conformity assessment body (laboratory).

On February 9, 2009, the Commission published a notice in the **Federal Register**, staying enforcement of many of the testing and certification requirements, including the requirements related to total lead in children's products (other than the lead content of metal components of children's metal jewelry). 74 FR 6396, 6397. The Commission committed to the stay for one year, explaining that the stay was necessary to "give us the time needed to develop sound rules and requirements as well as implement outreach efforts to explain these [new] requirements of the CPSIA and their applicability." 74 FR at 6398. With regard to lead content in metal components of children's metal jewelry, the Commission stated that certifications based on third party testing would be required for such products manufactured after March 23, 2009. 74 FR at 6397.

On December 28, 2009, the Commission published a notice in the **Federal Register**, revising the terms of the stay. 74 FR 68588. In that notice, the Commission lifted the stay for some CPSC regulations and extended the stay for other CPSC regulations. Relevant for present purposes, the Commission stated that it "plans to keep the stay in effect for total lead content in metal children's products and in non-metal children's products * * * (section 101 of the CPSIA) until February 10, 2011." 74 FR at 68591. The December 28, 2009, notice did not affect certifications and testing of lead content in metal components of children's metal jewelry; the stay pertaining to those products had expired on March 23, 2009. 74 FR at 68589.

The Commission also published two notices concerning discrete stays of enforcement related to lead content. On May 12, 2009, the Commission published a notice staying enforcement with regard to the lead content in certain parts and youth motorized vehicles that contain those parts. 74 FR 22154. The notice announced that the stay would remain in effect until May 1, 2011. *Id.* Specifically, the Commission stayed enforcement of the specified lead level as it pertains to certain parts of youth all-terrain vehicles, youth off-road motorcycles, and youth snowmobiles ("Youth Motorized Recreational Vehicles" or "Vehicles"), specifically battery terminals containing up to 100 percent lead, and components made with metal alloys, including steel containing up to 0.35 percent lead, aluminum with up to 0.4 percent lead, and copper with up to 4.0 percent lead, and the vehicles that contain them. *Id.*

On June 30, 2009, the Commission published a notice staying enforcement with regard to the lead content in certain parts of bicycles, jogger strollers, and bicycle trailers ("Bicycles and Related Products") designed or intended primarily for children 12 years of age or younger. 74 FR 31254. In brief, the stay applied to components made with metal alloys, including steel containing up to 0.35 percent lead, aluminum with up to 0.4 percent lead, and copper with up to 4.0 percent lead. 74 FR at 31257. The Commission stated the stay would remain in effect until July 1, 2011. 74 FR at 31254.

II. Extension of Stay of Enforcement

We have received several requests for an extension of the stay of enforcement related to lead testing and certifications. After considering these requests and other matters, the Commission has decided to extend the existing stay of enforcement on testing and certifications of the total lead content in children's products (except for metal components of children's metal jewelry) until December 31, 2011, at which time the stay will expire. This action by the Commission encompasses the stays described above, pertaining to lead content in Youth Motorized Recreational Vehicles and Bicycles and Related Products; those stays are hereby extended until December 31, 2011.

The Commission notes that there remains in effect a stay of enforcement on testing and certification for children's products subject to those children's product safety rules for which a notice of requirements for accreditation of third party conformity assessment bodies (laboratories) has not published yet, including testing of children's toys and child care articles for banned phthalates, and testing of

[1] The Commission voted 4–1 to approve publication of this notice. Chairman Inez M. Tenenbaum, Commissioner Thomas H. Moore, Commissioner Nancy Nord, and Commissioner Anne M. Northup voted for the publication of the notice with changes. Commissioner Robert S. Adler voted against publication of the notice. Chairman Tenenbaum, Commissioner Northup, and Commissioner Adler filed statements concerning this vote. The statements may be viewed on the Commission's Web site at http://www.cpsc.gov/pr/statements.html.

children's toys for compliance with the mandatory toy safety standard ASTM F–963 (which includes caps and toy guns). The Commission's current action does not affect that stay of enforcement; accordingly, and as described in the December 28, 2009, notice (74 FR 68591–68592), such stay will continue until the respective notices of requirements for laboratory accreditation are published.

Dated: February 1, 2011.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2011–2704 Filed 2–7–11; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board will meet in closed session on February 23–24, 2011; at the Pentagon, Arlington, VA.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Board will discuss interim finding and recommendations resulting from ongoing Task Force activities. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture and homeland security.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. 2) and 41 CFR 102–3.155, the Department of Defense has determined that these Defense Science Board Quarterly meetings will be closed to the public. Specifically, the Under Secretary of Defense (Acquisition, Technology and Logistics), with the coordination of the DoD Office of General Counsel, has determined in writing that all sessions of these meetings will be closed to the public because they will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(1).

Interested persons may submit a written statement for consideration by the Defense Science Board. Individuals submitting a written statement must submit their statement to the Designated Federal Official at the address detailed below, at any point, however, if a written statement is not received at least 10 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Defense Science Board. The Designated Federal Official will review all timely submissions with the Defense Science Board Chairperson, and ensure they are provided to members of the Defense Science Board before the meeting that is the subject of this notice.

FOR FURTHER INFORMATION CONTACT: Ms. Debra Rose, Executive Officer, Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301–3140, via e-mail at *debra.rose@osd.mil*, or via phone at (703) 571–0084.

Dated: February 3, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–2684 Filed 2–7–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Veterans' Advisory Board on Dose Reconstruction; Meeting

AGENCY: Defense Threat Reduction Agency, DoD.

ACTION: Advisory Board meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Sunshine in the Government Act of 1976 (5 U.S.C. 552b, as amended), the Defense Threat Reduction Agency (DTRA), and the Department of Veterans Affairs (VA) announce the following advisory board meeting of the Veterans' Advisory Board on Dose Reconstruction (VBDR).

DATES: Friday, March 11, 2011, 8 a.m. to 12:15 p.m. and from 1:15 p.m. to 5 p.m. The public is invited to attend. A public comment session is scheduled from 10:15 a.m. to 10:45 a.m.

Location: Hilton Arlington Hotel, 950 North Stafford Street, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: The Veterans' Advisory Board on Dose Reconstruction Toll Free at 1–866–657–VBDR (8237). Additional information may be found at *http://vbdr.org.*

SUPPLEMENTARY INFORMATION: *Purpose of Meeting:* To obtain, review, and evaluate information related to the Board's mission to provide guidance and oversight of the dose reconstruction and claims compensation programs for veterans of U.S.-sponsored atmospheric nuclear weapons tests from 1945–1962; veterans of the 1945–1946 occupation of Hiroshima and Nagasaki, Japan; and veterans who were prisoners of war in those regions at the conclusion of World War II. In addition, the advisory board will assist the VA and DTRA in communicating with the veterans.

Meeting Agenda: The meeting will open with an introduction of the Board. After introductions, the remainder of the morning will include the following briefings: "Review of Atomic Veterans Epidemiology Study" by Dr. John Boice; "Review of Atomic Veterans Demographic Study" by Dr. John Lathrop; "Quality Review of Radiation Cases at the Jackson VARO", by VA STAR Representative; "Update on the Nuclear Test Personnel Review (NTPR) Dose Reconstruction Program", by Dr. Paul Blake; and "Update on the VA Radiation Claims Compensation Program for Veterans", by Mr. Brad Flohr. The morning session includes one half-hour open public comment session. The afternoon session will begin with a presentation on the VA/DTRA/VBDR Atomic Veterans Communications Plan. Next, the four subcommittees established during the inaugural VBDR session will report on their activities since March 2010. These subcommittees consist of the following: Subcommittee on DTRA Dose Reconstruction Procedures; the Subcommittee on VA Claims Adjudication Procedures; the Subcommittee on Quality Management and VA Process Integration with DTRA Nuclear Test Personnel Review Program; and the Subcommittee on Communication and Outreach. The remainder of the meeting will be devoted to a discussion of the future of the VBDR.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is limited by the size of the meeting room. All persons must sign in legibly at the registration desk.

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140(c), interested persons may submit a written statement for consideration by the Veterans' Advisory Board on Dose Reconstruction; statements maybe on the VBDR's mission or in response to the March 11, 2011 meeting agenda. Supporting documentation may also be included as needed to establish the appropriate historical context and to

provide any necessary background information.

Individuals submitting a written statement may submit their statement to the Board at 801 N. Quincy Street, Suite 600, Arlington, VA 22203, at any time. However, if a written statement is not received at least 10 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Veterans' Advisory Board on Dose Reconstruction until its next open meeting.

The Designated Federal Officer shall ensure that copies of all timely submissions are provided to the members for their consideration. The Chairperson may choose to invite the submitter of the comments to orally present his or her statements during the Public Comment session of this meeting or at a future meeting.

Public Comments: The March 11, 2011 meeting is open to the public. One, approximately, half-hour session will be reserved for public comments on issues related to the tasks of the Veterans' Advisory Board on Dose Reconstruction. Speaking time will be assigned on a first-come, first-served basis. The amount of time per speaker will be determined by the number of requests received, but is nominally five minutes each. All persons who wish to speak at the meeting must sign in legibly at the registration desk. Speakers who wish to expand on their oral statements are invited to submit a written statement to the Veterans' Advisory Board on Dose Reconstruction at 801 N. Quincy Street, Suite 600, Arlington, VA 22203.

Dated: February 3, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–2686 Filed 2–7–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID USN–2011–0002]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to Alter a System of Records.

SUMMARY: The Department of the Navy proposes to alter a system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on March 10, 2011 unless comments are received that would result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and/ Regulatory Information Number (RIN) and title, by any of the following methods:

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

* *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Room 3C843, Washington, DC 20301–1160.

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

FOR FURTHER INFORMATION CONTACT: Ms. Teresa D. Ross at (703) 614–4008, or by mail at Head, FOIA/PA Section (ARSF), Headquarters, U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–1775.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notice subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, has been published in the **Federal Register** and is available from the **FOR FURTHER INFORMATION CONTACT** address above.

The proposed systems reports, as required by 5 U.S.C. 552a (r) of the Privacy Act of 1974, as amended, were submitted on January 25, 2011, to the House Committee on Government Report, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining records About Individual," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 3, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N05726–1

SYSTEM NAME:

Leaders to Sea Database (August 26, 2010, FR 75 52518).

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Records consist of name, date and place of birth, personal address, personal home and cell phone numbers, personal e-mail address, occupation, gender, medical information (current medications and dosage; medical alert tag status and reason; existence of medical conditions or history such as asthma, diabetes, stroke, *etc.;* and consent to treatment), emergency contact information, food restrictions, occupation, citizenship, rank (if military), positions in civic, professional and youth organizations, previous embarks and military service."

* * * * *

N05726–1

SYSTEM NAME:

Leaders to Sea Database.

SYSTEM LOCATION:

Primary location: Office of the Chief of Navy Information, 2000 Navy Pentagon, Washington, DC 20350–2000, telephone 703–614–1879.

SECONDARY LOCATIONS:

Public Affairs Officers for the Navy Aircraft Carrier, Ship, or Submarine on which the individual is embarking. Official mailing addresses are published in the Standard Navy Distribution List.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Visitors, volunteers, guests, and invitees to U.S. Navy Aircraft Carriers, Ships, and Submarines.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date and place of birth, personal address, personal home and cell phone numbers, personal e-mail address, occupation, gender, medical information (current medications and dosage; medical alert tag status and reason; existence of medical conditions or history such as asthma, diabetes, stroke, etc.; and consent to treatment), emergency contact information, food restrictions, occupation, citizenship, rank (if military), positions in civic, professional and youth organizations, previous embarks and military service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy; and E.O. 9397 (SSN), as amended.

PURPOSE:

To vet individuals who will be embarking Navy ships and submarines to participate in the Navy's long standing "Leaders to Sea" public affairs program and to provide emergency contact and medical information which

may become necessary if emergency care is required while embarked. Individuals submitting the information will also have the option to indicate whether they would like to receive future updates on Navy operations and events.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD "Blanket Routine Uses" that appear at the beginning of the Navy's compilation of system of record notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Name, home address, and occupation.

SAFEGUARDS:

Access is limited to those individuals who require the records in performance of their official duties. Access is further restricted by the use of passwords which are changed periodically. Physical entry is restricted by the use of locks, guards, and administrative procedures.

RETENTION AND DISPOSAL:

Destroy when no longer needed or after two years, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Assistant Chief of Information for Community Outreach, Office of the Chief of Navy Information, 2000 Navy Pentagon, Washington, DC 20350–2000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the System Manager listed above.

The request must be signed, and include current address and telephone number. The system manager will require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to determine if the system contains records about them.

RECORD ACCESS PROCEDURE:

Individuals seeking to access records about themselves contained in this system of records should address written inquiries to the System Manager listed above.

The request must be signed, and include current address and telephone number. The system manager will require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records.

CONTESTING RECORD PROCEDURE:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2011–2685 Filed 2–7–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Comment request .

SUMMARY: The Department of Education (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 11, 2011.

ADDRESSES: Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 2, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of Vocational and Adult Education

Type of Review: Extension.

Title of Collection: Adult Education and Family Literacy Act State Plan (Pub. L. 105–220).

OMB Control Number: 1830–0026.

Agency Form Number(s): N/A.

Frequency of Responses: Annually.

Affected Public: Businesses or other for-profit; State, Local, or Tribal Government, State Educational Agencies or Local Educational Agencies.

Total Estimated Number of Annual Responses: 59.

Total Estimated Number of Annual Burden Hours: 2,655.

Abstract: The Adult Education and Family Literacy Act (AEFLA), Title II of the Workforce Investment Act of 1998, Public Law 105–220 provides formula funding to States to support adult education instruction at the State level. Section 224 of Public Law 105–220 required States submit to the Department their plan for how they address the requirements of the Act, including agreeing upon levels of performance identified in section 212. Congress did not enact new legislation prior to the expiration of the law in

2003; however, it continued to extend program appropriations for each additional year in each subsequent annual appropriation law.

Section 211(b)(1) of AEFLA requires that states have an approved State plan on file in order to receive their allotments of federal adult education funds. The Department is taking a targeted approach to ensure States not duplicate their efforts in submitting information. Office of Vocational and Adult Education's State Plan Guide for AEFLA emphasizes that the information requested is simply updating current original plans to reflect performance targets and any proposed new uses for program funds in upcoming years.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4499. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2011–2699 Filed 2–7–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment Request.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before March 10, 2011.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, *Attention:* Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or e-mailed to *oira_submission@omb.eop.gov* with a cc: to ICDocketMgr@ed.gov. Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: February 2, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Federal Student Aid

Type of Review: Extension.

Title of Collection: Lender's Application for Payment of Insurance Claim, ED Form 1207.

OMB Control Number: 1845–0042.

Agency Form Number(s): ED Form 1207.

Frequency of Responses: On Occasion.

Affected Public: Businesses or other for-profit.

Total Estimated Number of Annual Responses: 12.

Total Estimated Annual Burden Hours: 3.

Abstract: Department of Education (ED) Form 1207, Lender's Application for Payment of Insurance Claim, is completed for each borrower for whom the lender is filing a Federal claim. Lenders must file for payment within 90 days of the default, depending on the type of claim filed. ED uses the information on the ED Form 1207 to match disbursement data already on file for claim payment validation.

Requests for copies of the information collection submission for OMB review may be accessed from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or from the Department's Web site at *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4418. When you access the information collection, click on "Download Attachments " to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2011–2701 Filed 2–7–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Postsecondary Education, Overview Information, Undergraduate International Studies and Foreign Language Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2011.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.016A.

DATES:

Applications Available: February 8, 2011.

Deadline for Transmittal of Applications: March 30, 2011.

Deadline for Intergovernmental Review: May 31, 2011.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Undergraduate International Studies and Foreign Language (UISFL) program provides grants to strengthen and improve undergraduate instruction in international studies and foreign languages.

Priorities: This notice contains two competitive preference priorities and two invitational priorities. In accordance with 34 CFR 75.105(b)(2)(ii), the competitive preference priorities are from the regulations for this program (34 CFR 658.35 and 658.11).

Competitive Preference Priorities: For FY 2011, these priorities are competitive preference priorities. Under 34 CFR

75.105(c)(2)(i), we award an additional five points to an application that meets Competitive Preference Priority 1 and up to an additional five points to an application that meets Competitive Preference Priority 2.

These priorities are:

Competitive Preference Priority 1: Applications from institutions of higher education or consortia of these institutions that require entering students to have successfully completed at least two years of secondary school foreign language instruction or that require each graduating student to earn two years of postsecondary credit in a foreign language (or have demonstrated equivalent competence in the foreign language) or in the case of a 2-year degree granting institution, offer two years of postsecondary credit in a foreign language.

Competitive Preference Priority 2: Applications that propose projects that conduct pre-service and in-service training for K–12 teachers in foreign languages and international studies.

Under this competition, we are particularly interested in applications that address the following invitational priorities.

Invitational Priorities: For FY 2011, these priorities are invitational priorities. Under 34 CFR 75.105(c)(1), we do not give an application that meets these invitational priorities a competitive or absolute preference over other applications.

These priorities are:

Invitational Priority 1: Applications that propose programs or activities primarily focused on language instruction or applications that propose the development of area or international studies programs to include language instruction in any of the seventy-eight (78) priority languages listed below that were selected from the U.S. Department of Education's List of Less Commonly Taught Languages (LCTLs):

Akan (Twi-Fante), Albanian, Amharic, Arabic (all dialects), Armenian, Azeri (Azerbaijani), Balochi, Bamanakan (Bamana, Bambara, Mandikan, Mandingo, Maninka, Dyula), Belarusian, Bengali (Bangla), Berber (all languages), Bosnian, Bulgarian, Burmese, Cebuano (Visayan), Chechen, Chinese (Cantonese), Chinese (Gan), Chinese (Mandarin), Chinese (Min), Chinese (Wu), Croatian, Dari, Dinka, Georgian, Gujarati, Hausa, Hebrew (Modern), Hindi, Igbo, Indonesian, Japanese, Javanese, Kannada, Kashmiri, Kazakh, Khmer (Cambodian), Kirghiz, Korean, Kurdish (Kurmanji), Kurdish (Sorani), Lao, Malay (Bahasa Melayu or Malaysian), Malayalam, Marathi, Mongolian, Nepali, Oromo, Panjabi, Pashto, Persian (Farsi), Polish, Portuguese (all varieties), Quechua, Romanian, Russian, Serbian, Sinhala (Sinhalese), Somali, Swahili, Tagalog, Tajik, Tamil, Telugu, Thai, Tibetan, Tigrigna, Turkish, Turkmen, Ukrainian, Urdu, Uyghur/Uigur, Uzbek, Vietnamese, Wolof, Xhosa, Yoruba, and Zulu.

Invitational Priority 2: Applications from minority serving institutions (MSIs) and community colleges (including those that are eligible to receive assistance under Part A or B of Title III or under Title V of the Higher Education Act of 1965, as amended (HEA)).

Program Authority: 20 U.S.C. 1124.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 84, 85, 86, 97, 98 and 99. (b) The regulations in 34 CFR parts 655 and 658.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

Areas of National Need: In accordance with section 601(c) of the 20 U.S.C. 1121(c)(1), the Secretary has consulted with and received recommendations regarding national need for expertise in foreign languages and world regions from the head officials of a wide range of Federal agencies. The Secretary has taken these recommendations into account and a list of foreign languages and world regions identified by the Secretary as areas of national need may be found on the following Web sites: *http://www.ed.gov/about/offices/list/ope/policy.html; http://www.ed.gov/programs/iegpsugisf/legislation.html.* Also included on these Web sites are the specific recommendations the Secretary received from Federal agencies.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration has requested $108,360,000 for the Title VI International Education and Foreign Language Studies Programs (also referred to as the International Domestic Programs) for FY 2011, of which we intend to allocate $2,409,660 for new awards under the Undergraduate International Studies and Foreign Language (UISFL) program. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Estimated Range of Awards: Single IHE: $50,000–$100,000. Consortia of IHEs/Organizations/Associations: $80,000–$160,000.

Estimated Average Size of Awards: Single IHE: $92,000. Consortia of IHEs/Organizations/Associations: $130,000.

Maximum Award: We will reject any application that proposes a budget exceeding $100,000 for a single budget period of 12 months for an applicant that is a single IHE, and $160,000 for a single budget period of 12 months for an applicant that is a consortium of IHEs/organizations/associations. The Assistant Secretary for Postsecondary Education may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 28.

Note: The Department is not bound by any estimates in this notice.

Project Period: Single IHE: Up to 24 months.

Consortium of IHEs/Organizations/Associations: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* (1) IHEs; (2) Consortia of IHEs; (3) Partnerships between nonprofit educational organizations and IHEs; and (4) Public and private nonprofit agencies and organizations, including professional and scholarly associations.

2. *Cost Sharing or Matching:* This program has a matching requirement under section 604(a)(3) of the HEA, 20 U.S.C. 1124(a)(3), and the regulations for this program in 34 CFR 658.41. UISFL program grantees must provide matching funds in either of the following ways: (a) Cash contributions from private sector corporations or foundations equal to one-third of the total project costs; or (b) a combination of institutional and non-institutional cash or in-kind contributions including State and private sector corporation or foundation contributions, equal to one-half of the total project costs. The Secretary may waive or reduce the required matching share for institutions that are eligible to receive assistance under part A or part B of Title III or under Title V of the HEA that have submitted an application that demonstrates a need for a waiver or reduction.

IV. Application and Submission Information

1. *Address to Request Application Package:* Christine Corey, U.S. Department of Education, 1990 K Street, NW., room 6069, Washington, DC

20006–8521. *Telephone:* (202) 502–7631; or by e-mail: *Christine.corey@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) by contacting the program contact person listed under *Agency Contact* in section VII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative [Part III] that addresses the selection criteria to no more than 40 pages, using the following standards:

• A "page" is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides. Page numbers and an identifier may be outside of the 1″ margin.

• Double space (no more than three lines per vertical inch) all text in the application narrative, *except* titles, headings, footnotes, quotations, references, captions, and all text in charts, tables, figures and graphs. These items may be single spaced. Charts, tables, figures, and graphs in the program narrative count toward the page limit.

• Use a font that is either 12 point or larger, or no smaller than 10 pitch (characters per inch). However, you may use a 10 point font in charts, tables, figures, and graphs.

• Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman and Arial Narrow) will not be accepted.

The page limit does not apply to Part I, the Application for Federal Assistance face sheet (SF 424); the supplemental information form required by the Department of Education; Part II, the budget information summary form (ED Form 524); and Part IV, the assurances and certifications. The page limit also does not apply to a table of contents. However, the page limit does apply to all of the application narrative section [Part III]. If you include any attachments or appendices not specifically requested, these items will be counted as part of the application narrative [Part III] for purposes of the page limit requirement. You must include your complete response to the selection criteria in the application narrative.

We will reject your application if you exceed the page limit.

3. *Submission Dates and Times:*

Applications Available: February 8, 2011.

Deadline for Transmittal of Applications: March 30, 2011.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: May 31, 2011.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program competition.

5. *Funding Restrictions:* See 34 CFR 658.10. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and Central Contractor Registry:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the Central Contractor Registry (CCR), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active CCR registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one business day.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The CCR registration process may take five or more business days to complete. If you are currently registered with the CCR, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (*seehttp://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf*).

7. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the UISFL program—CFDA number 84.016A, must be submitted electronically using the Government-wide Grants.gov Apply site at www.Grants.gov. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding

calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.* You may access the electronic grant application for the Undergraduate International Studies and Foreign Language Program at www.Grants.gov. You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.016, not 84.016A).

Please note the following:

• When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.

• Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.

• The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *http://www.G5.gov.*

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. You must attach any narrative sections of your application as files in a .PDF (Portable Document) format only. If you upload a file type other than .PDF or submit a password protected file, we will not review that material.

• Your electronic application must comply with any page- limit requirements described in this notice. After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application.)

• We may request that you provide us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time, or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Christine Corey, Undergraduate International Studies and Foreign Language Program, U.S. Department of Education, 1990 K Street, NW., room 6069, Washington, DC 20006–8521. *FAX:* (202) 502–7860.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your

application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, *Attention:* (CFDA Number 84.016A), LBJ Basement Level 1, 400 Maryland Avenue, SW.,Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

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

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application, by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, *Attention:* (CFDA Number 84.016A), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this grant notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *General:* For FY 2011, applications will be randomly divided and reviewed by separate panels of language and area studies experts. A rank order from highest to lowest score will be developed and used for funding purposes.

2. *Selection Criteria:* The selection criteria for this program are from 34 CFR 658.31, 658.32, 658.33, and 655.32. The following criteria are used to evaluate all applications: (a) Plan of operation (15 points); (b) Quality of key personnel (10 points); (c) Budget and cost effectiveness (10 points); (d) Evaluation plan (20 points); and (e) Adequacy of resources (5 points). The following additional criteria are applied to applications submitted by an IHE or a consortium of IHEs: (a) Commitment to international studies (10 points); (b) Elements of the proposed international studies program (10 points); and (c) Need for and prospective results of the proposed program (10 points). The following additional criterion is applied to applications from organizations and associations: Need for and potential impact of the proposed project in improving international studies and the study of modern foreign language at the undergraduate level (30 points). Additional information regarding these criteria is in the application package for this program.

3. *Additional Factors:* Under 34 CFR 658.34, in addition to applying the selection criteria described in the preceding section, the Secretary, to the extent practicable and consistent with the criterion of excellence, also may encourage diversity by ensuring that a variety of types of projects and institutions receive funding. In the past, the Secretary has funded mostly four-year institutions and only a few minority-serving institutions. In the FY 2011 competition, the Secretary may seek to achieve greater diversity in the types of institutions assisted under this program by selecting applicants that represent a variety of types of institutions, including minority-serving institutions eligible for assistance under Part A or B of Title III or under Title V of the HEA and community colleges.

4. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

5. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

6. *Application Requirements:* In addition to any other requirements outlined in the application package for this program, section 604(a)(7) of the HEA requires that each application include—

(A) Evidence that the applicant has conducted extensive planning prior to submitting the application;

(B) An assurance that the faculty and administrators of all relevant departments and programs served by the applicant are involved in ongoing collaboration with regard to achieving the stated objectives of the application;

(C) An assurance that students at the applicant institutions, as appropriate, will have equal access to, and derive benefits from, the UISFL program;

(D) An assurance that each institution, combination or partnership will use the Federal assistance provided under the UISFL program to supplement and not supplant non-Federal funds the institution expends for programs to improve undergraduate instruction in international studies and foreign languages;

(E) A description of how the applicant will provide information to students regarding federally funded scholarship programs in related areas;

(F) An explanation of how the activities funded by the grant will reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs, where applicable; and

(G) A description of how the applicant will encourage service in

areas of national need, as identified by the Secretary.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notice (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. Grantees are required to use the electronic data instrument International Resource Information System (IRIS) to complete the final report. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* The objective for the UISFL program is to meet the Nation's security and economic needs through the development of a national capacity in foreign languages and area and international studies.

The Department will use the following UISFL performance measures to evaluate its success in meeting this objective:

Performance measure 1: Percentage of Undergraduate International Studies and Foreign Language Program projects judged to be successful by the program officer, based on a review of information provided in the annual performance reports.

Performance measure 2: Percentage of critical languages addressed/covered by foreign language major, minor, or certificate programs created or enhanced; or by language courses created or enhanced; or by faculty or instructor positions created with Undergraduate International Studies and Foreign Language or matching funds in the reporting period.

Efficiency measure: Cost per high quality, successfully-completed Undergraduate International Studies and Foreign Language project.

The information provided by grantees in their performance reports submitted via IRIS will be the source of data for these measures. Reporting screens for institutions may be viewed at: *http://iris.ed.gov/iris/pdfs/uisfl.pdf.*

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made "substantial progress toward meeting the objectives in its approved application." This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Christine Corey, International and Foreign Language Education, U.S. Department of Education, 1990 K Street, NW., room 6069, Washington, DC 20006–8521. *Telephone:* (202) 502–7629 or by *e-mail: christine.corey@ed.gov.*

If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF), on the Internet at the following site: *http://www.ed.gov/news/fedregister.* To use PDF, you must have Adobe Acrobat Reader, which is available free at this site.

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.*

Dated: February 3, 2011.

Eduardo M. Ochoa,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2011–2775 Filed 2–7–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Equity and Excellence Commission

AGENCY: Office for Civil Rights, Department of Education.

ACTION: Notice of an Open Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of an upcoming meeting of the Equity and Excellence Commission (Commission). The notice also describes the functions of the Commission. Notice of this meeting is required by section 10(a)(2) of the Federal Advisory Committee Act (FACA) and is intended to notify the public of their opportunity to attend.

DATES: February 22, 2011.

Time: 10 a.m. to 5 p.m.

ADDRESSES: The Commission will meet in Washington, DC at 400 Maryland Avenue, SE., Washington, DC 20202, in the Barnard Auditorium.

FOR FURTHER INFORMATION CONTACT: Stephen Chen, Designated Federal Official, Equity and Excellence Commission, U.S. Department of Education, 400 Maryland Avenue, SE., Washington, DC 20202. *E-mail: Stephen.Chen@ed.gov. Telephone:* (202) 453–6624.

SUPPLEMENTARY INFORMATION: The purpose of the Commission is to collect information, analyze issues, and obtain broad public input regarding how the Federal government can increase educational opportunity by improving school funding equity. The Commission will also make recommendations for restructuring school finance systems to achieve equity in the distribution of educational resources and further

student performance, especially for the students at the lower end of the achievement gap. The Commission will examine the disparities in meaningful educational opportunities that give rise to the achievement gap, with a focus on systems of finance, and recommend appropriate ways in which Federal policies could address such disparities.

The agenda for the Commissions' first meeting will include a welcome by Department officials followed by a roundtable discussion focusing on the strategies for accomplishing its mission as stated in its charter. The agenda will also include a presentation on school resource equity and the development of a work plan for the Commission. Due to time constraints, there will not be a public comment period at this meeting, but individuals wishing to comment may contact Stephen Chen via e-mail at *stephen.chen@ed.gov.*

Individuals interested in attending the meeting must register in advance because seating may be limited. Please contact Stephen Chen at (202) 453–6624 or by e-mail at *stephen.chen@ed.gov mailto:tracy.harris@ed.gov.* Individuals who will need accommodations for a disability in order to attend the meeting (*e.g.,* interpreting services, assistive listening devices, or materials in alternative format) should notify Stephen Chen at (202) 453–6624 no later than February 14, 2011. We will attempt to meet requests for accommodations after this date but cannot guarantee their availability. The meeting site is accessible to individuals with disabilities.

Records are kept of all Commission proceedings and are available for public inspection at the Department of Education, 400 Maryland Avenue, SE., Washington, DC 20202 from the hours of 9 a.m. to 5 p.m. E.S.T.

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/fedregister/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) 512–1800.

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:

Russlynn Ali,

Assistant Secretary, Office for Civil Rights.

[FR Doc. 2011–2768 Filed 2–7–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Ultra-Deepwater Advisory Committee

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Ultra-Deepwater Advisory Committee. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, February 23, 2011, 8 a.m.–5 p.m. (EST).

ADDRESSES: L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Elena Melchert, U.S. Department of Energy, Office of Oil and Natural Gas, Washington, DC 20585. Phone: 202–586–5600.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The purpose of the Ultra-Deepwater Advisory Committee is to provide advice on development and implementation of programs related to ultra-deepwater architecture and technology to the Secretary of Energy and provide comments and recommendations and priorities for the Department of Energy Annual Plan per requirements of the Energy Policy Act of 2005, Title IX, Subtitle J, Section 999D.

Tentative Agenda:

February 23, 2011

7:30 a.m.–8 a.m. Registration

8 a.m.–noon Call to Order, Opening Remarks, Overview of the Section 999 Research Portfolio (Ultra-Deepwater and NETL Complementary Research)

1 p.m.–4:45 p.m. Overview of *Draft 2011 Annual Plan*

4:45 p.m.–5 p.m. Public Comment

5 p.m. Adjourn

Public Participation: The meeting is open to the public. The Designated Federal Officer and the Chairman of the Committee will lead the meeting for the orderly conduct of business. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Elena Melchert at the address or telephone number listed above. You must make your request for an oral statement at least two business days prior to the meeting, and reasonable provisions will be made to include the presentation on the agenda. Public comment will follow the 5 minute rule.

Minutes: The minutes of this meeting will be available for public review and copying within 60 days at the Freedom of Information Public Reading Room, Room 1G–033, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on February 3, 2011.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. 2011–2762 Filed 2–7–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

January 31, 2011.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER93–3–009.

Applicants: The United Illuminating Company.

Description: Supplement to Notice of Change in Status of The United Illuminating Company.

Filed Date: 01/28/2011.

Accession Number: 20110128–5319.

Comment Date: 5 p.m. Eastern Time on Friday, February 18, 2011.

Docket Numbers: ER98–4109–008; ER99–3426–014; ER01–1178–008; ER03–175–012; ER03–427–010; ER04–170–012; ER08–100–013; ER09–1453–004; ER09–1655–003.

Applicants: El Dorado Energy, LLC; San Diego Gas & Electric Company; Sempra Energy Resources; Termoelectrica U.S., LLC; Mesquite Power, LLC; MxEnergy Electric Inc.; Sempra Energy Trading LLC; Gateway Energy Services Corporation; Fowler Ridge II Wind Farm LLC.

Description: Notice of Non-Material Change in Status.

Filed Date: 01/28/2011.

Accession Number: 20110128–5299.

Comment Date: 5 p.m. Eastern Time on Friday, February 18, 2011.

Docket Numbers: ER00–2885–036; ER01–2765–035; ER02–2102–035; ER05–1232–035; ER07–1113–017; ER09–1141–015.

Applicants: Cedar Brakes I, L.L.C.; Cedar Brakes II, L.L.C.; Utility Contract Funding, L.L.C.; J.P. Morgan Ventures Energy Corporation; BE CA LLC; J.P. Morgan Commodities Canada Corporation.

Description: JPMorgan Sellers Notice of Non-Material Change in Status.

Filed Date: 01/31/2011.

Accession Number: 20110131–5044.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 22, 2011.

Docket Numbers: ER10–1520–002; ER10–1521–002; ER10–1522–002; ER10–3028–001.

Applicants: Occidental Chemical Corporation, Occidental Power Services, Inc., Elk Hills Power, LLC, Occidental Power Marketing, L.P.

Description: Notice of Change in Status of Occidental Chemical Corporation, *et. al.*

Filed Date: 01/28/2011.

Accession Number: 20110128–5318.

Comment Date: 5 p.m. Eastern Time on Friday, February 18, 2011.

Docket Numbers: ER11–1870–002.

Applicants: Consolidated Edison Company of New York, Inc.

Description: Consolidated Edison Company of New York, Inc. submits tariff filing per 35.17(b): Amendment to DR filing to be effective 1/31/2011.

Filed Date: 01/31/2011.

Accession Number: 20110131–5001.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 22, 2011.

Docket Numbers: ER11–1954–002.

Applicants: Wisconsin Power and Light Company.

Description: Wisconsin Power and Light Company submits tariff filing per 35.17(b): IPL WPL–LBA Second Amendment to be effective 12/28/2010.

Filed Date: 01/27/2011.

Accession Number: 20110127–5153.

Comment Date: 5 p.m. Eastern Time on Thursday, February 17, 2011.

Docket Numbers: ER11–2460–001.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35: Amendment to Tariff Section 4.2 in Docket No. ER11–2460–000 to be effective 4/1/2011.

Filed Date: 01/27/2011.

Accession Number: 20110127–5142.

Comment Date: 5 p.m. Eastern Time on Thursday, February 17, 2011.

Docket Numbers: ER11–2795–000.

Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas and Electric Company submits tariff filing per 35.13(a)(2)(iii: CCSF IA–29th–32nd Quarterly Filing of Facilities to be effective 4/28/2010.

Filed Date: 01/31/2011.

Accession Number: 20110131–5002.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 22, 2011.

Docket Numbers: ER11–2796–000.

Applicants: PacifiCorp.

Description: Cancellation of PacifiCorp Service Agreement FERC No 644 Volume No. 11 Open Access Transmission Tariff, a Small Generator Interconnection Agreement Facilities Maintenance Agreement with Lakeview Cogeneration, LLC.

Filed Date: 01/28/2011.

Accession Number: 20110128–5304.

Comment Date: 5 p.m. Eastern Time on Friday, February 18, 2011.

Docket Numbers: ER11–2797–000.

Applicants: Southern Company Services, Inc., Mississippi Power Company.

Description: Notice of Cancellation of Network Integration Transmission Service Agreements of Southern Company Services, Inc.

Filed Date: 01/28/2011.

Accession Number: 20110128–5315.

Comment Date: 5 p.m. Eastern Time on Friday, February 18, 2011.

Docket Numbers: ER11–2798–000.

Applicants: Unidentified Registered Entity.

Description: Request for Recovery of Charges of Unidentified Registered Entity.

Filed Date: 01/31/2011.

Accession Number: 20110131–4001.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 22, 2011.

Docket Numbers: ER11–2799–000.

Applicants: Arizona Public Service Company.

Description: Arizona Public Service Company submits tariff filing per 35: Compliance Filing for Order No. 676–E to be effective 4/1/2011.

Filed Date: 01/31/2011.

Accession Number: 20110131–5059.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 22, 2011.

Docket Numbers: ER11–2800–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii: SGIA & Service Agreement Sunshine Canyon Landfill Project SA Nos. 295 and 296 to be effective 2/1/2011.

Filed Date: 01/31/2011.

Accession Number: 20110131–5132.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 22, 2011.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA10–3–000.

Applicants: Iberdrola Renewables, Inc.; Atlantic Renewable Projects II LLC; Barton Windpower LLC; Big Horn Wind Project LLC; Big Horn II Wind Project LLC; Blue Creek Wind Farm LLC; Buffalo Ridge I LLC; Buffalo Ridge II LLC; Casselman Windpower LLC; Colorado Green Holdings LLC; Dillon Wind LLC; Dry Lake Wind Power, LLC; Dry Lake Wind Power II LLC; Elk River Windfarm, LLC; Elm Creek Wind, LLC; Elm Creek Wind II LLC; Farmers City Wind, LLC; Flat Rock Windpower LLC; Flat Rock Windpower II LLC; Flying Cloud Power Partners, LLC; Hardscrabble Wind Power LLC; Hay Canyon Wind LLC; Juniper Canyon Wind Power LLC; Klamath Energy LLC; Klamath Generation LLC; Klondike Wind Power LLC; Klondike Wind Power II LLC; Klondike Wind Power III LLC; Leaning Juniper Wind Power II LLC; Lempster Wind, LLC; Locust Ridge Wind Farm, LLC; Locust Ridge Wind Farm II, LLC; MinnDakota Wind LLC; Moraine Wind LLC; Moraine Wind II LLC; Mountain View Power Partners III, LLC; New Harvest Wind Project LLC; Northern Iowa Windpower II LLC; Pebble Springs Wind LLC; Providence Heights Wind, LLC; Rugby Wind LLC; Shiloh I Wind Project, LLC; Star Point Wind Project LLC; Streator-Cayuga Ridge Wind Power LLC; Trimont Wind I LLC; Twin Buttes Wind LLC.

Description: Amended Land Acquisition Report of Iberdrola Renewables, Inc., *et. al.*

Filed Date: 01/31/2011.

Accession Number: 20110131–5137.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 22, 2011.

Docket Numbers: LA10–4–000.

Applicants: Spring Canyon Energy LLC; Judith Gap Energy LLC; Invenergy TN LLC; Wolverine Creek Energy LLC; Grays Harbor Energy LLC; Forward Energy LLC; Grand Ridge Energy LLC; Willow Creek Energy LLC; Sheldon Energy LLC; Hardee Power Partners Limited; Spindle Hill Energy LLC; Invenergy Cannon Falls LLC; Beech Ridge Energy LLC; Grand Ridge Energy II LLC; Grand Ridge Energy III LLC; Grand Ridge Energy IV LLC; Grand Ridge Energy V LLC; Vantage Wind Energy LLC; White Oak Energy LLC.

Description: Generation Site Report Fourth Quarter 2010 of Spring Canyon Energy LLC, *et. al.*

Filed Date: 01/28/2011.

Accession Number: 20110128–5158.

Comment Date: 5 p.m. Eastern Time on Friday, February 18, 2011.

Docket Numbers: LA10–4–000.

Applicants: Arthur Kill Power LLC; Astoria Gas Turbine Power LLC; Bayou

cove Peaking Power LLC; Big Cajun I Peaking Power LLC; Cabrillo Power I LLC; Cabrillo Power II LLC; Conemaugh Power LLC; Connecticut Jet Power LLC; Cottonwood Energy Power LLC; Devon Power LLC; Dunkirk Power LLC; El Segundo Power, LLC; El Segundo Power II LLC; GenConn Devon LLC; GenConn Energy LLCC; GenConn Middletown LLC; Green Mountain Energy Company; Huntley Power LLC; Indian River Power LLC; Keystone Power LLC; Long Beach Generation LLC; Long Beach Peakers LLC; Louisiana Generating LLC; Middletown Power LLC; Montville Power LLC; NEO Freehold-Gen LLC; Norwalk Power LLC; NRG Energy Center Dover LLC; NRG Energy Center Paxton LLC; NRG New Jersey Energy Sales LLC; NRG Power Marketing LLC; NRG Rockford LLC; NRG Solar Blythe LLC; Oswego Harbor Power LLC; Saguaro Power Company, A Limited Partnership; Somerset Power LLC; Vienna Power LLC.

Description: Supplemental Information/Request of NRG Power Marketing LLC, Order 697–C Compliance Filing Regarding Site Control and Request for Waiver.

Filed Date: 01/31/2011.

Accession Number: 20110131–5138.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 22, 2011.

Docket Numbers: LA10–4–000.

Applicants: Iberdrola Renewables, Inc.; Atlantic Renewable Projects II LLC; Barton Windpower LLC; Big Horn Wind Project LLC; Big Horn II Wind Project LLC; Blue Creek Wind Farm LLC; Buffalo Ridge I LLC; Buffalo Ridge II LLC; Casselman Windpower LLC; Colorado Green Holdings LLC; Dillon Wind LLC; Dry Lake Wind Power, LLC; Dry Lake Wind Power II LLC; Elk River Windfarm, LLC; Elm Creek Wind, LLC; Elm Creek Wind II LLC; Farmers City Wind, LLC; Flat Rock Windpower LLC; Flat Rock Windpower II LLC; Flying Cloud Power Partners, LLC; Hardscrabble Wind Power LLC; Hay Canyon Wind LLC; Juniper Canyon Wind Power LLC; Klamath Energy LLC; Klamath Generation LLC; Klondike Wind Power LLC; Klondike Wind Power II LLC; Klondike Wind Power III LLC; Leaning Juniper Wind Power II LLC; Lempster Wind, LLC; Locust Ridge Wind Farm, LLC; Locust Ridge Wind Farm II, LLC; MinnDakota Wind LLC; Moraine Wind LLC; Moraine Wind II LLC; Mountain View Power Partners III, LLC; New Harvest Wind Project LLC; Northern Iowa Windpower II LLC; Pebble Springs Wind LLC; Providence Heights Wind, LLC; Rugby Wind LLC; Shiloh I Wind Project, LLC; Star Point Wind Project LLC; Streator-Cayuga Ridge Wind Power LLC; Trimont Wind I LLC; Twin Buttes Wind LLC.

Description: Land Acquisition Report of Iberdrola Renewables, Inc., *et. al.*

Filed Date: 01/31/2011.

Accession Number: 20110131–5139.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 22, 2011.

Docket Numbers: LA10–4–000.

Applicants: Alabama Electric Marketing, LLC; Big Sandy Peaker Plant, LLC; California Electric Marketing, LLC; Crete Energy Venture, LLC, High Desert Power Project, LLC; Kiowa Power Partners, LLC; Lincoln Generating Facility, LLC; New Covert Generating Company, LLC; New Mexico Electric Marketing, LLC; Rolling Hills Generating, L.L.C.; Tenaska Alabama Partners, L.P.; Tenaska Alabama II Partners, L.P. Tenaska Frontier Partners, Ltd.; Tenaska Gateway Partners, Ltd; Tenaska Georgia Partners, L.P.; Tenaska Power Services Co.; Tenaska Virginia Partners, L.P.; Tenaska Washington Partners, L.P.; Texas Electric Marketing, LLC; TPF Generation Holdings, LLC; University Park Energy, LLC; Wolf Hills Energy, LLC.

Description: Quarterly Land Acquisition Report of Alabama Electric Marketing, LLC, *et. al.*

Filed Date: 01/31/2011.

Accession Number: 20110131–5140.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 22, 2011.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF11–125–000.

Applicants: State University of Iowa.

Description: University of Iowa's FERC Form 556 Notice of Certification of Qualifying Facility Status for a Small Power Production or Cogeneration Facility.

Filed Date: 01/28/2011.

Accession Number: 20110128–5310.

Comment Date: 5 p.m. Eastern Time on Friday, January 28, 2011.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–2666 Filed 2–7–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings No. 2

February 2, 2011.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP10–1136–002.

Applicants: Guardian Pipeline, L.L.C.

Description: Guardian Pipeline, L.L.C. submits tariff filing per 154.203: Include Section numbers in Tariff Record Files to be effective 8/31/2010.

Filed Date: 02/01/2011.

Accession Number: 20110201–5000.

Comment Date: 5 p.m. Eastern Time on Monday, February 14, 2011.

Docket Numbers: RP10–884–001.

Applicants: Bluewater Gas Storage, LLC.

Description: Bluewater Gas Storage, LLC submits tariff filing per 154.203: Bluewater Gas Storage, LLC—Baseline Tariff, Filing to Comply with FERC Order to be effective 3/3/2011.

Filed Date: 02/01/2011.

Accession Number: 20110201–5101.

Comment Date: 5 p.m. Eastern Time on Monday, February 14, 2011.

Docket Numbers: RP11–1752–001.

Applicants: Texas Gas Transmission, LLC.

Description: Texas Gas Transmission, LLC submits tariff filing per 154.205(b): Amendment to RP11–1752–000 to be effective 2/1/2011.

Filed Date: 02/01/2011.

Accession Number: 20110201–5144.

Comment Date: 5 p.m. Eastern Time on Monday, February 14, 2011.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before 5 p.m. Eastern time on the specified comment date. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–2706 Filed 2–7–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings No. 2

February 01, 2011.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP10–1232–003.

Applicants: Iroquois Gas Transmission System, L.P.

Description: Iroquois Gas Transmission System, L.P. submits tariff filing per 154.203: 01/31/11 NAESB filing to retract index-based capacity releases to be effective 2/1/2011.

Filed Date: 01/31/2011.

Accession Number: 20110131–5264.

Comment Date: 5 p.m. Eastern Time on Monday, February 14, 2011.

Docket Numbers: RP10–1136–002.

Applicants: Guardian Pipeline, L.L.C.

Description: Guardian Pipeline, L.L.C. submits tariff filing per 154.203: Include Section numbers in Tariff Record Files to be effective 8/31/2010.

Filed Date: 02/01/2011.

Accession Number: 20110201–5000.

Comment Date: 5 p.m. Eastern Time on Monday, February 14, 2011.

Docket Numbers: CP05–92–008.

Applicants: Liberty Gas Storage, LLC.

Description: Compliance filing of Liberty Gas Storage, LLC.

Filed Date: 12/06/2010.

Accession Number: 20101206–5106.

Comment Date: 5 p.m. Eastern Time on Monday, February 7, 2011.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before 5 p.m. Eastern time on the specified comment date. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–2708 Filed 2–7–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings No. 1

February 02, 2011.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP11–1753–000.

Applicants: Great Lakes Gas Transmission Limited Par.

Description: Great Lakes Gas Transmission Limited Partnership submits tariff filing per 154.203: Transporters Use Report Jul-Dec 2010 to be effective N/A.

Filed Date: 02/01/2011.

Accession Number: 20110201–5107.

Comment Date: 5 p.m. Eastern Time on Monday, February 14, 2011.

Docket Numbers: RP11–1754–000.

Applicants: El Paso Natural Gas Company.

Description: El Paso Natural Gas Company submits tariff filing per 154.204: MDO/MHO Variance Activity Report/Filing to be effective 4/1/2011.

Filed Date: 02/01/2011.

Accession Number: 20110201–5146.

Comment Date: 5 p.m. Eastern Time on Monday, February 14, 2011.

Docket Numbers: RP11–1755–000.
Applicants: Texas Eastern Transmission, LP.
Description: Texas Eastern Transmission, LP submits tariff filing per 154.203: TETLP Gas Quality Docket RP10–30 Compliance Filing (2) to be effective 3/1/2011.
Filed Date: 02/01/2011.
Accession Number: 20110201–5159.
Comment Date: 5 p.m. Eastern Time on Monday, February 14, 2011.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–2707 Filed 2–7–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings No. 1

February 01, 2011.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP11–1743–000.
Applicants: Sabine Pipe Line LLC.
Description: Sabine Pipe Line LLC submits tariff filing per 154.204: Tariff Revision to Right of First Refusal Procedures to be effective 3/1/2011.
Filed Date: 01/31/2011.
Accession Number: 20110131–5217.
Comment Date: 5 p.m. Eastern Time on Monday, February 14, 2011.

Docket Numbers: RP11–1744–000.
Applicants: National Fuel Gas Supply Corporation.
Description: National Fuel Gas Supply Corporation submits tariff filing per 154.204: 2011 February IG Rate to be effective 2/1/2011.
Filed Date: 01/31/2011.
Accession Number: 20110131–5251.
Comment Date: 5 p.m. Eastern Time on Monday, February 14, 2011.

Docket Numbers: RP11–1745–000.
Applicants: UGI Storage Company.
Description: UGI Storage Company submits tariff filing per 154.202: UGI Storage Company Compliance Tariff Filing to be effective 4/1/2011.
Filed Date: 01/31/2011.
Accession Number: 20110131–5272.
Comment Date: 5 p.m. Eastern Time on Monday, February 14, 2011.

Docket Numbers: RP11–1746–000.
Applicants: Gulf Crossing Pipeline Company LLC.
Description: Gulf Crossing Pipeline Company LLC submits tariff filing per 154.204: Antero to Tenaska Capacity Release Negotiated Rate Filing to be effective 2/1/2011.
Filed Date: 01/31/2011.
Accession Number: 20110131–5273.
Comment Date: 5 p.m. Eastern Time on Monday, February 14, 2011.

Docket Numbers: RP11–1747–000.
Applicants: Wyoming Interstate Company, L.L.C.
Description: Wyoming Interstate Company, L.L.C. submits tariff filing per 154.403(d)(2): Quarterly L&U Filing to be effective 3/1/2011.
Filed Date: 01/31/2011.
Accession Number: 20110131–5283.
Comment Date: 5 p.m. Eastern Time on Monday, February 14, 2011.

Docket Numbers: RP11–1748–000.
Applicants: Rockies Express Pipeline LLC.
Description: Rockies Express Pipeline LLC submits tariff filing per 154.204: Negotiated Rate 2011–01–31 BP, Nobel to be effective 2/1/2011.
Filed Date: 01/31/2011.
Accession Number: 20110131–5285.
Comment Date: 5 p.m. Eastern Time on Monday, February 14, 2011.

Docket Numbers: RP11–1749–000.
Applicants: Northern Natural Gas Company.
Description: Northern Natural Gas Company submits tariff filing per 154.403: 20110201 PRA to be effective 4/1/2011.
Filed Date: 02/01/2011.
Accession Number: 20110201–5001.
Comment Date: 5 p.m. Eastern Time on Monday, February 14, 2011.

Docket Numbers: RP11–1750–000.
Applicants: Texas Gas Transmission, LLC.
Description: Texas Gas Transmission, LLC submits tariff filing per 154.204: Petrohawk to Cross Timbers to be effective 2/1/2011.
Filed Date: 02/01/2011.
Accession Number: 20110201–5005.
Comment Date: 5 p.m. Eastern Time on Monday, February 14, 2011.

Docket Numbers: RP11–1751–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Gulf South Pipeline Company, LP submits tariff filing per 154.204: Enerquest Amendment to Negotiated Rate Agreement to be effective 2/1/2011.
Filed Date: 02/01/2011.
Accession Number: 20110201–5076.
Comment Date: 5 p.m. Eastern Time on Monday, February 14, 2011.

Docket Numbers: RP11–1752–000.
Applicants: Texas Gas Transmission, LLC.
Description: Texas Gas Transmission, LLC submits tariff filing per 154.204: Atmos Negotiated Rate Agreement to be effective 2/1/2011.
Filed Date: 02/01/2011.
Accession Number: 20110201–5077.
Comment Date: 5 p.m. Eastern Time on Monday, February 14, 2011.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It

is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–2705 Filed 2–7–11; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9263–4]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget (OMB) responses to Agency Clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). 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 regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTER INFORMATION CONTACT: Rick Westlund (202) 566–1682, or e-mail at *westlund.rick@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR Number 2355.02; Restructuring of Stationary Source Audit Program (Final Rule); 40 CFR parts 51, 60, 61, and 63, was approved on 01/03/2011; OMB Number 2060–0652; expires on 01/31/2014; Approved without change.

EPA ICR Number 2373.03; Mandatory Reporting of Greenhouse Gases (Final Rule for Additional Sources of Fluorinated Greenhouse Gases; 40 CFR part 98, subparts I, L, DD, QQ and SS; was approved on 01/03/2011; OMB Number 2060–0650; expires on 12/31/2013; Approved without change.

EPA ICR Number 1854.08; The Consolidated Air Rule (CAR) for the Synthetic Organic Chemical Manufacturing Industry (SOCMI) (Change); 40 CFR part 60, subparts Ka, Kb, VV, VVa, DDD, III, NNN, and RRR, 40 CFR part 61, subparts BB, V, and Y, 40 CFR part 63, subparts F, G, H, and I, 40 CFR part 65; was approved on 01/04/2011; OMB Number 2060–0443; expires on 02/28/2011; Approved without change.

EPA ICR Number 1176.09; NSPS for New Residential Wood Heaters; 40 CFR part 60, subparts A and AAA; was approved on 01/05/2011; OMB Number 2060–0161; expires on 01/31/2014; Approved with change.

EPA ICR Number 0116.09; Emission Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program (Renewal); 40 CFR part 85, subpart V; was approved on 01/05/2011; OMB Number 2060–0060; expires on 01/31/2014; Approved without change.

EPA ICR Number 2067.04; Laboratory Quality Assurance Evaluation Program for Analysis of Cryptosporidium Under the Safe Drinking Water Act; was approved on 01/05/2011; OMB Number 2040–0246; expires on 01/31/2014; Approved without change.

EPA ICR Number 0138.09; Modification of Secondary Treatment Requirements for Discharges into Marine Waters (Renewal); 40 CFR part 125, subpart G; was approved on 01/05/2011; OMB Number 2040–0088; expires on 01/31/2014; Approved without change.

EPA ICR Number 2169.04; Cooling Water Intake Structures at Phase III Facilities (Renewal); 40 CFR 125.33 and 125.131; was approved on 01/05/2011; OMB Number 2040–0268; expires on 01/31/2014; Approved without change.

EPA ICR Number 1569.07; Approval of State Coastal Nonpoint Pollution Control Programs (Renewal); 15 CFR part 923; was approved on 01/06/2011; OMB Number 2040–0153; expires on 01/31/2014; Approved without change.

EPA ICR Number 2192.03; Unregulated Contaminant Monitoring in Public Water Systems (Renewal); 40 CFR 141.35 and 141.40; was approved on 01/06/2011; OMB Number 2040–0270; expires on 01/31/2014; Approved without change.

EPA ICR Number 2365.02; Chesapeake Action Plan/Activity Integration Plan (CAP/AIP) Reporting System; was approved on 01/06/2011; OMB Number 2003–0001; expires on 01/31/2014; Approved without change.

EPA ICR Number 1500.07; National Estuary Program (Renewal); 40 CFR 35.9040 and 35.9045; was approved on 01/06/2011; OMB Number 2040–0138; expires on 01/31/2014; Approved without change.

EPA ICR Number 2231.02; Contaminant Occurrence Data in Support of EPA's Second Six-Year Review of National Primary Drinking Water Regulations (Renewal); was approved on 01/06/2011; OMB Number 2040–0275; expires on 01/31/2014; Approved without change.

EPA ICR Number 0220.11; Clean Water Act Section 404 State-Assumed Programs (Renewal); 33 CFR part 325 and 40 CFR part 233; was approved on 01/06/2011; OMB Number 2040–0168; expires on 01/31/2014; Approved without change.

EPA ICR Number 2060.04; Cooling Water Intake Structures Phase II Existing Facility (Renewal); 40 CFR 122.21(d)(2), 122.21(r)(2), 122.21(r)(3), 122.21(r)(5), and 125.94–125.99, was approved on 01/06/2011; OMB Number 2040–0257; expires on 01/31/2014; Approved without change.

EPA ICR Number 0234.10; Performance Evaluation Studies on Wastewater Laboratories (Renewal); was

approved on 01/06/2011; OMB Number 2080–0021; expires on 01/31/2014; Approved without change.

EPA ICR Number 1989.07; NPDES Animal Sectors (Renewal); 40 CFR 122.21, 122.22, 122.23, 122.28, 122.41, and 122.42, and 40 CFR part 412, was approved on 01/07/2011; OMB Number 2040–0250; expires on 01/31/2014; Approved without change.

EPA ICR Number 1907.05; Recordkeeping and Reporting Requirements Regarding the Sulfur Content of Motor Vehicle Gasoline under the Tier 2 Rule; 40 CFR 80.210, 80.219, 80.270, 80.330, 80.340, 80.370, 80.380, 80.400, and 80.415; was approved on 01/10/2011; OMB Number 2060–0437; expires on 01/31/2014; Approved without change.

EPA ICR Number 1445.09; Continuous Release Reporting Regulations (CRRR) under CERCLA; 40 CFR 302.8; was approved on 01/11/2011; OMB Number 2050–0086; expires on 12/31/2011; Approved without change.

EPA ICR Number 1445.10; Continuous Release Reporting Regulations (CRRR) under CERCLA; 40 CFR 302.8; was approved on 01/12/2011; OMB Number 2050–0086; expires on 12/31/2011; Approved without change.

EPA ICR Number 1230.28; Prevention of Significant Deterioration and Non-Attainment New Source Review (Change Worksheet for Tailoring Rule and SIP Fix Implementation Rule); 40 CFR 51.160–51.166, 52.21, 52.24, and 40 CFR part 51 Appendix S; was approved on 01/13/2011; OMB Number 2060–0003; expires on 04/30/2012; Approved without change.

EPA ICR Number 2400.01; NESHAP for Secondary Aluminum Production Residual Risk and Technology Review (RTR); 40 CFR part 63, subpart RRR; was approved on 01/19/2011; OMB Number 2060–0653; expires on 01/31/2014; Approved with change.

EPA ICR Number 1665.11; Confidentiality Rules (Renewal); 40 CFR part 2, subparts A and B; was approved on 01/19/2011; OMB Number 2020–0003; expires on 01/31/2014; Approved without change.

EPA ICR Number 2376.03; Regulation to Establish Mandatory Reporting of Greenhouse Gases (Change Worksheet for Petroleum and Natural Gas, Subpart W); 40 CFR part 98, subpart W; was approved on 01/31/2011; OMB Number 2060–0651; expires on 12/31/2013; Approved without change.

Comment Filed

EPA ICR Number 1626.12; National Recycling and Emissions Reduction Program (Proposed Rule); in 40 CFR part 82, subpart F; OMB filed comment on 01/03/2011.

EPA ICR Number 2408.01; Recordkeeping and Reporting Related to E15 (Proposed Rule); in 40 CFR part 80; OMB filed comment on 01/05/2011.

EPA ICR Number 1895.06; Revisions to the Total Coliform Rule (Proposed Rule); in 40 CFR parts 141 and 142; OMB filed comment on 01/06/2011.

Withdrawn and Continue

EPA ICR Number 1445.08; Continuous Release Reporting Regulations (CRRR) under CERCLA (Change); Withdrawn from OMB on 01/10/2011.

EPA ICR Number 1287.10; Recognition Application for Sustainable Water Leadership Program (Renewal); Withdrawn from OMB on 01/10/2011.

Dated: February 1, 2011.

John Moses,

Director, Collections Strategies Division.

[FR Doc. 2011–2777 Filed 2–7–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2005–0161; FRL–9263–3]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Production Outlook Reports for Un-Registered Renewable Fuel Producers (New Collection)

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 for approval for a new information 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 March 10, 2011.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2005–0161, to (1) EPA online using *http://www.regulations.gov* (our preferred method), by e-mail to *a-and-r-Docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Air Docket, Mail Code 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: Geanetta Heard, Office of Transportation and Air Quality (6406J), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *telephone number:* 202–343–9017; *fax number:* 202–343–2801; *e-mail address: heard.geanetta@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 October 14, 2010 (75 FR 63173), 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–OAR–2005–0161, which is available for online viewing at *http://www.regulations.gov*, or in person viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air Docket is 202–566–1742.

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 for which public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov*.

Title: Production Outlook Reports for Un-Registered Renewable Fuels Producers (New Collection).

ICR numbers: EPA ICR No. 2409.01, OMB Control No. 2060–NEW.

ICR Status: This is a request for OMB approval of a new information collection. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: With this information collection request (ICR), we are seeking permission to accept production outlook reports from domestic and foreign renewable fuel producers who are not currently regulated parties under the RFS2 program. The respondents for this ICR are not required to register or report under the RFS2 regulations. Submission of production outlook information to EPA under this ICR will be voluntary.

We believe that many parties would wish to submit this information in order to receive better assistance in understanding and preparing to comply with the RFS2 regulations. A typical respondent would be a renewable fuel producer who is in the process of developing plans for, or constructing, a renewable fuel production facility or that is currently opting out of the RFS2 program under 40 CFR 80.1426(c)(3). Such a respondent would not be required to register or report under RFS2 because it is not yet producing renewable fuel subject to the regulation. However, the respondent would likely wish to provide the information in order to receive feedback from EPA and to aid its planning for future compliance with the RFS2 regulations and annual compliance standards.

Respondents that voluntarily provide the information requested through this ICR will benefit from doing so. The information that respondents provide will allow EPA to more accurately project cellulosic biofuel volumes for the following calendar year, and these volume projections will form the basis of the percentage standards EPA sets under the RFS2 program. Without information from these respondents, EPA's volume projections are more likely to fall below actual projection volumes. Under such circumstances, supply for cellulosic biofuel will exceed demand, and the value of cellulosic biofuel Renewable Identification Numbers (RINs) will fall. RINs are marketable credits that correspond to a given volume of renewable fuel. Since RIN market price directly affects the economic viability of cellulosic biofuel production, low RIN prices could present economic difficulties to producers. Thus, it is in the interests of these respondents to provide this information to EPA, as doing so could ensure that the market price of RINs appropriately reflects the value of their cellulosic biofuel. This information also serves a more general program purpose, because it will assist EPA in setting the annual RFS2 standard more accurately.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 4 hours per response. Burden means the total time, effort, or financial resources expended by a person to generate, maintain, retain, or disclose or provide information to a Federal agency. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information; to process and maintain information; to disclose and provide information; to adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; to train personnel to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information.

Respondents/Affected Entities: Renewable fuel producers who are expected to fall under the general category of petroleum refineries (324110/2911), ethyl alcohol manufacturers (325193/2869), and/or other basic organic chemical manufacturing (325199/2869).

Estimated Number of Respondents: 35.

Frequency of Response: Once.

Estimated Total Annual Hour Burden: 140.

Estimated Total Annual Cost: $9,940, which includes no capital or O&M costs.

Changes in the Estimates: This is a new information collection.

Dated: February 1, 2011.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2011–2778 Filed 2–7–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–SFUND–2011–0052; FRL–9263–6]

Agency Information Collection Activities; Proposed Collection; Comment Request; Information Collection Request for Superfund Site Evaluation and Hazard Ranking System

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 EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on July 31, 2011. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before April 11, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–2011–0052 by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: superfund.docket@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Superfund Docket, Mail Code: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center—Public Reading Room; EPA West Building, Room 3334; 1301 Constitution Avenue, NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–SFUND–2011–0052. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise

protected through *http://www.regulations.gov* or *superfund.docket@epa.gov.* The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Randy Hippen, phone: (703) 603–8829, e-mail: *hippen.randy@epa.gov,* Site Assessment and Remedy Decisions Branch, Assessment and Remediation Division, Office of Superfund Remediation and Technology Innovation (mail code 5204P), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

How can I access the docket and/or submit comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–SFUND–2011–0052 which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Superfund 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 Superfund Docket is 202–566–0276.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document.

What information is EPA particularly interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Offer alternative ways to improve the collection activity.

6. Make sure to submit your comments by the deadline identified under DATES.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and Federal Register citation.

What information collection activity or ICR does this apply to?

Affected entities: Entities potentially affected by this action are those State agencies, Indian Tribes, and U.S. Territories performing Superfund site evaluation activities.

Title: Superfund Site Evaluation and Hazard Ranking System (Renewal).

ICR numbers: EPA ICR No. 1488.08, OMB Control No. 2050–0095.

ICR status: This ICR is currently scheduled to expire on July 31, 2011. 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: Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, 1980 and 1986) amends the National Oil and Hazardous Substances Contingency Plan (NCP) to include criteria prioritizing releases throughout the U.S. before undertaking remedial action at uncontrolled hazardous waste sites. The Hazard Ranking System (HRS) is a model that is used to evaluate the relative threats to human health and the environment posed by actual or potential releases of hazardous substances, pollutants, and contaminants. The HRS criteria take into account the population at risk, the hazard potential of the substances, as well as the potential for contamination of drinking water supplies, direct human contact, destruction of sensitive ecosystems, damage to natural resources affecting the human food chain, contamination of surface water used for recreation or potable water consumption, and contamination of ambient air.

EPA Regional offices work with States to determine those sites for which the State will conduct the Superfund site evaluation activities and the HRS scoring. The States are reimbursed 100 percent of their costs, except for record maintenance.

Under this ICR, the States will apply the HRS by identifying and classifying those releases or sites that warrant further investigation. The HRS score is crucial since it is the primary

mechanism used to determine whether a site is eligible to be included on the National Priorities List (NPL). Only sites on the NPL are eligible for Superfund-financed remedial actions.

HRS scores are derived from the sources described in this information collection, including conducting field reconnaissance, taking samples at the site, and reviewing available reports and documents. States record the collected information on HRS documentation worksheets and include this in the supporting reference package.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 226.9 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. EPA estimates 60 States, Indian Tribes, and U.S. Territories will likely respond, each averaging 11 actions per year. The total burden for all respondents is estimated at 148,873 hours and approximately $11,740,260 each year (based on historic data on estimated costs per site assessment activity).

The current ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 60.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 11.

Estimated total annual burden hours: 148,873 hours.

Estimated total annual costs: $11,740,260. This includes an estimated burden cost of $11,740,260 and an estimated cost of $0 for capital investment or maintenance and operational costs.

Are there changes in the estimates from the last approval?

The current estimate of hours in the total estimated respondent burden reflects hours identified in the ICR currently approved by OMB. EPA expects a small decrease in total burden and cost for the renewal ICR due to a small decline in the number of assessment activities conducted nationally.

What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another Federal Register notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: January 28, 2011.

James E. Woolford,

Director, Office of Superfund Remediation and Technology Innovation.

[FR Doc. 2011–2771 Filed 2–7–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9263–7]

Science Advisory Board Staff Office; Notification of Two Public Teleconferences of the Science Advisory Board Dioxin Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces two public teleconferences of the SAB Dioxin Review Panel to discuss its draft advisory report concerning *EPA's Reanalysis of Key Issues Related to Dioxin Toxicity and Response to NAS Comments, External Review Draft.*

DATES: The SAB Dioxin Review Panel will conduct public teleconferences on March 1, 2011 and March 2, 2011. The teleconference on March 1, 2011 will begin at 1 p.m. and end at 4 p.m. (Eastern Time). The teleconference on March 2, 2011 will begin at 1 p.m. and end at 5 p.m. (Eastern Time).

ADDRESSES: The public teleconferences will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain general information concerning the public teleconferences may contact Dr. Thomas Armitage, Designated Federal Officer (DFO), EPA Science Advisory Board Staff Office (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; by telephone/voice mail at (202) 564–2155 or via e-mail at *armitage.thomas@epa.gov*. General information concerning the EPA Science Advisory Board can be found on the EPA Web site at *http://www.epa.gov/sab*.

SUPPLEMENTARY INFORMATION: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDAA), codified at 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. Pursuant to FACA and EPA policy, notice is hereby given that the SAB Dioxin Review Panel will hold two public teleconferences to discuss its draft advisory report concerning *EPA's Reanalysis of Key Issues Related to Dioxin Toxicity and Response to NAS Comments, External Review Draft.* The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: The SAB Dioxin Review Panel previously held a teleconference on June 24, 2010 and face-to-face meetings on July 13–15, 2010 and October 27–29, 2010 to receive EPA briefings and conduct a peer review of *EPA's Reanalysis of Key Issues Related to Dioxin Toxicity and Response to NAS Comments, External Review Draft* (May 2010) [**Federal Register** Notices dated May 24, 2010 (75 FR 28805–28806) and September 22, 2010 (75 FR 57779–57780)]. Specifically, the Panel has been asked to evaluate the transparency and clarity in the selection of key data sets for dose-response analysis; the use of toxicokinetics in dose-response modeling for cancer and non-cancer endpoints; the derivation of the chronic reference dose; cancer assessment; and EPA's comments regarding the feasibility of the quantitative uncertainty analysis.

The purpose of the upcoming teleconferences is for the SAB Dioxin Review Panel to discuss its draft advisory report. Teleconference agendas and the draft SAB review report will be posted at the above noted SAB Web site prior to the teleconferences.

Availability of Meeting Materials: Agendas and materials in support of the teleconferences will be placed on the SAB Web site at *http://www.epa.gov/sab*

in advance of the teleconferences. For technical questions and information concerning EPA's draft document, please contact Dr. Glenn Rice at (513) 569–7813 or *rice.glenn@epa.gov*.

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments for a federal advisory committee to consider as it develops advice for EPA. They should send their comments directly to the Designated Federal Officer for the relevant advisory committee. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes per speaker. Each person making an oral statement should consider providing written comments as well as their oral statement so that the points presented orally can be expanded upon in writing. Interested parties should contact Dr. Thomas Armitage, DFO, in writing (preferably via e-mail) at the contact information noted above by February 23, 2011 to be placed on the list of public speakers for March 1, 2011.

Written Statements: Written statements should be supplied to the DFO via e-mail at the contact information noted above by February 23, 2011 so that the information may be made available to the Panel members for their consideration. Written statements should be supplied in one of the following electronic formats: Adobe Acrobat PDF, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format. Submitters are requested to provide versions of signed documents, submitted with and without signatures, because the SAB Staff Office does not publish documents with signatures on its Web sites.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Thomas Armitage at (202) 564–2155 or *armitage.thomas@epa.gov*. To request accommodation of a disability, please contact Dr. Armitage preferably at least ten days prior to the teleconference to give EPA as much time as possible to process your request.

Dated: February 3, 2011.

Anthony Maciorowski,

Deputy Director, EPA Science Advisory Staff Office.

[FR Doc. 2011–2769 Filed 2–7–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9263–1]

Meeting of the Local Government Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Local Government Advisory Committee's Gulf Coast Restoration Workgroup will meet on Thursday, February 17, 2011, in New Orleans, Louisiana, at the Sheraton Hotel, 500 Canal Street. The focus of the Gulf Coast Restoration Workgroup meeting is to engage local government officials in the Gulf Coast Ecosystem restoration efforts, and provide an opportunity for input to the Committee as it develops recommendations for the EPA Administrator in her role as Chair of the Gulf Coast Ecosystem Restoration Task Force. This is an open meeting and all interested persons are invited to attend. The Committee will hear comments from the public between 10:45 a.m.–11:55 a.m. on Thursday, February 17, 2011. Individuals or organizations wishing to address the Workgroup meeting will be allowed a maximum of five minutes to present their point of view. Also, written comments should be submitted electronically to *cook.rebecca@epa.gov.* Please contact the Designated Federal Officer (DFO) at the number listed below to schedule agenda time. Time will be allotted on a first come first served basis, and the total period for comments may be extended if the number of requests for appearances requires it.

ADDRESSES: The LGAC Gulf Coast Restoration Workgroup meeting will be held at the Sheraton Hotel, located at 500 Canal Street, New Orleans, Louisiana. The Workgroup's meeting summary will be available after the meeting online at *http://www.epa.gov/ocir/scas* and can be obtained by written request to the DFO.

FOR FURTHER INFORMATION CONTACT: Rebecca Cook, Gulf Coast Restoration Workgroup at (202) 564–5340 or Frances Eargle, the Designated Federal Officer for the Local Government Advisory Committee (LGAC) at (202) 564–3115 or e-mail at *eargle.frances@epa.gov*.

Information on Services for Those With Disabilities: For information on access or services for individuals with disabilities, please contact Frances Eargle at (202) 564–3115 or *eargle.frances@epa.gov*. To request accommodation of a disability, please request it seven days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: February 1, 2011.

Jack Bowles,

Acting Designated Federal Officer, Local Government Advisory Committee.

[FR Doc. 2011–2784 Filed 2–7–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9262–9]

Meeting of the Local Government Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Local Government Advisory Committee will meet via teleconference on Monday, February 22, 2011, 1:30–3 p.m. (ET). The Committee will discuss the recommendations of the Gulf Coast Restoration Workgroup on ways EPA can engage local government officials in the Gulf Coast Ecosystem restoration efforts and other issues of environmental concern to locally elected officials. This is an open meeting and all interested persons are invited to participate. The Committee will hear comments from the public between 2:15 p.m.–2:45 p.m. on Monday, February 22, 2011. Individuals or organizations wishing to address the Committee will be allowed a maximum of five minutes to present their point of view. Also, written comments should be submitted electronically to *eargle.frances@epa.gov.* Please contact the Designated Federal Officer (DFO) at the number listed below to schedule agenda time. Time will be allotted on a first come first served basis, and the total period for comments may be extended if the number of requests for appearances requires it.

ADDRESSES: The Local Government Advisory Committee meeting will be held by Teleconference on Monday, February 22, 2011, at 1:30 p.m.–3 p.m. (ET). The Committee's meeting summary will be available after the meeting online at *http://www.epa.gov/ocir/scas* and can be obtained by written request to the DFO.

FOR FURTHER INFORMATION CONTACT: Frances Eargle, the Designated Federal Officer for the Local Government Advisory Committee (LGAC) at (202) 564–3115 or e-mail at *eargle.frances@epa.gov*.

INFORMATION ON SERVICES FOR THOSE WITH DISABILITIES: For information on access or services for individuals with disabilities, please contact Frances Eargle at (202) 564–3115 or *eargle.frances@epa.gov*. To request accommodation of a disability, please request it 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: February 1, 2011.

Jack Bowles,

Acting Designated Federal Officer, Local Government Advisory Committee.

[FR Doc. 2011–2783 Filed 2–7–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9263–5]

Notice of a Regional Project Waiver of Section 1605 (Buy American) of the American Recovery and Reinvestment Act of 2009 (ARRA) to Hernando County Utilities Department, (HCUD), Hernando County, FL

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA is hereby granting a project waiver of the Buy American requirements of ARRA Section 1605 under the authority of Section 1605(b)(2) [manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality] to the Hernando County Utilities Department, (HCUD), Hernando County, Florida for the purchase of four Chinese manufactured wafer swing check valves. The wafer swing check valves will be used for the filter feed pumps as part of the Glen Water Reclamation Facility Expansion. The pumps are low-head axial flow pumps which discharge into an open channel and require this specific wafer check valve which has a low head loss and does not require a full pipe downstream to operate properly. The valves are manufactured by 3D Valve, a Chinese company with a U.S. branch operated for sales and distribution only. The County stated that there are no apparent domestic manufactured wafer swing check valves with an outside lever and weight in the 12 inch and 16 inch sizes and design as required for this project. This is a project specific waiver and only applies to the use of the specified product for the ARRA project being proposed. Any other ARRA recipient that wishes to use the same product must apply for a separate waiver based on project specific circumstances. Based on the review of the information provided, EPA has concluded that a waiver of the Buy American provisions is justified. The Regional Administrator is making this determination based on the review and recommendation of the EPA Region 4, Water Protection Division, Grants and Infrastructure Branch. The Assistant Administrator of the Office of Administration and Resources Management has concurred on this decision to make an exception to Section 1605 of ARRA. This action permits the County to purchase wafer swing check valves manufactured by 3D Valve, for the proposed project being implemented by Hernando County Florida.

DATES: *Effective Date:* December 20, 2010.

FOR FURTHER INFORMATION CONTACT: Cynthia Y. Edwards, Project Officer, Grants and SRF Section, Water Protection Division (WPD), (404) 562–9340, USEPA Region 4, 61 Forsyth St., SW., Atlanta, GA 30303.

SUPPLEMENTARY INFORMATION: In accordance with ARRA Section 1605(c), the EPA hereby provides notice that it is granting a project waiver of the requirements of Sections 1605(a) of Public Law 111–5, Buy American requirements, to Hernando County Utilities Department, Hernando County, Florida, for the purchase of wafer swing check valves, manufactured by 3D Valve of China.

Section 1605 of the ARRA requires that none of the appropriated funds may be used 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, or unless a waiver is provided to the recipient by the head of the appropriate agency, here the EPA. A waiver may be provided if EPA determines that (1) applying these requirements would be inconsistent with the public interest; (2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron, steel, and the relevant manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

The County has requested a waiver from the Buy American Provision for the purchase of four wafer style swing check valves with outside lever and weight in the 12 inch and 16 inch sizes as part of the Glen Water Reclamation Facility Expansion project. The wafer swing check valves will prevent backflow into the filter feed pumps at the Glen Water Reclamation Facility in Florida. EPA has determined that the County's waiver request may be treated as timely even though the request was made after the construction contract was signed. Consistent with the direction of the OMB Guidance at 2 CFR 176.120, EPA has evaluated the County's request to determine if the request constitutes a late request. EPA will generally regard waiver requests with respect to components that were specified in the bid solicitation or in a general/primary construction contract as "late" if submitted after the contract date. However, in this case EPA has determined that the County's request, though made after the date that the contract was signed, can be evaluated as timely because the need for a waiver was not reasonably foreseeable.

The original project specifications incorrectly included the standard check valves for the project, which have a high head loss and are designed for full pipe systems with some back pressure. The correct design specification is for the wafer check valves, which are low-head axial flow pumps discharging into an open channel. The engineering firm discovered the error during the submittal review process. When submitted to the supplier, the contractor was informed that only two manufacturers, both non-U.S., could provide the valves specified and therefore, did not meet the Buy American requirements.

The requirements for the check valves (Type 770-steel Wafer Single-disc Check Valves, Class 125 and Class 150) include (1) conformance to a pressure rating of Class 150 per ASME b16.5, and to the ANSI Flange class of 125/150; (2) diameters of 12 inch and 16 inch; (3) equipped with spring mechanism for non-slam closure without backflow which allows the mechanism to close without depending on gravity or backflow to close; (4) carbon steel body, stainless steel disc, disc arm, and shaft; (5) single-disc configuration.

EPA provided the County with the names of U.S. manufacturers that could potentially provide the specified product. Hernando County researched and communicated with these valve manufacturers, Cla-Val and Titon Flow Control, and neither manufacturer is able to meet the project specifications.

The County's submission clearly has provided sufficient documentation that the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantity and of a satisfactory quality to meet its technical specifications.

The April 28, 2009 EPA Headquarters Memorandum, "Implementation of Buy American provisions of Public Law 111–5, the American Recovery and Reinvestment Act of 2009," defines "satisfactory quality" as "the quality of steel, iron or manufactured goods specified in the project plans and designs."

EPA's national contractor prepared a technical assessment report dated July 14, 2010 based on the submitted waiver request. The report determined that the waiver request submittal was complete, that adequate technical information was provided, but did not agree with the County that there were no available U.S. manufacturers that produced the wafer check valves. Subsequently, on September 30, 2010, the EPA contractor prepared an amended technical assessment report based on supplemental information provided by Hernando County and determined a waiver was supported by the available evidence. The purpose of the ARRA provisions was to stimulate economic recovery by funding current infrastructure construction, not to delay projects that are already shovel ready by requiring entities, like the County, to revise their design and potentially choose a more costly and less efficient project. The imposition of ARRA Buy American requirements on such projects would result in unreasonable delay and thus displace the "shovel ready" status for this project. To further delay construction is in direct conflict with the most fundamental economic purposes of ARRA: To create or retain jobs.

The Region 4 Grants and Infrastructure Branch has reviewed this waiver request and has determined that the supporting documentation provided by the County is sufficient to meet the criteria listed under ARRA Section 1605(b), OMB's regulation at 2 CFR 176.100 and the aforementioned EPA Headquarters Memorandum of April 28, 2009. ARRA Section 1605(b)(2) permits a waiver if "iron, steel, and manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality." This waiver request meets this criterion and is justified.

The March 31, 2009, Delegation of Authority Memorandum provided Regional Administrators with the authority to issue exceptions to Section 1605 of ARRA within the geographic boundaries of their respective regions and with respect to requests by individual grant recipients.

Having established both a proper basis to specify the particular good required for this project and that application of the *Buy American requirements* would be inconsistent with the public interest, the County is hereby granted a waiver from the *Buy American requirements.* Having established both a proper basis to specify the particular good required for this project, and that this manufactured good was not available from a producer in the United States, Hernando County Utilities Department is granted a waiver from the *Buy American requirements of Section 1605(a) of Public Law 111–5* for the purchase of four wafer swing check valves as specified in the County's request of July 02, 2010, with supplemental information provided on September 7, 2010. This supplementary information constitutes the detailed written justification required by Section 1605(c) for waivers "based on a finding under subsection 9b." requirements of Section 1605(a) of Public Law 111–5.

Authority: Pub. L. 111–5, section 1605.

Dated: December 20, 2010.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2011–2773 Filed 2–7–11; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 2011–0015]

Agency Information Collection Activities: Final Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB Review and Comments Request.

Form Title: Application for Approved Finance Provider (EIB 10–06)

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

The Application for Approved Finance Provider will be used to determine if the finance provider has the financial strength and administrative staff to originate, administer, collect, and if needed, restructure international loans. This application will also improve Ex-Im Bank' s compliance with the Open Government initiative by providing transparency into specific information used to determine if an applicant is qualified to use our loan guarantee programs. Export-Import Bank potential finance providers will be able to submit this form on paper. In the future, we will consider allowing the submission of this information electronically.

This application can be viewed at *http://www.exim.gov/pub/pending/EIB10_06.pfd.*

DATES: Comments should be received on or before March 10, 2011 to be assured of consideration.

ADRESSES: Comments may be submitted electronically on *www.regulations.gov* or by mail to Office of Information and Regulatory Affairs, 725 17th Street, NW Washington, DC 20038 attn: OMB 3048–NEW.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 10–06 Application for Approved Finance Provider.

OMB Number: 3048–xxxx.

Type of Review: New.

Need and Use: The Application for Approved Finance Provider will be used to determine the financial and administrative capabilities of a financial provider who will arrange, fund and administer international loans.

Annual Number of Respondents: 50.

Estimated Time per Respondent: 3 hours.

Government Annual Burden Hours: 8 hours.

Frequency of Reporting or Use: As needed.

Sharon A. Whitt,

Agency Clearance Officer.

[FR Doc. 2011–2711 Filed 2–7–11; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 11–179]

Next Meeting of the North American Numbering Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Commission released a public notice announcing the meeting and agenda of the North American Numbering Council (NANC). The intended effect of this action is to make the public aware of the NANC's next meeting and agenda.

DATES: Wednesday, March 9, 2011, 9:30 a.m.

ADDRESSES: Requests to make an oral statement or provide written comments to the NANC should be sent to Deborah Blue, Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, Portals II, 445 Twelfth Street, SW., Room 5–C162, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Deborah Blue, Special Assistant to the Designated Federal Officer (DFO) at (202) 418–1466 or *Deborah.Blue@fcc.gov.* The fax number is: (202) 418–1413. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document in CC Docket No. 92–237, DA 11–179 released January 28, 2011. The complete text in this document is available for public inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The document my also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via the Internet at *http://www.bcpiweb.com.* It is available on the Commission's Web site at *http://www.fcc.gov.*

The North American Numbering Council (NANC) has scheduled a meeting to be held Wednesday, March 9, 2011, from 9:30 a.m. until 5 p.m. The meeting will be held at the Federal Communications Commission, Portals II, 445 Twelfth Street, SW., Room TW–C305, Washington, DC. This meeting is open to members of the general public. The FCC will attempt to accommodate as many participants as possible. The public may submit written statements to the NANC, which must be received two business days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before the meeting.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty). Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need, including as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least five days advance notice; last minute requests will be accepted, but may be impossible to fill.

Proposed Agenda: Wednesday, March 9, 2011, 9:30 a.m.*

1. Announcements and Recent News
2. Approval of Transcript—Meeting of December 16, 2010
3. Report of the North American Numbering Plan Administrator (NANPA)
4. Report of the National Thousands Block Pooling Administrator (PA)
5. Report of the Numbering Oversight Working Group (NOWG)
6. Report of the North American Numbering Plan Billing and Collection (NANP B&C) Agent
7. Report of the Billing and Collection Working Group (B&C WG)
8. Update on Process for Selecting LNP Database, Platform and Services Provider(s)
9. Report of the North American Portability Management LLC (NAPM LLC)
10. Report of the Local Number Portability Administration (LNPA) Working Group
11. Status of the Industry Numbering Committee (INC) activities
12. Report of the Future of Numbering Working Group (FoN WG)
13. Summary of Action Items
14. Public Comments and Participation (5 minutes per speaker)
15. Other Business

Adjourn no later than 5 p.m.

* The Agenda may be modified at the discretion of the NANC Chairman with the approval of the DFO.

Federal Communications Commission.

Marilyn Jones,

Attorney, Wireline Competition Bureau.

[FR Doc. 2011–2766 Filed 2–7–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Radio Broadcasting Services; AM or FM Proposals To Change The Community of License.

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The following applicants filed AM or FM proposals to change the community of license: METRO NORTH COMMUNICATIONS, INC., Station WLWB, Facility ID 81813, BMPH–20101122ACG, From NEW HOLSTEIN, WI, To CHILTON, WI; DFWU, INC., Station KFXI, Facility ID 3338, BPH–20101222ABD, From MARLOW, OK, To LAWTON, OK; FISHER RADIO REGIONAL GROUP, INC., Station KQDI–FM, Facility ID 32386, BPH–20101222ABO, From GREAT FALLS, MT, To HIGHWOOD, MT; THE MONTANA RADIO COMPANY, LLC, Station KZUS, Facility ID 164132, BPH–20101222ABP, From HIGHWOOD, MT, To HELENA VALLEY NE, MT; FISHER RADIO REGIONAL GROUP, INC., Station KINX, Facility ID 83110, BPH–20101222ABQ, From GREAT FALLS, MT, To HELENA VALLEY SE, MT; MLB–RICHMOND IV, LLC, Station WBBT–FM, Facility ID 31859, BPH–20101223ABH, From CHESTERFIELD COURTHOUSE, VA, To POWHATAN, VA; MAGNOLIA RADIO CORPORATION, Station KBWT, Facility ID 166076, BMPH–20101229ABO, From SANTA ANNA, TX, To BANGS, TX; CAPSTAR TX LLC, Station WPKX, Facility ID 46965, BPH–20110104AAE, From ENFIELD, CT, To WINDSOR LOCKS, CT; RADIO LICENSE HOLDING CBC, LLC, Station WMAS–FM, Facility ID 36543, BPH–20110104AAH, From SPRINGFIELD, MA, To ENFIELD, CT; MASZKA–PACER RADIO, INC., Station WMBE, Facility ID 6649, BP–20110103ABN, From CHILTON, WI, To NEW HOLSTEIN, WI.

DATES: Comments may be filed through [Insert date 60 days after FR publication date].

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

FOR FURTHER INFORMATION CONTACT: Tung Bui, 202–418–2700.

SUPPLEMENTARY INFORMATION: The full text of these applications is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC 20554 or electronically via the Media Bureau's Consolidated Data Base System, *http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm.* A copy of this application may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.*

Federal Communications Commission.

James D. Bradshaw,

Deputy Chief, Audio Division, Media Bureau.

[FR Doc. 2011–2764 Filed 2–7–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[ET Docket No. 04–186 and 02–380; DA 11–131]

Unlicensed Operation in the TV Broadcast Bands

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document the Office of Engineering and Technology conditionally designate nine entities—Comsearch, Frequency Finder Inc., Google Inc., KB Enterprises LLC and LS Telcom, Key Bridge Global LLC, Neustar Inc., Spectrum Bridge Inc., Telcordia Technologies, and WSdb LLC—as TV bands device database administrators. The TV bands databases will be used by fixed and personal portable unlicensed devices to identify unused channels that are available at their geographic locations. This action will allow the designated administrators to develop the databases that are necessary to enable the introduction of this new class of broadband wireless devices in the TV spectrum.

DATES: Amended proposals must be filed on or before February 28, 2011; and an Initial Workshop to be held March 10, 2011 at the Columbia Laboratory.

FOR FURTHER INFORMATION CONTACT: Hugh L. Van Tuyl at (202) 418–7056 or Alan Stillwell at (202) 418–2925 or via the Internet at *Hugh.VanTuyl@fcc.gov* or *Alan.Stillwell@fcc.gov,* TTY (202) 418–2989.

ADDRESSES: You may submit comments, identified by ET Docket No. 04–186, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- *E-mail:* [*Optional:* Include the E-mail address only if you plan to accept comments from the general public.] Include the docket number(s) in the subject line of the message.
- *Mail:* [*Optional:* Include the mailing address for paper, disk or CD–ROM submissions needed/requested by your Bureau or Office. Do not include the Office of the Secretary's mailing address here.]
- *People With Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, *etc.*) by e-mail: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the supplementary information of this document.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order,* ET Docket No. 04–186 and 02–380, DA 11–131, adopted January 26, 2011 and released January 26, 2011. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room, CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.* Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419.

Filing Instructions

The TV bands database is the subject of a docketed proceeding, ET Docket No. 04–186, and responses to this *Order* may be filed using the FCC's Electronic Comment Filing System (ECFS) as described below. A simplified interface for ECFS has been implemented to facilitate consumer comment. Documents filed on ECFS may be accessed and reviewed on that system, which contain copies of written submissions and summaries of oral submissions regarding the white spaces proceeding.

Parties must file responses with the Commission on or before the date indicated on the first page of this document. All such filings should refer to ET Docket No. 04–186. Proposals may be filed using: (1) The Commission's Electronic Comment Filing System ("ECFS"), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/* or the Federal eRulemaking Portal: *http://www.regulations.gov.*
- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW–A325, Washington, DC 20554. The filing hours are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building. Parties should also send a copy of their filings to Hugh L. VanTuyl, Office of Engineering and Technology, Federal Communications Commission, Room 7–A162, 445 12th Street, SW., Washington, DC 20554, or by e-mail to *Hugh.VanTuyl@fcc.gov*. Parties must also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 488–5300, or vial e-mail to *fcc@bcpi.com.*
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington, DC 20554.

Summary of Order

1. In this *Order* the Office of Engineering and Technology (OET) conditionally designates nine entities—Comsearch, Frequency Finder Inc., Google Inc., KB Enterprises LLC and LS Telcom, Key Bridge Global LLC, Neustar Inc., Spectrum Bridge Inc., Telcordia Technologies, and WSdb LLC—as TV bands device database administrators, subject to conditions described herein. The TV bands databases will be used by fixed and personal portable unlicensed devices to identify unused channels that are available at their geographic locations. This action will allow the designated administrators to develop the databases that are necessary to enable the introduction of this new class of broadband wireless devices in the TV spectrum.

2. On September 23, 2010, the Commission adopted a *Second Memorandum Opinion and Order (Second MO&O)* in ET Docket No. 04–186, 75 FR 75814, December 6, 2010, that updated the rules for unlicensed wireless devices that can operate in broadcast television spectrum at locations where that spectrum is unused by licensed services. This unused TV spectrum is commonly referred to as television "white spaces." The rules allow for the use of unlicensed TV bands devices in the unused spectrum to provide broadband data and other services for consumers and businesses.

3. To prevent interference to authorized users of the TV bands, TV bands devices must include a geo-location capability and the capability to access a database that identifies incumbent users entitled to interference protection, including, for example, full power and low power TV stations, broadcast auxiliary point-to-point facilities, PLMRS/CMRS operations on channels 14–20, and the Offshore Radiotelephone Service. The database will tell a TV band device which TV channels are vacant and can be used at its location. The database also will be used to register the locations of fixed TV band devices and protected locations and channels of incumbent services that are not recorded in Commission databases. The rules state that the Commission will designate one or more entities to administer a TV bands database.

4. OET released a public notice on November 25, 2009 inviting entities interested in being designated as a TV bands database administrator to file proposals with the Commission and inviting comments on the proposals. The notice requested that entities address how the basic components of a TV band database(s) as required by the Commission's rules would be satisfied—*i.e.,* a data repository, a data registration process, and a query process—and whether the entity sought to provide all or only some of these functions and affirm that the database service will comply with all of the applicable rules. In particular, interested parties were requested to show: (1) The entity's technical expertise to administer a TV band database and its business plan to operate it for a five-year term, (2) the scope of the database functions the entity intends to perform and how it would synchronize data between multiple databases, (3) diagrams of the architecture of the database system and a detailed description of how each function operates and interacts with the other functions, (4) information on any other entities performing database functions and the business relationship between itself and these other entities, and (5) the methods that will be used by TV bands devices to communicate with the database, the procedures that it plans to use to verify that a device can properly communicate with the database, and the security methods that will be used to ensure that unauthorized parties can not access or alter the database.

5. OET received proposals from nine parties in response to this notice: Comsearch, Frequency Finder Inc., Google Inc., KB Enterprises LLC and LS Telcom, Key Bridge Global LLC, Neustar Inc., Spectrum Bridge Inc., Telcordia Technologies, and WSdb LLC. Fifteen parties filed comments in response to the notice and eight parties filed reply comments. A list of parties filing comments is in Appendix A.

6. Subsequent to the notice inviting proposals from prospective database administrators, the Commission adopted the *Second MO&O,* which generally upheld the Commission's prior decisions on the TV bands device rules. The *Second MO&O* upheld the Commission's decision to designate multiple database administrators, deciding that it would rely on market forces to shape the structure of the database administration functions and service offerings, subject to the various requirements set forth in the rules. The Commission also decided that, once OET selects the database administrator(s), it will be responsible for oversight and management of the database administrators(s) and their functions. The *Second MO&O* also made certain changes to the rules with respect the TV bands database. Specifically, it required that communications between TV bands devices, TV bands databases and between multiple databases be secure. The Commission did not require the use of specific technologies to meet these requirements. In addition, the Commission required that all information that the rules require to be in a TV bands database be made publicly available.

Discussion

7. Based upon our review of the proposals and the record before us, OET has designated multiple TV bands database administrators, subject to conditions described. Specifically, OET is conditionally designating each of the applicants—Comsearch, Frequency Finder Inc., Google Inc., KB Enterprises LLC and LS Telcom, Key Bridge Global LLC, Neustar Inc., Spectrum Bridge Inc., Telcordia Technologies, and WSdb LLC—as TV bands database administrators. While the operation of multiple database administrators may present some coordination challenges, OET finds it is in the public interest to have multiple parties developing business models for this new mechanism. The value of this exercise extends beyond databases for the TV bands, as the Commission is also considering employing similar database approaches in other spectrum bands.

8. The Commission employs conditions on our database administrator designations for several reasons. First, the Commission modified some of the requirements for the databases and administrators in the *Second MO&O,* some time after the database administrator proposals were submitted. Accordingly, OET is designating nine entities as database administrators only on a conditional basis, subject to the requirement, *inter alia,* that each administrator supplement its previous filings with sufficient detailed information to demonstrate how it will comply with the rule changes adopted in the *Second MO&O.* Moreover, while OET concludes that each of the applicants has an acceptable degree of technical expertise to administer a database, as well as a viable business plan for operating it for at least five years, it recognizes that this threshold is but the minimum for providing the required services. Employing a more exacting set of qualification requirements, however, would greatly expand the timeframe for selection and reduce opportunities for participation and the potential competition for the subject services. To balance these interests, OET therefore requires each database administrator to coordinate closely with the agency to ensure competency, consistency and compliance with the rules and the database trials.

9. Second, the Commission has determined that the development and implementation of a well functioning system for employing white spaces devices will require significant database oversight and testing. Accordingly, OET will conduct a series of mandatory workshops with the database administrators to address implementation issues and to ensure consistency and compliance with the rules, as described in more detail below. As part of this oversight, OET will identify the tasks that each administrator will have to perform to show compliance with the rules, instruct the administrators on how to implement certain features to ensure compliance, and establish milestone dates for each administrator to submit reports of its progress or otherwise demonstrate compliance. OET also will

require real-world testing of databases to ensure that they provide accurate results before they can be made generally available for use by TV bands devices.

10. In the *Public Notice,* OET asked database administrator proponents to provide information adequate to show that they possess sufficient technical expertise to administer a database, and a viable business plan for operating such a database for five years. Based on the information filed by the conditionally designated administrators, it found that each of them has shown that they have the technical expertise to develop and operate a TV bands database. Moreover, as explained further, none of the concerns raised by any of the commenters in the record before us cause us to question our conclusion that these applicants are capable of meeting all the requirements placed on database administrators by the Commission's rules in the *Second Report and Order* and as modified in the *Second MO&O.* Many of the issues raised by commenters were not related to the qualifications of any database administrator applicant. Instead, those commenters raised issues concerning the requirements that should be applied to the databases and administrators. Those issues were addressed in the *Second MO&O,* and therefore need not be revisited here.

11. Several commenters contend that certain proposals are incomplete or deficient. OET disagrees. Our review of the database applications before us reveals that each application includes all the information specified in the 2009 public notice, and that each applicant is capable of fulfilling all database administrator obligations. OET recognizes that in some cases the information provided was not particularly detailed, but all applicants addressed all of the questions in the public notice. Further, as noted, the database administrators are designated subject to a number of conditions, including that they attend workshops to be conducted by OET and perform real-world testing of their databases to ensure they provide accurate results before they are made available for use by TV bands devices. Thus, our designations are not based solely on the comprehensiveness of the information submitted in the proposals, but also on the ability of the designated administrators to demonstrate that they can construct a working database that complies with all of the requirements in the rules. We therefore decline to reject any of the database administrator applications before us on the basis of alleged deficiencies in the submitted documentation.

12. Key Bridge asserts that Neustar and Google are not neutral or disinterested parties and therefore should not be authorized to administer TV bands databases. It argues that Neustar's business arrangements with Shared Spectrum Corporation, a developer of spectrum sensing and other cognitive radio technologies, demonstrate that it is not a neutral party. It further contends that Google is a prospective manufacturer of TV band devices, and as a database administrator it would be able to collect information such as the make, model, serial number, location and ownership of competitors' equipment. We are not persuaded by Key Bridge's assertions. It is unclear why Neustar's business arrangements with Shared Spectrum Corporation should be a concern, and in any case we note that the *Second MO&O* eliminated the requirement for TV bands devices with database access to incorporate spectrum sensing technology. As for Google, while it is true that the company would be collecting certain information about competitors' products, the same basic concern applies to all other database administrators as they could make that same information available to manufacturers of TV bands devices. To address this industry-wide concern, we prohibit all database administrators from using the information collected to engage in anti-competitive practices, either by using the information themselves or providing it to third parties. We will oversee the continued database developmental work to ensure that all database administrators comply with requirements in the rules to make service available to all TV bands device users on a non-discriminatory basis.

13. The Coalition of Wireless Microphone Users identifies four proposals where it has a specific issue of concern. Specifically, it is concerned that: (1) Comsearch would make decisions on which entities are eligible to register wireless microphones in the database, (2) Google would not register all types of protected entities specified in the rules, (3) Neustar would require at least a 48-hour lead time for registering wireless microphones, and (4) Telcordia would provide poorer service for TV band device users that do not pay an additional fee, resulting in a higher potential for interference to authorized users of the TV bands. These are implementation concerns that can be addressed by OET in its oversight and management of the database administrators.

14. Finally, some parties question that one or more of the database administrator applicants may not comply with all of the Commission's rules. Those assertions are speculative, and so do not provide a basis for concluding that any applicant is incapable of administering a white spaces database. Furthermore, OET will oversee all the database administrators, and we specifically condition each administrator's designation on meeting all its obligations described in the *Order.* Thus, failure of an administrator to meet any one of these obligations will constitute grounds for suspending or terminating that administrator's database authority. Similarly, failure of a database administrator to meet any of the requirements set forth in the Commission's rules will subject the administrator to all appropriate enforcement action, including the possibility of sanctions and termination of the administrator designation.

15. We intend to exercise strong oversight of the TV bands databases and administrators. All database administrators must attend workshops at which OET will instruct them on how to comply with the database rules, identify tasks that must be completed by each administrator, and establish milestone dates for reporting progress on or completion of the identified tasks. Each database administrator will designate a responsible party from its organization who will attend the workshops and ensure that the organization complies with all of the conditions listed in the *Order.* The workshops will be conducted by OET's Laboratory Division. OET will address all implementation details after collecting information from the database administrators in these workshops, and also will provide guidance on the requirements to the database administrators on an as needed basis. The database administrators may decide on their own to meet separately to discuss the various tasks and may include other interested parties in their meetings; however, OET will make final decisions on issues affecting the databases and their operation and all decisions will be publicly available. OET will establish a Web page to post information about and may seek comment on the guidance that it will provide to the administrators. Each database administrator must cooperate with any steps OET deems necessary to ensure that the TV bands databases provide accurate and consistent lists of protected services and available channels. Further, they must support capabilities that OET deems necessary to ensure that any changes in registration of protected facilities in one

database are rapidly reflected in all others.

16. The workshops will be a valuable tool for ensuring that each administrator understands the rules and effectively implements them. For example, while the rules do not specify the particular security methods that must be used, the Commission recognizes that security is critically important. Each database manager will be required to demonstrate that it is using robust security features and has established methods to remedy any security threats or breaches. Final approval of the security methods will be made by OET, working in consultation with the FCC Chief Technologist and Chief of the Public Safety and Homeland Security Bureau. OET may draw on other expertise as may be necessary to fully evaluate proposed security methods.

17. Finally, each database will be subject to a trial period of not less than 45 days before it is allowed to be made available for actual use by TV bands devices to allow interested parties an opportunity to check that the database is providing accurate results. A longer trial period may be required if the Commission determines that a database is not in compliance with the Commission's rules. OET will determine the details of each trial, balancing the need to ensure that the database is working properly with the need to avoid an unnecessarily cumbersome and burdensome process.

18. Database administrators that successfully satisfy all of the conditions herein will be allowed to make their databases available for actual use for the five-year term specified in our rules. OET will announce the public availability of each database, at which time the five-year term for that database will commence.

19. In summary, we have considered the database administrator proposals and all the comments and replies filed in response to the 2009 Public Notice. We conclude that all of the database administrator applicants before us are capable of meeting the Commission's regulatory requirements for serving as database administrators, as set forth in the Commission's rules (including the rule revisions adopted in the *Second MO&O*). Accordingly, we are designating Comsearch, Frequency Finder Inc., Google Inc., KB Enterprises LLC and LS Telcom, Key Bridge Global LLC, Neustar Inc., Spectrum Bridge Inc., Telcordia Technologies, and WSdb LLC as TV bands database administrators subject to the conditions described.

1. Each of the designated database administrators must supplement its previous filings with sufficient detailed information to indicate how it will comply with the rule changes adopted in the *Second MO&O.* Amendments to proposals must be received by February 28, 2011. Any of the database administrators that filed separate proposals and now wish to consolidate their operations must submit an updated proposal by this same date. Any database administrators that wish to withdraw their proposals must notify the Commission by this same date.

2. All database administrators must attend workshops to be conducted by OET to address the operation of the databases to ensure consistency and compliance with the rules and the database trials, as described herein. Each administrator shall designate a responsible party who will represent its organization at the workshops and also ensure compliance with all of the conditions herein by February 28, 2011. The first workshop is scheduled for March 10, 2011 at the Commission's Laboratory in Columbia, Maryland.

3. Each database administrator must cooperate with any steps OET deems necessary to ensure compliance with the rules, including for example security features.

4. Database administrators must agree that they will not use their capacity as a database manager to engage in any discriminatory or anti-competitive practices or any practices that may compromise the privacy of users.

Ordering Clause

20. Pursuant to the authority contained in sections 4(i), 302, 303(e), 303(f), and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 302, 303(c), 303(f), and 307, and §§ 0.31 and 0.241 of the Commission's rules, 47 CFR 0.31, 0.241, Comsearch, Frequency Finder Inc., Google Inc., KB Enterprises LLC and LS Telcom, Key Bridge Global LLC, Neustar Inc., Spectrum Bridge Inc., Telcordia Technologies and WSdb LLC *are conditionally designated* as TV bands database administrators as set forth in § 15.715 of the Commission's rules, 47 CFR 15.715, subject to the conditions specified.

Julius P. Knapp,

Chief, Office of Engineering and Technology, Federal Communications Commission.

[FR Doc. 2011–2767 Filed 2–7–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 23, 2011.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Russell Craig Flom, Edina, Minnesota; to become co-trustee of the 2004 Children's Trust, 2004 Grandchildren's Trust, and 2005 Grandchildren's Trust, and thereby gain control of Fidelity Holding Company, Minnetonka, Minnesota, and indirectly gain control of Fidelity Bank, Edina, Minnesota.

Board of Governors of the Federal Reserve System, February 3, 2011.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2011–2698 Filed 2–7–11; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[FMR Bulletin PBS–2011–B1; Docket 2011–0006; Sequence 1]

Federal Management Regulation; FMR Bulletin PBS–2011–B1; Redesignations of Federal Buildings

AGENCY: Public Buildings Service (P), General Services Administration.

ACTION: Notice of a bulletin.

SUMMARY: The attached bulletin announces the redesignations of three Federal buildings.

DATES: *Expiration Date:* This bulletin announcement expires June 30, 2011. The building redesignations remain in effect until canceled or superseded by another bulletin.

FOR FURTHER INFORMATION CONTACT: U.S. General Services Administration, Public Buildings Service (P), Attn: David E. Foley, 1800 F Street, NW., Washington, DC 20405, e-mail at *david.foley@gsa.gov.* (202) 501–1100.

Dated: January 27, 2011.

Martha Johnson,

Administrator of General Services.

U.S. General Services Administration

Redesignations of Federal Buildings

To: Heads of Federal Agencies.

Subject: Redesignations of Federal Buildings.

1. *What is the purpose of this bulletin*? This bulletin announces the redesignations of three Federal buildings.

2. *When does this bulletin expire*? This bulletin announcement expires June 30, 2011. The building redesignations remain in effect until canceled or superseded by another bulletin.

3. *Redesignations.* The former and new names of the redesignated buildings are as follows:

Former name	New name
Federal Building, 100 North Palafox Street, Pensacola, FL 32502	Winston E. Arnow Federal Building, 100 North Palafox Street, Pensacola, FL 32502.
Federal Building and United States Courthouse, 515 9th Street, Rapid City, SD 57701.	Andrew W. Bogue Federal Building and United States Courthouse, 515 9th Street, Rapid City, SD 57701.
Federal Building, 6401 Security Boulevard, Baltimore, MD 21207	Robert M. Ball Federal Building, 6401 Security Boulevard, Baltimore, MD 21207.

4. *Who should we contact for further information regarding redesignation of these Federal buildings?* U.S. General Services Administration, Public Buildings Service (P), Attn: David E. Foley, 1800 F Street, NW., Washington, DC 20405, telephone number: (202) 501–1100, e-mail at *david.foley@gsa.gov.*

Dated: January 27, 2011.

MARTHA JOHNSON,

Administrator of General Services.

[FR Doc. 2011–2755 Filed 2–7–11; 8:45 am]

BILLING CODE 6820–23–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier OS–0990–New; 60-day Notice]

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: Research Evaluation and Impact Assessment of ARRA Comparative Effectiveness Research Portfolio (New)—OMB No. 0990–NEW–Assistant Secretary Planning and Evaluation (ASPE).

Abstract: Researchers and policymakers have emphasized the need for research on effectiveness of health care interventions under real-world conditions in diverse populations and clinical practice settings, that is, comparative effectiveness research (CER). The American Reinvestment and Recovery Act of 2009 (ARRA) expanded Federal resources devoted to CER by directing $1.1 billion to the U.S. Department of Health and Human Services (HHS) for such research.

ARRA also called for a report to Congress and the Secretary of HHS on priority CER topics by the Institute of Medicine (IOM). The report presented priority CER topics and recommendations to support a robust and sustainable CER enterprise. In addition, ARRA established the Federal Coordinating Council on Comparative Effectiveness Research (FCCCER) to help coordinate and minimize duplicative efforts of Federally sponsored CER across multiple agencies and to advise the President and Congress on how to allocate Federal CER expenditures.

This project seeks to evaluate and assess the products and outcomes of ARRA-funded CER investments and the impacts of those investments on the priority topics recommended by IOM and on the categories and themes of the FCCCER framework. The primary goals of this evaluation are to (1) conduct an initial assessment of the ARRA CER portfolio, cataloguing how CER funding was invested to achieve the vision of the FCCCER and assessing initial impact from the perspective of various stakeholders; and (2) lay the groundwork for future CER investments by identifying investment opportunities, evidence gaps and lessons learned.

ESTIMATED ANNUALIZED BURDEN TABLE

Instrument	Type of respondent	Number of respondents	Number of responses per respondent	Average burden (in hours) per response	Total burden hours
PSLA Web-based PI/PD survey.	Principal investigators and project directors	730	1	20/60	243
PSLA in-depth interviews	Principal investigators and project directors	50	1	1	50
SSLA Web-based key stakeholder survey.	Key stakeholders: Health care providers, health care organization administrators, and patients/consumers.	3,600	1	15/60	900
SSLA focus groups	Members of the general public	120	1	2	240
SSLA in-depth interviews	Stakeholders: Health care providers, health care organization administrators, patients/consumers, employers and payers, researchers, and developers of health innovations.	60	1	1	60
Total		4,560			1,493

Seleda Perryman,

Office of the Secretary, Paperwork Reduction Act Clearance Officer.

[FR Doc. 2011–2668 Filed 2–7–11; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

30-Day Submission Period for Requests for ONC–Approved Accreditor (ONC–AA) Status

AGENCY: Office of the National Coordinator for Health Information Technology, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice announces the 30-day period for submission of requests for ONC-Approved Accreditor (ONC–AA) status.

Authority: 42 U.S.C. 300jj–11.

DATES: The 30-day submission period begins upon publication of this notice in the **Federal Register** and will end on March 10, 2011.

FOR FURTHER INFORMATION CONTACT: Carol Bean, Director, Certification Division, Office of the National Coordinator for Health Information Technology, 202–690–7151.

SUPPLEMENTARY INFORMATION: The Department of Health and Human Services issued a final rule establishing a permanent certification program for the purpose of certifying health information technology (HIT). Establishment of the Permanent Certification Program for Health Information Technology, 76 FR 1262 (Jan. 7, 2011) (the "Permanent Certification Program final rule"). The Permanent Certification Program final rule became effective on February 7, 2011 and added a new "Subpart E—Permanent Certification Program for HIT" to part 170 of title 45 of the Code of Federal Regulations (CFR). This notice is issued pursuant to § 170.503(b), which provides that the National Coordinator for Health Information Technology (the National Coordinator) will publish a notice in the **Federal Register** to announce the 30-day period during which requests for ONC–AA status may be submitted. The 30-day period for submission of requests for ONC–AA status begins upon publication of this notice in the **Federal Register** and will end 30 days thereafter, as specified in the **DATES** section of this notice. In order to be considered for ONC–AA status, an accreditation organization must submit a written request to the National Coordinator that includes the information required by § 170.503(b), within the 30-day period specified by this notice. Section 170.503(b) requires an accreditation organization to submit the following information to demonstrate its ability to serve as an ONC–AA:

(1) A detailed description of the accreditation organization's conformance to ISO/IEC17011:2004 (incorporated by reference in § 170.599) and experience evaluating the conformance of certification bodies to ISO/IEC Guide 65:1996 (incorporated by reference in § 170.599);

(2) A detailed description of the accreditation organization's accreditation requirements[,] as well as how those requirements would complement the Principles of Proper Conduct for ONC–ACBs and ensure the surveillance approaches used by ONC–ACBs include the use of consistent, objective, valid, and reliable methods;

(3) Detailed information on the accreditation organization's procedures that would be used to monitor ONC–ACBs;

(4) Detailed information, including education and experience, about the key personnel who review organizations for accreditation; and

(5) Procedures for responding to, and investigating, complaints against ONC–ACBs.

Requests for ONC–AA status may be submitted by e-mail to *ONC-AA@hhs.gov* and should include "Request for ONC–AA Status" in the subject line. Alternatively, requests for ONC–AA status may be submitted by regular or express mail to: Office of the National Coordinator for Health Information Technology, Attention: Permanent Certification Program—Request for ONC–AA Status, 200 Independence Avenue, SW., Suite 729D, Washington, DC 20201. In accordance with § 170.505, the official date of receipt of an e-mail submission will be the date on which it was sent, and the official date of a submission by regular or express mail will be the date of the delivery confirmation. To clarify, e-mail submissions may be sent up to and through 11:59 p.m. on the last day of 30-day submission period. Additional information about requesting ONC–AA status and the permanent certification program can be found on the ONC Web site at: *http://healthit.hhs.gov/certification.*

Dated: February 2, 2011.

David Blumenthal,

National Coordinator for Health Information Technology.

[FR Doc. 2011–2763 Filed 2–7–11; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organization, Functions, and Delegations of Authority; Office of the National Coordinator for Health Information Technology

ACTION: Notice.

SUMMARY: The Office of the National Coordinator for Health Information Technology has reorganized one of its functions in order to more effectively meet the mission outlined by The Health Information Technology for Economic and Clinical Health (HITECH) Act, part of the American Recovery and Reinvestment Act of 2009 (ARRA). The reorganization affects two of the Director-level offices: The Office of the Chief Scientist and the Office of Economic Analysis and Modeling.

FOR FURTHER INFORMATION CONTACT: Sam Shellenberger, Office of the National Coordinator, Office of the Secretary, 200 Independence Ave., NW., Washington, DC 20201, 202–690–7151.

Part A, Office of the Secretary, Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Chapter AR, Office of the National Coordinator for Health Information Technology (ONC), as last amended at 74 FR 62785–62786, dated December 1, 2009, and as corrected at 75 FR 49494, dated August 13, 2010, is amended as follows:

I. Under Part A, Chapter AR, Office of the National Coordinator for Health Information Technology, Section AR.20 Functions, delete Chapter B in its entirety and replace with the following:

B. Office of Economic Analysis, Evaluation and Modeling (ARB): The Office of Economic Analysis, Evaluation and Modeling works with and reports directly to the National Coordinator. The Office: (1) Provides advanced policy analysis of health information technology strategies and policies to the National Coordinator; (2) applies research methodologies to perform evaluation studies of health information technology grant programs; and, (3) applies advanced mathematical or quantitative modeling to the U.S. health care system for simulating the microeconomic and macroeconomic effects of investing in health information technology. Such modeling will be used with varying public policy scenarios to perform advanced health care policy analysis for requirements of the Recovery Act, such as reductions in health care costs resulting from adoption and use of health information technology.

The results of these analyses provided to the National Coordinator will inform strategies to enhance the use of health information technology in improving the quality and efficiency of health care and improving public health.

II. Under Part A, Chapter AR, Office of the National Coordinator for Health Information Technology, Section AR.20 Functions, Chapter C, remove the following language from the Office of the Chief Scientist (ARC) and renumber the remaining items in the paragraph accordingly:

"(1) Applying research methodologies to perform evaluation studies of health information technology grant programs;"

III. Delegation of Authority. Pending further delegation, directives or orders by the Secretary or by the National Coordinator for Health Information Technology, all delegations and redelegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegations, provided they are consistent with this reorganization.

Authority: 44 U.S.C. 3101.

Dated: January 31, 2011.

J. Holland, Jr.,

Assistant Secretary for Administration.

[FR Doc. 2011–2703 Filed 2–7–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–11–11BW]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Carol E. Walker, Acting CDC Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Cops and Cars: Reducing Law Enforcement Officer Deaths in Motor Vehicle Crashes—NEW—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Occupational hazards facing law enforcement officers (LEOs) include psychological, biological, physical, and chemical stressors. While homicides, suicides, and stress-related cardiovascular disease have been well documented in the literature, much less is known about work related motor vehicle incidents in this occupation. Motor vehicle incidents and crashes are the leading cause of occupational death among LEOs. This is not surprising given that LEOs spend a large amount of time conducting vehicle patrols, can be involved in dangerous high-speed pursuits, and often perform work alongside interstates and roadways near speeding motor vehicles. While seatbelt use significantly reduces the chance of dying in a motor-vehicle crash, there is some anecdotal evidence that LEOs do not wear seatbelts and often for good reasons. For example, one of the leading reasons why officers report not wearing seatbelts was the tendency of the belt to get caught on their gun holster and therefore inhibit their safety while in the field. A better understanding of how officers view seatbelt usage, ways to decrease barriers to usage in the field, and possible gateways to this behavior change is needed before developing evidence-based interventions.

The Occupational Safety and Health Act, Public Law 91–596 (section 20[a][1]) authorizes the National Institute for Occupational Safety and Health (NIOSH) to conduct research to advance the health and safety of workers. NIOSH is proposing to conduct a population-based, cross-sectional survey among LEOS in the State of Iowa to measure motor-vehicle safety practices, perceptions of these practices, and prior occupational motor-vehicle crashes.

Enrollment for the study will be performed at the agency level. A random sample of Iowa law enforcement agencies, stratified on size of department (small, medium, and large) and type of department (Sheriff's Departments and City/Police Departments) will be drawn using a publicly available database. Recruitment packets will be sent to the leadership of these agencies inviting them to participate in the study. After agency leadership have agreed to participate in the study, survey packets will be mailed to a contact person in the agency. These packets will then be distributed to all sworn officers. Study packets will consist of an introduction letter and paper-and-pencil survey. The questionnaire provides information on the following categories: Socio-demographics, occupation, driving behaviors, attitudes & knowledge of policies, and details of prior motor-vehicle crashes.

The sample size is estimated to be 162 agencies, with approximately 2,467 police and sheriff patrol officers. This estimate is derived using a publically available database of all U.S. law enforcement agencies. Pilot test data demonstrated that respondents should take approximately 20 minutes to complete the survey, resulting in an annualized burden estimate of 822 hours. Participation in the study is completely voluntary.

Distribution of the surveys will also utilize the time of first-line supervisors of the participating law enforcement agencies. The surveys will be mailed to the leadership of each participating law enforcement agency. They will be asked to distribute the surveys to all sworn officers in their agencies. Depending on the level of involvement of each agency, additional work activities delineated to the leadership could include: Collection of the surveys, verbal and/or written reminders to the officers, re-distribution of surveys, and e-mail/phone communication with NIOSH. One-hundred and sixty-two agencies have been invited to participate in the study. We estimate that on average, leadership at each agency will contribute a total of one burden hour for a total of 162 burden hours. There is no cost to respondents except their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Police & sheriff's patrol officers	2,467	1	20/60	822
First-Line Supervisors/Managers of Police & Detectives	162	1	1	162
Total				984

Dated: February 1, 2011.

Carol E. Walker,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2011–2674 Filed 2–7–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–11–11BZ]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Carol E. Walker, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Quantitative Survey of Physician Practices in Laboratory Test Ordering and Interpretation-NEW-the Office of Surveillance, Epidemiology, and Laboratory Services (OSELS), the Centers for Disease Control and Prevention (CDC)

Background and Brief Description

The purpose of this request is to obtain OMB clearance to perform the "Quantitative Survey of Physician Practices in Laboratory Test Ordering and Interpretation", a national systematic study investigating how the rapid evolution of laboratory medicine is affecting primary care practice. This will be a new collection. The survey will be funded in full by the Office of Surveillance, Epidemiology, and Laboratory Services (OSELS) of the Centers for Disease Control and Prevention (CDC).

This proposed survey follows a series of qualitative focus groups with primary care physicians that identified common concerns and problems with laboratory test ordering and test interpretation. This survey will quantify the prevalence and impact of the issues identified within the focus groups. Understanding the relative importance of physician issues in the effective and efficient use of laboratory medicine in diagnosis will guide future efforts of the CDC to improve primary care practice and improve health outcomes of the American public. The proposed survey covers basic physician demographic characteristics (year of birth, gender, years in practice, physician specialty, professional memberships, practice size and practice setting), practice-related questions including number and type of patients seen weekly. The majority of the questions request information about physician decision making processes involved in test ordering and interpretation.

The effective use of laboratory testing is an important component of the diagnostic process within physician

practices. The field of laboratory medicine is undergoing rapid change with the continuing introduction of new tests, increased focus on evidence-based medicine, the deployment of Electronic Health Records, and the wide availability to physicians of electronic information resources, interactive diagnostic tools, and computerized order entry systems. To date, no systematic study has been conducted to investigate how physicians are incorporating these laboratory testing innovations into their day-to-day practices. This survey seeks to provide insight into how physicians integrate laboratory medicine into their routines, and how they manage any challenges they encounter.

The survey will be conducted in 2011, following OMB approval, in a national representative sample of primary care physicians. The table below reports the combined total number of respondents for the 2011 survey. There are no costs to respondents except their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs)	Total burden (in hrs)
Family Practice Physicians and Internal Medicine Generalists.	Laboratory Practices	1600	1	14/60	373
Total	.....	.....	.....	.....	373

Dated: February 1, 2011.

Carol E. Walker,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2011–2673 Filed 2–7–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB review; comment request

Title: Social Services Block Grant (SSBG) Post-expenditure Report.

OMB No.: 0970–0234.

Description:

Content Changes:

The 60-day **Federal Register** Notice published on October 22, 2010 (**Federal Register** Vol. 75, No. 204, pages 65352–65353) proposed to continue the use of the current post-expenditure reporting form with one change. The proposed change was a modification of the column titled, Expenditures of All Other Federal, State, and Local Funds of Part A of the form. States would have been required to report the same information as on the current OMB-approved post expenditure reporting form in a slightly different format.

The column currently requires States to provide data on the total amount of Federal, State, and local funds spent in providing each service. The proposed modification would have separated this column into two subcolumns. One subcolumn would have required States to report expenditures of Federal funds used to support each service. The second subcolumn would have required States to report expenditures of State and local funds used to support each service. The instructions for the post-expenditure reporting form would have been revised to reflect this modification.

Based on feedback from several States, it was decided not to proceed with this proposed change. Therefore, the current request seeks approval to continue using the current OMB approved post-expenditure reporting form (OMB No. 09700834)

Description:

Purpose: To request approval to: (1) Extend the collection of post-expenditure data using the current OMB approved post-expenditure reporting form (OMB No. 0970–0234) past the current expiration date of July 31, 2011; (2) request that States voluntarily use the post-expenditure reporting form to estimate expenditures and recipients, by service category, as part of the required annual intended use plan.

The Social Services Block Grant program (SSBG) provides funds to assist States in delivering critical services to vulnerable older adults; persons with disabilities; at-risk adolescents and young adults; and children and families. Funds are allocated to the States in proportion to their populations. States have substantial discretion in their use of funds and may determine what services will be provided, who will be eligible, and how funds will be distributed among the various services. State or local SSBG agencies (i.e., county, city, regional offices) may provide the services or may purchase them from qualified agencies, organizations, or individuals. States report as recipients of SSBG-funded services any individuals who receive a service funded, in whole or in part, by SSBG.

States are required to report their annual SSBG expenditures in a postexpenditure report, using the current OMB approved post-expenditure reporting form. The current form includes a yearly total of adults and children served and annual expenditures in each of 29 service categories. The annual report is to be submitted within six months of the end of the period covered by the report, and must address: (1) The number of individuals (including number of children and number of adults) who receive services paid for, in whole or in part, with Federal funds under the SSBG; (2) The amount of SSBG funds spent in providing each service; (3) The total amount of Federal, State, and local funds spent in providing each service, including SSBG funds; and (4) The method(s) by which each service is provided, showing separately the services provided by public and private agencies. These reporting requirements can be found at 45 CFR 96.74.

This request seeks approval to continue the use of the current postexpenditure reporting form with no changes. Information collected in the postexpenditure reports submitted by States is analyzed and described in an annual report on SSBG expenditures and recipients produced by the Office of community Services (OCS), Administration for children and Families (ACF). The information contained in this report is used for program planning and management. The data establish how SSBG funding is used for the provision of services in each State to each of many specific populations of needy individuals.

Federal regulation and reporting requirements for the SSBG also require each State to develop and submit an annual intended use plan that describes how the State plans to administer its SSBG funds for the coming year. This report is to be submitted 30 days prior to the start of the fiscal year (June 1 if

the State operates on a July–June fiscal year, or September 1 if the State operates on a Federal fiscal year). No specific format is required for the intended use plan. The intended use of SSBG funds—including the types of activities to be supported and the categories and characteristics of individuals to be served—must be provided. States vary greatly in the information they provide and the structure of the report. States are required to submit a revised intended use plan if the planned use of SSBG funds changes during the year.

In order to provide a more accurate analysis of the extent to which funds are spent "in a manner consistent" with each of the States' plan for their use, as required by 42 USC 1397e(a), we are requesting that States voluntarily use the format of the post-expenditure reporting form to provide estimates of the amount of expenditures and the number of recipients, by service category, that the State plans to use SSBG funds to support as part of the intended use plan. Many States are already using the format of the post-expenditure reporting form as part of their intended use plan.

Respondents:

The post-expenditure reporting form and intended use plan are completed once annually by a representative of the agency that administers the Social Services Block Grant at the State level in each State.

Respondents:

State Governments

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Post-Expenditure Reporting Form	56	1	110	6,160
Use of Post-Expenditure Reporting Form as Part of the Intended Use Plan	56	1	2	112
Estimated Total Annual Burden Hours:				6,272

Additional Information:

Copies of the proposed collection may be obtained 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. All requests should be identified by the title of the information collection. *E-mail address: infocollection@acf.hhs.gov*.

OMB Comment:

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following:

Office of Management and Budget, Paperwork Reduction Project, *Fax:* 202–395–7285, *E-mail: OIRA_SUBMISSION@OMB.EOP.GOV, Attn:* Desk Officer for the Administration for Children and Families.

Dated: January 31, 2011.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2011–2555 Filed 2–7–11; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007–D–0429; Formerly Docket No. 2007D–0496]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Labeling of Nonprescription Human Drug Products Marketed Without an Approved Application as Required by the Dietary Supplement and Nonprescription Drug Consumer Protection Act: Questions and Answers

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Labeling of Nonprescription Human Drug Products Marketed Without an Approved Application as Required by the Dietary Supplement and Nonprescription Drug Consumer Protection Act: Questions and Answers" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Elizabeth Berbakos, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3792, *Elizabeth.Berbakos@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 24, 2009 (74 FR 8264), the Agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0640. The approval expires on July 31, 2012. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: February 1, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–2662 Filed 2–7–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0049]

Agency Information Collection Activities; Proposed Collection; Comment Request; Presubmission Conferences, New Animal Drug Applications and Supporting Regulations, and Food and Drug Administration Form 356V

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on paperwork associated with applications for new animal drugs.

DATES: Submit either electronic or written comments on the collection of information by April 11, 2011.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Juanmanuel Vilela, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–7651, *Juanmanuel.vilela@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Presubmission Conferences, New Animal Drug Applications and Supporting Regulations, and FDA Form 356V—(OMB Control Number 0910–0032)—Extension

Under section 512(b)(3) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360b(b)(3)), any person intending to file a new animal drug application (NADA) or supplemental NADA or a request for an investigational exemption under section 512(j) of the FD&C Act is entitled to one or more conferences with FDA to reach an agreement acceptable to FDA establishing a submission or investigational requirement. FDA and industry have found that these meetings have increased the efficiency of the drug development and drug review processes.

Section 514.5 (21 CFR 514.5) describes the procedures for requesting, conducting, and documenting presubmission conferences. Section 514.5(b) describes the information that must be included in a letter submitted by a potential applicant requesting a presubmission conference, including a proposed agenda and a list of expected participants. Section 514.5(d) describes the information that must be provided by the potential applicant to FDA at least 30 days prior to a presubmission conference. This information includes a detailed agenda, a copy of any materials to be presented at the conference, a list of proposed indications and, if available, a copy of the proposed labeling for the product under consideration, and a copy of any background material that provides scientific rationale to support the potential applicant's position on issues listed in the agenda for the conference. Section 514.5(f) discusses the content of the memorandum of conference that will be prepared by FDA and gives the potential applicant an opportunity to seek correction to or clarification of the memorandum.

Under section 512(b)(1) of the FD&C Act, any person may file an NADA seeking approval to legally market a new animal drug. Section 512(b)(1) sets forth the information required to be submitted in an NADA. FDA allows applicants to submit a complete NADA or to submit information in support of an NADA for phased review followed by submission of an Administrative NADA when FDA finds all the applicable technical sections are complete.

The regulations under 21 CFR 514.1 interpret section 512(b)(1) of the FD&C Act and further describe the information that must be submitted as part of an NADA and the manner and form in which the NADA must be assembled and submitted. The application must include safety and effectiveness data, proposed labeling, product manufacturing information, and where necessary, complete information on food safety (including microbial food safety) and any methods used to determine residues of drug chemicals in edible tissue from food-producing animals. Guidance #152 entitled "Evaluating the Safety of Antimicrobial New Animal Drugs With Regard to Their Microbiological Effects on Bacteria of Human Health Concern" outlines a risk assessment approach for evaluating the microbial food safety of antimicrobial new animal drugs. FDA requests that an applicant accompany NADAs, supplemental NADAs, and requests for phased review of data to support NADAs, with the FDA Form 356V to ensure efficient and accurate processing of information to support new animal drug approval.

FDA estimates the burden of the collections of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section/FDA form No.	Number of respondents [4]	Annual frequency per respondent	Total annual responses	Hours per response	Total hours
514.5(b), (d) and (f)	154	.6	92.4	50	4,620
514.1 and 514.6	154	.1	15.4	212	3,265
514.4 [2]	154	0	0	0	0

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

21 CFR section/FDA form No.	Number of respondents [4]	Annual frequency per respondent	Total annual responses	Hours per response	Total hours
514.8(b)	154	2.84	437.36	35	15,308
514.8(c)(1)	154	.1	15.4	71	1,093
514.8(c)(2) and (c)(3)	154	.7	107.8	20	2,156
514.11	154	.2	30.8	1	31
558.5(i)	154	.01	1.54	5	8
514.1(b)(8) and 514.8(c)(1) [3]	154	.21	32.34	90	2,911
FDA Form 356V	154	5.1	785.4	5	3,927
Total					33,319

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Substantial Evidence—Because 21 CFR 514.4 only defines substantial evidence, it should not be viewed as creating additional collection burden.
[3] NADAs and supplements regarding antimicrobial animal drugs that use a recommended approach to assessing antimicrobial concerns as part of the overall preapproval safety evaluation.
[4] Based on the number of sponsors subject to animal drug user fees, FDA estimates that there was an average of 154 annual respondents during the 5 fiscal years, from October 1, 2005, through September 30, 2010, on which these estimates were made. We use this estimate consistently throughout the table and calculate the "annual frequency per respondent" by dividing the total annual responses by the number of respondents.

Dated: February 1, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–2664 Filed 2–7–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0067]

Agency Information Collection Activities; Proposed Collection; Comment Request; Data To Support Drug Product Communications, as Used by the Food and Drug Administration

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on a generic clearance to collect information to support communications used by FDA about drug products. This data collection will informally gauge public opinion on a variety of subjects related to consumer, patient, or healthcare professional perceptions and use of drug and biological products and related materials, including, but not limited to, direct-to-consumer prescription drug promotion, physician labeling of prescription drugs, Medication Guides, over-the-counter drug labeling, emerging risk communications, patient labeling, online sales of medical products, and consumer and professional education.

DATES: Submit either electronic or written comments on the collection of information by April 11, 2011.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Berbakos, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3792, *Elizabeth.Berbakos@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Data to Support Drug Products Communications, as Used by the Food and Drug Administration (OMB Control Number 0910–New)

Testing of communication messages in advance of a communication campaign provides an important role in improving FDA communications as they allow for an in-depth understanding of individuals' attitudes, beliefs, motivations, and feelings. The methods to be employed include individual in-depth interviews, general public focus group interviews, intercept interviews, self-administered surveys, gatekeeper surveys, and professional clinician focus group interviews. The methods to be used serve the narrowly defined need for direct and informal opinion on a

specific topic and as a qualitative research tool have two major purposes:

- To obtain information that is useful for developing variables and measures for formulating the basic objectives of risk communication campaigns, and
- To assess the potential effectiveness of messages and materials in reaching and successfully communicating with their intended audiences.

FDA will use these methods to test and refine its ideas and to help develop messages and other communications, but will generally conduct further research before making important decisions such as adopting new policies and allocating or redirecting significant resources to support these policies.

FDA's Center for Drug Evaluation and Research, Center for Biologics Evaluation and Research, Office of the Commissioner, and any other Centers or Offices will use this mechanism to test messages about regulated drug products on a variety of subjects related to consumer, patient, or health care professional perceptions and about use of drug products and related materials, including but not limited to, direct-to-consumer prescription drug promotion, physician labeling of prescription drugs, Medication Guides, over-the-counter drug labeling, emerging risk communications, patient labeling, online sale of medical products, and consumer and professional education.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Number of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
19,822	1	19,822	0.24	4,757

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Annually, FDA projects about 45 communication studies using the variety of test methods listed previously in this document. FDA is requesting this burden so as not to restrict the Agency's ability to gather information on public sentiment for its proposals in its regulatory and communications programs.

Dated: *February 1, 2011.*

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–2663 Filed 2–7–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0493]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Additional Criteria and Procedures for Classifying Over-the-Counter Drugs as Generally Recognized as Safe and Effective and Not Misbranded

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by March 10, 2011.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or e-mailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910—New and title "Additional Criteria and Procedures for Classifying Over-the-Counter Drugs as Generally Recognized as Safe and Effective and Not Misbranded." Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Berbakos, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3792, *Elizabeth.Berbakos@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Additional Criteria and Procedures for Classifying Over-the-Counter Drugs as Generally Recognized as Safe and Effective and Not Misbranded—(OMB Control Number 0910—New)

In the **Federal Register** of January 23, 2002 (67 FR 3060), we established regulations in § 330.14 (21 CFR 330.14) providing additional criteria and procedures for classifying over-the-counter (OTC) drugs as generally recognized as safe and effective and not misbranded (2002 time and extent application (TEA) final rule). The regulations in § 330.14 state that OTC drug products introduced into the U.S. market after the OTC drug review began and OTC drug products without any marketing experience in the United States can be evaluated under the monograph process if the conditions (*e.g.,* active ingredients) meet certain "time and extent" criteria outlined in § 330.14(b). The regulations allow a TEA to be submitted to us by any party for our consideration to include new conditions in the OTC drug monograph system. TEAs must provide evidence described in § 330.14(c) demonstrating that the condition is eligible for inclusion in the monograph system. (Section 330.14(d) specifies the number of copies and address for submission of a TEA.) If a condition is found eligible, any interested parties can submit safety and effectiveness information as explained in § 330.14(f). Safety and effectiveness data include not only the data and information listed in 21 CFR 330.10(a)(2) (§ 330.14(f)(1)), but also a listing of all serious adverse drug experiences that may have occurred (§ 330.14(f)(2)) as well as an official or proposed compendial monograph (§ 330.14(i)).

In the **Federal Register** of October 8, 2010 (75 FR 62404), we published a 60-day notice requesting public comment on the proposed collection of information. In that notice, we stated that we considered our estimate, in the 2002 TEA final rule, of 480 hours to prepare a TEA and 800 hours to prepare and submit safety and effectiveness data to continue to be valid (75 FR 62404 at 62405). In the same document, we stated that, based on the number of submissions we had received in the 8 years following publication of the TEA final rule, we expected to receive an

average of two TEAs and two submissions of safety and effectiveness data each year. Therefore, we estimated the total annual reporting burden to be 2,560 hours. This number included 960 hours for preparing TEAs (two TEAs per year times 480 hours per TEA) and 1,600 hours (two submissions of safety and effectiveness data times 800 hours per submission).

We received a submission from a manufacturer that filed two TEAs stating that our estimates in the 60-day notice were too low. The submission noted that the time spent on "gathering, compiling, evaluating and preparing" the TEA and safety and effectiveness submissions was "significantly greater" than what FDA had estimated in the 2002 TEA final rule and the more recent 60-day notice. The submission estimates that approximately 1,526 hours are required to prepare a TEA and approximately 2,348 hours to prepare a safety and effectiveness submission.

Because the information provided in the submission is based on actual experience by a TEA applicant, we agree with the submission and are adjusting our estimates in this document accordingly. We continue to estimate that we will receive two TEAs and two safety and effectiveness submissions each year. We now estimate that it will take approximately 1,525 hours to prepare a TEA and 2,350 hours to prepare a comprehensive safety and effectiveness submission.

The submission included, as part of the estimated burden of safety and effectiveness data submission, an estimated burden to submit environmental data. We agree with the submission and are including the environmental data in our estimated burden of safety and effectiveness data submission. In February 2010, we published a call-for-data to request data on the environmental impact of amending OTC drug monographs to include any of 13 active ingredients that were found eligible for potential inclusion in an OTC monograph through the TEA process (75 FR 7606, February 22, 2010). In that document, we explain that a proposed rule that would add an ingredient to an OTC drug monograph would be subject to the National Environmental Policy Act of 1969 (NEPA) (see 21 CFR 25.1). In order to comply with NEPA, an environmental assessment of such an Agency action is required, unless we determine that a categorical exclusion is warranted (21 CFR 25.20(f)). Therefore, in this document, the estimated burden of collection for safety and effectiveness data submission includes the burden to collect environmental data to support the application of any categorical exclusion or to conduct an environmental assessment, if necessary.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	Number of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
330.14(c) and (d) [2]	2	1	2	1,525	3,050
330.14(f) and (i) [3]	2	1	2	2,350	4,700
Total					7,750

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] TEA.
[3] Safety and effectiveness submission, including environmental data in accordance with 21 CFR 25.1.

Dated: February 2, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–2692 Filed 2–7–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0594]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Focus Groups as Used by the Food and Drug Administration (All Food and Drug Administration Regulated Products)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by March 10, 2011.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, *Attn:* FDA Desk Officer, FAX: 202–395–7285, or e-mailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0497. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3794, *e-mail: Jonnalynn.capezzuto@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Focus Groups as Used by the Food and Drug Administration (All FDA-Regulated Products)—(OMB Control Number 0910–0497)—Extension

FDA conducts focus group interviews on a variety of topics involving FDA-regulated products, including drugs, biologics, devices, food, tobacco, and veterinary medicine.

Focus groups provide an important role in gathering information because they allow for a more indepth understanding of consumers' attitudes, beliefs, motivations, and feelings than do quantitative studies. Focus groups serve the narrowly defined need for direct and informal opinion on a specific topic and as a qualitative research tool have three major purposes:

- To obtain consumer information that is useful for developing variables and measures for quantitative studies,
- To better understand consumers' attitudes and emotions in response to topics and concepts, and

• To further explore findings obtained from quantitative studies.

FDA will use focus group findings to test and refine their ideas but will generally conduct further research before making important decisions, such as adopting new policies and allocating or redirecting significant resources to support these policies.

In the **Federal Register** of November 30, 2010 (75 FR 74061), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
Focus Group Interviews	1,440	1	1,440	1.75	2,520

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Annually, FDA projects about 20 focus group studies using 160 focus groups with an average of 9 persons per group, and lasting an average of 1.75 hours each. FDA is requesting this burden for unplanned focus groups so as not to restrict the Agency's ability to gather information on public sentiment of its proposals in its regulatory and communications programs.

Dated: February 1, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–2665 Filed 2–7–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute Of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Obstetrics and Maternal-Fetal Biology Subcommittee.

Date: March 3, 2011.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Peter Zelazowski, PhD, Scientific Review Officer, Division Of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5b01, Bethesda, MD 20892, 301–435–6902, PETER.ZELAZOWSKI@NIH.GOV.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 2, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–2725 Filed 2–7–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Modeling the Scientific Workforce.

Date: February 24, 2011.

Time: 8:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Mona R. Trempe, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN12, Bethesda, MD 20892, 301–594–3998, *trempemo@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: February 2, 2011.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–2724 Filed 2–7–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Xenopus Genetics and Genomics.

Date: February 24, 2011.

Time: 4 p.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Richard A Currie, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1108, MSC 7890, Bethesda, MD 20892, (301) 435–1219, *currieri@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Signaling in Neurodegeneration and Stroke.

Date: March 1, 2011.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Laurent Taupenot, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4811, MSC 7850, Bethesda, MD 20892 301–435–1203, *taupenol@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cancer Biology.

Date: March 1, 2011.

Time: 2 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Elaine Sierra-Rivera, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7804, Bethesda, MD 20892, 301–435–1779, *riverase@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Surgical Sciences, Biomedical Imaging and Bioengineering.

Date: March 2, 2011.

Time: 11 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Weihua Luo, MD, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, 301–435–1170, *luow@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Drug Discovery and Resistance.

Date: March 3–4, 2011.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting)

Contact Person: Joanna M Pyper, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, (301) 435–1151, *pyperj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fogarty Noncommunicable Diseases Review.

Date: March 7–8, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel & Suites, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Inese Z Beitins, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3218, MSC 7808, Bethesda, MD 20892, 301–435–1034, *beitinsi@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Genomic Sciences.

Date: March 10, 2011.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Michael M. Sveda, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, 301–435–3565, *svedam@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Virology.

Date: March 14–15, 2011.

Time: 7 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rolf Menzel, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, MSC 7808, Bethesda, MD 20892, 301–435–0952, *menzelro@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; Behavioral and Social Consequences of HIV/AIDS Study Section.

Date: March 15–16, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: InterContinental Mark Hopkins Hotel, 999 California Street, San Francisco, CA 94108.

Contact Person: Mark P Rubert, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–806–6596, *rubertm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cancer Diagnostics and Treatments (CDT) SBIR/STTR.

Date: March 15–16, 2011.

Time: 10 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Syed M Quadri, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6210, MSC 7804, Bethesda, MD 20892, 301–435–1211, *quadris@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Epigenomics of Human Health and Disease.

Date: March 17, 2011.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Michael K Schmidt, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2214, MSC 7890, Bethesda, MD 20892, (301) 435–1147, *mschmidt@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Epigenomics of Human Health and Diseases.

Date: March 18, 2011.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 25th Street, NW., Washington, DC 20037.

Contact Person: David J. Remondini, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2210, MSC 7890, Bethesda, MD 20892, 301–435–1038, *remondid@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Physiology and Pathobiology of Cardiovascular and Respiratory Systems.

Date: March 21–22, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont San Francisco Hotel, 950 Mason Street, San Francisco, CA 94108.

Contact Person: Abdelouahab Aitouche, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4222, MSC 7812, Bethesda, MD 20892, 301–435–2365, *aitouchea@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Orthopedic and Skeletal Biology.

Date: March 21, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Baljit S Moonga, PhD, Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7806, Bethesda, MD 20892, 301–435–1777, *moongabs@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Molecular Mechanisms of Genes and Genomes.

Date: March 21, 2011.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Diane L Stassi, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2200, MSC 7890, Bethesda, MD 20892, 301–435–2514, *stassid@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 2, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–2723 Filed 2–7–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Neuropharmacology.

Date: March 10–11, 2011.

Time: 7:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Aidan Hampson, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5199, MSC 7850, Bethesda, MD 20892, (301) 435–0634, *hampsona@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Drug Discovery and Development.

Date: March 10–11, 2011.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott Wardman Park Hotel, 2660 Woodley Road, NW., Washington, DC 20008.

Contact Person: Allen Richon, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7892, Bethesda, MD 20892, 301–435–1024, *allen.richon@nih.hhs.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Genes, Genomes, and Genetics.

Date: March 10, 2011.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott Wardman Park Hotel, 2660 Woodley Road, NW., Washington, DC 20008.

Contact Person: Maria DeBernardi, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7892, Bethesda, MD 20892, 301–435–1355, *debernardima@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Fellowships: Neurodevelopment, Synaptic Plasticity and Neurodegeneration.

Date: March 10–11, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Dupont Hotel, 1500 New Hampshire Avenue, NW., Washington, DC 20036.

Contact Person: Vilen A. Movsesyan, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040M, MSC 7806, Bethesda, MD 20892, 301–402–7278, *movsesyanv@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Immunology.

Date: March 10–11, 2011.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Mayflower Park Hotel, 405 Olive Way, Seattle, WA 98101.

Contact Person: Stephen M., Nigida, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4212, MSC 7812, Bethesda, MD 20892, 301–435–1222, *nigidas@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics on Infectious Diseases and Microbiology.

Date: March 10–11, 2011.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting)

Contact Person: Liangbiao Zheng, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892, 301–402–5671, *zhengli@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Diabetes, Obesity and Reproductive Sciences.

Date: March 10–11, 2011.

Time: 10:30 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Krish Krishnan, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435–1041, *krishnak@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–10–135: Understanding and Promoting Health Literacy.

Date: March 11, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Michael Micklin, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3136, MSC 7759, Bethesda, MD 20892, (301) 435–1258, *micklinm@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Oral, Dental and Craniofacial.

Date: March 11, 2011.

Time: 11 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Yi-Hsin Liu, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, 301–435–1781, *liuyh@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Pilot and Feasibility Studies in Kidney or Urologic Diseases.

Date: March 14–15, 2011.

Time: 8 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Patricia Greenwel, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cancer Drug Development and Therapeutics.

Date: March 14–15, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Lilia Topol, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6192, MSC 7804, Bethesda, MD 20892, 301–451–0131, *ltopol@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Digestive Sciences and Diagnostics.

Date: March 14, 2011.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Bonnie L. Burgess-Beusse, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, 301–435–1783, *beusseb@mail.nih.gov*.

Name of Committee: AIDS and Related Research Integrated Review Group; Behavioral and Social Science Approaches to Preventing HIV/AIDS Study Section.

Date: March 14–15, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Jose H Guerrier, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, 301–435–1137, *guerriej@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Toxicology and Hepatobiliary/Pulmonary Pathophysiology.

Date: March 14, 2011.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Atul Sahai, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2188, MSC 7818, Bethesda, MD 20892, 301–435–1198, *sahaia@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cognition and Perception.

Date: March 14, 2011.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Estina E Thompson, PhD, MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, 301–496–5749, *thompsone@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 2, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–2722 Filed 2–7–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of 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 Center for Complementary and Alternative Medicine Special Emphasis Panel; Preliminary Clinical Studies of CAM Therapies.

Date: March 14, 2011.

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: Hungyi Shau, Scientific Review Officer, National Center for Complementary and Alternative Medicine, National Institutes of Health, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20892, 301–402–1030, *Hungyi.Shau@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: February 3, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–2721 Filed 2–7–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; Ancillary Studies Grant Review.

Date: February 22, 2011.

Time: 9 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call)

Contact Person: Charles H Washabaugh, PhD, Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, National Institutes of Health, 6701 Democracy Blvd., Suite 800, Bethesda, MD 20892–4872, 301–594–4952, *washabac@mail.nih.gov*.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; Skin Diseases Research Core Grant Reviews.

Date: March 2, 2011.

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: Helen Lin, Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, National Institutes of Health, 6701 Democracy Blvd., Suite 800, Bethesda, MD 20892–4872, 301–594–4952, *linh1@mail.nih.gov*.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; Musculoskeletal Biology and Medicine Core Centers Grant Review.

Date: March 30–31, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Kan Ma, PhD, Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, National Institutes of Health, 6701 Democracy Blvd., Suite 800, Bethesda, MD 20892–4872, 301–451–4838, *mak2@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: February 1, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–2720 Filed 2–7–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee.

Date: February 28–March 1, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Charles H. Washabaugh, Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, National Institutes of Health, 6701 Democracy Blvd., Suite 800, Bethesda, MD 20892–4872, (301) 496–9568, *washabac@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: February 1, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–2719 Filed 2–7–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Mental Health Services in Criminal Justice Settings.

Date: March 2, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Aileen Schulte, PhD, Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6140, MSC 9608, Bethesda, MD 20892–9608, 301–443–1225, *aschulte@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; HIV Prevention in MSM.

Date: March 10, 2011.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: David I. Sommers, PhD, Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: February 1, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–2718 Filed 2–7–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Meeting; NIAID Town Hall Meeting on the New National Institute of Allergy and Infectious Diseases (NIAID) Leadership Group for a Clinical Research Network on Infectious Diseases Other than HIV

Notice is hereby given that the National Institute of Allergy and Infectious Diseases (NIAID), a component of the National Institutes of Health (NIH) of the Department of Health and Human Services (DHHS), will convene a public information session (Town Hall meeting) on March 7, 2011 at the Bethesda Marriott in Bethesda, MD to discuss plans to establish a new NIAID Leadership Group for a Clinical Research Network on Infectious Diseases other than HIV.

The establishment of this new program was first announced at the October 26, 2010 NIAID Town Hall Meeting on NIAID's HIV/AIDS Clinical Trials Networks (*see: http://www.niaid.nih.gov/news/townhall/Pages/restructuringNIAIDCTN.aspx*). This new effort presents NIAID with an opportunity to expand clinical research on infectious diseases other than HIV using a multi-site clinical trials infrastructure not previously available to non-AIDS investigators.

At the March 7, 2011 meeting NIAID leadership will describe NIAID's current clinical research programs and outline plans for, and respond to questions regarding, the new NIAID Leadership Group for a Clinical Research Network on Infectious Diseases other than HIV.

Individuals interested in attending the Town Hall meeting should refer to the Registration section below.

DATES: March 7, 2011.

ADDRESSES: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814, 301–897–9400.

Registration: http://www.blsmeetings.net/TownHallNIAID.

Inquiries: April Hall, *NIAIDClinicalRFI@niaid.nih.gov.*

Dated: January 28, 2011.

Carole Heilman,

Director, Division of Microbiology and Infectious Diseases, NIAID, National Institutes of Health.

[FR Doc. 2011–2737 Filed 2–7–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel.

Date: March 8, 2011.

Time: 3 p.m. to 3:45 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lakshmanan Sankaran, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 755, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *ls38z@nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel. Artificial Pancreas Review (SBIR)

Date: March 21, 2011.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Xiaodu Guo, MD, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 761, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 2, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–2732 Filed 2–7–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center on Minority Health and Health Disparities; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Council on Minority Health and Health Disparities.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Minority Health and Health Disparities.

Date: February 22, 2011.

Closed: 8 a.m. to 9:30 a.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Marriott Bethesda, 5151 Pooks Hill Road, Bethesda, MD 20814.

Open: 9:30 a.m. to 5 p.m.

Agenda: The agenda will include opening remarks, administrative matters, Director's Report, NIH Health Disparities update, and other business of the Council.

Place: Marriott Bethesda, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Donna Brooks, Executive Officer, National Institute on Minority Health and Heath Disparities, National Institutes of Health, 6707 Democracy Blvd., Suite 800, Bethesda, MD 20892, (301) 435–2135.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Dated: February 2, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–2727 Filed 2–7–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Reproduction, Andrology, and Gynecology Subcommittee.

Date: March 7, 2011.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Legacy Hotel and Meeting Center, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Dennis E. Leszczynski, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver

National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–2717, *leszczyd@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 2, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–2726 Filed 2–7–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1952–DR; Docket ID FEMA–2011–0001]

California; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of California (FEMA–1952–DR), dated January 26, 2011, and related determinations.

DATES: *Effective Date:* January 26, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 26, 2011, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the State of California resulting from severe winter storms, flooding, and debris and mud flows during the period of December 17, 2010, to January 4, 2011, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of California.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Sandy Coachman, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of California have been designated as adversely affected by this major disaster:

Inyo, Kern, Kings, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, and Tulare Counties for Public Assistance.

All counties within the State of California are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–2654 Filed 2–7–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2010–0068]

Rehabilitation Assistance for Levees and other Flood Control Works, DAP 9524.3

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of availability; request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) is accepting comments on *Rehabilitation Assistance for Levees and other Flood Control Works.*

DATES: Comments must be received by March 10, 2011.

ADDRESSES: Comments must be identified by docket ID FEMA–2010–0068 and may be submitted by one of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments. Please note that this proposed policy is not a rulemaking and the Federal Rulemaking Portal is being utilized only as a mechanism for receiving comments.

Mail: Office of Chief Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, DC 20472–3100.

FOR FURTHER INFORMATION CONTACT: Byron Mason, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, *Byron.Mason@dhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Instructions: All submissions received must include the agency name and docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov*, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice, which can be viewed by clicking on the "Privacy Notice" link in the footer of *http://www.regulations.gov*.

You may submit your comments and material by the methods specified under the **ADDRESSES** caption. Please submit your comments and any supporting material by only one means to avoid the receipt and review of duplicate submissions.

Docket: The proposed policy is available in docket ID FEMA–2010–0068. For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov* and search for the docket ID. Submitted comments may also be inspected at FEMA, Office of Chief Counsel, Room 835, 500 C Street, SW., Washington, DC 20472.

II. Background

This is an existing policy that is scheduled for review to ensure that Recovery Directorate policies are consistent with current laws and regulations. This policy delineates FEMA's authority to fund repairs to certain levees and other flood control works under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

FEMA seeks comment on the proposed policy, which is available online at *http://www.regulations.gov* in docket ID FEMA–2010–0068. Based on the comments received, FEMA may make appropriate revisions to the proposed policy. Although FEMA will consider any comments received in the drafting of the final policy, FEMA will not provide a response to comments document. When or if FEMA issues a final policy, FEMA will publish a notice of availability in the **Federal Register** and make the final policy available at *http://www.regulations.gov*.

Authority: 42 U.S.C. 5121–5207.

David J. Kaufman,

Director, Office of Policy and Program Analysis, Federal Emergency Management Agency.

[FR Doc. 2011–2655 Filed 2–7–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5415–FA–31]

Announcement of Funding Awards for the Special Needs Assistance Programs—Technical Assistance (SNAPS—TA) Fiscal Year 2010

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding awards for HUD'S Fiscal Year 2010 Special Needs Assistance Programs—Technical Assistance (SNAPS—TA).

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Notice of Funding Availability (NOFA) for the Special Needs Assistance Programs Technical Assistance program. This announcement contains the names of the awardees and amounts of the awards made available by HUD.

FOR FURTHER INFORMATION CONTACT: Holly A. Kelly, Acting Director, Technical Assistance Division, Office of Community Planning and Development, 451 Seventh Street, SW., Room 7218, Washington, DC 20410–7000; telephone (708) 708–3176 (this is not a toll-free number). Persons with speech or hearing impairments may access this telephone number via TTY by calling the toll-free Federal Information Relay Service during working hours at 800–877–8339. For general information on this and other HUD programs, call Community Connections at 1–800–998–9999 or visit the HUD Web site at *http://www.hud.gov*.

SUPPLEMENTARY INFORMATION: The Fiscal Year 2010 SNAPS Technical Assistance program was designed to provide technical assistance for homeless programs in the Office of Special Needs Assistance Programs through the selection of technical assistance (TA) providers for this program.

The competition was announced in the SNAPS–TA NOFA published October 10, 2010 (FR–5415–N–31) and closed on November 22, 2010. The NOFA allowed for up to $16.3 million for technical assistance. Approximately $9.8 million was available under HUD McKinney-Vento Technical Assistance for homeless assistance programs, Homeless Management Information System (HMIS) data collection, reporting and research, including the Annual Homeless Assessment Report (AHAR) TA activities and approximately $1.2 million under the American Recovery and Reinvestment Act for Homelessness Prevention and Rapid Re-Housing Program (HPRP) TA activities. Collectively they are referred to as the SNAPS Technical Assistance Program (SNAPS–TA). Additional funds including approximately $6.5 million for McKinney-Vento homeless assistance TA became available as a result of HUD's recapture of unused funds as well as the use of carryover funds. Applications were rated and selected for funding on the basis of selection criteria contained in the notice. For the Fiscal Year 2010 competition, seven awards totaling $17,482,000 were awarded to seven distinct technical assistance providers nationwide.

In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the awardees and the amounts of the awards in Appendix A to this document.

Dated: January 26, 2011.

Clifford D. Taffet,

General Deputy Assistant Secretary for Community Planning and Development.

APPENDIX A—FY2010 SNAPS–TA AWARDS

Recipient	State	Amount
Abt Associates	MA	$3,940,000
Cloudburst Consulting Group	MD	2,810,000
Corporation for Supportive Housing	NY	2,000,000
ICF International	VA	3,882,000
National Center on Family Homelessness	MA	2,200,000
Technical Assistance Collaborative (TAC)	MA	1,000,000
Training & Development Assoc. (TDA)	NC	1,650,000
Grand Total		17,482,000

[FR Doc. 2011–2759 Filed 2–7–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5415–C–23A]

Notice of Availability: Notice of Technical Correction to the Notice of Public Interest (NOPI) for Fiscal Year 2010 Transformation Initiative: Homeless Families Demonstration Small Grant Research Program

AGENCY: Office of the Chief of the Human Capital Officer, HUD.

ACTION: Notice of Technical Correction.

SUMMARY: On January 3, 2011, HUD posted on *http://www.Grants.gov*, a Notice of Public Interest (NOPI) for Fiscal Year 2010 Transformation Initiative: Homeless Families Demonstration Small Grant Research Program. On January 31, 2011, HUD posted to *http://www.Grants.gov* a technical correction to that notice. The technical correction adds an additional $125,000 in FY2010 funding to the previous amount of approximately $150,000 for a new total of $275,000. Funding for this effort is made available by the Department of Housing and Urban Development Appropriations Act, 2010 (Pub. L. 111–117 approved December 16, 2009). This program is undertaken by HUD's research authority under the Transformation Initiative Fund.

This Technical Correction also extends the pre-application due from Friday, February 18, 2011 to a new pre-application deadline date of March 1, 2011. Applicants do not need to download a new application or resubmit their applications as a result of this notice.

The technical correction notice can be found using the Department of Housing and Urban Development agency link on the Grants.gov/Find Web site at *http://www.grants.gov/search/agency.do.* A link to Grants.gov is also available on the HUD Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.* The Catalogue of Federal Domestic Assistance (CFDA) number for this program is 14.525. Applications must be submitted electronically through *Grants.gov.*

FOR FURTHER INFORMATION CONTACT: Questions regarding specific program requirements should be directed to the agency contact identified in the program NOFA. Program staff will not be available to provide guidance on how to prepare the application. Questions regarding the 2010 General Section should be directed to the Office of Grants Management and Oversight at (202) 708–0667 or the NOFA Information Center at 800–HUD–8929 (toll free). Persons with hearing or speech impairments may access these numbers via TTY by calling the Federal Information Relay Service at 800–877–8339.

Dated: February 1, 2011.

Barbara S. Dorf,

Director, Office of Departmental Grants Management and Oversight, Office of the Chief Human Capital Officer.

[FR Doc. 2011–2653 Filed 2–7–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2011–N008; 10120–1112–0000–F2]

Endangered and Threatened Wildlife and Plants; Permit; Construction and Operation of Kaheawa II Wind Energy Generation Facility, Maui, HI; Draft Habitat Conservation Plan and Draft Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), recently announced our receipt of an application from Kaheawa Wind Power II, LLC (KWP II) for an incidental take permit (permit) under the Endangered Species Act of 1973, as amended (ESA). KWP II is requesting an incidental take permit under the ESA to authorize take of three federally endangered and one threatened bird species. We are reopening the comment period on this permit application and the associated Draft Environmental Assessment (EA), Draft Habitat Conservation Plan (HCP), and proposed Implementation Agreement (IA). Comments previously submitted need not be resubmitted as they have been incorporated into the public record and will be fully considered in the final decision on the permit application.

DATES: All comments from interested parties must be received on or before March 10, 2011.

ADDRESSES: Please address written comments to Loyal Mehrhoff, Project Leader, Pacific Islands Fish and Wildlife Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 3–122, Honolulu, HI 96850. You may also send comments by facsimile to (808) 792–9580.

FOR FURTHER INFORMATION CONTACT: Dawn Greenlee, Fish and Wildlife Biologist, U.S. Fish and Wildlife Service (*see* **ADDRESSES** above), telephone (808) 792–9400.

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

On November 9, 2010, we published in the **Federal Register** (75 FR 68821) a notice announcing our receipt of an application from KWP II for an incidental take permit under section 10(a) of the ESA (16 U.S.C. 1539(a)). KWP II is requesting an incidental take permit under the ESA to authorize take of the federally endangered Hawaiian petrel (*Pterodroma sandwichensis*), endangered Hawaiian goose (nene, *Branta sandvicensis*), endangered Hawaiian hoary bat (*Lasiurus cinereus semotus*), and the threatened Newell's (Townsend's) shearwater (*Puffinus auricularis newelli*) (collectively these four species are hereafter referred to as the "Covered Species"). Incidental take of the Covered Species may be caused by the construction and operation of the KWP II wind energy facility on the island of Maui. The permit application includes a draft HCP that describes the actions and the measures that KWP II will implement to minimize, mitigate, and monitor incidental take of the Covered Species, and a draft IA. A draft EA has been prepared in response to the permit application in accordance with requirements of the National Environmental Policy Act (NEPA).

The public comment period on the aforementioned documents closed on December 9, 2010. In response to a request from the general public, we are reopening the comment period for an additional 30 days. We specifically request comments from the public on whether the application meets the statutory and regulatory requirements for issuing a permit, and identification of any aspects of the human environment that should be analyzed in the draft EA. We are also soliciting comments on: The adequacy of the HCP to minimize, mitigate, and monitor the proposed incidental take of the Covered Species; adequacy of the funding being provided to implement the proposed mitigation program and any appropriate responses to changed circumstances; adequacy of the adaptive management program; and certainty that mitigation will occur. We are seeking comments on the adequacy of the HCP relative to the permit issuance criteria found in section 10(a) of the ESA, 16 U.S.C. 1539(a), and 50 CFR 13.21, 17.22, and 17.32. For

information on how to access the HCP, EA, and IA, and to submit comments, along with additional background information on the permit application package, please refer to the previous **Federal Register** Notice (75 FR 68821), which was published on November 9, 2010.

Authority

This notice is provided under section 10(c) 16 U.S.C. 1539(c) of the ESA and NEPA regulations (40 CFR 1506.6). The public process for the proposed Federal permit action will be completed after the public comment period, at which time we will evaluate the permit application, the HCP, and associated documents (including the EA), as well as comments submitted, to determine whether or not the proposed action meets the requirements of section 10(a) of the ESA and has been adequately evaluated under NEPA.

Dated: January 18, 2011.

Richard Hannan,

Deputy Regional Director.

[FR Doc. 2011–2691 Filed 2–7–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–2010–N260; 1112–0000–81420–F2]

Proposed Shiloh III Wind Plant Project, Solano County, CA; Proposed Habitat Conservation Plan and Draft Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from enXco and Pacific Gas and Electric Company (PG&E) (applicants) for a 36-year incidental take permit for one species under the Endangered Species Act of 1973, as amended (Act). The application addresses the potential for "take" of one Federally listed animal, the California tiger salamander (*Ambystoma californiense*) (tiger salamander). The applicants would implement a conservation program to minimize and mitigate the project activities, as described in the applicants' Habitat Conservation Plan (Plan). We request comments on the Plan and the associated draft Environmental Assessment (EA) under the National Environmental Policy Act of 1969, as amended (NEPA).

DATES: We must receive written comments on or before March 25, 2011.

ADDRESSES: Please address written comments to Sheila Larsen, Conservation Planning Branch, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, W–2605, Sacramento, CA 95825. Alternatively, you may send comments by facsimile to (916) 414–6713.

FOR FURTHER INFORMATION CONTACT: Sheila Larsen or Mike Thomas, Chief, Conservation Planning, at the address shown above or at (916) 414–6600 (telephone).

SUPPLEMENTARY INFORMATION:

Availability of Documents

You may obtain copies of the Plan and EA from the individuals in **FOR FURTHER INFORMATION CONTACT**. Copies of these documents are available for public inspection, by appointment, during regular business hours, at the Sacramento Fish and Wildlife Office (**SEE ADDRESSES**). These documents are also available electronically for review on the U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office Web site at *http://www.fws.gov/sacramento/*.

Background Information

Section 9 of the Act (16 U.S.C. 1531 *et seq.*) and its implementing Federal regulations prohibit the "take" of fish or wildlife species listed as endangered or threatened. "Take" is defined under the Act to include the following activities: To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed animal species, or to attempt to engage in such conduct. However, under section 10(a)(1)(B) of the Act, we may issue permits to authorize incidental take of listed species. "Incidental take" is defined by the Act as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for endangered and threatened species, respectively, are in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32. All species included in the incidental take permit would receive assurances under our "No Surprises" regulations (50 CFR 17.22(b)(5) and 17.32(b)(5)).

The Shiloh III Wind Plant Project would be constructed within an approximately 4,600-acre project area in the Collinsville–Montezuma Hills Wind Resources Area, immediately south of State Route 12 in Solano County, California (Plan Area). The Plan Area is adjacent to existing energy-producing facilities, most notably wind turbine generators in the Sacramento Municipal Utility District project area, the High Winds LLC project area, the enXco V (formerly U.S. Windpower) project area, and the Shiloh I and Shiloh II project areas.

The applicants propose to develop a wind energy facility that would deliver renewable energy to the PG&E/California Independent System Operator power grid. Up to 59 wind turbines would be built in the Plan Area. The project would be constructed in a location that supports suitable habitat for tiger salamander, a species listed as threatened under the Act. The tiger salamander is the only proposed "Covered Species."

The "Covered Activities" included in the Plan include the construction and installation of wind turbines and associated facilities and access roads, maintenance of the wind turbines and associated facilities, and decommissioning of the site. Seventeen of the 59 turbines are located within tiger salamander grassland habitat, and 42 of the turbines are located in cultivated agricultural lands. The project is expected to result in permanent loss of 15 acres of grasslands. The project is expected to result in temporary loss of 70 acres of grasslands (65 acres during construction and up to 5 acres for maintenance activities) and would be restored within 1 year of impact.

The applicants propose to avoid, minimize, and mitigate the effects to the tiger salamander associated with the Covered Activities by fully implementing the Plan. The following mitigation measures will be implemented as part of the Plan: minimize impact area; avoid injury of tiger salamanders during implementation of Covered Activities; minimize habitat impacts associated with erosion and sedimentation generated by Covered Activities; minimize the risk of project-related toxic spills that could adversely affect tiger salamanders or their habitat; restore all temporarily disturbed tiger salamander habitat in the Plan Area to pre-project conditions within 1 year of disturbance; ensure implementation of the conservation measures; and mitigate permanent and temporary loss of tiger salamander habitat through the purchase of 50.5 acres of tiger salamander credits at a Service and California Department of Fish and Game-approved conservation bank.

National Environmental Policy Act Compliance

Our EA analyzes the effects of the proposed action and the No Action

alternatives on all potential resources that could be adversely affected, including: aesthetics, agricultural resources, air quality and climate change, biological resources, cultural resources, geology, minerals and paleontological resources, hazardous materials, hydrology and water quality, land use and planning, noise, public health hazards, recreation, traffic and transportation, utilities, and public service systems.

Our proposed action is approving the applicants' Plan and issuing an incidental take permit for the applicants' Covered Activities. As required by the Act, the applicants' Plan considers alternatives to the take under the proposed action. The Plan considers the environmental consequences of a No Action alternative.

Under the No Action alternative, we would not issue a permit, and the applicants would not construct the project. The No Action alternative would not achieve the applicants' objectives and would not allow the development of the project.

Under the proposed action alternative, we would issue an incidental take permit for the applicants' proposed project, which includes the activities described above and in more detail in the Plan.

Public Comments

The Service invites the public to comment on the permit application, Plan, and EA during the public comment period (*see* **DATES**). Please direct written comments to contact listed in the **ADDRESSES** section and questions to the Service contact listed in the **FOR FURTHER INFORMATION CONTACT** section. All comments and materials we receive, including names and addresses, will become part of the administrative record and may be released to the public. 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.

Next Steps

We provide this notice pursuant to section 10(c) of the Act and the NEPA public-involvement regulations (40 CFR 1500.1(b), 1500.2(d), and 1506.6). We will consider public comments when making the final determination on whether to prepare a final EA and Finding of No Significant Impact or an Environmental Impact Statement on the proposed action. If the requirements are met, we will issue a permit to the applicants for the incidental take of the tiger salamander from the implementation of the Covered Activities described in the Plan. We will make the final permit decision no sooner than 60 days after the date of this notice.

Alexandra Pitts,

Deputy Regional Director, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2011–2680 Filed 2–7–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[USGS–GX11LR000F60100]

Agency Information Collection Activities: Comment Request for the Consolidated Consumers' Report (1 Form)

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of an extension of a currently approved information collection (1028–0070).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to the Office of Management and Budget (OMB) an information collection request (ICR) for the extension of the currently approved paperwork requirements for the USGS *Consolidated Consumers' Report.* This collection consists of one form. This notice provides the public and other Federal agencies an opportunity to comment on the paperwork burden of this information collection (IC). This IC is scheduled to expire on March 31, 2011.

DATES: To ensure that your comments on this ICR are considered, please submit them on or before March 10, 2011.

ADDRESSES: Please submit written comments on this information collection directly to the Office of Management and Budget (OMB) Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior via e-mail to *OIRA_DOCKET@omb.eop.gov* or fax at 202–395–5806; and identify your submission as 1028–0070. Please also submit a copy of your written comments to Phadrea Ponds, USGS Information Collection Clearance Officer, U.S. Geological Survey, 2150–C Centre Avenue, Fort Collins, CO 80526–8118 (mail); 970–226–9230 (fax); or *pondsp@usgs.gov* (e-mail). Please reference Information Collection 1028–0070 in the subject line.

FOR FURTHER INFORMATION CONTACT: Carleen Kostick at 703–648–7940 (telephone); *ckostick@usgs.gov* (e-mail); or by mail at U.S. Geological Survey, 985 National Center, 12201 Sunrise Valley Drive, Reston, VA 20192. To see a copy of the entire ICR submitted to OMB, go to *http://www.reginfo.gov* (Information Collection Review, Currently Under Review).

SUPPLEMENTARY INFORMATION:

I. Abstract

Respondents to this form supply the USGS with domestic consumption data of 12 metals and ferroalloys, some of which are considered strategic and critical. This information will be published as chapters in Minerals Yearbooks, monthly Mineral Industry Surveys, annual Mineral Commodity Summaries, and special publications, for use by Government agencies, industry, education programs, and the general public.

II. Data

OMB Control Number: 1028–0070.

Form Number: 9–4117–MA.

Title: Consolidated Consumers' Report.

Type of Request: Extension of a currently approved collection.

Affected Public: U.S. nonfuel minerals producers of ferrous and related metals.

Respondent Obligation: Voluntary.

Frequency of Collection: Monthly and Annually.

Estimated Number of Annual Responses: 1,828.

Annual Burden Hours: 1,371 hours. We expect to receive 1,828 annual responses. We estimate an average of 45 minutes per response.

Estimated Reporting and Recordkeeping "Non-Hour Cost" Burden: We have not identified any "non-hour cost" burdens associated with this collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number and current expiration date.

III. Request for Comments

On October 19, 2010, we published a **Federal Register** notice (75 FR 64349) announcing that we would submit this ICR to OMB for approval and soliciting comments. The comment period closed on December 18, 2010. We did not

receive any comments in response to that notice.

We again invite comments concerning this ICR on: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (d) ways to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at anytime. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

USGS Information Collection Clearance Officer: Phadrea Ponds 970–226–9445.

Dated: January 28, 2011.

John H. DeYoung, Jr.,

Director, National Minerals Information Center.

[FR Doc. 2011–2651 Filed 2–7–11; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM006220. L99110000. EK0000; OMB Control Number 1004–0179]

Renewal of Approved Information Collection

AGENCY: Bureau of Land Management, Interior.

ACTION: 30-day notice and request for comments.

SUMMARY: The Bureau of Land Management (BLM) has submitted an information collection request to the Office of Management and Budget (OMB) for a 3-year extension of OMB Control Number 1004–0179 under the Paperwork Reduction Act. This control number includes paperwork requirements in regulations that provide the authority for the BLM to collect helium sales information from Federal agencies and helium suppliers of major helium requirements, in order to balance crude helium purchases from the BLM with sales of helium to Federal agencies.

DATES: The OMB is required to respond to this information collection request within 60 days but may respond after 30 days. Therefore, written comments should be received on or before March 10, 2011 in order to be assured of consideration.

ADDRESSES: Please submit comments directly to the Desk Officer for the Department of the Interior (OMB #1004–0179), Office of Management and Budget, Office of Information and Regulatory Affairs, fax 202–395–5806, or by electronic mail at *oira_docket@omb.eop.gov.* Please provide a copy of your comments to the BLM via mail, fax, or electronic mail.

Mail: Bureau Information Collection Clearance Officer (WO–630), Department of the Interior, 1849 C Street, NW., Mail Stop 401 LS, Washington, DC 20240.

Fax: Jean Sonneman at 202–912–7102.

Electronic mail: jean_sonneman@blm.gov.

FOR FURTHER INFORMATION CONTACT: You may contact Libby Conner, at 806–356–1027. Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8339. You may also contact Ms. Conner to obtain a copy, at no cost, of the regulations and forms that require this collection of information.

SUPPLEMENTARY INFORMATION: The following information is provided for the information collection:

Title: Helium Contracts (43 CFR 3195).

OMB Number: 1004–0179.

Type of Review: Extension of a currently approved information collection.

Abstract: This collection of information pertains to the Helium Privatization Act of 1996, which provides that only authorized contractors may sell helium to Federal agencies. The BLM uses this information to verify that authorized contractors are in compliance with the Helium Privatization Act. In order to become an authorized contractor, a helium supplier must enter into an In-Kind Crude Helium Sales Contract to purchase from the Secretary of Interior amounts of crude helium that are equivalent to amounts the supplier sells to agencies of the Federal Government. 50 U.S.C. 167d. In the past, the BLM provided Form 1422x–922 for respondents to comply with some of these requirements, but the pertinent regulations do not require that they use the form. The respondents have demonstrated compliance with the Helium Privatization Act without using the form and the BLM has determined that the form is no longer necessary to collect information. As a result, the BLM has decided to eliminate Form 1422X–922, although the BLM will continue to require respondents to submit pertinent information through written or electronic means as required by 43 CFR part 3195. The BLM uses the information for reporting and recordkeeping. Responses are required to obtain a benefit.

Frequency of Collection: Quarterly and annually.

Annual Burden Hours: 32 responses with 3.25 hours per response totals 104 burden hours.

Annual Non-hour Burden Cost: There are no processing fees associated with this collection.

Comments: As required in 5 CFR 1320.8(d), the BLM published the 60-day notice in the **Federal Register** on June 14, 2010 (75 FR 33632) soliciting comments from the public and other interested parties. The comment period closed on August 13, 2010. The BLM did not receive any comments from the public in response to this notice, and did not receive any unsolicited comments.

The BLM now requests comments on the following subjects:

1. Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practical utility;

2. The accuracy of the BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and

4. How to minimize the information collection burden on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Please send comments to the addresses listed under **ADDRESSES**. Please refer to OMB Control Number 1004–0179 in your correspondence. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, 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.

Jean Sonneman,

Information Collection Clearance Officer.

[FR Doc. 2011–2709 Filed 2–7–11; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAN03900 L17110000 AL0000]

Proposed Information Collection, OMB Control Number 1004–NEW

AGENCY: Bureau of Land Management, Interior.

ACTION: 60-day notice and request for comments.

SUMMARY: The Bureau of Land Management (BLM) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. In compliance with the Paperwork Reduction Act of 1995, we invite the general public and other Federal agencies to comment on this IC. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a valid OMB control number.

DATES: Please submit your comments on this IC by April 11, 2011.

ADDRESSES: You may submit your comments by mail, fax, or electronic mail. Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C St., NW., Washington, DC 20240.

Fax: to Jean Sonneman at 202–912–7102.

Electronic mail: Jean_Sonneman@blm.gov.

Regardless of the form of your comments, please indicate "*Attention:* 1004–NEW."

FOR FURTHER INFORMATION CONTACT: Chris Heppe, Arcata Field Office, at (707) 825–2351 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8339, to contact Mr. Heppe. You may also contact Mr. Heppe to obtain a copy, at no cost, of the regulations that authorize this collection of information.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Bureau of Land Management (BLM) is proposing to sponsor visitor use surveys for the Headwaters Forest Reserve (Reserve) and the King Range National Conservation Area (KRNCA). The Secretary of the Interior acquired the Reserve under the authority of the 1998 Department of the Interior and Related Agencies Appropriations Act, Public Law 105–83 (codified at 16 USC 471j), and established the KRNCA under the authority of Public Law 91–476 (codified at 16 USC 460y–460y–9). The Reserve and the KRNCA are managed by the BLM Arcata Field Office in Northern California and are part of BLM's National Landscape Conservation System.

The proposed visitor use surveys would contribute to the implementation of the Resource Management Plans (RMPs) for the Reserve and the KRNC that the BLM approved in 2004 and 2005, respectively. In order to achieve resource protection and recreation goals set forth in the RMPs, BLM must gather accurate data regarding visitor use characteristics. Baseline studies of visitor use characteristics were conducted in the Reserve and the KRNCA in 1999 and 2003, respectively. These past studies provided comprehensive information about visitors' demographics and visitors' views on facilities, conflicts, existing and proposed management actions, resource conditions, and desires for the area. Since those initial studies, several changes have occurred in each area, including the addition of new facilities, and implementation of new management actions, and increasing annual visitation. A new visitor use study is needed in each area to determine changes in visitor characteristics, including demographics, usage, user conflicts, and perspectives toward management programs and facilities. The IC methods will include conducting on-site interviews with visitors on a stratified random sampling basis and distributing mail-back questionnaires. The IC will take place during the summer season when visitation rates are highest. Data will be analyzed and a final report developed for both the Reserve and the KRNCA. This collection of information will enable the BLM to respond to problems, protect natural and cultural resources, and develop appropriate interpretive programs.

II. Data

OMB Control Number: 1004–NEW.

Title: Visitor Use Surveys.

Frequency: On occasion.

Description of Respondents: Visitors and recreationists.

Respondents' obligation: Voluntary.

Estimated Reporting and Recordkeeping "Hour" Burden: The estimated reporting burden for this collection is 1,700 responses and 467 hours. The following table details the individual components and estimated hour burdens of this collection.

TABLE 1—ESTIMATED NUMBER OF RESPONDENTS, RESPONSES AND TIME

Activity	Estimated number of respondents	Estimated number of responses per respondent	Completion time per response (minutes)	Total burden hours
Headwaters Visitor Interview	600	1	7	70
Headwaters Mail-back survey	400	1	30	200
KRNCA Visitor Interview	400	1	7	47
KRNCA Visitor Interview	300	1	30	150
Totals	1,700			467

III. Request for Comments

OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act (44 U.S.C. 3501–3521), require that interested members of the public and affected agencies be provided an opportunity to comment on information collection and recordkeeping activities (*see* 5 CFR 1320.8(d) and 1320.12(a)). The BLM will request that the OMB approve this information collection activity for a 3-year term.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the

agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany the BLM's submission of the information collection requests to OMB.

Before including your address, phone number, email 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.

Jean Sonneman,

Information Collection Clearance Officer, Bureau of Land Management.

[FR Doc. 2011–2650 Filed 2–7–11; 8:45 am]

BILLING CODE 4310–84–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 Plat of Survey; Michigan.

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: This survey was requested by the Bureau of Indian Affairs.

The lands surveyed are:

Michigan Meridian, Michigan

T. 15 N., R 5 W.

The plat of survey represents the dependent resurvey of a portion of the West boundary, a portion of the subdivisional lines, and the survey of the subdivision of Section 18, of Township 15 North, Range 5 West, of the Michigan Meridian, in the State of Michigan, and was accepted February 1, 2011.

The corrections were amended, and the plat of survey was accepted February 1, 2011.

The first plat that was accepted September 22, 2010 will be canceled when the second plat accepted February 1, 2011 is official filed.

We will place a copy of the amended plat we described in the open files. It will be available to the public as a matter of information.

If BLM receives a protest against the survey, as shown on the plat, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file the plat until the day after we have accepted or dismissed all protests and they have become final, including decisions on appeals.

Dated: February 1, 2011.

Dominica Van Koten,

Chief Cadastral Surveyor.

[FR Doc. 2011–2678 Filed 2–7–11; 8:45 am]

BILLING CODE 4310–GJ–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 Plat of Survey; Michigan, Stayed.

SUMMARY: On Wednesday, January 12, 2011, there was published in the **Federal Register**, Volume 76, Number 8, on page 2133 a notice entitled "Eastern States: Filing of Plats of Survey". In said notice was a plat depicting the dependent resurvey of a portion of the west boundary, a portion of the subdivisional line, and the survey of the subdivision of Section 18, of Township 15 North, Range 5 West, of the Michigan Meridian, in the State of Michigan, and was accepted September 22, 2010.

The official filing of the plat is hereby stayed, pending the correction of errors.

This first plat that was accepted September 22, 2010 will be canceled when the second plat accepted February 1, 2011 is official filed.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management—Eastern States, 7450 Boston Boulevard, Springfield, Virginia 22153. *Attn:* Cadastral Survey.

Dated: February 1, 2011.

Dominica Van Koten,

Chief Cadastral Surveyor.

[FR Doc. 2011–2676 Filed 2–7–11; 8:45 am]

BILLING CODE 4310–GJ–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNML003100 L14300000.ES0000; NMNM 122361]

Notice of Realty Action: Recreation and Public Purposes Act Classification; Lease and Conveyance of Public Land, Doña Ana County, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Cultural Department of the State of New Mexico has filed an application with the Bureau of Land Management (BLM) for lease and/or conveyance of approximately 33.01 acres of public lands, in two individual parcels, under the Recreation and Public Purposes (R&PP) Act, as amended. The lands are proposed to be used for the construction of a Veteran's Museum and a park in Doña Ana County, New Mexico. The BLM has examined the lands and found them suitable to be classified for lease and/or conveyance under the provisions of the R&PP Act, as amended.

DATES: Interested parties may submit written comments regarding the proposed classification for lease and/or conveyance of the lands on or before March 25, 2011.

ADDRESSES: Written comments concerning this notice should be addressed to: District Manager, BLM Las Cruces District Office, 1800 Marquess Street, Las Cruces, New Mexico 88005.

FOR FURTHER INFORMATION CONTACT: Frances Martinez, Realty Specialist, at the above address, by phone (575) 525–4385, or by e-mail at: *Frances_Martinez@blm.gov.*

SUPPLEMENTARY INFORMATION: In accordance with Section 7 of the Taylor Grazing Act, 43 U.S.C. 315(f), and Executive Order No. 6910, the following public lands in Doña Ana County, New Mexico, have been examined and found suitable for classification for lease and/or conveyance to the Cultural Department of the State of New Mexico, under the provisions of the R&PP Act, as amended, (43 U.S.C. 869 *et seq.*). The lands, located in the Las Cruces metropolitan area, are hereby classified accordingly and described below:

Museum Parcel

New Mexico Principal Meridian

T. 22 S., R. 2 E.,
Sec. 28, lot 22.

The area described contains 13.61 acres in Doña Ana County, according to the official plat of the survey of the said land, on file in the BLM Las Cruces District Office.

Park Parcel

New Mexico Principal Meridian

T. 22 S., R. 2 E.,
Sec. 28, lot 43.

The area described contains 19.40 acres in Doña Ana County, according to the official plat of the survey of the said land, on file in the BLM Las Cruces District.

In accordance with the R&PP Act, the Cultural Department of the State of New Mexico filed an application for the above described 33.01 acres of public lands for a proposed New Mexico Veteran's Museum and Park. The Museum and Park would be situated adjacent to Highway 70 in Las Cruces, New Mexico; a desirable location because of high traffic. The Museum facility would be the centerpiece of a campus of indoor and outdoor facilities including a parking area, Veteran's Services Center, and a building for the care, restoration and storage of artifacts. The Park, located near the Veteran's Museum facility, would feature a military style, grass-parade grounds with public seating, an amphitheater, and a family playground and picnic area. The facility would service the entire State of New Mexico and other visitors from across the United States.

Using the BLM R&PP Pricing Guidelines, it has been determined there will be no cost for the lease and/or conveyance of the Park parcel and the rental and sale price of the lease and/or conveyance of the Museum parcel will be determined at regular pricing and will be one-half of fair market value. The public lands would first be leased under the provisions of 43 CFR 2912 for a period of time prior to issuance of a patent to ensure development of the subject public lands in accordance with the development plan and compliance with the approved management plan. The lands would be periodically examined to determine whether the lessee or patentee has complied with the terms of the lease or patent.

Additional detailed information pertaining to this application, plan of development, and site plans is contained in case file NMNM 122361 located at the BLM Las Cruces District Office at the address above.

The lands are not needed for any Federal purpose. Lease and/or conveyance of these lands is consistent with the BLM Mimbres Resource Management Plan, dated December 1993, and would be in the public interest. The Cultural Department has not applied for more than 640 acres for the Museum and Park in a year, the limit set in 43 CFR 2741.7(a)(2), and has submitted a statement in compliance with the regulations at 43 CFR 2741.4(b).

Any lease or conveyance will be subject to the provisions of the R&PP Act, including but not limited to, the terms required by 43 CFR 2741.9, and applicable regulations of the Secretary of the Interior. Any lease or conveyance of these lands will also contain the following reservations to the United States:

1. A right-of-way for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945);

2. All mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect for, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe;

3. Right-of-way NMNM 022519 for highway purposes as have been granted to the New Mexico Highway and Transportation Department, its successors or assigns, for a Federal Aid Project across public land, pursuant to Section 17 of the Federal Highway Act of November 9, 1921, (42 Stat. 216, 23 U.S.C. Sec. 18); and

4. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

Any lease or conveyance of the public lands will contain any terms or conditions required by law or regulation, including, but not limited to, any terms or conditions required by 43 CFR 2741.9; and will contain an appropriate indemnification clause protecting the United States from claims arising out of the lessee's or patentee's use, occupancy, or operations on the leased or conveyed lands. It will also contain any other terms or conditions deemed necessary or appropriate by the authorized officer. Any lease or patent of the public lands will be subject to valid existing rights. Subject to limitations prescribed by law and regulation, prior to conveyance, a holder of any right-of-way within the lease area may be given the opportunity to amend the right-of-way for conversion to a new term, including perpetuity, if applicable.

Lease and/or conveyance of the public land shall be subject to valid existing rights and the following rights-of-way:

1. Right-of-way NMNM 0554552 for transmission line purposes granted to El Paso Electric Company, its successors or assigns, pursuant to the Act of March 4, 1911 (36 Stat. 1253; 43 U.S.C. 961), as amended;

2. Right-of-way NMNM 0000895 for transmission line purposes granted to El Paso Electric Company, its successors or assigns, pursuant to the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761);

3. Right-of-way NMNM 12777 for telephone line purposes granted to Qwest Corporation, its successors or assigns, pursuant to the Act of March 4, 1911 (36 Stat. 1253; 43 U.S.C. 961), as amended;

4. Right-of-way NMNM 64780 for aerial line purposes granted to Comcast of New Mexico, its successors or assigns, pursuant to the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761);

5. Right-of-way NMNM 63893 for transmission line purposes granted to El Paso Electric Company, its successors or assigns, pursuant to the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761);

6. Right-of-way NMNM 86821 for gas pipeline purposes granted to Rio Grande Natural Gas, its successors or assigns, pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185); and

7. Right-of-way NMNM 104169 for water pipeline purposes granted to City of Las Cruces, its successors or assigns, pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

Detailed information concerning this proposed project, including, but not limited to, documentation relating to compliance with applicable environmental and cultural resource laws, is available for review at the BLM Las Cruces District Office at the address above.

Upon publication of this Notice in the **Federal Register**, the lands described will be segregated from appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the R&PP Act and leasing under the mineral leasing laws.

Classification Comments: Interested parties may submit comments involving the suitability of the lands for the proposed museum and park. Comments on the classification are restricted to whether the lands are physically suited for the proposal, whether the use will maximize the future use or uses of the lands, whether the use is consistent with local planning and zoning, or if the

use is consistent with State and Federal programs.

Additional Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for R&PP Act use.

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.

Any adverse comments will be reviewed by the BLM New Mexico State Director, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, the classification of the land described in this notice will become effective on April 11, 2011. The lands will not be available for lease and/or conveyance until after the classification becomes effective.

Authority: 43 CFR 2741.5.

Bill Childress,

District Manager, Las Cruces.

[FR Doc. 2011–2710 Filed 2–7–11; 8:45 am]

BILLING CODE 4310–VC–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRSS–xxxx–xxxx; 2330–RYY]

60-Day Notice of Intention To Request Clearance of Collection of Information; Opportunity for Public Comment

AGENCY: National Park Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: Under provisions of the Paperwork Reduction Act of 1995 and 5 CFR Part 1320, Reporting and Record Keeping Requirements, the National Park Service (NPS) invites public comments on an extension of a currently approved collection of information (OMB #1024–0224).

DATES: Public comments will be accepted on or before April 11, 2011.

ADDRESSES: Send Comments to: Dr. Bruce Peacock, Chief, NPS Social Science Division, 1201 Oakridge Drive, Fort Collins, CO 80525; *Phone:* 970–267–2106; Fax: 970–225–3597; *E-mail: Bruce_Peacock@nps.gov.* Also, you may send comments to Robert Gordon, NPS Information Collection Clearance Officer, 1201 "Eye" Street, NW., Washington, DC 20005, or by e-mail to *Robert_Gordon@nps.gov.* All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

To request a Draft of Proposed Collection of Information, contact: Dr. Bruce Peacock, Chief, NPS Social Science Division, 1201 Oakridge Drive, Fort Collins, CO 80525; *Phone:* 970–267–2106; *E-mail: Bruce_Peacock@nps.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Bruce Peacock, Chief, NPS Social Science Division, 1201 Oakridge Drive, Fort Collins, CO 80525; *Phone:* 970–267–2106; *E-mail: Bruce_Peacock@nps.gov.*

SUPPLEMENTARY INFORMATION:

Title: Generic Information Collection Review of NPS-Sponsored Surveys.

Bureau form number: None.

OMB Number: 1024–0224.

Expiration date: June 30, 2011.

Type of request: Extension for a currently approved collection.

Description of need: The NPS needs information concerning park visitors and visitor services, potential park visitors, and residents of communities near parks to provide NPS managers with usable knowledge for improving the quality and utility of agency programs, services, and planning efforts.

Since many of the NPS surveys are similar in terms of the populations being surveyed, the types of questions being asked, and research methodologies, the NPS proposed and received clearance from OMB for a generic Information Collection Review (ICR) of NPS-sponsored surveys.

The benefits of this generic ICR program have been significant to the NPS, Department of the Interior, OMB, NPS cooperators, and the public. Since 1999, significant time and cost savings have been incurred and 514 surveys have been conducted in units throughout the National Park System. Approval was typically granted in 60 days or less from the date the Principal Investigator (PI) first submitted the survey package for review. This is a significant reduction over the approximately 6–8 months involved in the regular OMB review process. From FY 1999 through FY 2010, the generic ICR process has produced an estimated cost savings to the Federal government and PIs of $1,017,495.

Automated data collection: None.

Description of respondents: General Public—visitors and potential visitors to parks, and residents of communities near parks.

Estimated average number of respondents: The NPS generic ICR program does not identify the number of respondents because that number will differ in each individual survey, depending on the purpose and design of each information collection.

Estimated average number of responses: For most surveys, each respondent will be asked to respond only one time. The NPS generic ICR program does not identify the average number of responses because that number will differ in each individual survey. In most cases the number of responses will be the same as the number of respondents.

Estimated average burden hours per response: The NPS generic ICR program does not identify the average burden hours per response because that number will differ in each individual survey, depending on the purpose and design of each information collection.

Frequency of response: Most individual surveys will request only one response per respondent.

Estimated annual reporting burden: The NPS generic ICR program identifies the requested total number of burden hours annually for all of the surveys to be conducted under its auspices to be 15,000 burden hours per year.

Comments are invited on: (1) The practical utility of the information being collected; (2) the accuracy of the burden hour estimate; (3) ways to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden to respondents, including use of automated information collection methods or other forms of information technology. Before including your address, phone number, e-mail address, or other personally identifiable information in your comment, you should be aware that your entire comment—including your personally identifiable information—may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

Dated: February 3, 2011.

Robert Gordon,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2011–2738 Filed 2–7–11; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRSS-xxxx–xxxx; 2330–RYY]

Agency Information Collection Activities: Proposed Information Collection; Colorado River Valuation Survey

AGENCY: National Park Service.

ACTION: Notice; request for comments.

SUMMARY: We (National Park Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. We may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Public comments must be submitted on or before April 11, 2011.

ADDRESSES: Direct all written comments on this IC to Dr. Bruce Peacock, Chief, Social Science Division, Natural Resource Program Center, National Park Service, 1201 Oakridge Drive, Fort Collins, CO 80525–5596 (mail); *Bruce_Peacock@nps.gov* (e-mail); or 970–267–2106 (phone).

FOR FURTHER INFORMATION CONTACT: Dr. John Duffield, University of Montana, Department of Mathematical Sciences, Missoula, MT 5981; *bioecon@montana.com* (e-mail); or: 406–721–2265 (phone).

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Park Service (NPS) Act of 1916, 38 Stat 535, 16 U.S.C. 1, *et seq.,* requires that the NPS preserve national parks for the use and enjoyment of present and future generations. At the field level, this means resource preservation, public education, facility maintenance and operation, and physical developments that are necessary for public use, health, and safety. Other federal rules (National Environmental Policy Act, 1969 and NPS guidelines) require visitor use data in impact assessment of development on users and resources as part of each park's general management plan.

The NPS plans to conduct on-site and nationwide surveys to estimate the value of visitation and the associated relationship of water flows along the Colorado River. This collection will provide park managers and others with information about the values visitors to Colorado River, NPS units, and non-users nationwide place on these national resources.

This notice will cover the development and pretesting of the final survey instrument.

II. Data

OMB Number: None. This is a new collection.

Title: Colorado River Valuation Survey.

Type of Request: New.

Affected Public: General public; Individual households.

Respondent Obligation: Voluntary.

Frequency of Collection: One-time; on occasion.

Estimated Number of Annual Responses: 5,915.

Annual Burden Hours: 1,972 hours. We estimate the public reporting burden averages 20 minutes per response.

Estimated Reporting and Recordkeeping "*Non-Hour Cost*" *Burden:* We have not identified any "non-hour cost" burdens associated with this collection of information.

III. Request for Comments

Comments are invited on: (1) The practical utility of the information being gathered; (2) the accuracy of the burden hour estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden to respondents, including use of automated information techniques or other forms of information technology.

Please note that the comments submitted in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: February 3, 2011.

Robert Gordon,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2011–2736 Filed 2–7–11; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR–2011–0002]

States' Decisions on Participating in Accounting and Auditing Relief for Federal Oil and Gas Marginal Properties

AGENCY: Office of Natural Resources Revenue, Interior.

ACTION: Notice of states' decisions to participate or not participate in accounting and auditing relief for Federal oil and gas marginal properties located within the states' boundaries for calendar year 2011.

SUMMARY: Final regulations published September 13, 2004 (69 FR 55076), provide two types of accounting and auditing relief for Federal onshore or Outer Continental Shelf lease production from marginal properties. As required by the regulations, the Office of Natural Resources Revenue (ONRR) (the former Minerals Management Service) provided a list of qualifying marginal Federal oil and gas properties to states that received a portion of Federal royalties. Each state then decided whether to participate in one or both relief options. For calendar year 2011, this notice provides the decisions by the affected states to allow one or both types of relief.

DATES: Effective January 1, 2011.

FOR FURTHER INFORMATION CONTACT: Thomas Peterson, Economic and Market Analysis, ONRR, telephone (303) 231–3869; e-mail *thomas.peterson@onrr.gov;* or mail to Office of Natural Resources Revenue, P.O. Box 25165, MS 61110B, Denver Federal Center, Denver, Colorado 80225–0165.

SUPPLEMENTARY INFORMATION:

The regulations, codified at 30 CFR part 1204, subpart C, implement certain provisions of section 7 of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (RSFA) (Pub. L. 104–185, 110 Stat. 1700, 1715 (Aug. 13, 1996)) and provide two options for relief: (1) Notification-based relief for annual reporting; and (2) other requested relief, as proposed by industry and approved by ONRR and the affected state. The regulations require ONRR to publish a list of the states and their decisions regarding marginal property relief by December 1 of each year.

To qualify for the first relief option (notification-based relief) for calendar year 2011, properties must have produced less than 1,000 barrels-of-oil-equivalent (BOE) per year for the base

period (July 1, 2009, through June 30, 2010). Annual reporting relief will begin January 1, 2011, with the annual report and payment due February 28, 2012; or March 31, 2012, if an estimated payment is on file. To qualify for the second relief option (other requested relief), the combined equivalent production of the marginal properties during the base period must equal an average daily well production of less than 15 BOE per well per day calculated under 30 CFR 1204.4(c).

The following table shows the states that have qualifying marginal properties and the states' decisions to allow one or both forms of relief.

State	Notification–based relief (less than 1,000 BOE per year)	Request–based relief (less than 15 BOE per well per day)
Alabama	No	No
Arkansas	Yes	Yes
California	No	No
Colorado	No	No
Kansas	No	No
Louisiana	Yes	Yes
Michigan	No	No
Mississippi	No	No
Montana	No	No
Nebraska	No	No
Nevada	Yes	Yes
New Mexico	No	Yes
North Dakota	Yes	Yes
Oklahoma	No	No
South Dakota	No	No
Texas	No	No
Utah	No	No
Wyoming	Yes	No

Federal oil and gas properties located in all other states where a portion of Federal royalties is not shared with the state are eligible for relief if they qualify as marginal under the regulations. The ONRR believes this covers any exceptions under section 117(c) of RSFA (30 U.S.C. 1726(c)). For information on how to obtain relief, please refer to 30 CFR 1204.205 or to the published rule, which you may view on our Web site at *http://www.onrr.gov/Laws_R_D/FRNotices/AC30.htm*.

Unless the information received is proprietary data, all correspondence, records, or information that we receive in response to this notice may be subject to disclosure under the Freedom of Information Act (FOIA) (5 U.S.C. 552 *et seq.*). If applicable, please highlight the proprietary portions, including any supporting documentation, or mark the pages that contain proprietary data. Proprietary information is protected by the Trade Secrets Act (18 U.S.C. 1905); FOIA, Exemption 4; and Department regulations (43 CFR part 2).

Dated: February 3, 2011.

Gregory J. Gould,

Director, Office of Natural Resources Revenue.

[FR Doc. 2011–2745 Filed 2–7–11; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Contract for Hydroelectric Power Development at the C-Drop, a Feature of the Klamath Project, Klamath Falls, OR

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to accept proposals, select one lessee, and contract for hydroelectric power development at the Klamath Project, C-Drop.

SUMMARY: On March 24, 2010, the Department of the Interior (DOI), through the Bureau of Reclamation (Reclamation), U.S. Department of Energy, and Department of the Army through the U.S. Army Corps of Engineers, signed a Memorandum of Understanding (MOU) between the Federal agencies to promote the development of hydropower. Pursuant to this MOU and the current Federal policy encouraging non-Federal development of electrical power resource potential on Federal water resource projects, Reclamation will consider proposals for non-Federal development of hydroelectric power at C-Drop of the Klamath Project, Oregon. This Notice presents background information, proposal content guidelines, and information concerning selection of one or more non-Federal entities to develop hydroelectric power at C-Drop, and power purchasing and/or marketing considerations. Interested entities are invited to submit a proposal on this project.

DATES: A written proposal and seven copies must be submitted on or before 12 p.m. (PST), on March 31, 2011.

ADDRESSES: Send written proposals and seven copies to Mr. Paul Landry, Lease of Power Privilege Coordinator, Bureau of Reclamation, Mid-Pacific Region, Central Valley Operations Office (CVO–600), 3310 El Camino Ave, Suite 300, Sacramento, CA 95821. For additional information on:

(1) Western Area Power Administration's (Western) purchasing and/or marketing the power, contact Ms. Sonja Anderson, Power Marketing Manager, Western Area Power Administration, Sierra Nevada Region, 114 Parkshore Drive, Folsom, CA 95630, *Telephone:* 916–353–4421.

(2) Operation and maintenance of Link River Dam and Upper Klamath Lake, contact Mr. Cecil Lesley, Special Assistant to the Area Manager, Bureau of Reclamation, Mid Pacific Region, Klamath Project Office (KO–100), 6600 Washburn Way, Klamath Falls, OR 97603, *Telephone:* 541–880–2546.

(3) Operation and maintenance of the C-Canal, contact Mr. Mark Stuntebeck, Manager, Klamath Irrigation District, 6640 KID Lane, Klamath Falls, OR 97603, *Telephone:* 541–882–6661.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Landry at 916–979–0255, or *plandry@usbr.gov.*

SUPPLEMENTARY INFORMATION: The Secretary of the Interior authorized development of the Klamath Project on May 15, 1905, pursuant to the Reclamation Act of 1902. As part of the Klamath Project, the United States constructed A, B, and C-Canals, which carry water south from the Link River Dam to the vicinity of Henley, OR. The Klamath Irrigation District (District), under its contracts with the United States, has certain operation, maintenance, replacement, and repayment responsibilities and obligations concerning the C-Drop, which includes such responsibility for and the supply water for the C-Canal. The C-Drop is a transition structure between the A-Canal and the C-Canal. It is a drop structure which produces the head needed to drive a powerplant. There has been previous development of hydropower resources by a Klamath Project water district at the C-Drop.

Reclamation is considering hydroelectric power development at the Klamath Project through a lease of power privilege. A lease of power privilege is a congressionally authorized alternative to Federal hydroelectric power development. A lease of power privilege grants to a non-Federal entity the right to utilize, consistent with Klamath Project purposes, water power head or storage at and/or operationally in conjunction with the C-Drop, for non-Federal electric power generation and sale by the entity. Leases of power privilege have terms not to exceed 40 years. The general authority for lease of power privilege under Reclamation law includes, among others, the Town Sites and Power Development Act of 1906 (43 U.S.C. 522) and the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) (1939 Act).

Reclamation will be the lead Federal agency for ensuring compliance with the National Environmental Policy Act (NEPA) of any lease of power privilege considered in response to this Notice. Leases of power privilege may be issued only when, upon completion of the NEPA process, Reclamation determines that the affected hydroelectric power sites are environmentally acceptable.

Any lease of power privilege at the Klamath Project must accommodate existing contractual commitments related to operation and maintenance of such existing facilities. Western would have the first opportunity to purchase and/or market the power that would be generated under any lease of power privilege. Under this process, Western would both purchase and market the power independently by first offering it to preference entities and secondly to non-preference entities. All costs incurred by the United States related to development and operation and maintenance under a lease of power privilege, including but not limited to NEPA compliance, development of the lease of power privilege, design reviews, construction oversight, and any other associated documents, would be the expense of the lessee. In addition, the lessee would be required to make annual lease payments to the United States for the use of a Federal facility. This payment will be equivalent to the current graduated flat rate Government Dams Charge, charged by the Federal Energy Regulatory Commission (FERC) under Federal Power Act Section 11.3, which states: "Annual charges for the use of Government dams or other structures owned by the United States are 1 mill per kilowatt-hour for the first 40 gigawatt-hours of energy a project produces, 1½ mills per kilowatt-hour for over 40 up to and including 80 gigawatt-hours, and 2 mills per kilowatt-hour for any energy the project produces over 80 gigawatt-hours."

Additional information regarding the annual lease payment will be made available upon formal request through the Lease of Power Privilege Coordinator at the above address.

Proposal Content Guidelines: Interested parties should submit one or more proposals explaining, in as precise detail as is practicable, how the hydropower potential at each site would be developed. Proposals should consider and address, but are not limited to, the following:

a. Provide all information relevant to the qualifications of the proposing entity to plan and implement such a project, including, but not limited to, information about preference status, type of organization, length of time in business, experience in funding, design and construction of similar projects, industry rating(s) that indicate financial soundness and/or technical and managerial capability, experience of key management personnel, history of any reorganizations or mergers with other companies, safety record, and any other information that demonstrates the interested entity's organizational, and technical and financial ability to perform all aspects of the work. Include a discussion of past experience in operating and maintaining similar facilities and provide references as appropriate. The term "preference entity," as applied to a lease of power privilege, means an entity qualifying for preference under Section 9c of the 1939 Act, as a municipality, public corporation or agency, or cooperative or other nonprofit organization financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936, as amended.

b. Provide geographical locations and describe principal structures and other important features of the proposed development including roads and transmission lines. Estimate and describe installed capacity and the capacity of the power facilities under dry, average, and wet hydrological conditions. Also describe seasonal or annual generation patterns. Include estimates of the amount of electrical energy that would be produced from each facility for each month of average, dry, and wet water years. If capacity and energy could be delivered to another location, either by the proposing entity or by potential wheeling agents, specify where capacity and energy could be delivered. Include concepts for power sales and contractual arrangements, involved parties, and the proposed approach to wheeling, if required.

c. Indicate title arrangements and the ability to acquire title to or the right to occupy and use lands necessary for the proposed development, including such additional lands as may be required during construction.

d. Identify water rights applicable to the operation of the proposed development, the holder of such rights, and how these rights would be acquired or perfected.

e. Discuss any studies necessary to adequately define impacts on the Klamath Project and the surrounding environment required by the development. Describe any significant environmental issues associated with the development and the proposing entity's approach for gathering relevant data and resolving such issues to protect and enhance the quality of the environment. Explain any proposed use of the hydropower development for conservation and utilization of the available water resources in the public interest.

f. Describe anticipated contractual arrangements with the entity or entities having operation and maintenance responsibility for the C-Drop feature(s) that are proposed for utilization in the hydropower development under consideration. Define how the hydropower development would operate in harmony with the Klamath Project, not impact Klamath Project operations, existing applicable contracts related to operation and maintenance of C-Drop feature(s) that are proposed for utilization in the hydropower development under consideration, and any other applicable water-related contracts.

g. Identify the organizational structure planned for the long-term operation and

maintenance of any proposed hydropower development.

h. Provide a management plan to accomplish such activities as planning, NEPA compliance, lease of power privilege development, design, construction, facility testing, and start of hydropower production. Prepare schedules of these activities as applicable. Describe what studies are necessary to accomplish the hydroelectric power development and how the studies would be implemented.

i. Estimate development cost. This cost should include all investment costs, such as feasibility studies, NEPA compliance, design, construction, associated bonding and financing, as well as the amortized annual cost of the investment; annual operation, maintenance, and replacement expense for the hydropower development; lease payments to the United States; and expenses that may be associated with the C-Drop project. Additionally, transmission or wheeling expenses associated with the development of the hydropower development, if any, should be included. Identify proposed methods of financing and hydropower development. Present an economic analysis that compares the present worth of all benefits and costs of the hydropower development.

Selection of Lessee: Reclamation will evaluate proposals received in response to this published notice. Reclamation will give more favorable consideration to proposals that (1) are well-adapted to developing, conserving, and utilizing the water and natural resources, (2) clearly demonstrate that the offeror is qualified to develop the hydropower facility and provide for long-term operation and maintenance, and (3) economically develop the hydropower potential. A proposal will be deemed unacceptable if it is inconsistent with Klamath Project purposes, as determined by Reclamation.

Reclamation will give preference to those entities that qualify as preference entities as defined under Proposal Content Guidelines, item A, provided that their proposal is at least as well-adapted to developing, conserving, and utilizing the water and natural resources as other submitted proposals and that the preference entity is well qualified. Preference entities would be allowed 90 days to improve their proposals, if necessary, to be made at least equal to a proposal that may have been submitted by a nonpreference entity.

Power Purchasing and/or Marketing Considerations: Western would have the first opportunity to purchase and/or market the power that would be generated by the project under a lease of power privilege. Western will consult with Reclamation on such power purchasing and/or marketing considerations. In the event Western elects to not purchase and/or market the power generated by the hydropower development, or such a decision cannot be made prior to execution of the lease of power privilege, the lessee would be responsible for marketing the power generated by the project with priority given to preference entities as heretofore defined in Proposal Content Guidelines, item A.

Notice and Time Period to Enter into Lease of Power Privilege: Reclamation will notify, in writing, all entities submitting proposals of Reclamation's decision regarding selection of the potential lessee. The selected potential lessee will have two (2) years from the date of such notification to enter into a lease of power privilege for the site or sites identified in the proposal. Such leases of power privilege will state whether and how Western will be involved in purchasing and/or marketing the power. Any excessive delay resulting from compliance with the provisions of Federal environment laws or administrative review by a Federal agency, pertaining to the project, may extend the two (2) year time period for a period equal to that of the delay. In the event of litigation related to the proposed project, the two (2) year time period will be extended for a period equal to that of the delay, provided such litigation was initiated by parties other than the selected potential lessee or its employees, officers, agents, assigns, shareholders, customers, or persons or groups served by or in privity with the potential lessee.

Reclamation Up Front Expenses: The Lessee will provide, in advance of expenditures, the necessary funding to cover all Reclamation costs related to the development, construction, and security of the Lessee's power facilities and any related administrative costs. Reclamation will give the Lessee an estimate of these costs and the Lessee will pay in advance. Any unused funds will be returned.

Specific Guidelines for Hydropower Development under a Lease of Power Privilege: This section outlines the specific Reclamation process for developing a lease of power privilege agreement on an existing Region dam or canal. It is to be used as a guide for Reclamation personnel and prospective lease of power privilege applicants during the application, selection, and agreement phases of a lease.

The following factors will be considered when entering into a Lease:

a. Title to the existing Federal facility remains with the United States. Title to the proposed powerplant facilities is with the Lessee unless contracted otherwise. Title to any modifications to the Federal facility will remain with the United States. Leases may not be transferred or facilities sold without written approval of Reclamation. The Lease will include language giving the Government the first right to purchase or take over the Lease should the Lessee need to sell the facilities.

b. Title to existing Federal Lands under Lessee's completed Facilities will remain with the United States. Land easements on Federal Lands will be addressed giving particular attention to current access, as well as identifying needed access. Land easements for non-Federal lands will be the responsibility of the Lessee.

c. The structural and operational integrity of existing Reclamation facilities or associated Federal projects must not be impaired by construction, operation, or maintenance of the Lessee's powerplant facilities. Powerplant construction and operation must not interfere with the existing or future project operations, jeopardize existing water rights, alter compliance with environmental requirements or commitments, impair the efficiency of the project for irrigation purposes, impair the efficiency of other hydroelectric facilities on the project, impair security, or create any dam safety related deficiency, recreation hazards, or other safety problems.

d. Access to and operation of the existing Reclamation facilities must be sustained during construction and operation of the Lessee's powerplant facilities.

e. Reclamation will review and approve all analyses, designs, plans, specifications, and related material associated with the proposed powerplant facilities. Such reviews will be to the level of detail deemed necessary by Reclamation to ensure that the structural, operational, safety and security of the Reclamation project is not impaired by construction, operation, or maintenance of the proposed powerplant facilities.

f. Reclamation will maintain the right to approve in advance any third party contracts prior to execution by the Lessee.

g. The purpose of Reclamation's review of analyses, designs, plans, and specifications for the proposed development and related materials will be to ensure the continued, safe operation of the Reclamation facilities, the integrity of Reclamation's structures, and compliance with environmental

commitments. Any modifications required for construction of the powerplant that may affect the safe operation of Reclamation facilities, such as installation of penstocks, excavation into dam embankments and foundations, *etc.,* will be reviewed by, approved, and performed under the direct oversight of Reclamation and all costs of those modifications and related expenses will be paid by the Lessee. Construction of such modifications may be contracted by either the Lessee or Reclamation. If contracted by the Lessee, Reclamation will have advance prior approval of such contract.

h. The Lessee will be responsible for the designs, construction, operation, maintenance, safety, and security of the powerplant facilities. Reclamation will review the designs, provide inspection during construction and testing, and review the operation and maintenance of the facility. Any discrepancies found during any review will be corrected by the Lessee.

i. Reclamation will inspect powerplant and related facilities to the extent necessary to ensure the continued safe operation and structural integrity of Reclamation facilities and to ensure compliance with environmental commitments. Reclamation's inspections will be in addition to inspections performed by the Lessee. The Lease will contain provisions requiring the developer to immediately address any recommendations issued by Reclamation. These recommendations will be tracked by the Lessee according to the time frames established in the Lease Any costs incurred will be the responsibility of the Lessee.

j. All Lessee powerplant operations must be consistent with operations of the Reclamation project for project purposes.

k. Under circumstances where a water or power user organization that is also the project/program beneficiary is not a participant in the power development, the Lease must include their involvement, as appropriate.

l. Reclamation can deny the issuance of a Lease or withdraw a previously issued Lease at any time prior to the start of construction based on inadequate design information, unsatisfactory environmental impacts, or detrimental impact to the Reclamation project, as determined by Reclamation.

m. Reclamation will be reimbursed by the Lessee for all costs of Reclamation activities related to the development, reviews of studies, designs, plans, specifications, activities required for NEPA, National Historic Preservation Act (NHPA), and Endangered Species Act (ESA) compliance, construction inspections, operation, inspection, and maintenance of the powerplant and any related administrative costs.

n. Physical security of existing facilities will be maintained by Reclamation, or its designee, during construction, operation, and maintenance activities. The Lessee will not interfere with Reclamation security activities and will be subject to search, background checks, *etc.,* as deemed necessary by Reclamation to protect the physical and information technology security of Reclamation facilities. The Lessee will be responsible for any incremental security costs incurred by Reclamation that result from the construction of the Lessee's proposed powerplant and associated facilities. The Lessee will be required to have security procedures and practices commensurate with Reclamation security requirements.

Process Guidelines: The following paragraphs describe major steps associated with the development of hydroelectric powerplants under a Lease of Power Privilege with Reclamation. The steps are generally in sequence but may require preparation well in advance to ensure completion in a timely manner. Additional requirements may be necessary, depending upon the nature and impacts of the proposed hydroelectric project. If water user organization involvement occurs, the following paragraphs would be modified as appropriate to accommodate their involvement.

a. After determining jurisdiction, Reclamation will advertise a formal notice of intent to enter into a Preliminary Permit through an appropriate public process, such as the **Federal Register** and local newspapers. Such notice will also be provided to Western and the representatives of the current project/program beneficiaries responsible for repayment of the project.

b. Reclamation will accept competing proposals for a period of 180 days. Reclamation will evaluate all reasonable proposals for development, select the potential Lessee, and issue a Preliminary Permit. Preference will be granted according to Section A in Proposal Content Guidelines above. Where developers have an equal standing with respect to preference, priority of the proposals submitted will be based on the date and time that Reclamation receives the application (the applicant that submitted the earliest dated application will be given preference). A proposal will be considered timely only if it is received in the office of the Lease of Power Privilege Coordinator by or before 12 p.m. (PST) on the designated date. Interested entities are cautioned that delayed delivery to this office due to failures or misunderstandings of the entity and/or of mail, overnight, or courier services will not excuse lateness and are advised to provide sufficient time for delivery. Late proposals will not be considered. Reclamation will be available to meet with interested entities only upon written request to the Lease of Power Privilege Coordinator at the above address. Reclamation reserves the right to schedule a single meeting and/or visit to address at one time the questions of all entities that have submitted questions or requested site visits.

c. Reclamation and the Preliminary Permit holder (Permittee) will enter into a letter agreement, memorandum of understanding, or other acceptable agreement to identify roles and responsibilities of the parties, activities to be addressed prior to the execution of a formal contract and to establish a reimbursable account to provide/cover Reclamation's costs. The Permittee will make advances sufficient to maintain a positive balance for ongoing and required work.

d. The Permittee must coordinate with Western to determine Western's interest in marketing the power generated under the Lease. Western will be given first right of refusal to purchase power from the non-Federal Lessee. The power price charged by the Lessee will be equivalent to the cost of production plus a reasonable rate of return. Western will have the responsibility for negotiating power prices with the Lessee. Western will have the responsibility for consulting with the firm power contractors in advance of negotiations regarding such right of first refusal and the pricing of any such power to be purchased. If Western refuses to purchase power from the Permittee, the Permittee must coordinate with another appropriate transmission provider.

e. The Permittee, Reclamation, and project water beneficiary (if not the Permittee) enter into contracts. Subject to negotiation, the contract(s) would be structured to address two phases of development and leasing as follows:

Phase 1 Guidelines

a. A preliminary permit would be issued to the proposed Lessee and provide for contractor completion of investigations, studies, plans, preliminary/conceptual designs, estimates, and for making financial arrangements (in general this includes, but is not limited to, steps (ii) through (x) below.)

b. An evaluation of environmental impacts, as required under NEPA, National Historic Preservation Act (NHPA), and the Endangered Species Act (ESA), would be included in this phase. Reclamation will be the lead Federal agency for NEPA and NHPA compliance.

c. NEPA, NHPA, and ESA compliance activities will be the financial responsibility of the Permittee and will be completed prior to execution of the Lease. Terms and conditions resulting from these compliance activities will be incorporated by reference in the Lease.

d. The Permittee would have a maximum of two (2) years from the date of issuance of the permit to complete the requirements set forth in the permit.

e. The Preliminary Permit will not be transferable, and may be canceled by order of Reclamation upon failure of the Permittee to comply with the conditions of the permit (per the notification requirements, response timeframes, *etc.,* established under the Preliminary Permit).

f. Reclamation and Permittee, or developer, representatives will be named.

g. The Permittee and Reclamation discuss plans for development and identify needed studies. The Permittee (or their consultant) performs studies; Reclamation reviews and offers comments. Alternatively, the Permittee may elect to fund Reclamation to perform the studies. Studies should include, but are not limited to, the following topics: Safety of Dam Impacts/Modifications, Site Characteristics and Existing Facilities, Land Acquisition and Easements, Hydraulics and Hydrology, Water Rights, Project Features and Design, Power Production, Transmission, Interconnection and Wheeling, Project Costs, Financial Alternatives and Energy Cost, Power Value and Marketing, Benefit/Cost Evaluation (Reclamation Benefit/Cost procedure not applicable), Environmental Analysis Suitable for Reclamation's Use in the NEPA, NHPA, and ESA Compliance, Safety Assessment, Project Development Plan and Construction Schedule, and Operation and Maintenance Plan.

Proposed modifications to existing Reclamation facilities must be described in detail. Examples include changes in penstock transient pressures, impacts construction of the project will have on the performance of Reclamation's facilities during normal, hydrologic (flooding) and seismic (earthquake) loading conditions, drainage, increased noise, vibration or heat above the Occupational Safety & Health Administration (OSHA) standards, operator safety, effects on discharge capacity, impacts construction and operation of the proposed project will have on current operational and maintenance plans and practices, *etc.*

Structural changes must be shown in detail. Examples include excavation requirements, new pipe alignments, flanging details, valving requirements, pressure ratings, thrust blocking plans, clearance problems, dewatering plans, venting requirements, concrete removal requirements, fill material requirements, *etc.*

The need for electrical and hydraulic surge protection must be evaluated.

Any modifications required for construction of the powerplant that may affect the safe operation of Reclamation facilities, such as installation of penstocks, excavation into dam embankments and foundations, *etc.,* will be scoped, planned, and estimated at this point. Should facility modification be necessary to address concerns identified, such modifications will be required to be completed prior to Reclamation authorizing the start of construction on the proposed power project.

a. Permittee coordinates project planning with the U.S. Fish and Wildlife Service in compliance with the Fish and Wildlife Coordination Act.

b. Permittee submits cultural resources survey to Reclamation for approval.

c. Permittee submits water rights documentation to Reclamation.

d. Permittee submits evidence of power sales contract/wheeling agreement to Reclamation.

e. Permittee submits NEPA, NHPA, and ESA documentation, including the Record of Decision or Finding of No Significant Impact to Reclamation for approval and signature.

f. Reclamation, Permittee, and project water beneficiaries, as appropriate, supplement Lease with Environmental Commitment Plan and Environmental Commitment Checklist.

g. Reclamation issues the Lease. Leases may not be transferred or facilities sold without written approval of Reclamation.

Phase 2 Guidelines

In general this includes, but is not limited to steps (i) through (xvi) below.

Subsequent to Reclamation's review and approval of the requirements identified in the permit, a Lease would be issued to the Lessee that would provide for final designs, specifications, construction, operation, and maintenance of the facility by the Lessee. Reclamation will not be held responsible for the economic and technically feasibility of the powerplant and associated facilities. The Lessee must agree to indemnify the United States for any injury, loss, or damage incurred, resulting from actions under the Lease and any negligent act or omission of the Lessee in connection with the Lessee's performance under the Lease. The Lessee will have no claim against the United States for loss of generation caused by normal or extraordinary operation or maintenance of the Reclamation project including, but not limited to, the quantity or quality of water delivery by the Reclamation project.

The potential Lessee would have a maximum of two (2) years from the date of issuance of the Preliminary Permit to complete the requirements set forth in the permit. The Lessee would have a maximum of two (2) years from the date of the execution of the Lease to develop contract and complete final designs, specifications, *etc.,* and an additional year (1) to begin construction. The Lessee would have an additional two (2) years to complete construction. A maximum of seven (7) years is allowed, from the date of Preliminary Permit execution to construction completion. Such timeframes may be adjusted for just cause resulting from actions and/or circumstances that are beyond the control of the Lessee.

a. Lessee will prepare technical specifications and drawings (typically 30 percent design, 60 percent design, 90 percent design, and final stages are required). Reclamation will review the specification, drawings and provides comments. Reclamation will have the responsibility of approving modifications to Reclamation features.

b. Lessee will finalize technical specifications and drawings for submittal to Reclamation. Lessee will submit construction schedule and operations and maintenance agreement to Reclamation.

c. Reclamation is responsible for approving technical specifications, drawings, construction schedule, and operations and maintenance Agreement.

d. Lessee will submit certificate of liability insurance to Reclamation. Project size will determine the need for extended (property damage) coverage. Reclamation will determine the insurance, bonding limits, and other related requirements.

e. Performance bond will be submitted by Lessee to Reclamation.

f. Lessee will notify Reclamation of construction start date in advance of onsite construction and provide a copy of the construction schedule.

g. Pre-construction meeting will be held with Lessee, Reclamation, and contractor.

h. Lessee is responsible for obtaining required Federal, State, and local permits.

i. Lessee will prepare Designers' Operating Criteria (DOC), Standard Operating Procedure (SOP), and Emergency Action Plan (EAP) and submit to Reclamation for review and approval, as appropriate.

j. Interim and final construction inspections will be conducted by Reclamation and Lessee.

k. Lessee will submit Start-Up Testing Plan to Reclamation. The plan will include new system fault study. Reclamation may require the Lessee to perform additional testing to ensure the integrity of the Reclamation project.

l. Lessee will conduct powerplant testing; Reclamation personnel will witness.

m. Testing documentation and results will be submitted to Reclamation by Lessee; Reclamation approval required on results that are pertinent to the Reclamation project.

n. Lessee will furnish as-built drawings to Reclamation.

o. Reclamation will grant permission for commercial operation after satisfactory testing is complete and documentation submitted to Reclamation. Lessee will submit first annual lease payment to Reclamation one (1) year from date of approval for commercial operation.

p. Reclamation will coordinate with Lessee to update Reclamation project SOPs, DOC, EAP, Continuity of Operations Plan, Security Plan, *etc.*

Dated: November 10, 2010.

Barry S. Mortimeyer,

Chief, Power Operations Division, Mid-Pacific Region.

[FR Doc. 2011–2675 Filed 2–7–11; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Receipt of a Petition To Designate Lands Unsuitable for Mining and To Prepare a Petition Evaluation Document and Environmental Impact Statement

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of intent to prepare a combined petition evaluation document/environmental impact statement, and notice of scoping meeting and scoping comment period for the petition.

SUMMARY: Notice is hereby given that the Office of Surface Mining Reclamation and Enforcement (OSM) intends to prepare a combined petition evaluation document/environmental impact statement (PED/EIS) for the decision on a petition to designate certain lands within the North Cumberland Wildlife Management Area and the Emory River Tracts Conservation Easement in Anderson, Campbell, Morgan, and Scott Counties, Tennessee, as unsuitable for surface coal mining and reclamation operations in accordance with Section 522 of the Surface Mining Control and Reclamation Act (SMCRA) of 1977. OSM has identified three alternatives that the combined PED/EIS would evaluate as described in the supplementary information of this notice. OSM requests that other Federal and state agencies and the public submit written comments or statements on the need for an EIS on the petition and the scope of the issues which should be analyzed in the combined document.

DATES: Written comments must be received by 5 p.m. (EDT), April 14, 2011. Oral and written comments may be presented at one of the three scoping meetings. The scoping meetings will be held at: Huntsville Middle School at 6:30 p.m. (EDT) on March 8, 2011; LaFollette Middle School, at 6:30 p.m. (EDT) on March 10, 2011; and Oak Ridge High School at 6:30 p.m. (EDT) on March 15, 2011.

ADDRESSES: Written comments may be submitted via e-mail to *TNLUM@osmre.gov* or mailed or hand delivered to the Office of Surface Mining, Field Office Director, Attn: Earl D. Bandy Jr., John J. Duncan Federal Building, 710 Locust Street, Second Floor, Knoxville, Tennessee 37902.

Copies of the petition are available upon request from the OSM at the above address. Copies of the petition are also available via the internet at *http://tn.gov/environment/lumpetition.shtml.*

The public record on the petition is available for review during normal working hours (8 a.m. to 4:30 p.m.) at the OSM office listed above. The March 8 scoping meeting will be held at the Huntsville Middle School, 3101 Baker Highway, Huntsville, Tennessee. The March 10 scoping meeting will be held at the LaFollette Middle School, 1309 East Central Avenue, LaFollette, Tennessee. The March 15 scoping meeting will be held at the Oak Ridge High School, 1450 Oak Ridge Turnpike, Oak Ridge, Tennessee.

FOR FURTHER INFORMATION CONTACT: Earl D. Bandy Jr., at the OSM office listed above (*telephone:* 865–545–4103 ex.186).

SUPPLEMENTARY INFORMATION: On October 1, 2010, the State of Tennessee petitioned the Office of Surface Mining Reclamation and Enforcement (OSM), United States Department of the Interior, to designate certain lands within the North Cumberland Wildlife Management Area and the Emory River Tracts Conservation Easement in Anderson, Campbell, Morgan, and Scott Counties, Tennessee as unsuitable for surface coal mining operations pursuant to the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*). The petition was amended on November 5, 2010, and deemed administratively complete and accepted for processing on November 23, 2010. The petition as accepted is a 28-page document with a one-page exhibit. The amendment consisted of a three-page cover letter, two exhibits totaling nine pages and four CD's containing various reference documents in support of their position. The Federal Program for Tennessee, as administered by OSM, applies to all surface coal mining operations in Tennessee including the processing of lands unsuitable for mining petitions (30 CFR part 942).

The petition area occupies approximately 67,326 acres in Scott, Campbell, Anderson, and Morgan Counties, Tennessee and is identified as the land within 600 feet on each side (1,200 feet total) of all ridge lines lying within the North Cumberland Wildlife Management Area (WMA) which is comprised of the Royal Blue WMA, the Sundquist WMA, and the New River WMA (also known as the Brimstone Tract Conservation Easement) and the Emory River Tracts Conservation Easement.

The major allegations of the petition can be summarized as follows:

1. Surface mining operations in the petition area would be incompatible with the conservation goals of Tennessee's "Connecting the Cumberland's" project, as well as with various state land use plans, programs and strategies that govern and set goals for the lands within and downstream of the petition area.

2. Surface mining operations in the petition area would significantly damage the natural systems and esthetic, recreational, cultural, and historic values of the ridge lines and their viewsheds that exist within these fragile lands.

OSM has identified three possible alternatives that the combined PED/EIS would evaluate:

- Alternative 1—Designate the entire petition area as unsuitable for surface coal mining operations.
- Alternative 2—Not designate any of the area as unsuitable for surface coal mining operations.
- Alternative 3—Designate parts of the petition area as unsuitable for all or certain types of surface coal mining operations.

A scoping comment period is intended to raise the relevant issues to be addressed by the combined document. OSM seeks public comments in relation to the scope of issues to be addressed by the impact evaluation, including impacts and alternatives that should be addressed. Written comments should be specific and confined to issues pertinent to the petition. The public comments received during the scoping period will assist OSM in making decisions on the petition evaluation and in preparing the PED/EIS. OSM believes that the proposed action is a major Federal action that may significantly affect the quality of the human environment and may require the preparation of an EIS. OSM additionally gives notice here that should information or analyses show that the proposed action does not require an EIS, we will terminate the EIS process through an appropriate notice in the **Federal Register**, prepare an environmental assessment, and continue processing of the petition under the regulations at 30 CFR parts 764 and 942.

Dated: January 31, 2011.

Sterling Rideout,

Assistant Director, Program Support.

[FR Doc. 2011–2765 Filed 2–7–11; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–713]

Certain Display Devices Including Digital Televisions and Monitors; Notice of Commission Determination Not To Review an Initial Determination Granting a Joint Motion To Terminate the Investigation in Its Entirety Based on a Settlement Agreement; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 25) granting a joint motion to terminate the investigation in its entirety based on a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–2301. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on April 21, 2010, based on a complaint filed by Sony Corporation of Japan ("Sony"). 75 FR 20860–1. The complaint, as amended and supplemented, alleges violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain digital display devices including digital televisions and monitors by reason of infringement of certain claims of U.S. Patent Nos. 5,434,626; 5,751,373; 6,111,614; 5,583,577; 5,684,542; 5,731,847; 6,661,472; 6,816,131; Re 38,055; and Re 40,468. The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation named various respondents including Chimei Innolux Corporation and Innolux Corporation (collectively "CMI"); TPV Technology Limited; Top Victory Electronics (Taiwan) Co.; TPV International (USA), Inc.; Envision Peripherals, Inc.; Top Victory Investments Ltd.; TPV Electronics (Fujian) Co. Ltd.; TPV Display Technology (Wuhan) Co.; TPV Technology (Beijing) Co., Ltd. (collectively "TPV respondents"). On September 24, 2010, the Commission determined not to review an ID granting Sony's motion to terminate the TPV respondents based on a settlement agreement.

On December 16, 2010, Sony and respondents CMI filed a joint motion to terminate the investigation based on a settlement agreement as embodied in a memorandum of understanding. On December 27, 2010, the Commission investigative attorney filed a response supporting the motion.

On January 3, 2011, the ALJ issued the subject ID granting the joint motion to terminate the investigation in its entirety pursuant to Commission Rule 210.21(b). No petitions for review of the subject ID were filed.

The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

Issued: February 2, 2011.

By order of the Commission.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011–2683 Filed 2–7–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Rutherford Oil Corporation, et al.,* No. 3:08-cv-231, was lodged with the United States District Court for the Southern District of Texas on February 2, 2011.

This proposed Consent Decree concerns a complaint filed by the United States against Rutherford Oil Corporation, Brown Water Marine Service, Inc., Caillou Island Towing Company, Inc., Inland Marine Management Corporation, and Triple S Marine, LLC, pursuant to 33 U.S.C. 1311(a) and 33 U.S.C. 403, to obtain injunctive relief from and impose civil penalties against the Defendants for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The proposed Consent Decree resolves these allegations by requiring the Defendants to conduct a restoration project and to pay a civil penalty. The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please

address comments to T. Monique Jones, Environmental Defense Section, United States Department of Justice, P.O. Box 23986, Washington DC 20026 and refer to *United States* v. *Rutherford Oil Corporation,* DJ # 90–5–1–1–18340.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Southern District of Texas, 515 Rusk Avenue, Houston TX 77002. In addition, the proposed Consent Decree may be viewed at *http://www.usdoj.gov/enrd/Consent_Decrees.html.*

Maureen M. Katz,

Assistant Section Chief, Environment & Natural Resources Division.

[FR Doc. 2011–2695 Filed 2–7–11; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–NEW]

Agency Information Collection Activities: Proposed Collection, Comments Requested

ACTION: 60-day Notice of Information Collection for Review: Final Disposition Report (R–84).

The Department of Justice, Federal Bureau of Investigation (FBI), Criminal Justice Information Services (CJIS) Division will be submitting the following information collection renewal to the Office of Management and Budget (OMB) for review in accordance with established review procedures of the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until April 11, 2011. This process is conducted in accordance with 5 CFR 1320.10.

All comments, suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Rachel K. Hurst, Management Program Analyst, Federal Bureau of Investigation, Criminal Justice Information Services Division (CJIS), Biometric Services Section, Support Services Unit, Module E–1, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; or by facsimile to (304) 625–5392.

To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, *Attn:* DOJ Desk Officer, *Fax:* 202 395–7285, or e-mailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number [1121–0234]. Also include the DOJ docket number found in brackets in the heading of this document.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have a practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the propose collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of information collection:* Approval of existing collection in use without an OMB control number.

(2) *The title of the form/collection:* Final Disposition Report.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* R–84; Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* City, county, State, Federal and Tribal law enforcement agencies. This collection is needed to report completion of an arrest record. Acceptable data is stored as part of the Integrated Automated Fingerprint Identification System (IAFIS) of the FBI.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 71,757 agencies as respondents at five minutes per Final Disposition Report completed.

(6) *An estimate of the total public burden (in hours) associated with this collection:* There are approximately 54,167 annual burden hours associated with this collection.

If additional information is required contact: Lynn Murray, Department Clearance Officer, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street, NE., Suite 2E–502, Washington, DC 20530.

Dated: February 2, 2011.

Lynn Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2011–2672 Filed 2–7–11; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Parole Commission

Meetings; Sunshine Act; Public Announcement Pursuant to the Government in the Sunshine Act (Pub. L. 94–409) [5 U.S.C. Section 552b]

AGENCY HOLDING MEETING: Department of Justice, United States Parole Commission.

DATE AND TIME: 11:30 a.m., Thursday, February 10, 2011.

PLACE: U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815.

STATUS: Closed.

MATTERS CONSIDERED: The following matter will be considered during the closed meeting:

Consideration of four original jurisdiction cases pursuant to 28 CFR 2.27 and one original jurisdiction case pursuant to 28 CFR 2.17.

AGENCY CONTACT: Patricia W. Moore, Staff Assistant to the Chairman, United States Parole Commission, (301) 492–5933.

Dated: February 1, 2011.

Rockne Chickinell,

General Counsel, U.S. Parole Commission.

[FR Doc. 2011–2671 Filed 2–7–11; 8:45 am]

BILLING CODE 4410–31–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Public Availability of the National Aeronautic and Space Administration FY 2010 Service Contract Inventory

AGENCY: National Aeronautic and Space Administration.

ACTION: Notice of public availability of FY 2010 Service Contract Inventories.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), National Aeronautic and Space Administration (NASA) is publishing this notice to advise the public of the availability of its FY 2010 Service Contract inventory. This inventory provides information on service contract actions over $25,000 that were made in FY 2010. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on November 5, 2010, by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP).

NASA has posted its inventory and a summary of the inventory on the NASA Office of Procurement homepage at the following link: *http://www.hq.nasa.gov/office/procurement/scinventory/index.html*.

Point of contact for this initiative is Sandra Morris (202) 358–0532, *Sandra.morris@nasa.gov*.

William McNally,

Assistant Administrator for Procurement.

[FR Doc. 2011–2770 Filed 2–7–11; 8:45 am]

BILLING CODE 7510–01–P

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of Meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of Humanities Panels will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Michael P. McDonald, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* February 28, 2011.
Time: 8:30 a.m. to 5 p.m.
Location: Room 315.
Program: This meeting will review applications for American, British, and Anglophone Literature in Scholarly Editions, submitted to the Division of Research Programs at the October 28, 2010 deadline.

Michael P. McDonald,

Advisory Committee Management Officer.

[FR Doc. 2011–2740 Filed 2–7–11; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Sunshine Act Meetings; Notice

The National Science Board, 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:

AGENCY HOLDING MEETING: National Science Board.

DATE AND TIME: February 15, 2011 at 8 a.m., and February 16, 2011 at 8 a.m.

PLACE: National Science Foundation, 4201 Wilson Blvd., Room 1235, Arlington, VA 22230. All visitors must report to the NSF visitor desk at the 9th and N. Stuart Streets entrance to receive a visitor's badge. Public visitors must arrange for a visitor's badge in advance. Call 703–292–7000 or e-mail *NationalScienceBrd@nsf.gov* and leave your name and place of business to request your badge, which will be ready for pick-up at the visitor's desk on the day of the meeting.

STATUS: Some portions open, some portions closed.

OPEN SESSIONS:

February 15, 2011

8 a.m.–9:30 a.m.
10:30 a.m.–11 a.m.
12:45 p.m.–1:15 p.m.
1:15 p.m.–2:30 p.m.
3:15 p.m.–4:15 p.m.
4:15 p.m.–5:15 p.m.

February 16, 2011

8 a.m.–8:30 a.m.
8:30 a.m.–9:15 a.m.
9:45 a.m.–10 a.m.
10 a.m.–10:45 a.m.
10:45 a.m.–11:30 a.m.
1:30 p.m.–2:30 p.m.

CLOSED SESSIONS:

February 15, 2011

9:30 a.m.–10:30 a.m.
11 a.m.–11:45 a.m.
2:30 p.m.–3:15 p.m.

February 16, 2011

9:15 a.m.–9:45 a.m.
12:45 p.m.–1 p.m.
1 p.m.–1:30 p.m.

UPDATES: Please refer to the National Science Board Web site *http://www.nsf.gov/nsb* for additional information and schedule updates (time, place, subject matter or status of meeting) may be found at *http://www.nsf.gov/nsb/notices/*.

AGENCY CONTACT: Jennie L. Moehlmann, *jmoehlma@nsf.gov,* (703) 292–7000.

PUBLIC AFFAIRS CONTACT: Dana Topousis, *dtopousi@nsf.gov,* (703) 292–7750.

MATTERS TO BE DISCUSSED:

February 15, 2011

Plenary

Open Session: 8 a.m.–9:30 a.m., Room 1235

- Presentation on America COMPETES Reauthorization Act
- Presentation on National Research Council Study on Research Universities

Committee on Programs and Plans (CPP)

Closed Session 9:30 a.m.–10:30 a.m., Room 1235

- Committee Chairman's Remarks
- *NSB Action Items:* Two Science of Learning Centers

Committee on Strategy & Budget (CSB)

Open Session 10:30 a.m.–11 a.m., Room 1235

- Chairman's Remarks
- Approval of Minutes
- Approval of Data Policy Task Force Principles

- NSB Office
- NSF Performance Plan integration with the Strategic Plan
- Other Committee Business

Closed Session 11 a.m.–11:45 a.m., Room 1235

- Future NSF Budgets & Budget Implications

Task Force on Merit Review (MR)

Open Session: 12:45 p.m.–1:15 p.m., Room 1235

- Approval of Minutes
- Chairman's Remarks
- Discussion of Criteria and Next Steps

Committee on Programs and Plans (CPP) and Committee on Strategy & Budget (CSB)

Joint Open Session 1:15 p.m.–2:30 p.m., Room 1235

- Committee Chairs' Remarks
- Discussion Item: Cyberinfrastructure Planning
- Discussion Item: NSF Annual Facilities Plan

Joint Closed Session 2:30 p.m.–3:15 p.m., Room 1235

- NSF Annual Facilities Plan

CSB Subcommittee on Facilities

Open Session: 3:15 p.m.–4:15 p.m., Room 1235

- Chairman's Remarks
- Mid-Scale Instrumentation (from America COMPETES Reauthorization)
- Stewardship of Large Facilities (from America COMPETES Reauthorization)
- Plans for the May 2011 Portfolio Review

CSB Task Force on Data Policies

Open Session: 4:15 p.m.–5:15 p.m., Room 1235

- Chairman's Remarks
- Approval of Minutes
- Update on the March Workshop planning
- Update on related activities from NSF liaisons
- Closing Remarks

February 16, 2011

CPP Subcommittee on Polar Issues (SOPI)

Open Session: 8 a.m.–8:30 a.m., Room 1235

- SOPI Chairman's Remarks
- Approval of Minutes
- OPP Director's Remarks
- Report from NSB Members re: Travel to Antarctic

Committee on Audit and Oversight (A&O)

Open Session 8:30 a.m.–9:15 a.m., Room 1235

- Approval of Open Minutes
- Committee Chairman's Opening Remarks
- Inspector General's Update
- Chief Financial Officer's Update
- Human Resources Update
- Committee Chairman's Closing Remarks

Closed Session 9:15 a.m.–9:45 a.m., Room 1235

- Approval of Closed Minutes
- Committee Chair's Opening Remarks
- Procurement Activities
- "Future NSF" Update

CPP Task Force on Unsolicited Mid-Scale Research (MS)

Open Session: 9:45 a.m.–10 a.m., Room 1235

- Approval of Minutes
- Summary of January 6, 2011 Discussion with NSF Staff
- Summary of January 26, 2011 Task Force Teleconference
- Discussion of Task Force Future Activities

Committee on Education and Human Resources (CEH)

Open Session: 10 a.m.–10:45 a.m., Room 1235

- Approval of Minutes
- GAO Study on Federal Agency STEM Education Programs Update
- STEM Innovators—Current and Future Advancement: Discussion in the Context of Recent STEM Education Policy Developments

Committee on Science and Engineering Indicators (SEI)

Open Session: 10:45 a.m.–11:30 a.m., Room 1235

- Chairman's remarks
- *Science and Engineering Indicators 2012* cover
- Board Chapter Review Assignments and Expert Reviewer Suggestions
- Graphic Design of the State Chapter
- SBE Review of Measures of Public Science Knowledge
- Discussion of Companion Piece Topic
- Chairman's summary

Plenary Executive

Closed Session: 12:45 p.m.–1 p.m., Room 1235

- Approval of Plenary Executive Closed Minutes, December 2010
- Approval of Honorary Award (Waterman) Recommendation

Plenary

Closed Session: 1 p.m.–1:30 p.m., Room 1235

- Approval of Plenary Closed Minutes, December 2010
- Awards and Agreements
- Closed Committee Reports

Plenary

Open Session: 1:30 p.m.–2:30 p.m., Room 1235

- Approval of Plenary Open Session Minutes, December 2010
- Chairman's Report
- Director's Report
- Open Committee Reports

Meeting Adjourns 2:30 p.m.

Daniel A. Lauretano,

Counsel to the National Science Board.

[FR Doc. 2011–2814 Filed 2–4–11; 11:15 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Sunshine Act Meetings; Notice

The National Science Board's Committee on Programs and Plans, 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 a meeting for the transaction of National Science Board business and other matters specified, as follows:

DATES: February 14, 2011

TIME & SUBJECT MATTER OPEN: 1 p.m. to 3:30 p.m.

- Approval of Open Session Minutes
- Committee Chairman's Remarks
- *Discussion Item:* NSB Threshold Modification CPP Impact & Next Steps
- *Discussion Item:* Continuing Discussion on Recompetition Policy Implementation
- *Discussion Item:* Proposed Revisions to Mid-Scale Task Force Charge
- *NSB Information Item* : Renewal of Support for Large Hadron Collider (LHC)
- *NSB Information Item* : Update on NEON Airborne Observation Platform
- *NSB Information Item* TeraGrid XD
- *NSB Information Item* : Incorporated Research Institutions for Seismology (IRIS)
- *NSB Information Item* : EPSCoR Research Infrastructure Improvement Track-1

TIME AND SUBJECT MATTER CLOSED: 3:30 p.m. to 4:15 p.m.

- Committee Chairman's Remarks
- Approval of Closed Session Minutes
- *NSB Action Items:* Proposed Astronomy Facility Awards

STATUS: Open and Closed.

LOCATION: The open and closed session of this meeting will be in room 1295 or 1235, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. All visitors interested in attending the Open Session must contact the Board Office at least 24 hours prior to the meeting to arrange for a visitor's badge and obtain room location information. Call 703–292–7000 or send an e-mail message to *nationalsciencebrd@nsf.gov* with your name and organizational affiliation to request the room number and your badge, which will be ready for pick-up at the visitor's desk the day of the meeting. All visitors must report to the NSF visitor desk located in the lobby at the 9th and N. Stuart Streets entrance to receive your visitor's badge on the day of the teleconference.

UPDATES AND POINT OF CONTACT: Please refer to the National Science Board website *www.nsf.gov/nsb* for additional information and schedule updates (time, place, subject matter or status of meeting) may be found at *http://www.nsf.gov/nsb/notices/.* Point of contact for this meeting is: Elizabeth Strickland, National Science Board Office, 4201 Wilson Blvd., Arlington, VA 22230. *Telephone:* (703) 292–7000.

Daniel A. Lauretano,

Counsel to the National Science Board.

[FR Doc. 2011–2815 Filed 2–4–11; 11:15 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2010–0360]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on November 22, 2010.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* Comprehensive Decommissioning Program, Including Annual Data Collection.

3. *Current OMB approval number:* 3150–0206.

4. *The form number if applicable:* N/A.

5. *How often the collection is required:* Annually.

6. *Who will be required or asked to report:* All Agreement States who have signed Section 274(b) Agreements with NRC.

7. *An estimate of the number of annual responses:* 83.

8. *The estimated number of annual respondents:* 37 (13 Agreement States respondents with sites of interest + 24 Agreement States respondents with no sites of interest).

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 662 (590 hours from Agreement States with sites of interest + 72 hours from Agreement States with no sites of interest).

10. *Abstract:* Agreement States will be asked to provide information about uranium recovery and complex sites undergoing decommissioning regulated by the Agreement States on an annual basis. The information request will allow the NRC to compile, in a centralized location, more complete information on the status of decommissioning and decontamination in the United States in order to provide a national perspective on decommissioning. The information will be made available to the public by the NRC in order to ensure openness and promote communication to enhance public knowledge of the national decommissioning program. This does not apply to information, such as trade secrets and commercial or financial information provided by the Agreement States, that is considered privileged or confidential. Information such as financial assurance and the status of decommissioning funding would need to be identified by the Agreement State as privileged or confidential, whereupon the NRC would withhold such information from public access and treat it as sensitive or non-sensitive, per the considerations in 10 CFR 2.390 and 9.17. This does not apply to financial assurance or decommissioning funding information that is already available to the public. Although specific details of the funding mechanisms are treated as confidential, beneficial lessons learned regarding the improvement of decommissioning-related funding will be shared with the Agreement States.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, Maryland 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by March 10, 2011. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Christine J. Kymn, Desk Officer, Office of Information and Regulatory Affairs (3150–0206), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *Christine.J.Kymn@omb.eop.gov* or submitted by telephone at (202) 395–4638.

The NRC Clearance Officer is Tremaine Donnell, (301) 415–6258.

Dated at Rockville, Maryland, this 27th day of January 2011.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2011–2741 Filed 2–7–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0028]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC) is publishing this regular biweekly notice. The Act requires the

Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from January 13, 2011 to January 26, 2011. The last biweekly notice was published on January 25, 2011 (76 FR 4381).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; 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. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules, Announcements and Directives Branch (RADB), TWB–05–B01M, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be faxed to the RADB at 301–492–3446. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852–2738.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852–2738. 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 requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment

request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on 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 the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by e-mail at *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/EHD/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

For further details with respect to this license amendment application, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville,

Maryland. Publicly available records will be accessible 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 at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.*

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina.

Date of amendment request: September 13, 2010.

Description of amendment request: The proposed license amendments would revise Brunswick Steam and Electric Plant, Units 1 and 2 Technical Specification (TS) 5.3.1, "Facility Staff Qualifications." Specifically, TS 5.3.1 would be revised to be consistent with existing TS 5.2.2.f regarding senior reactor operator (SRO) requirements for the operations manager.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The change to TS 5.3.1 corrects a discrepancy between TS 5.3.1 and TS 5.2.2.f regarding the operation manager SRO requirements. This change is administrative in nature and does not affect the qualification requirements for the operations manager which were previously approved by the NRC. The proposed change does not directly affect plant operations. The change does not physically alter the facility in any manner and, as such, does not affect the means in which any safety-related system performs its intended safety function. Therefore, the proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. As stated above, the proposed change is administrative in nature. It does not involve physical alterations of the plant configuration or changes in setpoints or operating parameters. Therefore, there is no possibility of creating a new or different kind of accident.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The change to TS 5.3.1 is administrative in nature, correcting a discrepancy between TS 5.3.1 and TS 5.2.2.f regarding the operation manager SRO requirements. As documented in the November 4, 1998, safety evaluation for BSEP amendments 204 and 234 to the BSEP Unit 1 and 2 TSs, respectively, the requirements of TS 5.2.2.f: (1) ensure that operations management maintains in-depth, plant-specific knowledge and are consistent with the intent of ANSI–N18.1–1971, (2) ensure that operations management can effectively interface with day-to-day operational aspects of control room activities and can communicate operational issues to higher levels of plant and utility management, and (3) are consistent with 10 CFR 50.54(1), which requires individuals responsible for directing the licensed activities of licensed operators to hold an SRO license. Therefore, the proposed amendments do not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David T. Conley, Associate General Counsel II—Legal Department, Progress Energy Service Company, LLC, Post Office Box 1551, Raleigh, NC 27602.

NRC Branch Chief: Douglas A. Broaddus.

Exelon Generation Company, LLC, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Date of amendment request: October 8, 2010.

Description of amendment request: The proposed changes revise Technical Specification (TS) 3.8.3, "Diesel Fuel Oil, Lube Oil, and Starting Air," by relocating the current stored diesel fuel oil and lube oil numerical volume requirements from the TS to the TS Bases so that they may be modified under licensee control. The TS are being modified so that the stored diesel fuel oil and lube oil inventory will require that a 7-day supply be available for each diesel generator. Condition A and Condition B in the Action table are being revised and Surveillance Requirements (SRs) 3.8.3.1 and 3.8.3.2 are being revised to reflect the above change. In addition, the reference to Appendix B of American National Standards Institute (ANSI) N195–1976, "Fuel Oil Systems for Standby Diesel Generators," in the TS Bases is deleted. Instead, ANSI N195–1976 will be referenced. Reference to Appendix B of ANSI N195–1976 in the TS Bases is not required. ANSI N195–1976 and Regulatory Guide 1.137, Revision 1, "Fuel-Oil Systems for Standby Diesel Generators," are the current TS Bases references.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change relocates the volume of diesel fuel oil and lube oil required to support 7-day operation of the onsite diesel generators, and the volume equivalent to a 6-day supply, to licensee control. The specific volume of fuel oil equivalent to a 7- and 6-day supply is calculated using the maximum post loss of coolant accident load demands applied for the entire seven day and six day periods. The specific volume of lube oil equivalent to a 7- and 6-day supply is based on the diesel generator manufacturer's consumption values for the run time of the diesel generator. Because the requirement to maintain a 7-day supply of diesel fuel oil and lube oil is not changed and is consistent with the assumptions in the accident analyses, and the actions taken when the volume of fuel oil and lube oil are less than a 6-day supply have not changed, neither the probability nor the consequences of any accident previously evaluated will be affected. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve any physical alteration of the plant (i.e., no new or different type of equipment will be installed), or a change in the methods governing normal plant operation. The change does not alter assumptions made in the safety analysis but ensures that the diesel generators operate as assumed in the accident analysis. The proposed change is consistent with the safety analysis assumptions. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change relocates the volume of diesel fuel oil and lube oil required to support 7-day operation of the onsite diesel generators, and the volume equivalent to a 6-day supply, to licensee control. As the bases for the existing limits on diesel fuel oil and lube oil are not changed, no change is made

to the accident analysis assumptions and no margin of safety is reduced as part of this change. Therefore, the proposed change 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.

Attorney for licensee: Mr. Bradley J. Fewell, Associate General Counsel, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: Robert D. Carlson.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852–2738. Publicly available records will be accessible from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr.resource@nrc.gov.*

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Unit 1, 2, and 3, Maricopa County, Arizona

Date of application for amendment: April 29, 2010, as supplemented by letter dated August 24, 2010.

Brief description of amendment: The amendments revised the Technical Specifications (TSs) to incorporate Technical Specifications Task Force (TSTF) change traveler TSTF–479–A, "Changes to Reflect Revision of 10 CFR 50.55a," as modified by TSTF–497–A, "Limit Inservice Testing Program SR [Surveillance Requirement] 3.0.2 Application to Frequencies of 2 Years or Less." Specifically, the changes associated with TSTF–479–A replaced the reference in TS 5.5.8, "Inservice Testing Program," to the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code with a reference to the ASME Code for Operation and Maintenance of Nuclear Power Plants (OM Code) and specified that the extension allowance of SRs is applicable to the frequencies in the Inservice Testing Program. The changes associated with TSTF–497–A limited the applicability of SR 3.0.2 to frequencies of 2 years or less. In addition, the amendment removed the reference to component supports for consistency with the Standard Technical Specifications because the supports are included in the licensee's Inservice Inspection Program.

Date of issuance: January 19, 2011.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment No.: Unit 1—184; Unit 2—184; Unit 3—184.

Facility Operating License Nos. NPF–41, NPF–51, and NPF–74: The amendment revised the Operating Licenses and Technical Specifications.

Date of initial notice in **Federal Register:** July 27, 2010 (75 FR 44023). The supplemental letter dated August 24, 2010, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 19, 2011.

No significant hazards consideration comments received: No.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of application for amendment: January 4, 2010, supplemented by letter dated October 22, 2010.

Brief description of amendment: The amendment revises the core spray flow requirement in the Technical specifications Surveillance Requirements 3.5.1.8 and 3.5.2.6 from 6350 gallons per minute (gpm) to 5725 gpm (at a discharge head corresponding to a reactor pressure of 100 psig) consistent with the flow assumed in the Emergency Core Cooling System safety analysis evaluations.

Date of issuance: January 24, 2011.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 184.

Facility Operating License No. NPF–43: Amendment revised the Technical Specifications and License.

Date of initial notice in **Federal Register:** April 20, 2010 (75 FR 20631). The supplemental letters contained clarifying information and did not change the initial no significant hazards consideration determination, and did not expand the scope of the original application.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 24, 2011.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–286, Indian Point Nuclear Generating Unit 3, Westchester County, New York

Date of application for amendment: November 19, 2009, as supplemented on January 28 and December 16, 2010.

Brief description of amendment: The amendment revises the test acceptance criteria specified in the Technical Specifications for the emergency diesel generator endurance test surveillance.

Date of issuance: January 25, 2011.

Effective date: As of the date of issuance, and shall be implemented within 120 days.

Amendment No.: 242.

Facility Operating License No. DPR–64: The amendment revised the License and the Technical Specifications.

Date of initial notice in **Federal Register:** March 9, 2010 (75 FR 10829). The January 28 and December 16, 2010, supplements provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 25, 2011.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: January 24, 2010, as supplemented by letters dated September 7 and November 4, 2010.

Brief description of amendment: This amendment request would revise the Technical Specifications (TSs) Section 1.0, Definitions, TS Section 3.6, Primary System Boundary Specifications 3.6.A, and TS Programs and Manuals Section 5.5, to include reference to the Pressure and Temperature Limits Report (PTLR). The proposed PTLR would include revised 43 effective full-power years pressure-temperature curves, neutron fluence, and adjusted reference temperature values.

Date of issuance: January 26, 2011.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 234.

Facility Operating License No. DPR–35: The amendment revised the License and Technical Specifications.

Date of initial notice in **Federal Register:** April 6, 2010 (75 FR 17443). The supplemental letters dated September 7 and November 4, 2010, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated January 26, 2011.

No significant hazards consideration comments received: No.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit 1 and 2, San Luis Obispo County, California

Date of application for amendments: July 3, 2009, as supplemented by letters dated April 9 and July 22, 2010.

Brief description of amendments: The amendments revised Technical Specification (TS) 3.4.15, "RCS [Reactor Coolant System] Leakage Detection Instrumentation." Specifically, the amendments added a new Condition D for any inoperable containment sump monitor, the containment atmosphere particulate radioactivity monitor, and the containment fan cooler unit (CFCU) condensate collection monitor, and revised TS 3.4.15 Condition A, Required Action A.2, Condition B, Required Action B.2 and the associated TS Bases. The amendment request is consistent with Technical Specification Task Force (TSTF) Traveler TSTF–513, "Revise PWR [Pressurized-Water Reactor] Operability Requirements and Actions for RCS Leakage Instrumentation," with the exception of Condition E. To be consistent with the final version of TSTF–513 published in the **Federal Register** on January 3, 2011 (76 FR 189), as part of the consolidated line item improvement process, the NRC staff has denied the proposed change to TS 3.4.15 Condition E. The basis for the removal of Condition E from the TSTF is discussed in TSTF–513, Revision 3 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML102360355).

Date of issuance: January 24, 2011.

Effective date: As of its date of issuance and shall be implemented within 180 days from the date of issuance.

Amendment Nos.: Unit 1–209; Unit 2–211.

Facility Operating License Nos. DPR–80 and DPR–82: The amendments revised the Facility Operating Licenses and Technical Specifications.

Date of initial notice in **Federal Register:** August 25, 2009 (74 FR 42928). The supplemental letters dated April 9 and July 22, 2010, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 24, 2011.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: June 15, 2010, as supplemented on January 7, 2011.

Brief description of amendments: The amendments relocate specific surveillance frequency requirements to a licensee controlled program using the Technical Specification Task Force (TSTF) recommendation 425–A Revision 3.

Date of issuance: January 19, 2011.

Effective date: As of the date of issuance and shall be implemented within 120 days from the date of issuance.

Amendment Nos.: 158 and 140.

Renewed Facility Operating License Nos. NPF–68 and NPF–81: Amendments revised the licenses and the technical specifications.

Date of initial notice in **Federal Register:** August 24, 2010 (75 FR 52042).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 19, 2011.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units 1 and 2, Louisa County, Virginia

Date of application for amendment: January 29, 2010.

Brief description of amendment: The amendments revised an Emergency Action Level (EAL) scheme based on NUREG–0654, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plan and Preparedness in Support of Nuclear Power Plants," to one based on Nuclear Energy Institute (NEI) 99–01, "Methodology for Development of Emergency Action Levels," Revision 4. This would change the methodology for deriving selected Notification of Unusual Event values in Table R–1, Gaseous Effluent Monitor Classification Thresholds, and deleting EAL RA2.4 which evaluates abnormal radiation readings at infrequently accessed areas and revise the radiation level threshold values for reactor coolant system (RCS) letdown indication.

Date of issuance: January 26, 2011.

Effective date: As of the date of issuance and shall be implemented

within 120 days from the date of issuance.

Amendment Nos.: 261 and 242.

Renewed Facility Operating License Nos. NPF–4 and NPF–7: Amendments revised the licenses.

Date of initial notice in **Federal Register:** April 6, 2010 (75 FR 17447).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 26, 2011.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, et al., Docket Nos. 50–280 and 50–281, Surry Power Station, Units 1 and 2, Surry County, Virginia

Date of application for amendments: January 29, 2010.

Brief Description of amendments: These amendments revised an Emergency Action Level (EAL) scheme based on NUREG–0654, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plan and Preparedness in Support of Nuclear Power Plants," to one based on Nuclear Energy Institute (NEI) 99–01, "Methodology for Development of Emergency Action Levels," Revision 4. This would change the methodology for deriving selected Notification of Unusual Event values in Table R–1, Gaseous Effluent Monitor Classification Thresholds, and deleting EAL RA2.4 which evaluates abnormal radiation readings at infrequently accessed areas.

Date of issuance: January 26, 2011.

Effective date: As of the date of issuance and shall be implemented within 120 days.

Amendment Nos.: 272 and 271.

Renewed Facility Operating License Nos. DPR–32 and DPR–37: Amendments revised the licenses.

Date of initial notice in **Federal Register:** April 6, 2010 (75 FR 17448).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 26, 2011.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland this 28th day of January 2011.

For the Nuclear Regulatory Commission.

Joseph G. Giitter,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2011–2743 Filed 2–7–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–382; NRC–2011–0030]

Entergy Operations, Inc.; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission or NRC) has granted the request of Entergy Operations Inc. (the licensee) to withdraw its application dated February 22, 2010, for a proposed amendment to Facility Operating License No. NPF–38 for the Waterford Steam Electric Station, Unit 3, located in St. Charles Parish, Louisiana.

In view of the originally planned steam generator (SG) replacement during the spring 2011 refueling outage (RFO), the proposed changes would have modified the facility technical specifications (TSs) pertaining to TS 6.5.9, "Steam Generator (SG) Program," and TS 6.9.1.5, "Steam Generator Tube Inspection Report," to eliminate the currently allowed SG tube alternate repair criteria and to modify the SG tube inservice inspection frequency. However, the licensee has decided to postpone the SG replacement to the fall 2012 RFO and by letter dated January 19, 2011, withdrew the proposed change.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on April 20, 2010 (75 FR 20633).

For further details with respect to this action, see the application for amendment dated February 22, 2010, and the licensee's letter dated January 19, 2011, which withdrew the application for license amendment (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML100550137 and ML110210111, respectively). Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by e-mail to *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland, this 1st day of February 2011.

For the Nuclear Regulatory Commission.

Nageswaran Kalyanam,

Project Manager, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2011–2735 Filed 2–7–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–361 and 50–362; NRC–2011–0029]

Southern California Edison Company; Notice of Withdrawal of Application for Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission or NRC) has granted the request of Southern California Edison (SCE, the licensee) to withdraw its January 14, 2010, application for proposed amendments to Facility Operating License Nos. NPF–10 and NPF–15 for the San Onofre Nuclear Generating Station (SONGS), Units 2 and 3, respectively, located in San Diego County, California.

The proposed amendments would have revised a number of Technical Specification (TS) requirements, to impose similar restrictions on the movement of non-irradiated fuel assemblies to those currently in place for movement of irradiated fuel assemblies. The additional restrictions would limit the movement of all fuel assemblies over irradiated fuel assemblies in containment or in the fuel storage pool.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on May 18, 2010 (75 FR 27832). However, by letter dated January 27, 2011, the licensee withdrew the proposed changes.

For further details with respect to this action, see the application for amendment dated January 14, 2010, and the licensee's letter dated January 27, 2011, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852–2738. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.*

Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by e-mail to *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland, this 31st day of January 2011.

For the Nuclear Regulatory Commission.

James R. Hall,

Senior Project Manager, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2011–2739 Filed 2–7–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–042; ASLBP No. 11–908–01–ESP–BD01]

Exelon Nuclear Texas Holdings, LLC; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28,710 (1972), and the Commission's regulations, *see* 10 CFR 2.104, 2.300, 2.303, 2.309, 2.311, 2.318, and 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding:

Exelon Nuclear Texas Holdings, LLC (Victoria County Station Site)

This proceeding concerns the application for an early site permit filed by Exelon Nuclear Texas Holdings, LLC pursuant to Subpart A of 10 CFR part 52 for the Victoria County Station Site, to be located in Victoria County, Texas. A petition to intervene has been filed by Texans for a Sound Energy Policy in response to a November 23, 2010 Notice of Hearing and Opportunity to Petition for Leave to Intervene (75 FR 71,467).

The Board is comprised of the following administrative judges:

Michael M. Gibson, Chair, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dr. Anthony J. Baratta, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dr. Mark O. Barnett, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 2007 (72 FR 49,139).

Issued at Rockville, Maryland, this 2nd day of February 2011.

E. Roy Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 2011–2742 Filed 2–7–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0006]

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATE: Weeks of February 7, 14, 21, 28, March 7, 14, 2011.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of February 7, 2011

Tuesday, February 8, 2011

9 a.m. Briefing on Implementation of Part 26 (Public Meeting)

(Contact: Shana Helton, 301–415–7198).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of February 14, 2011—Tentative

There are no meetings scheduled for the week of February 14, 2011.

Week of February 21, 2011—Tentative

Thursday, February 24, 2011

9 a.m. Briefing on Groundwater Task Force (Public Meeting)

(Contact: Margie Kotzalas, 301–415–1727).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of February 28, 2011—Tentative

Tuesday, March 1, 2011

9 a.m. Briefing on Reactor Materials Aging Management Issues

(Public Meeting)

(Contact: Allen Hiser, 301–415–5650).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of March 7, 2011—Tentative

There are no meetings scheduled for the week of March 7, 2011.

Week of March 14, 2011—Tentative

There are no meetings scheduled for the week of March 14, 2011.

* * * * *

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415–1292. Contact person for more information: Rochelle Bavol, (301) 415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *www.nrc.gov/about-nrc/policy-making/schedule.html*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Angela Bolduc, Chief, Employee/Labor Relations and Work Life Branch, at 301–492–2230, TDD: 301–415–2100, or by e-mail at *angela.bolduc@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an e-mail to *darlene.wright@nrc.gov.*

Dated: February 3, 2011.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2011–2874 Filed 2–4–11; 4:15 pm]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Rule 163; OMB Control No. 3235–0619; SEC File No. 270–556]

Proposed Collection; Comment Request

Upon Written Request; Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 163, OMB Control No. 3235–0619, SEC File No. 270–556.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection

of information to the Office of Management and Budget for approval.

Rule 163 (17 CFR 230.163) provides an exemption from Section 5(c) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) for certain communications by or on behalf of a well-known seasoned issuer. The information filed under Rule 163 is publicly available. We estimate that it takes approximately 0.24 burden hours per response to provide the information required under Rule 163 and that the information is filed by approximately 53 respondents for a total annual reporting burden of 13 hours. We estimate that 25% of 0.24 hours per response (0.06 hours) is prepared by the respondent for a total annual burden of 3 hours (0.06 hours per response × 53 responses).

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the 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 imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comment to Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 6432 General Green Way, Alexandria, Virginia 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: February 1, 2011.

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–2667 Filed 2–7–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, February 10, 2011 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Walter, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting scheduled for Thursday, February 10, 2011 will be:

Institution and settlement of injunctive actions; and

Institution and settlement of administrative proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: February 3, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–2796 Filed 2–4–11; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63819; File No. SR–CBOE–2010–106]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Margin Requirements for Credit Options

February 2, 2011.

I. Introduction

On December 1, 2010, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change as described below. On December 14, 2010, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The proposed rule change was published for comment in the **Federal Register** on December 21, 2010.[4] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to amend Rule 12.3(l), *Margin Requirements,* to make CBOE's margin requirements for Credit Options consistent with FINRA Rule 4240, *Margin Requirements for Credit Default Swaps.* CBOE's Credit Options consist of two variations—Credit Default Options and Credit Default Basket Options. Credit Default Options and Credit Default Basket Options are also referred to as "Credit Event Binary Options." Effectively, both contracts operate in the same manner as credit default swap contracts.

As with a credit default swap contract, the buyer of a Credit Option contract is buying protection from the seller of the Credit Option. This protection is in the form of a monetary payment from the Credit Option seller to the Credit Option buyer in the event that the issuer of debt securities, or Reference Entity, specified as underlying the Credit Option contract has a Credit Event,[5] consequently defaulting on the payment of principal and interest on its debt securities. When a Credit Option buyer and seller initially open their positions via a transaction consummated on the Exchange, the Credit Option buyer's account is charged (debited) for the cost of the protection. The Credit Option seller's account is credited. For the protection, there is only a one-time debit and credit to the buyer and seller, respectively. If, prior to expiration of the Credit Option, a Credit Event [6] occurs, the Credit Option contract is settled with a credit to the Credit Option buyer's account for a predetermined payout amount (*e.g.,* $1,000), based on the Exchange's contract specifications. The Credit Option seller's account is debited (charged) for the payout amount.

Credit Default Options have a single Reference Entity. Credit Default Basket Options have multiple Reference Entities. If a Credit Default Basket

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 to SR–CBOE–2010–106 replaced and superseded the original rule filing in its entirety.

[4] *See* Securities Exchange Act Release No. 63546 (December 15, 2010), 75 FR 80099 (December 21, 2010) ("Notice").

[5] *See* Securities Exchange Act Release No. 63352 (November 19, 2010), 75 FR 73155 (November 29, 2010) (order approving SR–CBOE–2010–046). CBOE amended its rules to permit it to, among other things, list credit options designating a single credit event, such as failure-to-pay default, another event of default, or a restructuring. *See also* CBOE Rules 29.2 and 29.2A.

[6] *Id.*

Option is specified as having a single payout, settlement is triggered when any one of the component Reference Entities has a Credit Event and thereafter the option ceases to exist. The payout is the settlement amount attached to that one Reference Entity. If a Credit Default Basket Option is specified as having multiple payouts, a settlement is triggered when any one of the component Reference Entities has a Credit Event,[7] but the option continues to exist until its expiration. Therefore, additional settlements would be triggered if, and as, any Credit Events occur in respect of the remaining Reference Entity components. The payout is the settlement amount attached to each particular Reference Entity.

CBOE notes that the current Exchange margin requirements for Credit Options were established before FINRA implemented margin requirements for credit default swaps (FINRA Rule 4240). In order to be consistent with FINRA margin requirements and establish a level playing field for similar instruments, CBOE's proposed amendments adopt the FINRA requirements to a large extent. For Credit Default Options, which overlie a single Reference Entity, CBOE proposes to adopt FINRA's margin percentage table for credit default swaps. With respect to Credit Default Basket Options, CBOE is adopting the margin percentage table that FINRA requires for CDX indices because, like an index, a Credit Default Basket Option involves multiple component Reference Entities. CBOE proposes to revise the FINRA column headings to fit Credit Options. FINRA Rule 4240 requires the percentage to be applied to the notional amount of a credit default swap. CBOE's proposed rules would require that the percentage be applied to the settlement value of a Credit Option to arrive at a margin requirement because the settlement value of a Credit Option is analogous to the notional amount of a credit default swap. CBOE's proposed rules incorporate all other relevant aspects of FINRA 4240, such as risk monitoring procedures and guidelines, and concentration charge (net capital) requirements.

CBOE's proposed rules would require no margin in the case of a spread (*i.e.,* long and short Credit Options with the same underlying Reference Entity or Entities.) This differs from FINRA Rule 4240, which requires margin of 50% of the margin required on the long or short (credit default swap), whichever is greater. CBOE is proposing no margin because the long and short are required to have the same underlying Reference Entity. Moreover, Credit Options are standardized and are settled through The Options Clearing Corp.

CBOE's proposed rules would also require no margin on a short Credit Default Option that is offset with a short position in a debt security issued by the Reference Entity underlying the option. This language differs from the debt security offset allowed under FINRA Rule 4240. However, applicable margin must still be collected on the short position in a debt security as prescribed pursuant to applicable margin rules. Rule 4240 requires no margin for a long credit default swap contract that is paired with a long position in the underlying debt security. However, CBOE believes this type of offset does not appear to be workable in respect of a Credit Default Option.

The proposal will become effective on a pilot basis to run a parallel track with FINRA Rule 4240. FINRA Rule 4240 operates on an interim pilot basis which is currently scheduled to expire on July 16, 2011.[8] If the Exchange were to propose an extension of the Credit Option Margin Pilot Program or should the Exchange propose to make the Pilot Program permanent, then the Exchange would submit a filing proposing such amendments to the Pilot Program.

III. Discussion and Commission's Findings

After careful consideration, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[9] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[10] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. In the Commission's view, because it is consistent with FINRA Rule 4240, the proposed rule change will provide for a more uniform application of margin requirements for similar products.

The Commission further believes that it is appropriate to approve the proposal on a pilot basis to expire on July 16, 2011. In particular, the Commission notes that CBOE's proposed pilot program will parallel FINRA's pilot program. This will allow the Commission and CBOE to monitor the effects of the pilot on the markets and investors and consider appropriate adjustments, as necessary.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–CBOE–2010–106), as modified by Amendment No. 1, is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–2645 Filed 2–7–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

ActiveCore Technologies, Inc., Battery Technologies, Inc., China Media1 Corp., Dura Products International, Inc. (n/k/a Dexx Corp.), Global Mainframe Corp., GrandeTel Technologies, Inc., Magna Entertainment Corp. (n/k/a Reorganized Magna Entertainment Corp.), and 649 Com, Inc. (n/k/a Infinite Holdings Group, Inc.), Order of Suspension of Trading

February 4, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of ActiveCore Technologies, Inc. because it has not filed any periodic reports since the period ended September 30, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Battery Technologies, Inc. because it has not filed any periodic reports since the period ended December 31, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of China Media1 Corp. because it has not filed any periodic reports since the period ended September 30, 2006.

---

[7] *Id.*

[8] *See* Securities Exchange Act Release No. 63391 (November 30, 2010), 75 FR 75718 (December 6, 2010) (notice of filing for immediate effectiveness extending FINRA Rule 4240 margin interim pilot program to July 16, 2011).

[9] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Dura Products International, Inc. (n/k/a Dexx Corp.) because it has not filed any periodic reports since the period ended December 31, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Global Mainframe Corp. because it has not filed any periodic reports since the period ended April 30, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of GrandeTel Technologies, Inc. because it has not filed any periodic reports since the period ended January 31, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Magna Entertainment Corp. (n/k/a Reorganized Magna Entertainment Corp.) because it has not filed any periodic reports since the period ended September 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of 649 Com, Inc. (n/k/a Infinite Holdings Group, Inc.) because it has not filed any periodic reports since the period ended March 31, 2006.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EST on February 4, 2011, through 11:59 p.m. EST on February 17, 2011.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2011–2827 Filed 2–4–11; 11:15 am]

BILLING CODE 8011–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determinations Under the African Growth and Opportunity Act

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The United States Trade Representative (USTR) has determined that the Republic of Liberia has adopted an effective visa system and related procedures to prevent unlawful transshipment and the use of counterfeit documents in connection with shipment of textile and apparel articles and has implemented and follows, or making substantial progress toward implementing and following, the customs procedures required by the African Growth and Opportunity Act (AGOA). Therefore, imports of eligible products from the Republic of Liberia qualify for the textile and apparel benefits provided under the AGOA.

DATES: *Effective Date:* February 7, 2011.

FOR FURTHER INFORMATION CONTACT: Constance Hamilton, Deputy Assistant United States Trade Representative for African Affairs, Office of the United States Trade Representative, (202) 395–9514.

SUPPLEMENTARY INFORMATION: The AGOA (Title I of the Trade and Development Act of 2000, Public Law 106–200, as amended) provides preferential tariff treatment for imports of certain textile and apparel products of beneficiary sub-Saharan African countries. The textile and apparel trade benefits under the AGOA are available to imports of eligible products from countries that the President designates as "beneficiary sub-Saharan African countries," provided that these countries: (1) Have adopted an effective visa system and related procedures to prevent unlawful transshipment and the use of counterfeit documents; and (2) have implemented and follow, or are making substantial progress toward implementing and following, certain customs procedures that assist the Customs Service in verifying the origin of the products. In Proclamation 8098 (December 29, 2006), the President designated the Republic of Liberia as a "beneficiary sub-Saharan African country" and proclaimed that, for purposes of section 112(b)(3)(B) of the AGOA, the Republic of Liberia shall be considered a lesser developed beneficiary sub-Saharan African country. In Proclamation 7350 (October 2, 2002), the President delegated to the USTR the authority to determine whether designated countries have met the two requirements described above. The President directed the USTR to announce any such determinations in the **Federal Register** and to implement them through modifications of the Harmonized Tariff Schedule of the United States (HTS). Based on actions that the Republic of Liberia has taken, I have determined that the Republic of Liberia has satisfied these two requirements. Accordingly, pursuant to the authority vested in the USTR by Proclamation 7350, U.S. note 7(a) to subchapter II of chapter 98 of the HTS, and U.S. notes 1 and 2(d) to subchapter XIX of chapter 98 of the HTS are each modified by inserting "Republic of Liberia" in alphabetical sequence in the list of countries. The foregoing modifications to the HTS are effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after February 7, 2011. Importers claiming preferential tariff treatment under the AGOA for entries of textile and apparel articles should ensure that those entries meet the applicable visa requirements. See Visa Requirements Under the African Growth and Opportunity Act, 66 FR 7837 (2001).

Ron Kirk,

U.S. Trade Representative.

[FR Doc. 2011–2757 Filed 2–7–11; 8:45 am]

BILLING CODE 3190–W1–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2004–16951]

Agency Information Collection Activities; Request for Comments; Renewed Approval of Information Collection: Aircraft Liability Insurance

AGENCY: Office of the Secretary, DOT.

ACTION: Notice; correction.

SUMMARY: The Office of the Secretary published a document in the **Federal Register** on December 7, 2010, concerning a request for renewal of a previously approved information collection. We are correcting the document as set forth below.

FOR FURTHER INFORMATION CONTACT: Lauralyn Remo, Chief, Air Carrier Fitness Division (X–56), Office of Aviation Analysis, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366–9721.

Correction

In the December 7, 2010, **Federal Register** [75 FR 76066], correct the Estimated Total Burden on Respondents to read:

Estimated Total Burden on Respondents: 3,450 hours.

Issued in Washington, DC on January 31, 2011.

Todd M. Homan,

Director, Office of Aviation Analysis.

[FR Doc. 2011–2700 Filed 2–7–11; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

ITS Joint Program Office; Intelligent Transportation Systems Program Advisory Committee; Notice of Meeting

AGENCY: Research and Innovative Technology Administration, U.S. Department of Transportation.

ACTION: Notice.

This notice announces, pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (FACA) (Pub. L. 72–363; 5 U.S.C. app. 2), a meeting of the Intelligent Transportation Systems (ITS) Program Advisory Committee (ITSPAC). The meeting will be held on March 2, 2011, from 1:30 p.m. to 5 p.m., and March 3, 2011, from 8 a.m. to 4 p.m. at the Ann Arbor Marriott Ypsilanti Hotel at Eagle Crest, 1275 S. Huron Street, Ypsilanti, Michigan 48197.

The ITSPAC, established under Section 5305 of Public Law 109–59, Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, August 10, 2005, was created to advise the Secretary of Transportation on all matters relating to the study, development, and implementation of intelligent transportation systems. Through its sponsor, the ITS Joint Program Office (JPO), the ITSPAC makes recommendations to the Secretary regarding ITS Program needs, objectives, plans, approaches, content, and progress.

Following is the meeting's preliminary agenda. March 2: (1) Opening Remarks by Dr. Joseph Sussman, Committee Chairman; (2) Welcome Remarks by Peter Appel, RITA Administrator; (3) Review of the ITSPAC's January 6–7, 2011, meeting; and (4) Technology and Communications Discussion. March 3: (1) Transformation Discussion; (2) Sub-committee Breakout Meetings; (3) Sub-committee Report-outs/Presentations; and (4) Summary and Wrap-up.

The meeting will be open to the public, but space will be available on a first-come, first-served basis. Members of the public who wish to present oral statements at the meeting must request approval from Mr. Stephen Glasscock, the Committee Designated Federal Officer, at (202) 366–9126 no later than February 22, 2011.

Questions about the agenda or written comments may be submitted by U.S. Mail to: U.S. Department of Transportation, Research and Innovative Technology Administration, ITS Joint Program Office, Attention: Stephen Glasscock, 1200 New Jersey Avenue, SE., HOIT, Room E33–415, Washington, DC 20590 or faxed to (202) 493–2027. The JPO requests that written comments be submitted no later than February 22, 2011.

Notice of this meeting is provided in accordance with the FACA and the General Services Administration regulations (41 CFR part 102–3) covering management of Federal advisory committees.

Issued in Washington, DC, on the 1st day of February 2011.

John Augustine,

Managing Director, ITS Joint Program Office.

[FR Doc. 2011–2702 Filed 2–7–11; 8:45 am]

BILLING CODE 4910–HY–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2010–0170; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 2006 and 2007 Aston Martin Vantage Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 2006 and 2007 Aston Martin Vantage passenger cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2006 and 2007 Aston Martin Vantage passenger cars that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS) are eligible for importation into the United States because they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the 2006 and 2007 Aston Martin Vantage passenger cars,) and they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is March 10, 2011.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Instructions: Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

How to Read Comments submitted to the Docket: You may read the comments received by Docket Management at the address and times given above. You may also view the documents from the Internet at *http://www.regulations.gov*. Follow the online instructions for accessing the dockets. The docket ID number and title of this notice are shown at the heading of this document notice. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a

motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies, LLC ("JK"), of Baltimore, Maryland (Registered Importer 90–006) has petitioned NHTSA to decide whether nonconforming 2006 and 2007 Aston Martin Vantage passenger cars are eligible for importation into the United States. The vehicles which JK believes are substantially similar are 2006 and 2007 Aston Martin Vantage passenger cars that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner states that it compared non-U.S. certified 2006 and 2007 Aston Martin Vantage passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

JK submitted information with its petition intended to demonstrate that non-U.S. certified 2006 and 2007 Aston Martin Vantage passenger cars, as originally manufactured, conform to many FMVSS in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2006 and 2007 Aston Martin Vantage passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 113 *Hood Latch System,* 116 *Motor Vehicle Brake Fluids,* 124 *Accelerator Control Systems,* 135 *Light Vehicle Brake Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Mounting,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 225 *Child Restraint Anchorage Systems,* 302 *Flammability of Interior Materials,* and 401 *Interior Trunk Release.*

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* Replacement of the instrument cluster with a conforming U.S.-model component.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* Installation of the following conforming U.S.-model components on vehicles not already so equipped: (a) Front and rear side marker lamps and reflex reflectors; (b) headlamps; (c) tail lamps; and (d) a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* Installation of a conforming U.S.-model passenger side rearview mirror, or inscription of the required warning statement on the face of that mirror.

Standard No. 114 *Theft Protection:* Installation of a supplemental key warning buzzer to ensure that the theft protection system meets the requirements of this standard.

Standard No. 118 *Power-Operated Window, Partition, and Roof Panel Systems:* Installation of U.S.-model software to ensure that the power-operated window system meets the requirements of this standard.

Standard No. 208 *Occupant Crash Protection:* Installation of: (a) A seat belt warning buzzer and associated software; (b) airbag warning labels; (c) a replacement front passenger's seat frame base incorporating four occupant classification system (OCS) sensors and associated electronic control module (The connection for the OCS already exists in the vehicle wiring system.); (d) a child restraint tether anchorage on the front passenger's seat; (e) revised software in the restraint control module (RCM) so that the OCS connection and redundant Passenger Airbag Cut Off Switch (PACOS) is recognized; and (f) revised software in the central electronic module (CEM) for system compatibility and to reconfigure the vehicle settings to ensure that the occupant restraint systems meet the requirements of this standard.

In addition, the petitioner states that the passenger airbag cut off switch (PACOS) must be deactivated.

The petitioner included a parts list in its petition that it obtained from the original manufacturer of the vehicle listing the components that must be installed in the nonconforming vehicle.

The petitioner also states that the occupant restraint systems used in vehicle includes conforming combination lap and shoulder belts at the outboard front seating positions as well as the rear outboard seating positions that are self-tensioning and released by means of a single red pushbutton.

Standard No. 301 *Fuel System Integrity:* Installation of U.S.-model software to ensure that the system meets the requirements of this standard.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicles near the left windshield post to meet the requirements of 49 CFR Part 565.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 2, 2011.

Claude H. Harris,

Acting Associate Administrator for Enforcement.

[FR Doc. 2011–2660 Filed 2–7–11; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board has received a request from the Association of American Railroads (WB463–13–01/13/11) for permission to use certain data from the Board's Carload Waybill Samples. A copy of this request may be obtained from the Office of Economics.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the

Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Scott Decker, (202) 245–0330.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–2754 Filed 2–7–11; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control ("OFAC") is publishing the names of 4 individuals and 1 entity whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act ("Kingpin Act") (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

DATES: The designation by the Director of OFAC of the 4 individuals and 1 entity identified in this notice pursuant to section 805(b) of the Kingpin Act is effective on February 1, 2011.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, *tel.:* 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, *tel.:* (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the President to impose sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury consults with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security when designating and blocking the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On February 1, 2011, the Director of OFAC designated 4 individuals and 1 entity whose property and interests in property are blocked pursuant to section 805(b) of the Foreign Narcotics Kingpin Designation Act.

The list of additional designees is as follows:

Entity:

1. LOS GUEROS (a.k.a. "LOS ASQUELINES"; a.k.a. "LOS CALABAZOS"; a.k.a. "LOS GUERITOS"; a.k.a. "LOS GUERITOS DE TECATITLAN"; a.k.a. "LOS GUERRITOS"; a.k.a. "LOS GUERROS"; a.k.a. "RODRIGUEZ OLIVERA DTO"), Coto Cataluna No. 84, Zapopan, Jalisco, Mexico; Sendero de los Pinos No. 55, Zapopan, Jalisco, Mexico; Coto Cataluna No. 92, Zapopan, Jalisco, Mexico; Pablo Neruda No. 3583, Guadalajara, Jalisco, Mexico; Coto Villa Coral No. 23, Residencial Villa Palma 200, Zapopan, Jalisco, Mexico; Coto Murcia No. 16, Zapopan, Jalisco, Mexico; San Eliseo No. 1695, Zapopan, Jalisco, Mexico; (ENTITY) [SDNTK]

Individuals:

1. RODRIGUEZ OLIVERA, Luis (a.k.a. MORFAN RODRIGUEZ, Luis Fernando; a.k.a. RODRIGUEZ MORFIN, Luis; a.k.a. RODRIGUEZ OLIVERA, Luis Fernando), Plaza Pabellion, Zapopan, Jalisco, Mexico; Colonia Providencia, Calle Quebec, Apt. 1127, Guadalajara, Jalisco, Mexico; 4179 Colonia Miravalle, Guadalajara, Jalisco, Mexico; Sendero Las Acacias 92, Guadalajara, Jaslico, Mexico; Vereda Del Canario 1, Guadalajara, Jalisco, Mexico; Puerto de Hierro, Zapopan, Jalisco, Mexico; Fresno, CA; DOB 3 Apr 1972; alt. DOB 1960; alt. DOB 1966; POB Tecalitlan, Jalisco, Mexico; citizen Mexico; nationality Mexico; (INDIVIDUAL) [SDNTK]

2. RODRIGUEZ OLIVERA, Esteban (a.k.a. MORFIN RODRIGUEZ, Esteban; a.k.a. RODRIGUEZ JIMENEZ, Esteban; a.k.a. RODRIGUEZ LARIOS, Esteban; a.k.a. RODRIGUEZ MORFIN, Esteban; a.k.a. "VALENCIA, Esteban"), Sendera las Acacias 92, Guadalajara, Jalisco, Mexico; Ricardo Giradles 5107, Colonia Jardines de Universidad, Guadalajara, Mexico; Vereda del Canario 1, Guadalajara, Jalisco, Mexico; Ciudad Victoria, Allende Hwy, Allende, Guanajuato, Mexico; Ocampo 49, Tecalitlan, Jalisco, Mexico; Puerto de Hierro, Zapopan, Jalisco, Mexico; Mexico City, Distrito Federal, Mexico; Universidad, Guadalajara, Jalisco, Mexico; DOB 19 Dec 1964; POB Tecalitlan, Jalisco, Mexico; citizen Mexico; nationality Mexico; Passport 0801009914 (Mexico) issued 2 Nov 2008 expires 2 Nov 2018; (INDIVIDUAL) [SDNTK]

3. RODRIGUEZ OLIVERA, Daniel (a.k.a. RODRIGUEZ MORFIN, Daniel), Puerto de Hierro, Zapopan, Jalisco, Mexico; Vereda del Canario 1, Guadalajara, Jalisco, Mexico; Sendero Las Acacias 92, Guadalajara, Jalisco, Mexico; DOB 14 Feb 1974; alt. DOB 1973; POB Jalisco, Mexico; alt. POB Tecalitlan, Jalisco, Mexico; citizen Mexico; nationality Mexico; C.U.R.P. ROOD740214HJCDLN09 (Mexico); Passport 140044764 (Mexico); (INDIVIDUAL) [SDNTK]

4. RODRIGUEZ OLIVERA, Miguel (a.k.a. MORFIN RODRIGUEZ, Miguel), Puerto de Hierro, Zapopan, Jalisco, Mexico; C Simon Blvd. No. 47, Col Aviacio, Tijuana, Baja California, Mexico; Vereda del Canario 1, Guadalajara, Jalisco, Mexico; Sendero Las Acacias 92, Guadalajara, Jalisco, Mexico; Puerto Vallarta, Jalisco, Mexico; Fraccionamiento Santa Isabel, Paseo San Eliseo 1695, Zapopan, Jalisco, Mexico; DOB 11 Aug 1976; alt. DOB 2 Sep 1977; POB Jalisco, Mexico; citizen Mexico; nationality Mexico; C.U.R.P. ROOM760811HJCDLG00 (Mexico); (INDIVIDUAL) [SDNTK]

Dated: February 1, 2011.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2011–2746 Filed 2–7–11; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0180]

Agency Information Collection (Compliance Report of Proprietary Institutions) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 9, 2011.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov;* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0180" in any correspondence.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 461–0966 or *e-mail: denise.mclamb@va.gov.* Please refer to "OMB Control No. 2900–0180)."

SUPPLEMENTARY INFORMATION:

Title: Compliance Report of Proprietary Institutions, VA Form 20–4274.

OMB Control Number: 2900–0180.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 20–4274 is used to determine whether proprietary educational institutions receiving Federal financial assistance comply with applicable civil rights statute and regulations. The collected information is used to identify areas that may indicate, statistically, disparate treatment of minority group members.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on November 29, 2010, at pages 73167–73168.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 155 hours.

Estimated Average Burden per Respondent: 75 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 124.

Dated: February 3, 2011.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2011–2712 Filed 2–7–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0028]

Agency Information Collection (Application of Service Representative for Placement on Mailing List) Activity Under OMB Review

AGENCY: Office of Information and Technology, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Office of Information and Technology, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 10, 2011.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0028" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 461–0966 or e-mail *denise.mclamb@va.gov.* Please refer to "OMB Control No. 2900–0028.

SUPPLEMENTARY INFORMATION:

Titles

a. Application of Service Representative for Placement on Mailing List, VA Form 3215.

b. Request for and Consent to Release of Information from Claimant's Records, VA Form 3288.

c. Request to Correspondent for Identifying Information, VA Form Letter 70–2.

d. 38 CFR 1.519(A) Lists of Names and Addresses.

OMB Control Number: 2900–0028.

Type of Review: Extension of a currently approved collection.

Abstracts

a. VA operates an outreach services program to ensure veterans and beneficiaries have information about benefits and services to which they may be entitled. To support the program, VA distributes copies of publications to Veterans Service Organizations' representatives to be used in rendering services and representation of veterans, their spouses and dependents. Service organizations complete VA Form 3215 to request placement on a mailing list for specific VA publications.

b. Veterans or beneficiaries complete VA Form 3288 to provide VA with a written consent to release his or her records or information to third parties such as insurance companies, physicians and other individuals.

c. VA Form Letter 70–2 is used to obtain additional information from a correspondent when the incoming correspondence does not provide sufficient information to identify a veteran. VA personnel use the information to identify the veteran, determine the location of a specific file, and to accomplish the action requested by the correspondent such as processing a benefit claim or file material in the individual's claims folder.

d. Title 38 U.S.C. 5701(f)(1) authorized the disclosure of names or addresses, or both of present or former members of the Armed Forces and/or their beneficiaries to nonprofit organizations (including members of Congress) to notify veterans of Title 38 benefits and to provide assistance to veterans in obtaining these benefits. This release includes VA's Outreach Program for the purpose of advising veterans of non-VA Federal State and local benefits and programs.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on November 24, 2010, at pages 71795–71796.

Affected Public: Individuals or households.

Estimated Annual Burden

a. Application of Service Representative for Placement on Mailing List, VA Form 3215—25 hours.

b. Request for and Consent to Release of Information from Claimant's Records, VA Form 3288—18,875 hours.

c. Request to Correspondent for Identifying Information, VA Form Letter 70–2—3,750 hours.

d. 38 CFR 1.519(A) Lists of Names and Addresses—50 hours.

Estimated Average Burden per Respondent

a. Application of Service Representative for Placement on Mailing List, VA Form 3215—10 minutes.

b. Request for and Consent to Release of Information from Claimant's Records, VA Form 3288—7.5 minutes.

c. Request to Correspondent for Identifying Information, VA Form Letter 70–2—5 minutes.

d. 38 CFR 1.519(A) Lists of Names and Addresses—60 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents

a. Application of Service Representative for Placement on Mailing List, VA Form 3215—150.

b. Request for and Consent to Release of Information from Claimant's Records, VA Form 3288—151,000.

c. Request to Correspondent for Identifying Information, VA Form Letter 70–2—45,000.

d. 38 CFR 1.519(A) Lists of Names and Addresses—50.

Dated: February 3, 2011.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2011–2713 Filed 2–7–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0055]

Agency Information Collection (Request for Determination of Loan Guaranty Eligibility—Unmarried Surviving Spouses) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 10, 2011.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0055" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 461–7485 or e-mail *denise.mclamb@va.gov*. Please refer to "OMB Control No. 2900–0055."

SUPPLEMENTAL INFORMATION:

Title: Request for Determination of Loan Guaranty Eligibility—Unmarried Surviving Spouses, VA Form 26–1817.

OMB Control Number: 2900–0055.

Type of Review: Extension of a currently approved collection.

Abstract: Unmarried surviving spouse of a veteran whose death occurred while serving on active duty or was a direct result of service-connected disabilities completes VA Form 26–1817 to request a certificate of eligibility for home loan benefits. VA uses the data collected to verify the veteran's service-connected death and to determine the applicant's eligibility for home loan benefits.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on November 24, 2010, at pages 71796–71797.

Affected Public: Individuals or households.

Estimated Annual Burden: 912 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 3,649.

Dated: February 3, 2011.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2011–2714 Filed 2–7–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0576]

Agency Information Collection (Certificate of Affirmation of Enrollment Agreement for Correspondence Course) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 10, 2011.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0576" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 461–0966 or e-mail

denise.mclamb@va.gov. Please refer to "OMB Control No. 2900–0576."

SUPPLEMENTARY INFORMATION:

Title: Certificate of Affirmation of Enrollment Agreement for Correspondence Course, VA Form 22–1999c.

OMB Control Number: 2900–0576.

Type of Review: Extension of a currently approved collection.

Abstract: Claimants enrolled in a correspondence training course complete and submit VA Form 22–1999c to the correspondence school to affirm the enrollment agreement contract. The certifying official at the correspondence school must submit the form and the enrollment certification to VA for processing. VA uses the information to determine if the claimant signed and dated the form during the five day reflection period. In addition, the claimant must sign VA Form 22–1999c on or after the seventh day the enrollment agreement was dated. VA will not pay educational benefits for correspondence training that was completed nor accept the affirmation agreement that was signed and dated on or before the enrollment agreement date.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on November 24, 2010, at page 71796.

Affected Public: Individuals or households.

Estimated Annual Burden: 45 hours.

Estimated Average Burden per Respondent: 3 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 896.

Dated: February 3, 2011.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2011–2715 Filed 2–7–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0605]

Proposed Information Collection (Application for Accreditation as a Claims Agent or Attorney) Activity: Comment Request

AGENCY: Office of General Counsel, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of General Counsel (OGC), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine applicants' eligibility for accreditation as claims agents and attorneys with VA.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 11, 2011.

ADDRESSES: Submit written comments on the collection of information to David McLenachen (022D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or *e-mail: david.McLenachen@va.gov.* Please refer to "OMB Control No. 2900–0605" in any correspondence.

FOR FURTHER INFORMATION CONTACT: David McLenachen at (202) 461–7699 or FAX (202) 273–6404.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OGC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OGC's functions, including whether the information will have practical utility; (2) the accuracy of OGC's estimate of the burden 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 through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Application for Accreditation as a Claims Agent or Attorney, VA Form 21a.

b. Filing of Representatives' Fee Agreements and Motions for Review of Such Fee Agreements.

OMB Control Number: 2900–0605.

Type of Review: Extension of a currently approved collection.

Abstract: Applicants seeking accreditation as claims agents or attorneys to represent benefits claimants before VA must complete VA Form 21a. The applicant is required to file the application with VA General Counsel to establish initial eligibility for accreditation. The information requested is necessary to establish the statutory and regulatory eligibility requirements, e.g., good character and reputation which includes basic identifying information, information concerning past representation, military service, employment, criminal activity and mental health of the applicant. The data is used to determine the applicant's eligibility for accreditation as a claims agent. The data collected under Filing of Representatives' Fee Agreements and Motions for Review of Such Fee Agreements is used to determine whether a fee agreement between claimants and their representative is in compliance with the law governing representation.

Affected Public: Individuals and households.

Estimated Annual Burden:

a. Application for Accreditation as a Claims Agent, VA Form 21a—1,967 hours.

b. Filing of Representatives' Fee Agreements—1,222 hours

c. Motions for Review of Such Fee Agreements—78 hours.

Estimated Average Burden per Respondent:

a. Application for Accreditation as a Claims Agent or Attorney, VA Form 21a—45 minutes.

b. Filing of Representatives' Fee Agreements—12 minutes.

c. Motions for Review of Such Fee Agreements—2 hours.

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. Application for Accreditation as a Claims Agent, VA Form 21a—2,623.

b. Filing of Representatives' Fee Agreements—5,869.

c. Motions for Review of Such Fee Agreements—39.

Dated: February 3, 2011.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2011–2716 Filed 2–7–11; 8:45 am]

BILLING CODE P



FEDERAL REGISTER

Vol. 76 Tuesday,
No. 26 February 8, 2011

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17
Endangered and Threatened Wildlife and Plants; Final Revised Critical Habitat for *Brodiaea filifolia* (Thread-Leaved Brodiaea); Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2009–0073; MO 92210–0–0009]

RIN 1018–AW54

Endangered and Threatened Wildlife and Plants; Final Revised Critical Habitat for Brodiaea filifolia (Thread-Leaved Brodiaea)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, are designating revised critical habitat for *Brodiaea filifolia* (thread-leaved brodiaea) under the Endangered Species Act of 1973, as amended (Act). Approximately 2,947 acres (ac) (1,193 hectares (ha)) in 10 units are being designated as revised critical habitat for *B. filifolia* in Los Angeles, San Bernardino, Riverside, Orange, and San Diego Counties, California.

DATES: This rule becomes effective on March 10, 2011.

ADDRESSES: The final rule, final economic analysis, and map of revised critical habitat will be available on the Internet at *http://www.regulations. gov* at Docket No. FWS–R8–ES–2009–0073. Supporting documentation we used in preparing this final rule will be available for public inspection, by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Suite 101, Carlsbad, CA 92011; telephone 760–431–9440; facsimile 760–431–5901.

FOR FURTHER INFORMATION CONTACT: Jim Bartel, Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office (*see* **ADDRESSES**). If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

We intend to discuss only those topics directly relevant to the designation of revised critical habitat for *Brodiaea filifolia* under the Endangered Species Act (Act), as amended (16 U.S.C. 1531 *et seq.*), in this final rule. For information on the taxonomy, biology, and ecology of *B. filifolia,* refer to the final listing rule published in the **Federal Register** on October 13, 1998 (63 FR 54975), the designation of critical habitat for *B. filifolia* published in the **Federal Register** on December 13, 2005 (70 FR 73820), the proposed revised designation of critical habitat published in the **Federal Register** on December 8, 2009 (74 FR 64930), and the Notice of Availability (NOA) of the draft economic analysis (DEA) published in the **Federal Register** on July 20, 2010 (75 FR 42054). Additionally, more information on this species can be found in the five-year review for *B. filifolia* signed on August 13, 2009, which is available on our Web site at: *http//:www.fws.gov/Carlsbad.*

New Information on Species' Description, Life History, Ecology, Habitat, and Geographic Range and Status

We received no new information pertaining to the description, life history, ecology, habitat, geographic range, or status of *Brodiaea filifolia* following the 2009 proposed revised critical habitat designation (74 FR 64930).

Previous Federal Actions

We published our final designation of critical habitat for *Brodiaea filifolia* on December 13, 2005 (70 FR 73820). The Center for Biological Diversity filed a complaint in the U.S. District Court for the Southern District of California on December 19, 2007, challenging our designation of critical habitat for *B. filifolia* and *Navarretia fossalis* (*Center for Biological Diversity* v. *United States Fish and Wildlife, et al.,* Case No. 07–CV–02379–W–NLS). In a settlement agreement dated July 25, 2008, we agreed to reconsider the critical habitat designation for *B. filifolia.* The settlement stipulated that the U.S. Fish and Wildlife Service (Service) shall submit a proposed revised critical habitat designation for *B. filifolia* to the **Federal Register** by December 1, 2009, and submit a final revised critical habitat designation to the **Federal Register** by December 1, 2010. The proposed revised critical habitat designation was published in the **Federal Register** on December 8, 2009 (74 FR 64930). On November 19, 2010, the U.S. District Court granted a motion to modify the settlement agreement to extend to January 31, 2011, submittal of a final revised critical habitat designation to the **Federal Register**.

Summary of Changes From the Proposed Revised Rule and the Previous Critical Habitat Designation

Summary of Changes From the 2005 Critical Habitat Rule

The areas identified in this rule constitute a revision from the areas we designated as critical habitat for *Brodiaea filifolia* on December 13, 2005 (70 FR 73820). In cases where we have new information or information that was not available for the previous designation, we made changes to the critical habitat for *B. filifolia* to ensure that this rule reflects the best scientific data available.

In the 2005 rule, we excluded subunits under section 4(b)(2) of the Act within the planning boundaries for the Villages of La Costa Habitat Conservation Plan (HCP). The Villages of La Costa HCP is now included within (considered part of) the City of Carlsbad's Habitat Management Plan (Carlsbad HMP) under the Multiple Habitat Conservation Plan (MHCP); therefore, all revised critical habitat that overlaps with the Villages of La Costa HCP was analyzed under section 4(b)(2) of the Act as part of the Carlsbad HMP discussion. These areas have again been excluded from this revised designation under section 4(b)(2) of the Act (*see* Exclusions Under Section 4(b)(2) of the Act section below).

In the 2005 rule, we identified areas covered by HCPs that provided protections for *Brodiaea filifolia,* and excluded those areas because we concluded they did not require special management considerations or protection. We are not using this approach in this rule. In this rule, we identified areas covered by HCPs that are conserved and managed and have weighed the benefits of exclusion against the benefits of including these areas in the revised critical habitat designation pursuant to section 4(b)(2) of the Act.

This rule uses a new economic analysis to identify and estimate the potential economic effects resulting from implementation of conservation actions associated with the revised critical habitat. The analysis is based on estimated incremental impacts associated with critical habitat.

We made changes to the primary constituent elements (PCEs) and our criteria used to identify critical habitat. We incorporated information related to the taxonomy of the species including the change in plant family for *Brodiaea filifolia.* We redefined the boundaries of each subunit proposed as revised critical habitat to more accurately reflect the areas that include the features that

are essential to the conservation of *B. filifolia,* and we analyzed new distribution data (in the 2009 proposed revised critical habitat rule) that has become available to us following the 2005 designation. Table 1 shows the progression of each subunit of critical habitat from the 2005 final critical habitat designation to this final revised critical habitat designation. Table 2 includes name changes that we made for some of the subunits where the old names were ambiguous or do not reflect the current name used to refer to these areas; although the names of these units changed, the locations of these units have not changed. Following Tables 2 and 3, we provide a detailed description of each change made in this revised rule and point to new information that precipitated the change.

TABLE 1—CHANGES BETWEEN THE DECEMBER 13, 2005, FINAL CRITICAL HABITAT DESIGNATION FOR BRODIAEA FILIFOLIA, THE DECEMBER 8, 2009, PROPOSED REVISED CRITICAL HABITAT DESIGNATION, AND THIS FINAL REVISED CRITICAL HABITAT DESIGNATION *

Unit/Subunit No. and name **	2005 fCH	2009 prCH	2011 frCH
Unit 1: Los Angeles County:			
1a. Glendora	96 ac (39 ha)	67 ac (27 ha)	67 ac (27 ha).
1b. San Dimas	198 ac (80 ha)	138 ac (56 ha)	138 ac (56 ha).
Unit 2: San Bernardino County:			
2. Arrowhead Hot Springs	Not designated, wrong location.	61 ac (25 ha)	61 ac (25 ha).
Unit 3: Central Orange County:			
3. Aliso Canyon	Not designated, did not meet the definition of critical habitat.	113 ac (46 ha)	11 ac (4 ha); partially excluded under section 4(b)(2).
Unit 4: Southern Orange County:			
4a. Arroyo Trabuco	Not designated, did not meet the definition of critical habitat.	N/A	N/A.
4b. Caspers Wilderness Park	Excluded under section 4(b)(2).	205 ac (83 ha)	12 ac (5 ha); partially excluded under section 4(b)(2).
4c. Cañada Gobernadora/Chiquita Ridgeline.	Excluded under section 4(b)(2).	133 ac (54 ha)	133 ac (54 ha).
4d. Prima Deschecha	Not designated, did not meet the definition of critical habitat.	N/A	N/A.
4e. Forster Ranch	Not designated, did not meet the definition of critical habitat.	N/A	N/A.
4f. Talega/Segunda Deshecha	Not designated, did not meet the definition of critical habitat.	N/A	N/A.
4g. Cristianitos Canyon	Excluded under section 4(b)(2).	587 ac (238 ha)	587 ac (238 ha).
4h. Cristianitos Canyon South	Not designated, did not meet the definition of critical habitat.	N/A	N/A.
4i. Blind Canyon	Not designated, did not meet the definition of critical habitat.	N/A	N/A.
Unit 5: Northern San Diego County:			
5a. Miller Mountain	Not designated, mostly hybrid plants.	Not proposed, only *Brodiaea santarosae* present.	N/A.
5b. Devil Canyon	249 ac (101 ha)	274 ac (111 ha)	274 ac (111 ha).
Unit 6: Oceanside:			
6a. Alta Creek	Not designated, did not meet the definition of critical habitat.	72 ac (29 ha)	72 ac (29 ha).
6b. Mesa Drive	Excluded under section 4(b)(2).	17 ac (7 ha)	17 ac (7 ha).
6c. Mission View/Sierra Ridge	Not designated, did not meet the definition of critical habitat.	12 ac (5 ha)	12 ac (5 ha).
6d. Taylor/Darwin	Excluded under section 4(b)(2).	35 ac (14 ha)	35 ac (14 ha).
6e. Arbor Creek/Colucci	N/A	94 ac (38 ha)	94 ac (38 ha).
Unit 7: Carlsbad			
7a. Letterbox Canyon	Excluded under section 4(b)(2).	57 ac (23 ha)	43 ac (17 ha); partially excluded under section 4(b)(2); 2 ac (1 ha) removed—do not meet the definition of critical habitat.
7b. Rancho Carrillo	Not designated, did not meet the definition of critical habitat.	37 ac (15 ha)	37 ac (15 ha).

TABLE 1—CHANGES BETWEEN THE DECEMBER 13, 2005, FINAL CRITICAL HABITAT DESIGNATION FOR BRODIAEA FILIFOLIA, THE DECEMBER 8, 2009, PROPOSED REVISED CRITICAL HABITAT DESIGNATION, AND THIS FINAL REVISED CRITICAL HABITAT DESIGNATION *—Continued

Unit/Subunit No. and name **	2005 fCH	2009 prCH	2011 frCH
7c. Calavera Hills Village H	Excluded under section 4(b)(2).	71 ac (29 ha)	26 ac (11 ha); partially excluded under section 4(b)(2).
7d. Villages of La Costa (Rancho La Costa)	Excluded under section 4(b)(2).	98 ac (40 ha)	Excluded under section 4(b)(2).
Carlsbad Oaks	Excluded under section 4(b)(2).	Not proposed, does not meet the definition of critical habitat.	N/A.
Carlsbad Highlands	Excluded under section 4(b)(2).	Not proposed, does not meet the definition of critical habitat.	N/A.
Poinsettia	Excluded under section 4(b)(2).	Not proposed, does not meet the definition of critical habitat.	N/A.
Unit 8: San Marcos and Vista:			
8a. Rancho Santa Fe Road North	Not designated, did not meet the definition of critical habitat.	N/A	N/A.
8b. Rancho Santalina/Loma Alta	Not included under section 3(5)(A).	47 ac (19 ha)	47 ac (19 ha).
8c. Grand Avenue	Not designated, did not meet the definition of critical habitat.	N/A	N/A.
8d. Upham	54 ac (22 ha)	54 ac (22 ha)	54 ac (22 ha).
8e. Linda Vista	Not designated, did not meet the definition of critical habitat.	N/A	N/A.
8f. Oleander/San Marcos Elementary	N/A	7 ac (3 ha)	7 ac (3 ha).
Unit 9:			
9. Double LL Ranch	Not designated, did not meet the definition of critical habitat.	N/A	N/A.
Unit 10:			
10. Highland Valley	Not designated; could not verify occurrence.	N/A	N/A.
Unit 11: Western Riverside County:			
11a. San Jacinto Wildlife Area	Excluded under section 4(b)(2).	401 ac (162 ha)	401 ac (162 ha).
11b. San Jacinto Avenue/Dawson Road	Excluded under section 4(b)(2).	117 ac (47 ha)	117 ac (47 ha).
11c. Case Road	Excluded under section 4(b)(2).	180 ac (73 ha)	180 ac (73 ha).
11d. Railroad Canyon	Excluded under section 4(b)(2).	257 ac (104 ha)	257 ac (104 ha).
11e. Upper Salt Creek (Stowe Pool)	Excluded under section 4(b)(2).	145 ac (59 ha)	145 ac (59 ha).
11f. Santa Rosa Plateau—Mesa de Colorado.	Excluded under section 4(b)(2).	234 ac (95 ha)	13 ac (5 ha); partially excluded under section 4(b)(2).
Santa Rosa Plateau—Tenaja Rd	Excluded under section 4(b)(2).	Not proposed; only *Brodiaea santarosae* present.	N/A.
11g. Santa Rosa Plateau—South of Tenaja Rd.	Excluded under section 4(b)(2).	117 ac (47 ha)	Excluded under section 4(b)(2).
11h. Santa Rosa Plateau—North of Tenaja Rd.	Excluded under section 4(b)(2).	44 ac (18 ha)	Excluded under section 4(b)(2).
East of Tenaja Guard Station	Excluded under section 4(b)(2).	Not proposed, does not meet the definition of critical habitat.	N/A.
N. End Redondo Mesa	Excluded under section 4(b)(2).	Not proposed, does not meet the definition of critical habitat.	N/A.
Corona (north)	Not designated, could not verify occurrence.	N/A	N/A.
Corona (south)	Not designated, could not verify occurrence.	N/A	N/A.
Moreno Valley	Not designated, could not verify occurrence.	N/A	N/A.
Unit 12: San Diego County:			

TABLE 1—CHANGES BETWEEN THE DECEMBER 13, 2005, FINAL CRITICAL HABITAT DESIGNATION FOR BRODIAEA FILIFOLIA, THE DECEMBER 8, 2009, PROPOSED REVISED CRITICAL HABITAT DESIGNATION, AND THIS FINAL REVISED CRITICAL HABITAT DESIGNATION *—Continued

Unit/Subunit No. and name **	2005 fCH	2009 prCH	2011 frCH
12. Artesian Trails	N/A	109 ac (44 ha)	105 ac (43 ha); partially excluded under section 4(b)(2).
TOTAL FOR NON-MILITARY LANDS	**597 ac (242 ha)**	**3,786 ac (1,532 ha)**	**2,945 ac (1,193 ha)**.
Marine Corps Base Camp Pendleton:			
Cristianitos Canyon Pendleton	N/A	4(a)(3) exemption	4(a)(3) exemption.
Bravo One	4(a)(3) exemption	4(a)(3) exemption	4(a)(3) exemption.
Bravo Two South	N/A	4(a)(3) exemption	4(a)(3) exemption.
Alpha One/Bravo Three	4(a)(3) exemption	Does not meet the definition of critical habitat.	N/A.
Basilone/San Mateo Junction	N/A	4(a)(3) exemption	4(a)(3) exemption.
Camp Horno	4(a)(3) exemption	4(a)(3) exemption	4(a)(3) exemption.
SE Horno Summit	4(a)(3) exemption	Does not meet the definition of critical habitat.	N/A.
Kilo One	4(a)(3) exemption	Does not meet the definition of critical habitat.	N/A.
Pilgrim Creek	N/A	4(a)(3) exemption	4(a)(3) exemption.
South White Beach	N/A	4(a)(3) exemption	4(a)(3) exemption.
TOTAL FOR MILITARY LANDS***	**0 ac (0 ha)**	**0 ac (0 ha)**	**0 ac (0 ha)**.
TOTALS	**597 ac (242 ha)**	**3,786 ac (1,532 ha)**	**2,947 ac (1,193 ha)**.

* This table does not include all locations that are occupied by *Brodiaea filifolia.* It includes only those locations that have met the definition of critical habitat in this or one of the past proposed or final critical habitat rules for *B. filifolia.*

** Values in this table and the following text may not sum due to rounding.

*** Military Lands are exempt from this rule under section 4(a)(3) of the Act.

TABLE 2—NAME CHANGES FROM THE 2005 FINAL CRITICAL HABITAT DESIGNATION FOR BRODIAEA FILIFOLIA TO THIS FINAL REVISED CRITICAL HABITAT DESIGNATION

Subunit No.	Previous name	Current name	Reason for change
6c	Oceanside East/Mission Ave	Mission View/Sierra Ridge	Not the eastern most occurrence in Oceanside.
7a	Fox-Miller	Letterbox Canyon	Includes more properties than just Fox-Miller.
7c	Calavera Heights	Calavera Hills Village H	New name is more specific.
11b	San Jacinto Floodplain	San Jacinto Avenue/Dawson Road	New name is more specific.
11c	Case Road Area	Case Road	New name is more specific.

Summary of Changes From the 2009 Proposed Revised Critical Habitat Rule

The most significant changes between the December 2009 proposed revision and this final revised rule are outlined in Table 1 above and include:

(1) In the proposed revised rule, we considered lands covered by the Southern Subregion Natural Community Conservation Plan/Master Streambed Alteration Agreement/Habitat Conservation Plan, now known as the Orange County Southern Subregion HCP, for exclusion under section 4(b)(2) of the Act. We have now analyzed each of the areas considered for exclusion under the Orange County Southern Subregion HCP, and have determined that the benefits of exclusion outweigh the benefits of inclusion for approximately 192 ac (78 ha) of proposed revised critical habitat in Subunit 4b that are covered by the Orange County Southern Subregion HCP and are conserved and managed. We also determined that exclusion of these areas will not result in extinction of the species. Therefore, we are exercising our delegated discretion to exclude these lands from this revised critical habitat designation under section 4(b)(2) of the Act. For a complete discussion of the benefits of inclusion and exclusion, *see* Exclusions Under Section 4(b)(2) of the Act section below.

(2) In the proposed revised rule, we considered lands covered by the Carlsbad Habitat Management Plan (HMP) under the San Diego Multiple Habitat Conservation Program (MHCP) for exclusion under section 4(b)(2) of the Act. We have now analyzed each of the areas considered for exclusion under the Carlsbad HMP, and have determined that the benefits of exclusion outweigh the benefits of inclusion for approximately 156 ac (63 ha) of proposed revised critical habitat in Subunits 7a, 7c, and 7d that are covered by the Carlsbad HMP under the MHCP and are conserved and managed. We also determined that exclusion of these areas will not result in extinction of the species. Therefore, we are exercising our delegated discretion to exclude these lands from this revised critical habitat designation under section 4(b)(2) of the Act. For a complete discussion of the benefits of inclusion and exclusion, *see* Exclusions Under Section 4(b)(2) of the Act section below.

(3) We have determined that 2 ac (1 ha) of land in Subunit 7a do not meet the definition of critical habitat for *Brodiaea filifolia* because they do not contain habitat suitable for the species. We are therefore not including these areas in the revised critical habitat designation.

(4) In the proposed revised rule, we considered lands within the Western Riverside County Multiple Species Habitat Conservation Plan (Western Riverside County MSHCP) planning area for exclusion under section 4(b)(2) of the Act. We have now analyzed each of the areas considered for exclusion

under the Western Riverside County MSHCP, and have determined that the benefits of exclusion outweigh the benefits of inclusion for approximately 381 ac (154 ha) of proposed revised critical habitat in Subunits 11g, 11h, and a portion of Subunit 11f that are covered by the Western Riverside County MSHCP and are conserved and managed. We also determined that exclusion of these lands will not result in extinction of the species. Therefore, we are exercising our delegated discretion to exclude these lands from this revised critical habitat designation under section 4(b)(2) of the Act. For a complete discussion of the benefits of inclusion and exclusion, *see* Exclusions Under Section 4(b)(2) of the Act section below.

(5) In the proposed revised rule, we considered lands covered by the San Diego Multiple Species Conservation Program (MSCP) for exclusion under section 4(b)(2) of the Act. We have now analyzed each of the areas considered for exclusion under the MSCP, and have determined that the benefits of exclusion outweigh the benefits of inclusion for approximately 4 ac (2 ha) of proposed revised critical habitat in Unit 12 that are under the County of San Diego Subarea Plan and are conserved and managed. We also determined that exclusion of these lands will not result in extinction of the species. Therefore, we are exercising our delegated discretion to exclude these lands from this revised critical habitat designation under section 4(b)(2) of the Act. For a complete discussion of the benefits of inclusion and exclusion, *see* Exclusions Under Section 4(b)(2) of the Act section below.

(6) A number of comments we received suggested editorial changes and technical corrections to sections of the rule pertaining to the Background and Criteria Used To Identify Critical Habitat sections of the proposed revised rule. These changes were recommended to improve clarity, include additional information, and correct minor errors. They have been incorporated into this final rule, where appropriate.

Critical Habitat

Background

Critical habitat is defined in section 3(5)(A) of the Act as: (1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features:

(a) Essential to the conservation of the species and

(b) Which may require special management considerations or protection; and (2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Conservation, as defined under section 3 of the Act, means the use of all methods and procedures that are necessary to bring any endangered or threatened species to the point at which the measures provided under the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management, such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot otherwise be relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the prohibition against Federal agencies carrying out, funding, or authorizing activities that are likely to result in the destruction or adverse modification of critical habitat. Section 7(a)(2) of the Act requires consultation on Federal actions that may affect critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by private landowners. Where a landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the consultation requirements of section 7(a)(2) would apply, but even in the event of a destruction or adverse modification finding, the landowner's obligation is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

For inclusion in a critical habitat designation, the habitat within the geographical area occupied by the species at the time of listing must contain physical or biological features that are essential to the conservation of the species, and be included only if those features may require special management considerations or protection. The physical and biological features are the primary constituent elements (PCEs) laid out in the appropriate quantity and spatial arrangement essential to the conservation of the species. Critical habitat designations identify, to the extent known using the best scientific data available, habitat areas that provide essential life cycle needs of the species (*i.e.,* areas on which are found the PCEs laid out in the appropriate quantity and spatial arrangement essential to the conservation of the species). Under the Act and regulations at 50 CFR 424.12, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed as critical habitat only when we determine that those areas are essential for the conservation of the species and that designation limited to the geographical area occupied at the time of listing would be inadequate to ensure the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific and commercial data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (44 U.S.C. 3516), and our associated Information Quality Guidelines, provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific and commercial data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific and commercial data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information developed during the listing process for the species. Additional information sources may include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, or other unpublished materials and expert opinion or personal knowledge. Substantive comments received in response to proposed critical habitat designations are also considered.

Habitat is often dynamic, and species may move from one area to another over time. Climate change will be a particular challenge for biodiversity because the interaction of additional stressors associated with climate change and current stressors may push species beyond their ability to survive (Lovejoy 2005, pp. 325–326). The synergistic

implications of climate change and habitat fragmentation are the most threatening facet of climate change for biodiversity (Hannah *et al.* 2005, p. 4). Current climate change predictions for terrestrial areas in the Northern Hemisphere indicate warmer air temperatures, more intense precipitation events, and increased summer continental drying (Field *et al.* 1999, pp. 1–3; Hayhoe *et al.* 2004, p. 12422; Cayan *et al.* 2005, p. 6; Intergovernmental Panel on Climate Change (IPCC) 2007, p. 11; Cayan *et al.* 2009, p. xi). Additionally, the southwestern region of the country is predicted to become drier and hotter overall (Hayhoe *et al.* 2004, p. 12424; Seager *et al.* 2007, p. 1181). Climate change may also affect the duration and frequency of drought and these climatic changes may become even more dramatic and intense (Graham 1997). Documentation of climate-related changes that have already occurred in California (Croke *et al.* 1998, pp. 2128, 2130; Brashears *et al.* 2005, p. 15144), and future drought predictions for California (*e.g.,* Field *et al.* 1999, pp. 8–10; Lenihen *et al.* 2003, p. 1667; Hayhoe *et al.* 2004, p. 12422; Brashears *et al.* 2005, p. 15144; Seager *et al.* 2007, p. 1181) and North America (IPCC 2007, p. 9) indicate prolonged drought and other climate-related changes will continue in the foreseeable future.

We anticipate these changes could affect a number of native plants, including *Brodiaea filifolia* habitat and occurrences. For example, if the amount and timing of precipitation or the average temperature increases in southern California, the following four changes may affect the long-term viability of *B. filifolia* occurrences in their current habitat configuration:

(1) Drier conditions may result in a lower germination rate and smaller population sizes;

(2) A shift in the timing of annual rainfall may favor nonnative species that impact the quality of habitat for this species;

(3) Warmer temperatures may affect the timing of pollinator life-cycles causing pollinators to become out-of-sync with timing of flowering *B. filifolia;* and

(4) Drier conditions may result in increased fire frequency, making the ecosystems in which *B. filifolia* currently grows more vulnerable to the threats of subsequent erosion and nonnative or native plant invasion.

At this time, we are unable to identify the specific ways that climate change may impact *Brodiaea filifolia;* therefore, we are unable to determine if any additional areas may be appropriate to include in this revised critical habitat designation. Additionally, we recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not promote the recovery of the species.

Areas that support occurrences of the species, but are outside the critical habitat designation, will continue to be subject to conservation actions we and other Federal agencies implement under section 7(a)(1) of the Act. In these areas, the species is also subject to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, as determined on the basis of the best scientific and commercial information available at the time of the agency action. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, HCPs, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Primary Constituent Elements

Physical and Biological Features

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12(b), in determining which areas occupied by the species at the time of listing to designate as critical habitat, we consider those physical or biological features that are essential to the conservation of the species that may require special management considerations or protection. We consider the physical or biological features to be the PCEs laid out in the appropriate quantity and spatial arrangement essential to the conservation of the species. The PCEs include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, and rearing (or development) of offspring; and

(5) Habitats that are protected from disturbance or are representative of the historical, geographical, and ecological distributions of a species.

We derive the PCEs required for *Brodiaea filifolia* from its biological needs. The areas included in our revised critical habitat for *B. filifolia* contain the appropriate soils and associated vegetation at suitable elevations, and adjacent areas necessary to maintain associated physical processes such as a suitable hydrological regime. The areas provide suitable habitat, water, minerals, and other physiological needs for reproduction and growth of *B. filifolia,* as well as habitat that supports pollinators of *B. filifolia.* The PCEs and the resulting physical and biological features essential to the conservation of *B. filifolia* are derived from studies of this species' habitat, ecology, and life history as described in the **Background** section of the proposed revised rule (74 FR 64930; December 8, 2009), the previous critical habitat rule (70 FR 73820; December 13, 2005), and in the final listing rule (63 FR 54975; October 13, 1998).

Space for Individual and Population Growth and for Normal Behavior

Habitats that provide space for growth and persistence of *Brodiaea filifolia* include areas: (1) With combinations of appropriate elevation and clay or clay-associated soils, on mesas or low to moderate slopes that support open native or annual grasslands within open coastal sage scrub or coastal sage scrub-chaparral communities; (2) in floodplains or in association with vernal pool or playa complexes that support various grassland, scrub, or riparian herb communities; (3) on soils derived from olivine basalt lava flows on mesas and slopes that support vernal pools within grassland, oak woodland, or savannah communities; or (4) on sandy loam soils derived from basalt and granodiorite parent material with deposits of cobbles and boulders supporting intermittent seeps, and open marsh communities. Despite the wide range of habitats where *B. filifolia* occurs, this species occupies a specific niche of habitat that is moderately wet to occasionally wet.

Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements

All members of the genus *Brodiaea* require full sun and many tend to occur on only one or a few soil series (Niehaus 1971, pp. 26–27). *Brodiaea filifolia* occurs on several formally named soil series, but most (if not all) of these are primarily clay soils with varying amounts of sand and silt. In this rule, we listed all the mapped soils that

overlap with the distribution of *B. filifolia.* Sometimes clay soils occur as inclusions within other soil series; as such, we have named those other soil series in this rule. Another reason that there are many differently named soil series is because this species occurs in five counties, each of which has uniquely named soils. In some areas in northern San Diego County and southwestern Riverside County, the species is identified with mapped soils with no known clay component; however, closer study and sight specific sampling may show these soils contain clay in the specific areas supporting *B. filifolia.* Despite this issue and the diversity in named soil series, *B. filifolia* is considered a clay soils endemic.

In San Diego, Orange, and Los Angeles Counties, occurrences of *Brodiaea filifolia* are highly correlated with specific clay soil series such as, but not limited to: Alo, Altamont, Auld, and Diablo or clay lens inclusions in a matrix of loamy soils such as Fallbrook, Huerhuero, and Las Flores series (63 FR 54975, p. 54978; CNDDB 2009, pp. 1–76; Service Geographic Information System (GIS) data 2009; USDA 1994). These soils generally occur on mesas and hillsides with gentle to moderate slopes, or in association with vernal pools. These soils are generally vegetated with open native or nonnative grassland, open coastal sage scrub, or open coastal sage scrub-chaparral communities. In San Bernardino County, the species is associated with Etsel family-Rock outcrop-Springdale and Tujunga-Urban land-Hanford soils (Service 2009a, Service GIS data). These soils are generally vegetated with open native and nonnative grassland, open coastal sage scrub, or open coastal sage scrub-chaparral communities.

In western Riverside County, the species is often found on alkaline silty-clay soil series such as, but not limited to, Domino, Grangeville, Waukena, and Willows underlain by a clay subsoil or caliche (a hardened gray deposit of calcium carbonate). These soils generally occur in low-lying areas and floodplains or are associated with vernal pool or playa complexes. These soils are generally vegetated with open native and nonnative grassland, alkali grassland, or alkali scrub communities. Also in western Riverside County, the species is found on clay loam soils underlain by heavy clays derived from basalt lava flows (*i.e.,* Murrieta series on the Santa Rosa Plateau) (Bramlet 1993, p. 1; CNDDB 2009, pp. 1–76; Service 2009a, Service GIS data). These soils generally occur on mesas and gentle to moderate slopes or are associated with basalt vernal pools. These soils are vegetated with open native or nonnative grassland or oak woodland savannah communities.

In some areas in northern San Diego County and southwestern Riverside County, the species is found on sandy loam soils derived from basalt and granodiorite parent materials; deposits of gravel, cobble, and boulders; or hydrologically fractured, weathered granite in intermittent streams and seeps. These soils and deposits are generally vegetated by open riparian and freshwater marsh communities associated with intermittent drainages, floodplains, and seeps. These soils facilitate the natural process of seed dispersal and germination, cormlet disposition or movement to an appropriate soil depth, and corm persistence through seedling and adult phases of flowering and fruit set.

Habitats That Are Protected From Disturbance or Are Representative of the Historical, Geographical, and Ecological Distributions of the Species

The conservation of *Brodiaea filifolia* is dependent on several factors including, but not limited to, maintenance of areas of sufficient size and configuration to sustain natural ecosystem components, functions, and processes (such as full sun exposure, natural fire and hydrologic regimes, adequate biotic balance to prevent excessive herbivory); protection of existing substrate continuity and structure, connectivity among groups of plants of this species within geographic proximity to facilitate gene flow among the sites through pollinator activity and seed dispersal; and sufficient adjacent suitable habitat for vegetative reproduction and population expansion.

A natural, generally intact surface and subsurface soil structure, perhaps lightly impacted, but not permanently altered by anthropogenic land use activities (such as deep, repetitive discing, or grading), and associated physical processes such as a natural hydrological regime is necessary to provide water, minerals, and other physiological needs for *Brodiaea filifolia.* A natural hydrological regime includes seasonal hydration followed by drying out of the substrate to promote growth of plants and new corms for the following season. These conditions are also necessary for the normal development of seedlings and young vegetative cormlets.

Habitat for Pollinators of *Brodiaea filifolia*

Cross-pollination is essential for the survival and recovery of *Brodiaea filifolia* because this species is self-incompatible and it cannot sexually reproduce without the aid of insect pollinators. A variety of insects are known to cross-pollinate *Brodiaea* species, including tumbling flower beetles (Mordellidae, Coleoptera) and sweat bees (Halictidae, Hymenoptera; Niehaus 1971, p. 27). Bell and Rey (1991, p. 3) report that native bees observed pollinating *B. filifolia* on the Santa Rosa Plateau in Riverside County include *Bombus californicus* (Apidae, Hymenoptera), *Hoplitus* sp. (Megachilidae, Hymenoptera), *Osmia* sp. (Megachilidae, Hymenoptera), and an unidentified Anthophorid (digger-bee). Anthophoridae and Halictidae are important pollinators of *B. filifolia,* as shown at a study site in Orange County (Glenn Lukos Associates 2004, p. 3). Supporting and maintaining pollinators and pollinator habitat is essential to the conservation of *B. filifolia* because this species cannot set viable seed without cross-pollination.

Of primary concern to the conservation of *Brodiaea filifolia* are solitary bees (such as sweat bees (*Hoplitus* sp. and *Osmia* sp.)) because these are the pollinators that have the most specific habitat requirements (such as nesting requirements) and are impacted by fragmentation and reduced diversity of natural habitats at a small scale (Gathmann and Tscharntke 2002, p. 757; Steffan-Dewenter 2003, p. 1041; Shepherd 2009, pers. comm.). Due to the focused foraging habits of solitary bees, we believe that these insects may be the most important to the successful reproduction of *B. filifolia.* To sustain an active pollinator community for *B. filifolia,* alternative pollen or food source plants may be necessary for the persistence of these insects when *B. filifolia* is not in flower. It is also necessary for nest sites for pollinators to be located within flying distance of *B. filifolia* occurrences.

Bombus spp. (bumblebees) may also be important to the pollination of *Brodiaea filifolia,* however, these insects may be able to travel greater distances and cross fragmented landscapes to pollinate *B. filifolia.* In a study of experimental isolation and pollen dispersal of *Delphinium nuttallianum* (Nuttall's larkspur), Schulke and Waser (2001, pp. 242–243) report that adequate pollen loads were dispersed by bumblebees within control populations and in isolated experimental "populations" from 164 to 1,312 feet (ft) (50 to 400 meters (m)) from the control populations. One of several pollinator taxa effective at 1,312 ft (400 m) was *Bombus californicus* (Schulke and Waser 2001, pp. 240–243), which was also one of four bee species observed

pollinating *B. filifolia* by Bell and Rey (1991, p. 2). Studies by Steffan-Dewenter and Tscharntke (2000, p. 293) demonstrated that it is possible for bees to forage as far as 4,920 ft (1,500 m) from a colony, and at least one study suggests that bumblebees may forage many kilometers away (Sudgen 1985, p. 308). Bumblebees may be effective at transferring pollen between occurrences of *B. filifolia* because they are larger and have been found pollinating plants at distances of 1,312 to 4,920 ft (400 to 1,500 m). However, the visits and focused effort of bumblebees may be less frequent than ground-nesting bees.

Ground-nesting solitary bees appear to have limited dispersal and flight abilities (Thorp and Leong 1995, p. 7). Studies have shown that as areas are fragmented by development, remaining habitat areas have reduced pollinator diversity (Steffan-Dewenter 2003, p. 1041). If pollinators are eliminated from an occurrence, *Brodiaea filifolia* will no longer be able to reproduce sexually. Of the native bees that have been observed pollinating *B. filifolia,* solitary ground-nesting bees are the most sensitive to habitat disturbance and the most likely to be lost from an area. Sweat bees, *Holitus,* and Osmia (mason bees), fly approximately 900 to 1,500 ft (274 to 457 m), 600 to 900 ft (183 to 274 m), and 600 to 1,800 ft (183 to 549 m), respectively (Shepherd 2009, pers. comm.). *Bombus californicus* (family Apidae) and digger bees (family Apidae) fly further, generally more than 2,640 ft (804 m) (Shepherd 2009, pers. comm.). These flight distances are important in determining what habitat associated with *B. filifolia* occurrences provides habitat for this species' pollinators. Conserving habitat where these pollinators nest and forage will sustain an active pollinator community and provide for the cross-pollination of *B. filifolia.*

In our review of the data on pollinators of *Brodiaea filifolia* in the 2005 critical habitat rule, we determined that an 820-ft (250-m) area around each occurrence identified in the critical habitat would provide adequate space to support *B. filifolia*'s pollinators. In the 2005 critical habitat rule, we based the 820-ft (250-m) distance on a conservative estimate for the mean routine flight distance for bees. This distance represents an estimate of flight distance for pollinators that fly an average of less than 1,800 ft (549 m) (*i.e.,* the maximum distance observed by known pollinators of *B. filifolia* except *Bombus californicus*). Research supports this distance, as studies looking at areas with a radius of 820 ft (250 m) have found that solitary bees forage at this scale and that if fragmentation occurs at this scale the presence of solitary bees will decrease (Steffan-Dewenter *et al.* 2002, pp. 1027–1029; Shepherd 2009, pers. comm.). Insects that travel greater distances than 1,800 ft (549 m) on average may also find habitat within 820 ft (250 m) of *B. filifolia* occurrences. It is also possible that insects flying greater than 1,800 ft (549 m) are flying in from greater distances (*Bombus californicus* and *Anthophora*) and are living in habitats that are not directly connected with areas supporting *B. filifolia.* Delineating a pollinator use area larger than 820 ft (250 m) around *B. filifolia* would capture habitat that may not directly contribute to the conservation of *B. filifolia.* Including habitat extending beyond the perimeters of mapped occurrences of *B. filifolia* by up to 820 ft (250 m) in the PCEs is necessary to support pollinator activity in critical habitat, support the sexual reproduction of *B. filifolia,* and provide for gene flow, pollen dispersal, and seed dispersal.

Primary Constituent Elements for Brodiaea filifolia

Under the Act and its implementing regulations, we are required to identify the physical or biological features essential to the conservation of *Brodiaea filifolia* and that may require special management considerations or protection. The physical or biological features essential to the conservation of the species are those PCEs laid out in an appropriate quantity and spatial arrangement determined to be essential to the conservation of the species. All final revised critical habitat areas for *B. filifolia* are currently occupied, are within the geographical area occupied by the species at the time of listing, and contain sufficient PCEs to support at least one life history function of the species (*see* the Spatial Distribution and Historical Range section of the proposed revised rule).

Based on our current knowledge of the life history, biology, and ecology of *Brodiaea filifolia,* and the requirements of the habitat to sustain the life-history traits of the species, we determined that the PCEs specific to *B. filifolia* are:

(1) PCE 1—Appropriate soil series at a range of elevations and in a variety of plant communities, specifically:

(A) Clay soil series of various origins (such as Alo, Altamont, Auld, or Diablo), clay lenses found as unmapped inclusions in other soils series, or loamy soils series underlain by a clay subsoil (such as Fallbrook, Huerhuero, or Las Flores) occurring between the elevations of 100 and 2,500 ft (30 and 762 m).

(B) Soils (such as Cieneba-rock outcrop complex and Ramona family-Typic Xerothents soils) altered by hydrothermal activity occurring between the elevations of 1,000 and 2,500 ft (305 and 762 m).

(C) Silty loam soil series underlain by a clay subsoil or caliche that are generally poorly drained, moderately to strongly alkaline, granitic in origin (such as Domino, Grangeville, Traver, Waukena, or Willows) occurring between the elevations of 600 and 1,800 ft (183 and 549 m).

(D) Clay loam soil series (such as Murrieta) underlain by heavy clay loams or clays derived from olivine basalt lava flows occurring between the elevations of 1,700 and 2,500 ft (518 and 762 m).

(E) Sandy loam soils derived from basalt and granodiorite parent materials; deposits of gravel, cobble, and boulders; or hydrologically fractured, weathered granite in intermittent streams and seeps occurring between 1,800 and 2,500 ft (549 and 762 m).

(2) PCE 2—Areas with a natural, generally intact surface and subsurface soil structure, not permanently altered by anthropogenic land use activities (such as deep, repetitive discing, or grading), extending out up to 820 ft (250 m) from mapped occurrences of *Brodiaea filifolia* to provide for space for individual population growth, and space for pollinators.

This revision to the previous critical habitat designation is designed for the conservation of those areas containing PCEs necessary to support the species' life history traits. All units/subunits of the revised critical habitat contain one of the specific soil components identified in PCE 1, which facilitate the natural process of seed dispersal and germination, cormlet disposition or movement to an appropriate soil depth, and corm persistence through seedling and adult phases of flowering and fruit set (*see* Habitat section of the proposed revised critical habitat rule for this species (74 FR 64932)), and have natural, generally intact surface and subsurface soil structure necessary to provide water, minerals, and other physiological needs for the species and support habitat for pollinators, which facilitate reproduction, as identified in PCE 2. These two factors are sufficient to support life-history traits of *Brodiaea filifolia* in the units/subunits we designate as revised critical habitat. In general, we designate units/subunits based on the presence of the PCEs in the appropriate quantity and spatial arrangement essential to the conservation of the species. In the case of this designation, all of the units/subunits contain both of the PCEs.

Special Management Considerations or Protection

When designating critical habitat within the geographical area occupied by the species at the time of listing, we assess whether the physical or biological features essential to the conservation of the species may require special management considerations or protection. In all units/subunits, special management considerations or protection of the essential features may be required to provide for the growth, reproduction, and sustained function of the habitat on which *Brodiaea filifolia* depends.

The lands designated as revised critical habitat represent our best assessment of the habitat that meets the definition of critical habitat for *Brodiaea filifolia* at this time. The essential physical or biological features within the areas designated as revised critical habitat may require some level of management to address current and future threats to *B. filifolia,* including the direct and indirect effects of habitat loss and degradation from urban development; the introduction of nonnative invasive plant species; recreational activities; discing and mowing for agricultural practices or fuel modification for fire management; dumping of manure and sewage sludge; and hybridization with other species of *Brodiaea.*

Loss and degradation of habitat from development was cited in the final listing rule as a primary cause for the decline of *Brodiaea filifolia.* Most of the populations of this species are located in San Diego, Orange, and Riverside counties. These counties have had (and continue to have) increasing human populations and attendant housing pressure. Natural areas in these counties are frequently near or bounded by urbanized areas. Urban development removes the plant community components and associated clay soils identified in the PCEs, which eliminates or fragments the populations of *B. filifolia.* Grading, discing, and scraping areas in the preparation of areas for urbanization also directly alters the soil surface as well as subsurface soil layers to the degree that they will no longer support plant community types and pollinators associated with *B. filifolia* (PCE 2). Conservation and management of *B. filifolia* habitat and adjacent pollinator habitat is needed to address the threat of development.

Nonnative invasive plant species may alter the vegetation composition or physical structure identified in the PCEs to an extent that the area does not support *Brodiaea filifolia* or the plant community that it inhabits. Additionally, invasive species may compete with *B. filifolia* for space and resources by depleting water that would otherwise be available to *B. filifolia.* Management activities including (but not limited to) nonnative plant removal and control are needed to reduce this threat.

Unauthorized recreational activities may impact the vegetation composition and soil structure that supports *Brodiaea filifolia* to an extent that the area will no longer have intact soil surfaces or the plant communities identified in the PCEs. Off-highway vehicle (OHV) activity is an example of this type of activity. Management activities such as (but not limited to) fencing or other barriers to unauthorized access, signage, and monitoring are needed to address this threat.

Some methods of mowing or discing for agricultural purposes or fuel modification for fire management may preclude the full and natural development of *Brodiaea filifolia* by adversely affecting the PCEs. Mowing may preclude the successful reproduction of the plant, or alter the associated vegetation needed for pollinator activity (PCE 2). Dumping of sewage sludge can cover plants as well as the soils they need. Additionally, this practice can alter the chemistry of the substrate and lead to alterations in the vegetation supported at the site (PCE 1). Management activities such as (but not limited to) fencing, signage, and education of landowners and land managers about the detrimental effects that mowing, discing, and dumping sewage have on *B. filifolia* and its habitat are needed to address this threat.

Manure dumping on private property along the San Jacinto River area is impacting habitat within the Western Riverside County MSHCP plan area. These impacts are occurring despite identification of these areas as important for the survival and recovery of *Brodiaea filifolia* in the Western Riverside County MSHCP. Manure dumping is not a covered activity under the Western Riverside County MSHCP and was not discussed as an impact to *B. filifolia* in the Biological Opinion on the Western Riverside County MSHCP (Service 2004b, pp. 378–386). As outlined in the Western Riverside County MSHCP, we have been working with permittees to implement additional ordinances that will help to control activities (such as manure dumping) that may impact the implementation of the Western Riverside County MSHCP conservation objectives. To date, the City of Hemet is the only Western Riverside County MSHCP permittee that has addressed the negative impacts that manure dumping has on species such as *B. filifolia* and *Navarretia fossalis* and their habitats through the enactment of Ordinance 1666 (*i.e.,* the ordinance that prevents manure dumping activities and educates its citizens). We will continue to work with Riverside County and permittees of the Western Riverside County MSHCP to address activities that may impact the species within the Western Riverside County MSHCP plan area.

The Service is aware of occurrences of some hybrids within the range of *Brodiaea filifolia* in Subunit 5b (Devil Canyon) in northwestern San Diego County (Chester et al. 2007, p. 193). The presumed parent taxa of these hybrids are considered to be *B. filifolia* and *B. orcuttii* because of the apparent morphological intermediacy of the individuals and proximity of their ranges. This is supported by the close relationship of the two species noted above. Although there are some hybrids of *B. filifolia* and *B. orcuttii* in this subunit, it is likely that a minimum of 850 plants are pure *B. filifolia* (Service 2009b, p. 15) (we consider occurrences that have between 850 and 3,000 flowering stems observed in multiple years to be stable and persistent because we expect these occurrences to have a sufficient amount of corms to sustain the occurrence for a number of years if the habitat remains unaltered (see *Criteria Used* section below)). Plants of hybrid origin have also been reported in Subunit 8d (Upham) in the City of San Marcos (Chester *et al.* 2007, p. 191). Chester *et al.* (2007) only found a few hybrid specimens at this location, therefore it is likely that a minimum of 850 plants are pure *B. filifolia.* Hybridization could result in the loss of portions of *B. filifolia* occurrences if other *Brodiaea* species are transplanted adjacent to existing *B. filifolia* occurrences, or if existing *B. filifolia* occurrences are transplanted adjacent to other *Brodiaea* species and the two species are able to hybridize. Informing biological resource managers of the existence of this threat will help to keep human-mediated hybridization from occurring.

In summary, we find that the areas we are designating as revised critical habitat contain the physical or biological features essential to the conservation of *Brodiaea filifolia,* and that these features may require special management considerations or protection. Special management considerations or protection may be required to eliminate, or reduce to negligible level, the threats affecting each unit/subunit and to preserve and

maintain the essential features that the revised critical habitat units/subunits provide to *B. filifolia.* Additional discussions of threats facing individual sites are provided in the individual unit/subunit descriptions.

The designation of critical habitat does not imply that lands outside of critical habitat may not play an important role in the conservation of *Brodiaea filifolia.* In the future, and with changed circumstances, these lands may become essential to the conservation of *B. filifolia.* Activities with a Federal nexus that may affect areas outside of revised critical habitat, such as development, agricultural activities, and road construction, are still subject to review under section 7 of the Act if they may affect *B. filifolia* because Federal agencies must consider both effects to the plant and effects to critical habitat independently. The prohibitions of section 9 of the Act applicable to *B. filifolia* under 50 CFR 17.71 (*e.g.,* the prohibition against reducing to possession or maliciously damaging or destroying listed plants on Federal lands) also continue to apply both inside and outside of designated critical habitat.

Criteria Used To Identify Critical Habitat

We determined that all areas we are designating as final revised critical habitat are within the geographical area occupied by *Brodiaea filifolia* at the time of listing and are currently occupied (*see* the Spatial Distribution and Historical Range section of the proposed revised critical habitat rule (74 FR 64929; December 8, 2009) for more information). We considered the areas outside the geographical area occupied by the species at the time of listing, but are not designating any areas outside the geographical area occupied by *B. filifolia* at the time of listing because we determined that a subset of occupied lands within the species' historical range are adequate to ensure the conservation of *B. filifolia.* Occupied areas exist throughout this species' historical range, and through the conservation of a subset of occupied habitats (35 of 68 extant occurrences, *see* Table 1), we will be able to stabilize and conserve *B. filifolia* throughout its current and historical range. All units/subunits designated as revised critical habitat contain the PCEs in the appropriate quantity and spatial arrangement essential to the conservation of this species and support multiple life-history traits for *B. filifolia.*

As required by section 4(b) of the Act, we use the best scientific and commercial data available in determining areas that contain the physical or biological features that are essential to the conservation of *Brodiaea filifolia.* The data used for this revised critical habitat are summarized below. This rule reflects the best available scientific and commercial information and thus differs from our 2005 final critical habitat rule.

This section provides details of the process we used to delineate critical habitat. This final rule reflects a progression of conservation efforts for *Brodiaea filifolia* that is largely based on the past analysis of the areas identified as meeting the definition of critical habitat for *B. filifolia* as identified in the 2004 proposed critical habitat rule, the 2005 final critical habitat designation, and new information we obtained on the species' distribution since listing. For some areas that were analyzed in 2005 but determined not to meet the definition of critical habitat, we received new distribution information for the proposed revised rule that resulted in determining that those areas do meet the definition of critical habitat. There are also some areas identified as meeting the definition of critical habitat in the 2005 critical habitat designation that we did not include in the proposed revised rule and this final revised critical habitat designation because we determined, based on a review of the best available information, that they do not meet the definition of critical habitat. The specific differences from the 2005 designation of critical habitat are summarized in the Summary of Changes from the Proposed Revised Rule and the Previous Critical Habitat Designation section of this rule.

Species and plant communities that are protected across their ranges are expected to have lower likelihoods of extinction (Soule and Simberloff 1986, p. 35; Scott *et al.* 2001, pp. 1297–1300). Genetic variation generally results from the effects of population isolation and adaptation to locally distinct environments (Lesica and Allendorf 1995, pp. 754–757; Hamrick and Godt 1996, pp. 291–295; Fraser 2000, pp. 49–51). We sought to include the range of ecological conditions in which *Brodiaea filifolia* is found to preserve the genetic variation that may reflect adaptation to local environmental conditions, as documented in other plant species (such as in Millar and Libby 1991, pp. 150, 152–155; or Hamrick and Godt 1996, pp. 299–301). A suite of locations that possess unique ecological characteristics will represent more of the environmental variability under which *B. filifolia* has evolved. Protecting these areas will promote the adaptation of the species to different environmental conditions and contribute to species recovery.

We also determined that habitat for pollinators is essential to the survival and recovery of this species because *Brodiaea filifolia* is self-incompatible (genetically similar individuals are not able to produce viable seeds). Sexual reproduction, facilitated through pollination, is necessary for the long-term conservation of this species.

All critical habitat discussed in this final revised critical habitat designation is occupied by the species at the subunit level, meaning that each subunit contains at least one known occurrence of *Brodiaea filifolia.* Occupied areas were determined from survey data and element occurrence data in the California Natural Diversity Database (CNDDB) (CNDDB 2009, pp. 1–76). Using GIS data in the areas identified as occupied by this species as a guide, we identified the areas that contain the physical and biological features essential to the conservation of *B. filifolia.* The essential features in each subunit are necessary for the conservation of the occurrence within the subunit, which contributes to the overall conservation of the species.

To map the areas that meet the definition of critical habitat, we identified areas that contain the PCEs in the appropriate quantity and spatial arrangement essential to the conservation of this species using the following criteria: (1) Areas supporting occurrences on rare or unique habitat within the species' range; (2) areas supporting the largest known occurrences of *Brodiaea filifolia;* or (3) areas supporting stable occurrences of *B. filifolia* that are likely to be persistent. These criteria are explained in greater detail below and a summary of our analysis of all current and past areas supporting *B. filifolia* is presented in Table 3.

We determined that the areas supporting 36 of the 68 extant occurrences meet the definition of critical habitat; of these 36 occurrences, 7 are on Marine Corps Base Camp Pendleton (MCB Camp Pendleton) and the areas are exempt from critical habitat under section 4(a)(3) of the Act (*see* Exemptions under Section 4(a)(3) of the Act section below). Of the 29 occurrences in areas proposed as revised critical habitat (74 FR 64930; December 8, 2009), four are in areas excluded from this final revised critical habitat designation under section 4(b)(2) of the Act (Subunits 7d, 8f, 11g, and 11h), and eight are in areas partially excluded from this final revised critical habitat designation under section 4(b)(2) of the Act (portions of Subunits 6a, 6d,

7a, 7c, 8b, 11f, and Units 3 and 12) (*see* Exclusions under Section 4(b)(2) of the Act section below). Areas containing the PCEs and that meet at least one of the above criteria are considered to contain the physical and biological features essential to the conservation of the species and, therefore, meet the definition of critical habitat. Included in PCE 2 are areas up to 820 ft (250 m) from mapped occurrences of *Brodiaea filifolia* to provide adequate space to support the habitat and alternate food sources needed for pollinators of *B. filifolia.* The 820-ft (250-m) distance for determining the pollinator use area is based on a conservative estimate for the mean routine flight distance for ground-nesting solitary bees that pollinate *B. filifolia.* This distance is not meant to capture all habitat that is potentially used by pollinators, but it is meant to capture a sufficient area to allow for pollinators to nest, feed, and reproduce in habitat that is adjacent and connected to the areas where *B. filifolia* grows (see Habitat for Pollinators of *Brodiaea filifolia* section above for a more detailed explanation of pollinator requirements and our derivation of the 820-ft (250-m) distance used to determine the pollinator use area).

BILLING CODE 4310–55–P

Occurrence Number in 5-Year Review	Location Description	CNDDB* Element Occurrence Number (EO)	Criterion 1: Unique or Rare Habitat	Criterion 2: Largest Occurrences	Criterion 3: Stable and Persistent Occurrence	Critical Habitat Unit/Subunit
Los Angeles County, California						
1	Glendora	20	X	--	X	1a
2	San Dimas/Gordon Highlands	40	X	X	--	1b
San Bernardino County, California						
3	Arrowhead Hot Springs	7	X	--	X	2
4	Waterman Canyon	8	--	--	--	N/A
Riverside County, California						
5	San Jacinto Wildlife Area	43 27	X	--	X	11a
6**	San Jacinto Ave/Dawson Rd	65	X	--	--	11b
7	Case Road	2	X	X	--	11c
X	Goetz Road	1	--	--	--	extirpated
8	Railroad Canyon	25	--	X	--	11d
9	Upper Salt Creek (Stowe Pool)	26	X	--	--	11e

Occurrence Number in 5-Year Review	Location Description	CNDDB* Element Occurrence Number (EO)	Criterion 1: Unique or Rare Habitat	Criterion 2: Largest Occurrences	Criterion 3: Stable and Persistent Occurrence	Critical Habitat Unit/Subunit
10	Santa Rosa Plateau - Tenaja Rd.	3	--	--	--	*B. santarosae*
11	Santa Rosa Plateau - North of Tenaja Rd.	31	X	--	--	11h
12	Santa Rosa Plateau - South of Tenaja Rd.	30	X	--	--	11g
13	Santa Rosa Plateau - Mesa de Colorado	5	X	X	--	11f
14	East of Tenaja Guard Station	29	--	--	--	N/A
15	Redonda Mesa	52	--	--	--	N/A
16**	Corona Cala Camino	N/A	--	--	--	N/A
Orange County, California						
17	Edison Viejo	55	--	--	--	N/A
18	Aliso and Wood Canyons Wilderness Park	56	--	X	--	3
19	Cañada Gobernadora/Chiquita Ridgeline	64	--	--	X	4c
20**	Trampas Canyon	N/A	--	--	--	N/A
21**	Middle Gabino	N/A	--	--	--	N/A
22	Cristianitos Canyon	N/A	X	X	--	4g
	Cristianitos Canyon/Lower Gabino Canyon	62				
23**	East Talega/Blind Canyon	N/A	--	--	--	N/A
24	Caspers Wilderness Park	24	--	--	X	4b
25	Arroyo Trabuco Golf Course/Lower Arroyo Trabuco	N/A	--	--	--	N/A
x**	Prima Deshecha****	61	--	--	--	extirpated
26	Talega/Segunda Deshecha***	57	--	--	--	N/A

Occurrence Number in 5-Year Review	Location Description	CNDDB* Element Occurrence Number (EO)	Criterion 1: Unique or Rare Habitat	Criterion 2: Largest Occurrences	Criterion 3: Stable and Persistent Occurrence	Critical Habitat Unit/Subunit
27	Forster Ranch***	58	--	--	--	N/A
		59				
		60				
28	Cristianitos Canyon South	63	--	--	--	N/A
San Diego County, California						
29	Miller Mountain	37	--	--	--	*B. santarosae*
	Devil Canyon	39	X	--	X	5b
30	Tributary off of Talega Canyon	N/A	--	--	--	N/A
31**	Cristianitos Canyon Pendleton	N/A	--	--	X	exempt
32**	San Mateo Creek	N/A	--	--	--	N/A
33	Bravo One	45	--	--	X	exempt
34**	Bravo Two North	N/A	--	--	--	N/A
35	Bravo Two South	N/A	--	--	X	exempt
36	Alpha One/Bravo Three	44	--	--	--	N/A
37**	Basilone/San Mateo Junction	N/A	--	--	X	exempt
38	Camp Horno	46,47, 48,49	--	X	--	exempt
39	Southeast of Horno Summit	50	--	--	--	N/A
40**	Top of Las Pulgas Canyon/Roblar Rd	N/A	--	--	--	N/A
41**	Top of Aliso Canyon/Roblar Rd	N/A	--	--	--	N/A

Occurrence Number in 5-Year Review	Location Description	CNDDB* Element Occurrence Number (EO)	Criterion 1: Unique or Rare Habitat	Criterion 2: Largest Occurrences	Criterion 3: Stable and Persistent Occurrence	Critical Habitat Unit/Subunit
42	Basilone/Roblar Junction	51	--	--	--	N/A
43	East of I-5/South of Las Flores Creek	67	--	--	--	N/A
		68				
44**	Pilgrim Creek	N/A	--	--	X	exempt
45	Pueblitos Canyon	N/A	--	--	--	N/A
46**	West of Whelan Lake	N/A	--	--	--	N/A
47**	South of French Creek	N/A	--	--	--	N/A
48**	South White Beach	N/A	--	--	X	exempt
49	Taylor***	41	--	X	--	6d
	Undeveloped parcel between Darwin properties					
	Darwin Knolls and Darwin Glen					
50**	Arbor Creek/Colucci	N/A	X	--	X	6e
51	Mission View/Sierra Ridge	53	--	--	X	6c
52	Mesa Drive, SDG&E Substation		--	--	X	6b
53	Eternal Hills/Alta Creek	N/A	--	--	X	6a
	Cornerstone Community Church/Oceanside Blvd & El Camino Real					
54**	Vista Pacific	N/A	--	--	--	N/A
55**	Buena Vista Creek preserve	N/A	--	--	--	N/A
56	Calavera Heights Mitigation Site	N/A	--	--	--	N/A
57	Calavera Hills Village H	23	--	--	X	7c

Occurrence Number in 5-Year Review	Location Description	CNDDB* Element Occurrence Number (EO)	Criterion 1: Unique or Rare Habitat	Criterion 2: Largest Occurrences	Criterion 3: Stable and Persistent Occurrence	Critical Habitat Unit/Subunit
58**	Calavera Hills Village X		--	--	--	N/A
59	Letterbox Canyon - Taylor Made***	N/A	--	X	--	7a
	Letterbox Canyon - Salk/Fox-Miller***	N/A				
	Letterbox Canyon - Newton Business Center	16				
X	North of Carlsbad dragstrip	14	--	--	--	extirpated
60**	Carlsbad Oaks	N/A	--	--	--	N/A
61	Rancho Carrillo	22	--	X	--	7b
	Rancho Santa Fe Rd North		--	--	--	N/A
62	Rancho La Costa	33	--	X	--	7d
		34				
63	La Costa Town Square	N/A	--	--	--	N/A
	Park View West/La Costa Ave & Rancho Santa Fe Rd****	21	--	--	--	extirpated
64	Poinsettia	N/A	--	--	--	N/A
X	Shelley Property/Olivenhein & Rancho Santa Fe Rd junction	32	--	--	--	extirpated
X	Calle Tres Vistas	54	--	--	--	extirpated
X	Vista	15	--	--	--	extirpated
X	Brengle Terrace	18	--	--	--	extirpated

Occurrence Number in 5-Year Review	Location Description	CNDDB* Element Occurrence Number (EO)	Criterion 1: Unique or Rare Habitat	Criterion 2: Largest Occurrences	Criterion 3: Stable and Persistent Occurrence	Critical Habitat Unit/Subunit
X	Vista, east of South Melrose Ave****	17	--	--	--	extirpated
X	North of Carlsbad dragstrip	13	--	--	--	extirpated
X	SSE of Buena, near Mission Rd & RR tracks	12	--	--	--	extirpated
65	Rancho Santalina***	11	--	X	--	8b
	Loma Alta					
	Rancho Santalina/Loma Alta					
	Las Posas Road Extension Project****		--	--	--	extirpated
66	Grand Avenue/Las Posas Rd pools***	36	X	X	--	8d
	Upham/Pacific St/Superior Ready Mix	10				
67**	Oleander/San Marcos Elementary***	N/A	--	X	--	8f
68**	Artesian Trails	70	--	--	X	12
		66				
X	4S Ranch****	N/A	--	--	--	extirpated

* California Department of Fish and Game, Natural Diversity Database

** New occurrence since listing, but determined to be occupied at the time of listing

*** Partially translocated (some plants currently exist at the original location)

**** Completely translocated (no plants currently exist at the original location)

BILLING CODE 4310–55–C

We identified habitat containing the features essential to the conservation of *Brodiaea filifolia* by using data from the following GIS databases: (1) Species occurrence information in Los Angeles, San Bernardino, Orange, Riverside, and San Diego Counties from the CNDDB and from survey reports; (2) vegetation data layers from Orange, Riverside, and San Diego Counties and vegetation data layers from the U.S. Forest Service's Cleveland National Forest (CNF) for Los Angeles and San Bernardino Counties; and (3) Natural Resources Conservation Service's Soil Survey Geographic Database (SSURGO) soil data layers for Orange, Riverside, and San Diego Counties, and State Soil Geographic Database (STATSGO) soil data layers for Los Angeles and San Bernardino Counties.

Criteria Used

If habitat areas met one or more of the following criteria, they were determined to meet the definition of critical habitat under section 3(5)(A)(i) of the Act.

(1) The first criterion is any area that supports an occurrence in rare or unique habitat within the species' range. We evaluated all occurrences of *Brodiaea filifolia* under this criterion, regardless of occurrence size. We identified four main factors that

constitute rare or unique habitat for *B. filifolia:*

(a) Occurrences in habitat types that are uncommon such as grassland habitat that occurs intermixed with chaparral, grassland habitat that is associated with vernal pools, or large areas of native grassland;

(b) Occurrences on uncommon soil types such as clay soils that are altered by hydrothermal activity;

(c) Occurrences that grow along ephemeral drainages in seep-type habitats; and

(d) Occurrences that grow in gravel, cobbles, and small boulder substrate.

These four unique situations differ from the majority of occurrences of this species, which are found on clay soils intermixed with coastal sage scrub habitat. The conservation of *Brodiaea filifolia* occurring in these rare or unique situations will preserve the diversity of habitats where this species is found.

(2) The second criterion is any area that supports one of the largest known populations of *Brodiaea filifolia.* Occurrences of this species range from just a few plants to several thousand plants, while the majority of the known occurrences are under 3,000 plants (*see* the **Background** section of the 2009 proposed revised critical habitat rule for a discussion on how occurrences of *B. filifolia* are grouped and counted). However, there are 13 occurrences that stand out as the largest, each having greater than 3,000 plants. Occurrences supporting large numbers of plants (3,000 or more) are noted in Table 1 and are found in the following areas:

(a) Los Angeles County: Subunit 1b-San Dimas;

(b) Riverside County: Subunit 11c-Case Road, Subunit 11d-Railroad Canyon, and Subunit 11f-Santa Rosa Plateau-Mesa de Colorado;

(c) Orange County: Unit 3–Aliso Canyon, and Subunit 4g-Cristianitos Canyon; and

(d) San Diego County: Subunit 6d-Taylor/Darwin, Subunit 7a-Letterbox Canyon, Subunit 7b-Rancho Carrillo, Subunit 7d-Rancho La Costa, Subunit 8b-Rancho Santalina/Loma Alta, Subunit 8d-Upham, and Subunit 8f-Oleander/San Marcos Elementary (*See* Table 1).

These large occurrences are present in habitat areas that contain the physical and biological features essential to the conservation of this species. These areas generally represent large contiguous blocks of intact habitat. The conservation of these large populations will increase the resilience of the species across its range and contribute to the overall recovery of this species.

(3) The third criterion is any area that supports an occurrence considered to be stable and persistent. We consider occurrences that have between 850 and 3,000 flowering stems that have been observed in multiple years to be stable and persistent because we expect these occurrences to have a sufficient number of corms to sustain the occurrence for a number of years if the habitat remains unaltered. These areas contribute to the conservation of *Brodiaea filifolia* by providing resilience for the species by decreasing the probability of the species becoming extinct, and by contributing to the genetic diversity of the species. The conservation of these areas helps *B. filifolia* to maintain its current geographic distribution, since these resilient occurrences are found throughout the range of the species. This is particularly important for *B. filifolia* because this species relies on outcrossing for successful reproduction.

To determine if any additional areas met the third criterion, we looked at all occurrences with fewer than 850 flowering stalks to determine if any of these exhibited the same persistence and stability characteristics to provide similar conservation value as the other identified occurrences with greater than 850 flowering stalks (since the counts for an occurrence vary from year to year). We found that one occurrence with fewer than 850 flowering stalks (at the Arbor Creek/Colucci site) exhibited characteristics of a stable, persistent occurrence (*i.e.,* an occurrence of consistent size not substantially less than 850 flowering stalks); therefore, this occurrence fulfills the ecological role of sites we are interested in identifying through this criterion, even though the high count at this site is 620 flowering stalks.

Of the 68 occurrences of *Brodiaea filifolia* that we identified as being extant in our 5-year review for this species (Service 2009b), areas supporting 36 occurrences meet one or more of the 3 criteria outlined above. Seven of these areas are exempt from this critical habitat designation under section 4(a)(3) of the Act (*see* Exemptions Under Section 4(a)(3) of the Act section), and the remaining 29 areas were proposed as revised critical habitat (74 FR 64930; December 8, 2009). Of these 29 areas, 14 fit into one of the 4 reasons that areas meet the "rare or unique habitat" criterion, 13 meet the "largest occurrences" criterion, and 13 meet the "stable and persistent occurrences" criterion. Of these 29 areas, 3 are excluded from this final revised critical habitat designation under section 4(b)(2) of the Act (Subunits 7d, 11g, and 11h), and 5 are partially excluded from this final revised critical habitat designation under section 4(b)(2) of the Act (portions of Subunits 7a, 7c, 11f, and Units 3 and 12) (*see* Exclusions under Section 4(b)(2) of the Act section below).

The habitat areas that meet one or more of the criteria represent the historical range of the species, and are adequate to provide for this species' conservation. Habitat areas and the occurrences they support that do not meet any of the three criteria may still be important to the conservation of this species, but without the conservation of the habitat areas and occurrences identified through this process, the recovery effort for this species may be impaired.

Other Factors Involved With Delineating Critical Habitat

Following the identification of areas supporting 36 occurrences of the 68 extant occurrences that met one of the 3 criteria listed above, we mapped the area that contained the PCEs at each occurrence including habitat extending beyond the perimeters of mapped occurrences of *Brodiaea filifolia* by up to 820 ft (250 m) to provide adequate space to support the habitat and alternate food sources needed for pollinators of *B. filifolia* (see Habitat for Pollinators of *Brodiaea filifolia* section).

Areas that did not provide habitat for *Brodiaea filifolia* or potential pollinators were removed from the 820-ft (250-m) zone of mapped occurrences of *B. filifolia,* such as areas that were developed or severely altered by grading. Our mapping methodology captures the PCEs in the appropriate quantity and spatial arrangement essential to the conservation of the species, and encompasses the range of environmental variability for this species.

When determining the final revised critical habitat boundaries for *Brodiaea filifolia,* we made every effort to map precisely the areas that contain the physical or biological features essential to the conservation of the species. However, we cannot guarantee that every fraction of revised critical habitat contains the PCEs due to the mapping scale that we use to draft critical habitat boundaries. Additionally, we made every attempt to avoid including developed areas such as lands underlying buildings, pavement, and other structures because such lands lack PCEs for *B. filifolia.* The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any

such lands inadvertently left inside critical habitat boundaries shown on the maps of this revised critical habitat are excluded by text in this rule and are not designated critical habitat. Therefore, Federal actions involving these lands would not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification, unless the specific actions may affect adjacent critical habitat.

Revised Critical Habitat Designation

We are designating 2,947 ac (1,193 ha) in 10 units, subdivided into 23 subunits as revised critical habitat for *Brodiaea filifolia.* The unit numbers in this rule correspond to those used in the 2004 proposed rule and the 2005 final rule; however, Units 9 and 10 were not proposed and Units 11 and 12 are new to this revised rule. Unit 11 represents lands in Riverside County excluded from the 2005 designation of critical habitat, and Unit 12 represents the Artesian Trails area in San Diego County that is now partially included based on new occurrence data in this area. To minimize confusion with the previous proposal and designation we are not using Unit numbers 9 and 10 in this rule (*see* Table 2 and Summary of Changes from the Proposed Revised Rule and the Previous Critical Habitat Designation section).

The areas we describe below constitute our best assessment of areas that meet the definition of critical habitat for *Brodiaea filifolia.* We determined these areas are within the geographical area occupied at the time of listing, and contain the physical and biological features essential to the conservation of *B. filifolia* that may require special management considerations or protection. We are not designating any areas outside the geographical area occupied by the species at the time of listing because we determined that the lands we are designating as revised critical habitat are adequate to ensure conservation of *B. filifolia.* The lands designated as revised critical habitat represent a subset of the total lands occupied by *B. filifolia.* Table 4 identifies the approximate area of each designated critical habitat subunit by land ownership. These subunits, which generally correspond to the geographic area of the subunits delineated in the 2005 designation (see Table 2 for a detailed comparison of this rule and the 2005 designation), replace the 2005 critical habitat designation for *B. filifolia* in 50 CFR 17.96(a).

TABLE 4—AREA ESTIMATES IN ACRES (AC) AND HECTARES (HA), AND LAND OWNERSHIP FOR BRODIAEA FILIFOLIA FINAL REVISED CRITICAL HABITAT

Location	Ownership				Total area **
	Federal *	State government	Local government	Private	
Unit 1: Los Angeles County					
1a. Glendora	0 ac (0 ha)	0 ac (0 ha)	0 ac (0 ha)	67 ac (27 ha)	67 ac (27 ha).
1b. San Dimas	13 ac (5 ha)	0 ac (0 ha)	0 ac (0 ha)	125 ac (51 ha)	138 ac (56 ha).
Unit 2: San Bernardino County					
2. Arrowhead Hot Springs	0 ac (0 ha)	0 ac (0 ha)	0 ac (0 ha)	61 ac (25 ha)	61 ac (25 ha).
Unit 3: Central Orange County					
3. Aliso Canyon	0 ac (0 ha)	0 ac (0 ha)	0 ac (0 ha)	11 ac (4 ha)	11 ac (4 ha).
Unit 4: Southern Orange County					
4b. Caspers Wilderness Park	0 ac (0 ha)	0 ac (0 ha)	0 ac (0 ha)	12 ac (5 ha)	12 ac (5 ha).
4c. Cañada Gobernadora/Chiquita Ridgeline.	0 ac (0 ha)	0 ac (0 ha)	0 ac (0 ha)	133 ac (54 ha)	133 ac (54 ha).
4g. Cristianitos Canyon	0 ac (0 ha)	0 ac (0 ha)	0 ac (0 ha)	587ac (238 ha)	587ac (238 ha).
Unit 5: Northern San Diego County					
5b. Devil Canyon	266 ac (108 ha)	0 ac (0 ha)	0 ac (0 ha)	8 ac (3 ha)	274 ac (111ha).
Unit 6: Oceanside					
6a. Alta Creek	0 ac (0 ha)	0 ac (0 ha)	0 ac (0 ha)	72 ac (29 ha)	72 ac (29 ha).
6b. Mesa Drive	0 ac (0 ha)	0 ac (0 ha)	0 ac (0 ha)	17 ac (7 ha)	17 ac (7 ha).
6c. Mission View/Sierra Ridge	0 ac (0 ha)	0 ac (0 ha)	0 ac (0 ha)	12 ac (5 ha)	12 ac (5 ha).
6d. Taylor/Darwin	0 ac (0 ha)	0 ac (0 ha)	0 ac (0 ha)	35 ac (14 ha)	35 ac (14 ha).
6e. Arbor Creek/Colucci	0 ac (0 ha)	0 ac (0 ha)	0 ac (0 ha)	94 ac (38 ha)	94 ac (38 ha).
Unit 7: Carlsbad					
7a. Letterbox Canyon	0 ac (0 ha)	1 ac (<1 ha)	0 ac (0 ha)	41 ac (17 ha)	43 ac (17 ha).
7b. Rancho Carrillo	0 ac (0 ha)	0 ac (0 ha)	0 ac (0 ha)	37 ac (15 ha)	37 ac (15 ha).
7c. Calavera Hills Village H	0 ac (0 ha)	0 ac (0 ha)	0 ac (0 ha)	26 ac (11 ha)	26 ac (11 ha).
Unit 8: San Marcos and Vista					
8b. Rancho Santalina/Loma Alta	0 ac (0 ha)	0 ac (0 ha)	0 ac (0 ha)	47 ac (19 ha)	47 ac (19 ha).
8d. Upham	0 ac (0 ha)	0 ac (0 ha)	0 ac (0 ha)	54 ac (22 ha)	54 ac (22 ha).
8f. Oleander/San Marcos Elementary.	0 ac (0 ha)	0 ac (0 ha)	0 ac (0 ha)	7 ac (3 ha)	7 ac (3 ha).
Unit 11: Western Riverside County					
11a. San Jacinto Wildlife Area	0 ac (0 ha)	366 ac (148 ha)	17 ac (7 ha)	18 ac (7 ha)	401 ac (162 ha).
11b. San Jacinto Avenue/Dawson Road.	0 ac (0 ha)	0 ac (0 ha)	0 ac (0 ha)	117 ac (47 ha)	117 ac (47 ha).
11c. Case Road	0 ac (0 ha)	0 ac (0 ha)	11 ac (5 ha)	169 ac (68 ha)	180 ac (73 ha).
11d. Railroad Canyon	53 ac (21 ha)	0 ac (0 ha)	1 ac (<1 ha)	204 ac (83 ha)	257 ac (104 ha).
11e. Upper Salt Creek (Stowe Pool)	0 ac (0 ha)	0 ac (0 ha)	0 ac (0 ha)	145 ac (59 ha)	145 ac (59 ha).
11f. Santa Rosa Plateau—Mesa de Colorado.	0 ac (0 ha)	0 ac (0 ha)	5 ac (2 ha)	8 ac (3 ha)	13 ac (5 ha).
Unit 12: Central San Diego County					
12. Artesian Trails	0 ac (0 ha)	0 ac (0 ha)	7 ac (3 ha)	98 ac (40 ha)	105 ac (43 ha).

TABLE 4—AREA ESTIMATES IN ACRES (AC) AND HECTARES (HA), AND LAND OWNERSHIP FOR BRODIAEA FILIFOLIA FINAL REVISED CRITICAL HABITAT—Continued

Location	Ownership				Total area **
	Federal *	State government	Local government	Private	
Total**	332 ac (134 ha)	367 ac (148 ha)	41 ac (17 ha)	2,205 ac (894 ha) ...	2,947 ac (1,193 ha).

* 1,531 ac (620 ha) of federally owned land on MCB Camp Pendleton is exempt from this revised critical habitat (*see* Exemptions Under Section 4(a)(3) of the Act section).
** Values in this table and the following text may not sum due to rounding.

Presented below are brief descriptions of all subunits and reasons why they meet the definition of critical habitat for *Brodiaea filifolia.* The subunits are listed in order geographically north to south and west to east.

Unit 1: Los Angeles County

Unit 1 is located in Los Angeles County, and consists of two subunits totaling 206 ac (83 ha). This unit contains 13 ac (5 ha) of federally owned land and 192 ac (78 ha) of private land.

Subunit 1a: Glendora

Subunit 1a consists of 67 ac (27 ha) of private land in the City of Glendora, in the foothills of the San Gabriel Mountains in Los Angeles County. Lands within this subunit contain Cieneba-Exchequer-Sobrante soils, a type of silty loam, and consist primarily of northern mixed chaparral and coastal sage scrub habitat. Subunit 1a contains the physical and biological features essential to the conservation of *Brodiaea filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including sandy loam soils (PCE 1E) and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); (2) supports a rare or unique occurrence, representing one of two occurrences located in the foothills of the San Gabriel Mountains which are part of the Transverse Ranges where the species was historically found, and is also significant because it is the northernmost occurrence known; and (3) supports a stable, persistent occurrence of approximately 2,000 plants. The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from nonnative invasive plants. The site is protected from development and is owned by the Glendora Community Conservancy (GCC). The GCC has expressed interest in creating a management plan for their land; however, a comprehensive management plan that would specifically address the control of nonnative plants has not been completed at this time. *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Subunit 1b: San Dimas

Subunit 1b consists of 13 ac (5 ha) of Federal land (Angeles National Forest) and 125 ac (51 ha) of private land near the City of San Dimas in the foothills of the San Gabriel Mountains in Los Angeles County. Lands within this subunit contain Cieneba-Exchequer-Sobrante soils, a type of silty loam, and consist primarily of northern mixed chaparral and coastal sage scrub habitat. Subunit 1b contains the physical and biological features essential to the conservation of *Brodiaea filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including sandy loam soils (PCE 1E) and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); (2) supports a rare or unique occurrence, representing one of two occurrences located in the foothills of the San Gabriel Mountains which are part of the Transverse Ranges where the species was historically found, and represents the only likely genetic connection to plants in the Glendora subunit; and (3) supports two significant populations totaling about 6,000 individuals of *B. filifolia,* as documented in 1990 (CNDDB 2009, p. 37). Several proposals for development of this area have been reviewed by the City of Glendora (D. Walter, Senior Planner City of Glendora pers. comm. to G. Wallace, Service 2005). Additionally, illegal grading has occurred on the northern portion of this subunit (grading was halted by the City of Glendora). The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from urban development on private lands, including minimizing disturbance to the surface and subsurface structure, and to maintain pollinator habitat. *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Unit 2: San Bernardino County—Arrowhead Hot Springs

Unit 2 is located in San Bernardino County, California, and consists of 61 ac (25 ha) of private land at the southwestern base of the San Bernardino Mountains. This unit was not included in the 2005 final critical habitat designation, but is included in this rule based on new information related to the distribution of *Brodiaea filifolia.* Lands within this unit contain Cieneba-rock outcrop complex and Ramona family-Typic Xerothents soils altered by hydrothermal activity, some of which are considered alluvial, and consist primarily of coastal sage scrub habitat. Unit 2 contains the physical and biological features essential to the conservation of *B. filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including soils altered by hydrothermal activity (PCE 1B) and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); (2) supports a rare or unique occurrence, representing the only occurrence of this plant in the foothills of the San Bernardino Mountains part of the Transverse Ranges where the species was historically found, and representing the type locality for *B. filifolia* (Niehaus 1971, p. 57; CNDDB 2009, p. 7); and (3) supports a stable, persistent occurrence. The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from nonnative invasive plants. *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Unit 3: Central Orange County—Aliso Canyon

Unit 3 is located in central Orange County, California, and consists of 11 ac (4 ha) of private land in the City of Laguna Niguel, southwestern Orange County. These totals do not include 102 ac (42 ha) of land in Unit 3 that we are exercising our delegated discretion to exclude from this revised designation under section 4(b)(2) of the Act (*see* the Exclusions under Section 4(b)(2) of the Act section of this rule). This unit was not included in the 2005 final critical habitat designation, but is included in this rule based on new information related to the distribution of *Brodiaea filifolia.* Lands within this unit contain clay loam or other types of loam and consist of annual and needlegrass grassland. Unit 3 contains the physical and biological features essential to the conservation of *B. filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including loamy soils underlain by a clay subsoil (PCE 1A) and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); and (2) supports an occurrence of at least 5,000 individuals of *B. filifolia,* as documented in 2001 (CNDDB 2009, p. 51). The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from fuel management activities (annual mowing) and pipeline work. *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Unit 4: Southern Orange County

Unit 4 is located in southern Orange County, California, and consists of 3 subunits totaling 732 ac (297 ha) of private land. These totals do not include portions of Subunit 4b (192 ac (78 ha)) that we are exercising our delegated discretion to exclude from this revised designation under section 4(b)(2) of the Act (*see* the Exclusions under Section 4(b)(2) of the Act section of this rule). Subunits 4a, 4d, 4e, 4f, 4h, and 4i as proposed in the December 8, 2004, rule (69 FR 71283) did not meet the definition of critical habitat and were not proposed for revised designation.

Subunit 4b: Wilderness Park

Subunit 4b consists of 12 ac (5 ha) of private land in the City of San Juan Capistrano and the Audubon California Starr Ranch Sanctuary, in the southwestern region of the Santa Ana Mountains, southern Orange County. Lands within this subunit contain clay loam, sandy loam, or rocky outcrop, and consist primarily of grassland and sagebrush-buckwheat scrub habitat. Subunit 4b contains the physical and biological features essential to the conservation of *Brodiaea filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including clay soils and loamy soils underlain by a clay subsoil (PCE 1A), and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); and (2) supports a stable, persistent occurrence. This subunit is located in the foothills of the Santa Ana Mountains and represents the highest elevation and northernmost occurrence in Orange County. The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from nonnative invasive plants. *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Subunit 4c: Cañada Gobernadora/ Chiquita Ridgeline

Subunit 4c consists of 133 ac (54 ha) of private land in and around Cañada Gobernadora on Rancho Mission Viejo in southern Orange County. Lands within this subunit contain clay, clay loam, or sandy loam and consist primarily of dry-land agriculture and sagebrush-buckwheat scrub habitat. Subunit 4c contains the physical and biological features essential to the conservation of *Brodiaea filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including clay soils and loamy soils underlain by a clay subsoil (PCE 1A), and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); and (2) supports a stable, persistent occurrence. The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from the indirect effects associated with urban development. *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Subunit 4g: Cristianitos Canyon

Subunit 4g consists of 587 ac (238 ha) of privately owned land in Cristianitos Canyon on Rancho Mission Viejo in southern Orange County. Lands within this subunit are underlain by clay and sandy loam soils and consist primarily of annual grassland and needlegrass grassland. Subunit 4g contains the physical and biological features essential to the conservation of *Brodiaea filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including clay soils and loamy soils underlain by a clay subsoil (PCE 1A), and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); (2) supports an occurrence in rare and unique habitat, representing one of the few places where this species occurs in needlegrass grassland in Orange County; and (3) supports an occurrence of at least 6,505 individuals of *B. filifolia,* as documented in 2003 (Dudek & Associates, Inc. 2006, Chapter 3 pp. 73–74, 83; Service 2007, pp. 149–150). The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from the indirect effects associated with urban development. *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Unit 5: Northern San Diego County

Unit 5 is located in northern San Diego County, and consists of one subunit totaling 274 ac (111 ha). This unit contains 266 ac (108 ha) of Federal Government land and 8 ac (3 ha) of private land. This unit is located entirely within the boundary of the CNF. Subunit 5a as proposed in the December 8, 2004, rule (69 FR 71283) did not meet the definition of critical habitat and was not proposed for revised designation.

Subunit 5b: Devil Canyon

Subunit 5b consists of 266 ac (108 ha) of Federal land (CNF) and 8 ac (3 ha) of private land in northern San Diego County. Hybrids between *Brodiaea filifolia* and *B. orcuttii* have been reported from the Devil Canyon site, however, we believe *B. filifolia* occurs in sufficient numbers in this area to meet the criteria for critical habitat designation (*see* the Special Management Considerations or Protection section of this rule for a discussion of *Brodiaea* hybridization). Lands within this subunit contain Cieneba Very Rocky Coarse Sandy Loam, Fallbrook Sandy Loam, and Cieneba Coarse Sandy Loam soils and

consist primarily of chaparral and oak woodland vegetation. Subunit 5b contains the physical and biological features essential to the conservation of *Brodiaea filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including sandy loam soils (PCE 1E) and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); (2) supports an occurrence in rare and unique habitat, representing one of the few places where this species occurs in a drainage in oak woodland habitat and occurring in unusual seeps and drainages on low granitic outcrops; and (3) supports a stable, persistent occurrence. The CNF does not currently have a management plan specific to *B. filifolia.* The 2005 critical habitat rule for *B. filifolia* and the 2009 proposed revised critical habitat rule erroneously stated that grazing occurs in this area; this area is in fact not subjected to cattle grazing (Winter 2004, pers. comm.). The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from nonnative invasive plants. Please see the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Unit 6: Oceanside, San Diego County

Unit 6 is located in Oceanside, San Diego County, California, and consists of five subunits totaling 230 ac (93 ha) of private land.

Subunit 6a: Alta Creek

Subunit 6a consists of 72 ac (29 ha) of private land in the City of Oceanside, in northern coastal San Diego County. This subunit was not included in the 2005 final critical habitat designation, but is included in this rule based on new information related to the distribution of *Brodiaea filifolia.* Lands within this subunit contain fine sandy loam, loam, or loamy fine sand and consist primarily of coastal sage scrub habitat. Subunit 6a contains the physical and biological features essential to the conservation of *B. filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including loamy soils underlain by a clay subsoil (PCE 1A) and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); and (2) supports a stable, persistent occurrence of at least 1,500 individuals of *B. filifolia* (Affinis 2005, pp. 1–3; AMEC 2005 pp. 3–18). The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from the indirect effects associated with urban development. *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Subunit 6b: Mesa Drive

Subunit 6b consists of 17 ac (7 ha) of private land in the City of Oceanside, in northern coastal San Diego County. Lands within this subunit contain loamy fine sands and consist primarily of grassland habitat. Subunit 6b contains the physical and biological features essential to the conservation of *Brodiaea filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including loamy soils underlain by a clay subsoil (PCE 1A) and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); and (2) supports a stable, persistent occurrence of at least 1,500 individuals of *B. filifolia* (Roberts 2005a, pp.1–2). The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from the indirect effects associated with urban development and habitat disturbance on local government lands (Roberts 2005, pp. 1–3). *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Subunit 6c: Mission View/Sierra Ridge

Subunit 6c consists of 12 ac (5 ha) of private land in the City of Oceanside, in northern coastal San Diego County. This subunit was not included in the 2005 final critical habitat designation, but is included in this rule based on new information related to the distribution of *Brodiaea filifolia.* Lands within this subunit contain fine loamy sands and consist primarily of coastal sage scrub habitat. Subunit 6c contains the physical and biological features essential to the conservation of *B. filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including loamy soils underlain by a clay subsoil (PCE 1A) and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); and (2) supports a stable, persistent occurrence of at least 1,300 individuals of *B. filifolia* (Roberts 2005b, p. 1). The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from the indirect effects associated with urban development. *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Subunit 6d: Taylor/Darwin

Subunit 6d consists of 35 ac (14 ha) of private land in the City of Oceanside, in northern coastal San Diego County. Lands within this subunit contain clay soil and fine loamy sands and consist primarily of annual and needlegrass grassland. Subunit 6d contains the physical and biological features essential to the conservation of *Brodiaea filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including loamy soils underlain by a clay subsoil (PCE 1A) and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); and (2) supports an occurrence of at least 6,200 individuals of *B. filifolia,* as documented in 2005 (CNDDB 2009, p. 38). The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from nonnative invasive plants. *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Subunit 6e: Arbor Creek/Colucci

Subunit 6e consists of 94 ac (38 ha) of private land in the City of Oceanside, in northern coastal San Diego County. This subunit was not included in the 2005 final critical habitat designation but is included in this rule based on new information related to the distribution of *Brodiaea filifolia.* Lands within this subunit contain clay soil and fine loamy sands and consist primarily of annual and needlegrass grassland. Subunit 6e contains the physical and biological features essential to the conservation of *B. filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including loamy soils underlain by a clay subsoil (PCE 1A) and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2);

and (2) supports a stable, persistent occurrence; and (3) consists primarily of annual and needlegrass grassland and occurs in the largest continuous block of grassland habitat remaining in the City of Oceanside. The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from nonnative invasive plants and urban development. *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Unit 7: Carlsbad, San Diego County

Unit 7 is located in Carlsbad, San Diego County, California, and consists of three subunits totaling 105 ac (43 ha). This unit contains 1 ac (<1 ha) of State land and 104 ac (43 ha) of private land. These totals do not include Subunit 7d (98 ac (40 ha)) and portions of Subunit 7a (13 ac (5 ha)) and Subunit 7c (45 ac (18 ha)) that we are exercising our delegated discretion to exclude from this revised designation under section 4(b)(2) of the Act (*see* the Exclusions under Section 4(b)(2) of the Act section of this rule), or 2 ac (<1 ha) that were proposed as revised critical habitat but are not included in this final revised critical habitat designation because they do not support suitable habitat for the species.

Subunit 7a: Letterbox Canyon

Subunit 7a consists of 1 ac (<1 ha) of State land and 41 ac (17 ha) of private land in the City of Carlsbad, in northern coastal San Diego County, California. Lands within this subunit contain heavy clay soils and consist primarily of annual grassland. Subunit 7a contains the physical and biological features essential to the conservation of *B. filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including loamy soils underlain by a clay subsoil (PCE 1A) and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); and (2) supports an occurrence of at least 39,500 individuals of *B. filifolia,* as documented in 2005 (CNDDB 2009, p. 15). The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from the indirect effects associated with urban development. *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Subunit 7b: Rancho Carrillo

Subunit 7b consists of 37 ac (15 ha) of private land in the City of Carlsbad, in northern coastal San Diego County, California. This subunit was not included in the 2005 final critical habitat designation, but is included in this rule based on new information related to the distribution of *Brodiaea filifolia.* Lands within this subunit contain clay or sandy loam soils and consist primarily of annual grasslands and coastal sage scrub habitat. Subunit 7b contains the physical and biological features essential to the conservation of *B. filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including loamy soils underlain by a clay subsoil (PCE 1A) and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); and (2) supports an occurrence of at least 797,000 individuals of *B. filifolia,* as documented in 2005 (this estimate was of vegetative plants and not flowering plants) (Scheidt and Allen 2005, p. 1). The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from the indirect effects associated with urban development and nonnative invasive plants. *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Subunit 7c: Calavera Hills Village H

Subunit 7c consists of 26 ac (11 ha) of private land in the City of Carlsbad, in northern coastal San Diego County. Lands within this subunit contain clay soil and consist primarily of annual and needlegrass grassland. Subunit 7c contains the physical and biological features essential to the conservation of *Brodiaea filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including loamy soils underlain by a clay subsoil (PCE 1A) and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); and (2) supports a stable, persistent occurrence of at least 2,243 plants, as documented in 2008 (McConnell 2008, p. 9). The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from nonnative invasive plants. *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Unit 8: San Marcos, San Diego County

Unit 8 is located in San Marcos, northern San Diego County, California, and consists of three subunits totaling 108 ac (44 ha) of private land. Subunits 8a, 8c, and 8e as proposed in the December 8, 2004, rule (69 FR 71283) did not meet the definition of critical habitat and were not proposed for revised designation.

Subunit 8b: Rancho Santalina/Loma Alta

Subunit 8b consists of 47 ac (19 ha) of private land in the City of San Marcos, northern San Diego County, California. This subunit was not included in the 2005 final critical habitat designation, but is included in this rule based on new information related to the distribution of *Brodiaea filifolia.* Lands within this subunit contain clay, loam, or loamy fine sand soils and consist primarily of annual and needlegrass grassland. Subunit 8b contains the physical and biological features essential to the conservation of *B. filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including loamy soils underlain by a clay subsoil (PCE 1A) and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); and (2) supports an occurrence of at least 5,552 individuals of *B. filifolia,* as documented in 2000, and approximately 12,000 *B. filifolia* corms were transplanted to the area in 2004 (CNDDB 2009, p. 10). The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from the indirect effects associated with urban development, unauthorized recreational activities, and nonnative invasive plants. *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Subunit 8d: Upham

Subunit 8d consists of 54 ac (22 ha) of private land in the City of San Marcos, northern San Diego County. Hybrids between *Brodiaea filifolia* and *B. orcuttii* have been reported from the Upham site (Chester *et al.* 2007, p. 188),

however, based on the best scientific information available to us at this time, we believe *B. filifolia* occurs in sufficient numbers in this area to meet the criteria for critical habitat designation (*see* the Special Management Considerations or Protection section of this rule for a discussion of *Brodiaea* hybridization). Lands within this subunit contain clay soils and consist primarily of annual and needlegrass grassland and vernal pool habitat. Subunit 8d contains the physical and biological features essential to the conservation of *Brodiaea filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including loamy soils underlain by a clay subsoil (PCE 1A) and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); (2) supports a rare or unique occurrence, representing one of three occurrences that are associated with vernal pool habitat; and (3) supports an occurrence of at least 342,000 individuals of *B. filifolia,* as documented in 1993 (CNDDB 2009, p. 9). The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from the indirect effects associated with urban development, unauthorized recreational activities, and nonnative invasive plants. *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Subunit 8f: Oleander/San Marcos Elementary

Subunit 8f consists of 7 ac (3 ha) of land owned by the San Marcos Unified School District near the City of San Marcos, in northern San Diego County. This subunit was not included in the 2005 final critical habitat designation, but is included in this rule based on new information related to the distribution of *Brodiaea filifolia.* Lands within this subunit contain clay, loam, or loamy fine sand soils and consist primarily of annual grassland. Unit 8f contains the physical and biological features essential to the conservation of *B. filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including loamy soils underlain by a clay subsoil (PCE 1A) and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); and (2) supports an occurrence of at least 3,211 individuals of *B. filifolia,* as documented in 2005 (Dudek and Associates, Inc. 2007, p.9). The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from nonnative invasive plants. *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Unit 11: Western Riverside County

Unit 11 is located in western Riverside County, California, and consists of 6 subunits totaling 1,113 ac (450 ha). This unit contains 53 ac (21 ha) of Federal land, 366 ac (148 ha) of State land, 33 ac (13 ha) of local government land, and 661 ac (267 ha) of private land. These totals do not include Subunits 11g (117 ac (47 ha)), 11h (44 ac (18 ha)) and portions of Subunit 11f (221 ac (89 ha)) that we are exercising our delegated discretion to exclude from this revised designation under section 4(b)(2) of the Act (*see* the Exclusions under Section 4(b)(2) of the Act section of this rule).

Subunit 11a: San Jacinto Wildlife Area

Subunit 11a consists of 366 ac (148 ha) of State land (California Department of Fish and Game (CDFG)), 17 ac (7 ha) of local government land, and 18 ac (7 ha) of private land at the San Jacinto Wildlife Area, in western Riverside County. Lands within this subunit contain Willows silty clay, Waukena loam and Waukena fine sandy loam, Traver fine sandy loam and Traver loamy fine sand, and Hanford coarse sandy loam soils and consist primarily of annual grassland, alkali scrub habitat, and alkali playa habitat. Subunit 11a contains the physical and biological features essential to the conservation of *Brodiaea filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including silty loam soils underlain by a clay subsoil or caliche that are generally poorly drained and moderately to strongly alkaline (PCE 1C) and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); (2) supports a rare or unique occurrence, representing one of four occurrences associated with alkali playa habitat; and (3) supports a stable, persistent occurrence. The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from nonnative invasive plants and construction of new roads or improvements to existing roadways (Service 2004b, pp. 137–189). *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Subunit 11b: San Jacinto Avenue/ Dawson Road

Subunit 11b consists of 117 ac (47 ha) of private land near San Jacinto Avenue and Dawson Road, in western Riverside County. Lands within this subunit contain Willows silty clay and Domino silt loam soils and consist primarily of annual grassland, alkali scrub habitat, and alkali playa habitat. Subunit 11b contains the physical and biological features essential to the conservation of *Brodiaea filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including silty loam soils underlain by a clay subsoil or caliche that are generally poorly drained and moderately to strongly alkaline (PCE 1C) and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); and (2) supports a rare or unique occurrence, representing one of four occurrences that are associated with alkali playa habitat. The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from discing, grazing, manure dumping, and nonnative invasive plants (CNDDB 2009, p. 60). *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Subunit 11c: Case Road

Subunit 11c consists of 11 ac (4 ha) of local government land and 169 ac (68 ha) of private land near the City of Perris, in western Riverside County. Lands within this subunit contain Willows silty clay and Domino silt loam soils and consist primarily of agricultural land, floodplain habitat, alkali scrub habitat, and alkali playa habitat. Subunit 11c contains the physical and biological features essential to the conservation of *Brodiaea filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including silty loam soils underlain by a clay subsoil or caliche that are generally poorly drained and moderately to strongly alkaline (PCE 1C) and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and

pollinator habitat (PCE 2); (2) supports a rare or unique occurrence, representing one of four occurrences that are associated with alkali playa habitat; and (3) supports an occurrence of at least 4,555 individuals of *B. filifolia,* as documented in 2000 (Glenn Lukos Associates, Inc. 2000a, Map of San Jacinto River Stage 3 Project Impacts Version 2 Alignment; Glenn Lukos Associates, Inc. 2000b, pp. 17–18; CNDDB 2009, p. 2). The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from OHV activity, encroaching urban development, manure dumping, and nonnative invasive plants. *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Subunit 11d: Railroad Canyon

Subunit 11d consists of 53 ac (21 ha) of Federal land owned by the Bureau of Land Management, 1 ac (<1 ha) of local government land, and 204 ac (83 ha) of private land north of Kabian County Park and southwest of the City of Perris, in western Riverside County. Lands within this subunit contain Lodo rocky loam, Garretson gravelly very fine sandy loam and Garretson very fine sandy loam, Escondido fine sandy loam, and Grangeville fine sandy loam soils and consist primarily of annual grassland. Subunit 11d contains the physical and biological features essential to the conservation of *Brodiaea filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including silty loam soils underlain by a clay subsoil or caliche that are generally poorly drained and moderately to strongly alkaline (PCE 1C) and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); and (2) supports an occurrence of at least 3,205 individuals of *B. filifolia,* as documented in 2000 (Glenn Lukos Associates 2000a, pp. 13, 24; CNDDB 2009, p. 23). The occurrence in Railroad Canyon is at risk from the San Jacinto River Flood Control Project. That project includes channelization of the river, which may result in changes in floodplain process essential to the species persistence in this subunit (Service 2004b, p. 382). The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from the indirect effects associated with urban development, river channelization for flood control, and nonnative invasive plants. *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Subunit 11e: Upper Salt Creek (Stowe Pool)

Subunit 11e consists of 145 ac (59 ha) of private land in the Upper Salt Creek drainage west of Hemet, in western Riverside County. Lands within this subunit contain Willows silty clay, Chino silt loam, Honcut loam, and Wyman loam and consist primarily of annual grassland, alkali scrub habitat, and alkali playa habitat. Subunit 11e contains the physical and biological features essential to the conservation of *Brodiaea filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including silty loam soils underlain by a clay subsoil or caliche that are generally poorly drained and moderately to strongly alkaline (PCE 1C), and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); and (2) supports a rare or unique occurrence, representing one of three occurrences that are associated with vernal pool habitat. This subunit is crossed by roadways that, if altered (widened or realigned), could change the topography and thereby negatively affect the hydrologic integrity of the pool complexes and favor the growth of nonnative invasive plant species (CNDDB 2009, p. 24; Service 2004b, p. 382). The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from nonnative invasive plants (such as *Hordeum marinum* subsp. *gussoneanum*) and transportation projects. *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Subunit 11f: Santa Rosa Plateau—Mesa de Colorado

Subunit 11f consists of 5 ac (2 ha) of local government land and 8 ac (3 ha) of private land in southwestern Riverside County. Lands within this subunit contain Murrieta stony clay loam, and Las Posas rocky loam and Las Posas loam soils and consist primarily of annual and needlegrass grassland and vernal pool habitat. Subunit 11f contains the physical and biological features essential to the conservation of *Brodiaea filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including clay loam soil series underlain by heavy clay loams or clays derived from olivine basalt lava flows that generally occur on mesas and gentle to moderate slopes (PCE 1D) and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); (2) supports a rare or unique occurrence, representing one of three occurrences that are associated with vernal pool habitat; and (3) supports an occurrence of at least 31,725 individuals of *B. filifolia,* as documented in 1990 (CNDDB 2009, p. 5). The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or protection to address threats from the indirect effects associated with urban development and nonnative invasive plants. *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Unit 12: Central San Diego County—Artesian Trails

Unit 12 is located in central San Diego County, California, and consists of 105 ac (43 ha). This unit contains 7 ac (3 ha) of local government land and 98 ac (40 ha) of private land. These totals do not include 4 ac (2 ha) of land in Unit 12 that we are exercising our delegated discretion to exclude from this revised designation under section 4(b)(2) of the Act (*see* the Exclusions under Section 4(b)(2) of the Act section of this rule). This unit was not included in the 2005 final critical habitat designation, but is included in this rule based on new information related to the distribution of *Brodiaea filifolia.* Lands within this subunit contain fine loamy sands and consist primarily of coastal sage scrub habitat and annual grassland. Unit 12 contains physical and biological features that are essential to the conservation of *B. filifolia* because it: (1) Contains the PCEs for *B. filifolia,* including loamy soils underlain by a clay subsoil (PCE 1A) and areas with a natural, generally intact surface and subsurface soil structure that support *B. filifolia* and pollinator habitat (PCE 2); and (2) supports a stable, persistent occurrence. The physical and biological features essential to the conservation of the species in this subunit may require special management considerations or

protection to address threats from the indirect effects associated with urban development and nonnative invasive plants. *Please see* the Special Management Considerations or Protection section of this rule for a discussion of the threats to *B. filifolia* habitat and potential management considerations.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to destroy or adversely modify critical habitat. Decisions by the 5th and 9th Circuit Courts of Appeals have invalidated our definition of "destruction or adverse modification" (50 CFR 402.02) (*see Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service,* 378 F. 3d 1059 (9th Cir 2004) and *Sierra Club* v. *U.S. Fish and Wildlife Service et al.,* 245 F.3d 434, 442F (5th Cir 2001)), and we do not rely on this regulatory definition when analyzing whether an action is likely to destroy or adversely modify critical habitat. Under the statutory provisions of the Act, we determine destruction or adverse modification on the basis of whether, with implementation of the Federal action, the affected critical habitat would remain functional (or retain the current ability for the PCEs to be functionally established) to serve its intended conservation role for the species (Service 2004c, p. 3).

Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us in most cases. As a result of this consultation, we document compliance with the requirements of section 7(a)(2) through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or designated critical habitat; or

(2) A biological opinion for Federal actions that are likely to adversely affect listed species or designated critical habitat.

An exception to the concurrence process referred to in (1) above occurs in consultations involving National Fire Plan projects. In 2004, the U.S. Forest Service (USFS) and the U.S. Bureau of Land Management (BLM) reached agreements with the Service to streamline a portion of the section 7 consultation process (BLM–ACA 2004, pp. 1–8; FS–ACA 2004, pp. 1–8). The agreements allow the USFS and the BLM the opportunity to make "not likely to adversely affect" (NLAA) determinations for projects implementing the National Fire Plan. Such projects include prescribed fire, mechanical fuels treatments (thinning and removal of fuels to prescribed objectives), emergency stabilization, burned area rehabilitation, road maintenance and operation activities, ecosystem restoration, and culvert replacement actions. The USFS and the BLM must ensure staff are properly trained, and both agencies must submit monitoring reports to the Service to determine if the procedures are being implemented properly and that effects on endangered species and their habitats are being properly evaluated. As a result, we do not believe the alternative consultation processes being implemented as a result of the National Fire Plan will differ significantly from those consultations being conducted by the Service.

If we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species or destroy or adversely modify critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. We define "Reasonable and prudent alternatives" at 50 CFR 402.02 as alternative actions identified during consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action,

(2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,

(3) Are economically and technologically feasible, and

(4) Would, in the Director's opinion, avoid jeopardizing the continued existence of the listed species or destroying or adversely modifying its critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where we have listed a new species or subsequently designated critical habitat that may be affected and the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law). Consequently, Federal agencies may sometimes need to request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions with discretionary involvement or control may affect subsequently listed species or designated critical habitat.

Federal activities that may affect *Brodiaea filifolia* or its designated critical habitat will require section 7 consultation under the Act. Activities on State, tribal, local, or private lands requiring a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit under section 10 of the Act from the Service) or involving some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency) will also be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat, and actions on State, tribal, local, or private lands that are not federally funded, authorized, or permitted, do not require section 7 consultations.

Application of the "Adverse Modification" Standard

The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species, or would retain its current ability for the primary constituent elements to be functionally established. Activities that may destroy or adversely modify critical habitat are those that alter the physical and biological features to an extent that appreciably reduces the conservation value of critical habitat for *Brodiaea filifolia.* As discussed above, the role of critical habitat is to support the life-history needs of the species and provide for the conservation of the species. Generally, the conservation role of the *B. filifolia* critical habitat units is to support viable occurrences in appropriate habitat areas.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation.

Activities that, when carried out, funded, or authorized by a Federal agency, may adversely affect critical habitat and, therefore, should result in consultation for *Brodiaea filifolia* include, but are not limited to (*please see* Special Management Considerations or Protection section for a more detailed discussion on the impacts of these actions to the listed species):

(1) Actions that result in ground disturbance. Such activities could include (but are not limited to) residential or commercial development, OHV activity, pipeline construction, new road construction or widening, existing road maintenance, manure dumping, and grazing. These activities potentially impact the habitat and PCEs of *Brodiaea filifolia* by damaging, disturbing, and altering soil composition through direct impacts, increased erosion, and increased nutrient content. Additionally, changes in soil composition may lead to changes in the vegetation composition, thereby changing the overall habitat type.

(2) Actions that result in alteration of the hydrological regimes typically associated with *Brodiaea filifolia* habitat. Such activities could include residential or commercial development, OHV activity, pipeline construction, new road construction or widening, existing road maintenance, and channelization of drainages. These activities could alter surface layers and the hydrological regime in a manner that promotes loss of soil matrix components and moisture necessary to support the growth and reproduction of *B. filifolia.*

(3) Actions that would disturb the existing vegetation communities adjacent to *Brodiaea filifolia* habitat prior to annual pollination and seed set (reproduction). Such activities could include (but are not limited to) grazing, mowing, grading, or discing habitat in the spring and early summer months. These activities could alter the habitat for pollinators leading to potential decreased pollination and reproduction.

(4) Road construction and maintenance, right-of-way designation, and agricultural activities, or any activity funded or carried out, permitted, or regulated by the Department of Transportation or Department of Agriculture that could result in excavation, or mechanized land clearing of *Brodiaea filifolia* habitat. These activities could alter the habitat in such a way that soil, seeds, and corms of *B. filifolia* are removed and which permanently alter the habitat or the species' presence.

(5) Licensing or construction of communication sites by the Federal Communications Commission or funding of construction or development activities by the U.S. Department of Housing and Urban Development that could result in excavation, or mechanized land clearing of *Brodiaea filifolia* habitat. These activities could alter the habitat in such a way that soil, seeds, and corms of *B. filifolia* are removed and that permanently alter the habitat or the species' presence.

Exemptions Under Section 4(a)(3) of the Act

The National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136) amended the Act to limit areas eligible for designation as critical habitat. Specifically, section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) now provides: "The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act [Improvement Act of 1997 (Sikes Act)] (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation."

The Sikes Act required each military installation that includes land and water suitable for the conservation and management of natural resources to complete an integrated natural resources management plan (INRMP) by November 17, 2001. An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found on the base. Each INRMP includes:

(1) An assessment of the ecological needs on the installation, including the need to provide for the conservation of listed species;

(2) A statement of goals and priorities;

(3) A detailed description of management actions to be implemented to provide for these ecological needs; and

(4) A monitoring and adaptive management plan.

Among other things, each INRMP must, to the extent appropriate and applicable, provide for fish and wildlife management; fish and wildlife habitat enhancement or modification; wetland protection, enhancement, and restoration where necessary to support fish and wildlife; and enforcement of applicable natural resource laws.

We consult with the military on the development and implementation of INRMPs for installations with federally listed species. Only one military installation with a Service-approved INRMP, MCB Camp Pendleton, is located within the range of *Brodiaea filifolia* and supports the physical and biological features essential to the conservation of the species. We analyzed MCB Camp Pendleton's INRMP to determine if the lands subject to the INRMP should be exempted under the authority of section 4(a)(3)(B) of the Act.

MCB Camp Pendleton has committed to work closely with us, CDFG, and California Department of Parks and Recreation to continually refine the existing INRMP as part of the Sikes Act's INRMP review process. Based on the considerations discussed below and in accordance with section 4(a)(3)(B)(i) of the Act, we determined that conservation efforts identified in the INRMP provide a benefit to *Brodiaea filifolia* occurring in habitats within or adjacent to MCB Camp Pendleton. Therefore, approximately 1,531 ac (620 ha) of habitat on MCB Camp Pendleton subject to the INRMP is exempt from critical habitat designation under section 4(a)(3) of the Act, and is not included in this final revised critical habitat designation.

In the previous final critical habitat designation for *Brodiaea filifolia,* we exempted lands determined to contain features essential to the conservation of species on MCB Camp Pendleton from the designation of critical habitat (70 FR 73820; December 13, 2005). We based this decision on the conservation benefits to *B. filifolia* identified in the INRMP developed by MCB Camp Pendleton in November 2001. A revised and updated INRMP was prepared by MCB Camp Pendleton in March 2007 (MCB Camp Pendleton 2007). We determined that conservation efforts identified in the INRMP provide a benefit to the populations of *B. filifolia* and this species' habitat occurring on MCB Camp Pendleton (MCB Camp Pendleton 2007, Section 4, pp. 51–76). The INRMP provides measures that promote the conservation of *B. filifolia* within the 1,531 ac (620 ha) of habitat that we determined contain the physical or biological features essential to the conservation of *B. filifolia* on MCB Camp Pendleton within the following areas: Cristianitos Canyon, Bravo One, Bravo Two South, Basilone/San Mateo Junction, Camp Horno, Pilgrim Creek, and South White Beach.

Measures included for *Brodiaea filifolia* in the MCB Camp Pendleton INRMP require ongoing efforts to survey and monitor the species, and provide this information to all necessary personnel through MCB Camp

Pendleton's GIS database on sensitive resources and in their published resource atlas. The updated INRMP includes the following conservation measures for *B. filifolia:*

(1) Surveys and monitoring, studies, impact avoidance and minimization, and habitat restoration and enhancement;

(2) Species survey information stored in MCB Camp Pendleton's GIS database and recorded in a resource atlas that is published and updated on a semi-annual basis;

(3) Use of the resource atlas to plan operations and projects to avoid impacts to *B. filifolia* and to trigger section 7 consultation if an action may affect the species; and

(4) Transplantation when avoidance is not possible.

These measures are established and represent ongoing aspects of existing programs that provide a benefit to *B. filifolia.* MCB Camp Pendleton also has Base directives and Range and Training Regulations that are integral to their INRMP and provide benefits to *B. filifolia.* MCB Camp Pendleton implements Base Directives to avoid and minimize adverse effects to *B. filifolia,* such as: (1) Limit bivouac, command post, and field support activities such that they are no closer than 164 ft (50 m) to occupied habitat year round; (2) limit vehicle and equipment operations to existing road and trail networks year round; and (3) require environmental clearance prior to any soil excavation, filling, or grading. Finally, MCB Camp Pendleton contracted and funded surveys for *B. filifolia* in the summer of 2005 and the development of a GIS-based monitoring system that will provide improved management of natural resources on the installation, including for *B. filifolia.*

Additionally, MCB Camp Pendleton's environmental security staff review projects and enforce existing regulations and orders that, through their implementation, avoid and minimize impacts to natural resources, including *Brodiaea filifolia* and its habitat. As a result, activities occurring on MCB Camp Pendleton are currently being conducted in a manner that minimizes impacts to *B. filifolia* habitat. Finally, MCB Camp Pendleton provides training to personnel on environmental awareness for sensitive resources on the Base, including *B. filifolia* and its habitat.

Based on MCB Camp Pendleton's Sikes Act program (including the management of *Brodiaea filifolia*), there is a high degree of certainty that MCB Camp Pendleton will continue to implement their INRMP in coordination with the Service and the CDFG in a manner that provides a benefit to *B. filifolia,* coupled with a high degree of certainty that the conservation efforts of their INRMP will be effective. Service biologists work closely with MCB Camp Pendleton on a variety of issues relating to endangered and threatened species, including *B. filifolia.* The management programs, Base Directives, and Range and Training Regulations that avoid and minimize impacts to *B. filifolia* are consistent with section 7 consultations with MCB Camp Pendleton. Therefore, the Secretary determined that the INRMP for MCB Camp Pendleton has and will continue to provide a benefit for *B. filifolia,* and lands subject to the INRMP for MCB Camp Pendleton containing the physical and biological features essential to the conservation of the species are exempt from critical habitat designation pursuant to section 4(a)(3) of the Act. As a result, we are not including approximately 1,531 ac (620 ha) of habitat for *B. filifolia* on MCP Camp Pendleton in this final revised critical habitat designation.

Exclusions Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary must designate and revise critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the legislative history is clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor.

In the following paragraphs, we address a number of general issues that are relevant to our analysis under section 4(b)(2) of the Act.

Under section 4(b)(2) of the Act, we must consider the economic impact, national security impact, or any other relevant impact of specifying any particular area as critical habitat. In considering whether to exclude a particular area from the designation, we must identify the benefits of including the area in the designation, identify the benefits of excluding the area from the designation, and determine whether the benefits of exclusion outweigh the benefits of inclusion. If based on this analysis, we make this determination, then we can exclude the area only if such exclusion would not result in the extinction of the species.

We consider a number of factors in a section 4(b)(2) analysis. For example, we consider whether there are lands owned or managed by the Department of Defense (DOD) where a national security impact might exist. We also consider whether the landowners have developed any conservation plans for the area, or whether there are conservation partnerships that would be encouraged by designation of, or exclusion from, critical habitat. Additionally, we look at any tribal issues, and consider the government-to-government relationship of the United States with tribal entities. We also consider the economic impacts, environmental impacts, and social impacts that might occur because of the designation.

When considering the benefits of inclusion for an area, we consider the additional regulatory benefits that area would receive from the protection from adverse modification or destruction as a result of actions with a Federal nexus; the educational benefits of mapping essential habitat for recovery of the listed species; and any benefits that may result from a designation due to State or Federal laws that may apply to critical habitat.

In considering the benefits of including in a designation lands that are covered by a current HCP or other management plan, we evaluate a number of factors to help us determine if the plan provides equivalent or greater conservation benefit than would likely result from designation of critical habitat. Specifically, when evaluating a conservation plan we consider, among other factors: whether the plan is finalized; how it provides for the conservation of the essential physical and biological features; whether the conservation management strategies and actions contained in a management plan are in place and there is a strong likelihood they will be implemented into the future; whether the conservation strategies in the plan are likely to be effective; and whether the plan contains a monitoring program or adaptive management to ensure that the conservation measures are effective and can be adapted in the future in response to new information.

When considering the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in long-term conservation; the continuation, strengthening, or encouragement of partnerships that result in conservation

of listed species; or implementation of a management plan that provides equal to or more conservation than a critical habitat designation would provide.

We may exercise our delegated discretion to exclude an area from critical habitat under section 4(b)(2) of the Act if we conclude that the benefits of exclusion of the area outweigh the benefits of its designation. We do not exclude areas based on the mere existence of management plans or other conservation measures. The existence of a plan may reduce the benefits of inclusion of an area in critical habitat to the extent the protections provided under the plan are redundant with conservation benefits of the critical habitat designation. In particular, we believe that the exclusion of lands may be justified when they are managed and conserved in perpetuity. Thus, in some cases the benefits of exclusion in the form of sustaining and encouraging partnerships that result in on the ground conservation of listed species may outweigh the incremental benefits of inclusion.

After evaluating the benefits of inclusion and the benefits of exclusion, we carefully weigh the two sides to determine whether the benefits of exclusion outweigh those of inclusion. If we determine that they do, we then determine whether exclusion would result in extinction. If exclusion of an area from critical habitat will result in extinction, we will not exclude it from the designation.

In the case of *Brodiaea filifolia,* this revised critical habitat designation does not include any tribal lands or tribal trust resources. However, this revised critical habitat designation does include some lands covered by the Western Riverside County MSHCP, City and County of San Diego Subarea Plans under the MSCP, Orange County Central-Coastal NCCP/HCP, Orange County Southern Subregion HCP, and Carlsbad HMP under the MHCP. No additional HCPs or conservation plans covering *B. filifolia* were finalized since the proposed revised designation published in the **Federal Register** on December 8, 2009 (74 FR 64930).

Benefits of Excluding Lands With HCPs

The benefits of excluding lands with approved HCPs from critical habitat designation, such as HCPs that cover listed plant taxa, include relieving landowners, communities, and counties of any additional regulatory burden that might be imposed as a result of the critical habitat designation. Many HCPs take years to develop, and upon completion, are consistent with the recovery objectives for listed taxa that are covered by the plan. Many conservation plans also provide conservation benefits to unlisted sensitive species.

A related benefit of excluding lands covered by approved HCPs from critical habitat designation is the unhindered, continued ability it gives us to seek new partnerships with future plan participants, including States, counties, local jurisdictions, conservation organizations, and private landowners, which together can implement conservation actions that we would be unable to accomplish otherwise. Habitat Conservation Plans often cover a wide range of species, including listed plant species and species that are not State and federally listed and would otherwise receive little protection from development. By excluding these lands, we preserve our current partnerships and encourage additional conservation actions in the future.

We also note that permit issuance in association with HCP applications requires consultation under section 7(a)(2) of the Act, which would include the review of the effects of all HCP-covered activities that might adversely impact the species under a jeopardy standard, including possibly significant habitat modification (see definition of "harm" at 50 CFR 17.3), even without the critical habitat designation. In addition, all other Federal actions that may affect the listed species would still require consultation under section 7(a)(2) of the Act, and we would review these actions for possibly significant habitat modification in accordance with the definition of harm referenced above.

The information provided above applies to the following discussions of exclusions under section (4)(b)(2) of the Act. *Brodiaea filifolia* is covered under the Orange County Central-Coastal NCCP/HCP, Orange County Southern Subregion HCP, Carlsbad HMP under the MHCP, Western Riverside County MSHCP, and the City and County of San Diego Subarea Plans under the MSCP. Brief descriptions of each plan, and lands excluded from revised critical habitat covered by each plan, are described below. The areas where we determined the benefits of exclusion outweigh the benefits of inclusion are listed in Table 5. Additional details on these areas can be found in the proposed revised critical habitat rule 74 FR 64930 (December 8, 2009) and the NOA (75 FR 42054, dated July 20, 2010).

San Diego Multiple Species Conservation Plan (MSCP)—City of San Diego Subarea Plan

We analyzed the benefits of including lands covered by the City of San Diego Subarea Plan under the MSCP in the final revised critical habitat designation and the benefits of excluding those lands from the designation. The plan has established valuable partnerships that are intended to implement conservation actions for *Brodiaea filifolia.* However, in conducting our evaluation of the conservation benefits to *B. filifolia* and its proposed revised critical habitat that have resulted to date from these partnerships, we did not conclude that the benefits of excluding portions of Unit 12 under the City of San Diego MSCP Subarea Plan from revised critical habitat outweighs the benefits of inclusion. Therefore, we are not exercising our delegated discretion to exclude any of the 7 ac (3 ha) within the City of San Diego Subarea Plan from this final revised critical habitat designation.

TABLE 5—AREAS EXCLUDED FROM BRODIAEA FILIFOLIA FINAL REVISED CRITICAL HABITAT DESIGNATION UNDER SECTION 4(b)(2) OF THE ACT

HCP or management plan and associated subunit	Area excluded (acres/hectares) *
Aliso and Wood Canyons Wilderness Park Resource Management Plan (Orange County Central-Coastal NCCP/HCP)	
Unit 3. Central Orange County—Aliso Canyon	102 ac (42 ha).
Orange County Southern Subregion HCP	
Subunit 4b. Caspers Wilderness Park	192 ac (78 ha).

TABLE 5—AREAS EXCLUDED FROM BRODIAEA FILIFOLIA FINAL REVISED CRITICAL HABITAT DESIGNATION UNDER SECTION 4(b)(2) OF THE ACT—Continued

HCP or management plan and associated subunit	Area excluded (acres/hectares) *
Carlsbad HMP Under the San Diego MHCP	
Subunit 7a. Letterbox Canyon	13 ac (5 ha).
Subunit 7c. Calavera Hills Village H	45 ac (18 ha).
Subunit 7d. Villages of La Costa (Rancho La Costa)	98 ac (40 ha).
Subtotal Carlsbad HMP under the San Diego MHCP	*156 ac (63 ha).*
Western Riverside County MSHCP	
Subunit 11f. Santa Rosa Plateau—Mesa de Colorado	221 ac (89 ha).
Subunit 11g. Santa Rosa Plateau—South of Tenaja Road	117 ac (47 ha).
Subunit 11h. Santa Rosa Plateau—North of Tenaja Road	44 ac (18 ha).
Subtotal for Western Riverside County MSHCP	*381 ac (154 ha).*
County of San Diego Subarea Plan Under the San Diego MSCP	
Unit 12. Central San Diego County—Artesian Trails	4 ac (2 ha).
Total	837 ac (339 ha).

* Values in this table may not sum due to rounding.

Aliso and Wood Canyons Wilderness Park Resource Management Plan (AWCWP Resource Management Plan), Orange County Central-Coastal NCCP/HCP

We determined that approximately 113 ac (46 ha) in Unit 3 meet the definition of critical habitat under the Act. Of this area, 102 ac (42 ha) are covered by the Aliso and Wood Canyons Wilderness Park Resource Management Plan (AWCWP Resource Management Plan), and, for the reasons discussed in the following sections, we are exercising our delegated discretion to exclude these lands from this final revised critical habitat designation pursuant to section 4(b)(2) of the Act. In making our final decision with regard to these lands, we considered several factors including our relationship with stakeholders, existing consultations, beneficial conservation measures that are in place on these lands (including preservation and long-term management), and impacts to current and future partnerships. As described in our section 4(b)(2) analysis below, we reached the determination to exclude these lands in consideration of the benefits of exclusion balanced against the benefits of inclusion in the final revised critical habitat designation.

The AWCWP is a preserve area that covers approximately 3,873 ac (1,567 ha) of land in Aliso and Wood Canyons and portions of Laguna Canyon in the cities of Laguna Niguel, Laguna Hills, Aliso Viejo, Laguna Beach, and Dana Point, Orange County, California. The AWCWP is located within the Nature Reserve of Orange County (which is part of a larger 17,000-ac (6,880-ha) regional coastal canyon ecosystem comprised of Laguna Coast Wilderness Park, Crystal Cove State Park, and City of Irvine Open Space) and is subject to the Orange County Central-Coastal NCCP/HCP and associated implementing agreement (R.J. Meade Consulting 1996a, pp. 1–567; The California Resources Agency et al., 1996, pp. 1–217; LSA Associates 2009, p. 25). Orange County Parks owns and operates the AWCWP, which is designated as a wilderness park (according to the Orange County General Plan) and encompasses a large island of habitat (coastal sage scrub, chaparral, native grassland, and oak woodland) that is almost entirely surrounded by urban development (LSA Associates 2009, p. 1).

The AWCWP Resource Management Plan provides comprehensive, long-term management for the preserve area, including those lands represented in Unit 3 of this rule. The fundamental objective for the AWCWP Resource Management Plan is to identify the best way to manage, protect, and enhance the natural resource values of the park while providing safe recreational and educational opportunities to the public (LSA Associates 2009, p. 25). As required by the Orange County Central-Coastal NCCP/HCP Implementing Agreement, the AWCWP Resource Management Plan includes policies for managing and monitoring the park, conducting research, conducting habitat restoration and enhancement, implementing fire management, and managing public access, recreation, and infrastructure (LSA Associates 2009, p. 26). The management regime addresses active management of resources with flexibility for adaptive management strategies, including the gradual modification of management techniques based on the results of ongoing management, research, and monitoring activities.

The most significant threats for the AWCWP include habitat fragmentation, invasive plant species, existing fuels and fire hazard conditions, urban edge effects, public use, and erosion. The AWCWP Resource Management Plan is designed to address these issues and threats, and minimize impacts while supporting the intent of a county wilderness park (LSA Associated 2009, p. 94). General management strategies for the park's biological resources that would benefit *Brodiaea filifolia* and its habitat identified in Unit 3 include:

(1) Protecting and maintaining populations of native plant and wildlife with an emphasis on managing Orange County Central-Coastal NCCP/HCP covered species;

(2) Improving biological productivity and diversity through protection, enhancement, and restoration activities consistent with the adaptive management strategy of the Orange County Central-Coastal NCCP/HCP;

(3) Monitoring enhancement and restoration activities as part of the adaptive management program to evaluate effectiveness and progress. Through monitoring, seek to identify

new enhancement and restoration opportunities and priorities within the park; and

(4) Implementing and coordinating with adjacent landowners to determine fire management methods that cause the least damage to park resources while providing effective fire control to protect human life and property (LSA Associates 2009, p. 103).

In addition to the preservation and management of the AWCWP as described above, management zones were created to allow for describing management goals by area or showing relationships between one area and another in terms of land use and management strategies, and are based on: (1) Geographic relationships; (2) resource values; (3) ecological parameters; (4) management issues, goals, or objectives; (5) types and intensities of land use; or (6) visitor use and experiences (LSA Associates 2009, p. 105). Unit 3 for *Brodiaea filifolia* occurs in the Lower Aliso Canyon Management Zone, which is managed to provide access into the park to communities at the southernmost segment of Lower Aliso Canyon, enhance recreation use, and improve riparian habitat and water quality in Aliso Creek (LSA Associated 2009, p. 109). Specific management strategies in the Lower Aliso Canyon Management Zone that would benefit *B. filifolia* and the habitat identified in Unit 3 include protecting and restoring riparian habitat along Aliso Creek through habitat restoration efforts and control of invasive, nonnative species, and continuing to participate in and support Aliso Creek Watershed planning efforts to improve water quality and review all watershed practices within the AWCWP (LSA Associates 2009, p. 109).

Approximately 102 ac (42 ha) of lands that meet the definition of critical habitat within Unit 3 are conserved and managed by Orange County Parks at the AWCWP. These conserved lands in Unit 3 are part of the large, interconnected network of conserved lands that make up the AWCWP, including areas that encompass occupancy records for *Brodiaea filifolia* and lands adjacent to the occurrences that will conserve and manage habitat that supports pollinators of *B. filifolia* and provide for habitat connectivity between *B. filifolia* populations. Thus, the AWCWP and associated management plan provides protection to the park's *B. filifolia* habitat through the conservation and management of an area that may otherwise be left unprotected without the wilderness park.

Benefits of Inclusion—AWCWP Resource Management Plan, Orange County Central-Coastal NCCP/HCP

The principal benefit of including an area in a critical habitat designation is the requirement of Federal agencies to ensure actions they fund, authorize, or carry out are not likely to result in the destruction or adverse modification of any designated critical habitat; The regulatory standard of section 7(a)(2) of the Act under which consultation is completed. Federal agencies must consult with the Service on actions that may affect critical habitat and must avoid destroying or adversely modifying critical habitat. Federal agencies must also consult with us on actions that may affect a listed species and refrain from undertaking actions that are likely to jeopardize the continued existence of such species. The analysis of effects to critical habitat is a separate and different analysis from that of the effects to the species. Therefore, the difference in outcomes of these two analyses represents the regulatory benefit of critical habitat. For some species (including *Brodiaea filifolia*), and in some locations, the outcome of these analyses will be similar, because effects to habitat will often also result in effects to the species. However, the regulatory standard is different, as the jeopardy analysis investigates the action's impact to survival and recovery of the species, while the adverse modification analysis investigates the action's effects to the designated habitat's contribution to conservation. This will, in many instances, lead to different results and different regulatory requirements. Thus, critical habitat designations may provide greater benefits to the recovery of a species than would listing alone.

Any protections provided by critical habitat that are redundant with protections already in place reduce the benefits of inclusion in critical habitat. The consultation provisions under section 7(a)(2) of the Act constitute the regulatory benefits of designating lands as critical habitat. As discussed above, Federal agencies must consult with us on actions that may affect critical habitat and must avoid destroying or adversely modifying critical habitat. Critical habitat may provide a regulatory benefit for *Brodiaea filifolia* when there is a Federal nexus present for a project that might adversely modify critical habitat. Specifically, we expect projects in wetland areas where the species occurs would require a 404 permit under the Clean Water Act from the Army Corps of Engineers. Therefore, critical habitat designation would have a regulatory benefit to the conservation of *B. filifolia* by prohibiting adverse modification of revised critical habitat in wetland areas. However, because all areas within the AWCWP are already conserved and managed under the AWCWP Resource Management Plan, Federal actions that could adversely affect *B. filifolia* or its habitat are unlikely to occur, and if such actions do occur, it is likely that the protections provided the species and its habitat under section 7(a)(2) of the Act would be largely redundant with the protections offered by the AWCWP Resource Management Plan. Thus, we expect the regulatory benefit to the conservation of *B. filifolia* of including the areas proposed for designation in the portion of Unit 3 covered by the AWCWP Resource Management Plan in revised critical habitat would be minimal.

Another possible benefit of including lands in critical habitat is public education regarding the potential conservation value of an area that may help focus conservation efforts on areas of high conservation value for certain species. Any information about *Brodiaea filifolia* and its habitat that reaches a wide audience, including parties engaged in conservation activities, is valuable. The inclusion of lands in the B. filifolia proposed and final revised critical habitat designation that are not conserved and managed is beneficial to the species because the proposed and final rules identify those lands that require management for the conservation of *B. filifolia.* The process of proposing and finalizing revised critical habitat provided the opportunity for peer review and public comment on habitat we determined meets the definition of critical habitat. This process is valuable to landowners and managers in prioritizing conservation and management of identified areas. Because the habitat identified in the portion of Unit 3 covered by the AWCWP Resource Management Plan is already conserved and managed under the AWCWP Resource Management Plan, no educational benefits would be realized in this instance.

The designation of *Brodiaea filifolia* critical habitat may also strengthen or reinforce some of the provisions in other State and Federal laws, such as the California Environmental Quality Act (CEQA) or the National Environmental Policy Act (NEPA). These laws analyze the potential for projects to significantly affect the environment. In Orange County, additional protections associated with critical habitat may be beneficial in areas not currently conserved. However, in the case of *B. filifolia,* all areas within the AWCWP

are conserved and managed under the AWCWP Resource Management Plan. Therefore, *B. filifolia* critical habitat designation in this area would not signal the presence of sensitive habitat that could otherwise be missed in the review process for these other environmental laws.

In summary, we believe that designating revised critical habitat would provide minimal regulatory benefits under section 7(a)(2) of the Act in areas meeting the definition of critical habitat that are conserved and managed by the AWCWP Resource Management Plan, nor would any additional educational benefits be realized under these circumstances.

Benefits of Exclusion—AWCWP Resource Management Plan, Orange County Central-Coastal NCCP/HCP

We believe conservation benefits would be realized by forgoing designation of revised critical habitat for *Brodiaea filifolia* on lands covered by the AWCWP Resource Management Plan including: (1) Continuance and strengthening of our effective working relationships with Orange County Parks and with all Orange County Central Coastal NCCP/HCP jurisdictions and stakeholders to promote voluntary, proactive conservation of *B. filifolia* and its habitat as opposed to reactive regulation; (2) allowance for continued meaningful proactive collaboration and cooperation in working toward species recovery, including conservation benefits that might not otherwise occur; and (3) encouragement of additional conservation and management in the future on other lands for this and other federally listed and sensitive species, including incorporation of protections for plant species which is voluntary because the Act does not prohibit take of plant species. In the case of *B. filifolia* in Orange County, the partnership and commitment by the Orange County Central-Coastal NCCP/HCP jurisdictions (and specifically Orange County Parks) resulted in lands being conserved and managed for the long-term that will contribute to the recovery of the species.

We developed close partnerships with all participating entities through the development of the Orange County Central-Coastal NCCP/HCP, including Orange County Parks through the development of the AWCWP Resource Management Plan, which incorporates substantial protections (conserved lands) and management for *Brodiaea filifolia,* its habitat, and the physical and biological features essential to the conservation of this species. By excluding 102 ac (42 ha) of lands in Unit 3 from this revised critical habitat designation, we eliminate an essentially redundant layer of regulatory review for projects covered by the AWCWP Resource Management Plan, which helps preserve our ongoing partnership with participating entities of the Orange County Central-Coastal NCCP/HCP (such as Orange County Parks), supporters/contributors to the long-term preservation of AWCWP, and encourages new partnerships with other landowners and jurisdictions and establishment of conservation and management for the benefit of *B. filifolia* and other sensitive species on additional lands; these partnerships and conservation actions are crucial for proactive conservation of *B. filifolia,* as opposed to the reactive, regulatory approach of consultation.

The Orange County Central-Coastal NCCP/HCP and the AWCWP Resource Management Plan address conservation issues from a coordinated, integrated perspective rather than a piecemeal, project-by-project approach (as would occur under section 7 or section 10 of the Act for smaller-scale management plans or HCPs), thus resulting in coordinated landscape-scale conservation that can contribute to genetic diversity by preserving covered species populations, habitat, and interconnected linkage areas that support recovery of *Brodiaea filifolia* and other listed species. Additionally, many landowners perceive critical habitat as an unfair and unnecessary regulatory burden given the expense and time involved in developing and implementing complex management plans or regional and jurisdiction-wide HCPs (as discussed below in Comments 57 and 75 of the Summary of Comments and Recommendations section).

In summary, we believe excluding land covered by the AWCWP Resource Management Plan (which is subject to the Orange County Central-Coastal NCCP/HCP) from revised critical habitat could provide the significant benefit of maintaining existing regional management plan and HCP partnerships, and fostering new ones.

Weighing Benefits of Exclusion Against Benefits of Inclusion—AWCWP Resource Management Plan, Orange County Central-Coastal NCCP/HCP

We reviewed and evaluated the benefits of inclusion and benefits of exclusion for all lands covered by the AWCWP Resource Management Plan proposed as revised critical habitat for *Brodiaea filifolia.* The benefits of including lands covered by the AWCWP Resource Management Plan and associated Orange County Central-Coastal NCCP/HCP in the revised critical habitat designation are relatively small compared to the benefits of exclusion. Currently, all (approximately 102 ac (42 ha), or 91 percent of lands in Unit 3) lands that meet the definition of critical habitat within the AWCWP Resource Management Plan are conserved and managed. Thus, it is unlikely that Federal actions that would adversely affect *B. filifolia* or its habitat will occur within the AWCWP, and any regulatory benefits provided by section 7(a)(2) of the Act would be minimal and largely redundant with the protections already in place for this habitat. Because this species has been a focus of conservation in Orange County for more than 10 years (as indicated by those measures evaluated and addressed by the Orange County Central-Coastal NCCP/HCP), we do not believe critical habitat designation for *B. filifolia* will provide additional educational benefits.

In contrast to the benefits of inclusion, the benefits of excluding conserved and managed land covered by the AWCWP Resource Management Plan and associated Orange County Central-Coastal NCCP/HCP from revised critical habitat are significant. The exclusion of these lands from revised critical habitat will help preserve the partnerships and conservation and management we developed with Orange County Parks and other local stakeholders in the development of the AWCWP Resource Management Plan and other management plans subject to the Orange County Central-Coastal NCCP/HCP, and foster additional partnerships for the benefit of *Brodiaea filifolia* and other species. Therefore, in consideration of the relevant impact to current and future partnerships, we determined the significant benefits of exclusion outweigh the minor benefits of critical habitat designation for conserved and managed lands.

Exclusion Will Not Result in Extinction of the Species—AWCWP Resource Management Plan, Orange County Central-Coastal NCCP/HCP

We determined that the exclusion of approximately 102 ac (42 ha) of land covered by the AWCWP Resource Management Plan in Unit 3 from the final revised critical habitat designation for *Brodiaea filifolia* will not result in extinction of the species. The AWCWP Resource Management Plan and associated Orange County Central-Coastal NCCP/HCP provides a framework for long-term management and continued conservation of excluded lands that meet the definition of critical habitat in Unit 3. Therefore, based on the above discussion, we are exercising our delegated discretion to exclude

approximately 102 ac (42 ha) or 91 percent of lands in Unit 3 from this final revised critical habitat designation.

Orange County Southern Subregion HCP

We determined that approximately 925 ac (375 ha) of land in Subunits 4b, 4c, and 4g owned by or under the jurisdiction of the permittees of the Orange County Southern Subregion HCP meet the definition of critical habitat under the Act. In making our final decision with regard to these lands, we considered several factors including our relationships with participating jurisdictions and other stakeholders, existing consultations, conservation measures and management that are in place on these lands, and impacts to current and future partnerships. Under section 4(b)(2) of the Act, for the reasons discussed in the following sections, we are exercising our delegated discretion to exclude 192 ac (78 ha) of land conserved and managed by Orange County Southern Subregion HCP permittees within a portion of Subunit 4b from this final revised critical habitat designation. We are not exercising our delegated discretion to exclude 732 ac (297 ha) of land within the Orange County Southern Subregion HCP in Subunits 4c and 4g and a portion of Subunit 4b, and these lands are included in this revised critical habitat designation. As described in our section 4(b)(2) analysis below, we reached this determination in consideration of the benefits of exclusion balanced against the benefits of including an area in the final revised critical habitat designation.

The Orange County Southern Subregion HCP is a large-scale HCP encompassing approximately 86,021 ac (34,811 ha) in southern Orange County (including lands within Subunits 4b, 4c, and 4g). Originally developed as the Southern Subregion Natural Community Conservation Plan/Master Streambed Alteration Agreement/Habitat Conservation Plan, we now refer to the plan as the Orange County Southern Subregion HCP. Although the plan is intended to be a subregional plan under the State of California's Natural Community Conservation Planning (NCCP) Act of 2001, the NCCP has not yet been permitted by the California Department of Fish and Game. On January 10, 2007, the Service approved the Habitat Conservation Plan and issued incidental take permits (TE144105–0, TE144113–0, and TE144140–0) under section 10(a)(1)(B) of the Act to the three permittees for a period of 75 years. The Orange County Southern Subregion HCP was developed by the County of Orange (County), Rancho Mission Viejo, LLC (Rancho Mission Viejo), and the Santa Margarita Water District (Water District) to address impacts resulting from residential and associated infrastructure development to 32 species including *Brodiaea filifolia.* The Orange County Southern Subregion HCP is a multi-species conservation program that minimizes and mitigates expected habitat loss and associated incidental take of covered species.

The Orange County Southern Subregion HCP addresses development and associated infrastructure on Rancho Mission Viejo lands, installation and maintenance of infrastructure by the Water District, expansion of Prima Deshecha Landfill by the County, and monitoring and adaptive management of covered species on reserve lands.

The Orange County Southern Subregion HCP will establish approximately 30,426 ac (12,313 ha) of habitat reserve, which will consist primarily of land owned by Rancho Mission Viejo and three pre-existing County parks (Service 2007, pp. 10 and 19). The HCP provides for a large, biologically diverse and permanent habitat reserve that will protect: (1) Large blocks of natural vegetation communities that provide habitat for the covered species; (2) "important" and "major" populations of the covered species in key locations; (3) wildlife corridors and habitat linkages that connect the large habitat blocks and covered species populations to each other, the Cleveland National Forest, and the adjacent Orange County Central-Coastal NCCP/HCP; and (4) the underlying hydrogeomorphic processes that support the major vegetation communities providing habitat for the covered species (Service 2007, p. 10).

The overall habitat reserve will be managed and monitored according to the collective Habitat Reserve Management and Monitoring Program (Habitat Reserve Management Program). The Habitat Reserve Management Program focuses on the development and implementation of a coordinated monitoring and management program to sustain and enhance species populations and their habitats over the long term, while adapting management actions to new information and changing habitat conditions. The management program comprises two components: (1) An ongoing management program on County park lands within the habitat reserve; and (2) an adaptive management program that will be implemented on the Rancho Mission Viejo portion of the habitat reserve and on selected portions of the County park lands within the habitat reserve (Service 2007, p. 12).

In addition to the creation of a habitat reserve, the following conservation measures specific to *Brodiaea filifolia* and its habitat include:

(1) Avoid and minimize potential impacts to *B. filifolia* associated with construction activities on Rancho Mission Viejo through preparation of Biological Resources Construction Plans in coordination with the Service.

(2) Removal and control of the nonnative artichoke thistle (*Cynara cardunculus*). This invasive plant species may compete with *B. filifolia* for space and resources, and alter habitat in an area to the extent that it no longer supports *B. filifolia.* Removal and control of artichoke thistle occurs on Rancho Mission Viejo and is expected to continue into the future as the Invasive Species Control Plan is implemented within the reserve.

(3) Translocate and propagate *B. filifolia* under the Translocation, Propagation and Management Plan for Special-Status Plants to the extent feasible and appropriate, when impacts to *B. filifolia* are unavoidable. Potential translocation and associated restoration areas will be focused in areas that are also targeted for coastal sage scrub and coastal sage scrub/valley needlegrass grassland restoration, including Chiquita Ridge and Chiquadora Ridge (Subunit 4c). The plan also provides success criteria to evaluate the effectiveness of the restoration of *B. filifolia* in areas of temporary impacts.

(4) Monitor *B. filifolia* populations, focusing on the Cañada Gobernadora/Chiquita Ridgeline (Subunit 4c) and Cristianitos Canyon populations (Subunit 4g). Additionally, information will be gathered regarding nonnative species, observations of pollinators, and signs of disturbance. Annual monitoring will occur every year for the first 5 years after dedication to the reserve and thereafter in intervals as determined by the Reserve Manager and Science Panel.

Below is a brief analysis of the lands in Subunit 4b that are currently conserved and managed consistent with the Orange County Southern Subregion HCP.

Approximately 192 ac (78 ha) of Subunit 4b within the Ronald W. Caspers Wilderness Park (Caspers Wilderness Park) is covered by the Ronald W. Caspers Wilderness Park General Development Plan Phase III Habitat Conservation Program (Caspers Wilderness Park Program). The Caspers Wilderness Park Program functions as an operational program under the Orange County Southern Subregion HCP to ensure protection of existing biological communities and sensitive plant and animal species through

implementation of, at minimum: (1) An ongoing review of sensitive habitat areas; and (2) identification of site-specific operational directives for the protection of habitats, which include a mechanism for review and adjustment of directives in light of new information (Lewis 1987, pp. 1–1 and 2–11). Thus, the Caspers Wilderness Park Program provides protection to *Brodiaea filifolia* proposed revised critical habitat through the conservation and management of this area that may otherwise be left unprotected.

Benefits of Inclusion—Orange County Southern Subregion HCP

The principal benefit of including an area in a critical habitat designation is the requirement of Federal agencies to ensure actions they fund, authorize, or carry out are not likely to result in the destruction or adverse modification of any designated critical habitat, the regulatory standard of section 7(a)(2) of the Act under which consultation is completed. Federal agencies must consult with the Service on actions that may affect critical habitat and must avoid destroying or adversely modifying critical habitat. Federal agencies must also consult with us on actions that may affect a listed species and refrain from undertaking actions that are likely to jeopardize the continued existence of such species. The analysis of effects to critical habitat is a separate and different analysis from that of the effects to the species. Therefore, the difference in outcomes of these two analyses represents the regulatory benefit of critical habitat. For some species (including *Brodiaea filifolia*), and in some locations, the outcome of these analyses will be similar, because effects to habitat will often also result in effects to the species. However, the regulatory standard is different, as the jeopardy analysis investigates the action's impact to survival and recovery of the species, while the adverse modification analysis investigates the action's effects to the designated habitat's contribution to conservation. This will, in many instances, lead to different results and different regulatory requirements. Thus, critical habitat designations may provide greater benefits to the recovery of a species than would listing alone.

Any protections provided by critical habitat that are redundant with protections already in place reduce the benefits of inclusion in critical habitat. The consultation provisions under section 7(a)(2) of the Act constitute the regulatory benefits of designating lands as critical habitat. As discussed above, Federal agencies must consult with us on actions that may affect critical habitat and must avoid destroying or adversely modifying critical habitat. Critical habitat may provide a regulatory benefit for *Brodiaea filifolia* when there is a Federal nexus present for a project that might adversely modify critical habitat. Specifically, we expect projects in wetland areas would require a 404 permit under the Clean Water Act from the Army Corps of Engineers. Therefore, critical habitat designation would have an additional regulatory benefit to the conservation of *B. filifolia* by prohibiting adverse modification of revised critical habitat. However, because areas proposed for designation within Caspers Wilderness Park in Subunit 4b are already conserved and managed under the Caspers Wilderness Park Program, Federal actions that could adversely affect *B. filifolia* or its habitat are unlikely to occur in these areas. If such actions do occur, it is likely that the protections provided the species and its habitat under section 7(a)(2) of the Act would be largely redundant with the protections offered by the Caspers Wilderness Park Program. Therefore, we expect the regulatory benefit of including this area in revised critical habitat would be minimal.

Another possible benefit of including lands in critical habitat is public education regarding the potential conservation value of an area that may help focus conservation efforts on areas of high conservation value for certain species. Any information about *Brodiaea filifolia* and its habitat that reaches a wide audience, including parties engaged in conservation activities, is valuable. The inclusion of lands in the *B. filifolia* proposed and final revised critical habitat designation that are not conserved and managed is beneficial to the species because the proposed and final rules identify those lands that require management for the conservation of *B. filifolia.* The process of proposing and finalizing revised critical habitat provided the opportunity for peer review and public comment on habitat we determined meets the definition of critical habitat. This process is valuable to land owners and managers in prioritizing conservation and management of identified areas. Because the habitat identified in Caspers Wilderness Park within Subunit 4b is already conserved and managed under the Caspers Wilderness Park Program, no educational benefits would be realized in this area.

The designation of *Brodiaea filifolia* critical habitat may also strengthen or reinforce some of the provisions in other State and Federal laws, such as CEQA or NEPA. These laws analyze the potential for projects to significantly affect the environment. In Orange County, the additional protections associated with revised critical habitat may be beneficial in areas not currently conserved. Critical habitat may signal the presence of sensitive habitat that could otherwise be missed in the review process for these other environmental laws.

In summary, we believe that designating revised critical habitat would provide minimal regulatory benefits under section 7(a)(2) of the Act in areas meeting the definition of critical habitat that are conserved and managed under the Orange County Southern Subregion HCP, nor would any additional educational benefits be realized under these circumstances. In areas that are not currently conserved and managed, we believe there may be significant regulatory and educational benefits of critical habitat designation.

Benefits of Exclusion—Orange County Southern Subregion HCP

We believe conservation benefits would be realized by forgoing designation of revised critical habitat for *Brodiaea filifolia* on lands covered by the Orange County Southern Subregion HCP including: (1) Continuance and strengthening of our effective working relationships with all Orange County Southern Subregion HCP stakeholders to promote conservation of *B. filifolia* and its habitat; (2) allowance for continued meaningful collaboration and cooperation in working toward species recovery, including conservation benefits that might not otherwise occur; and (3) encouragement of additional conservation and management in the future on other lands for this and other federally listed and sensitive species, including incorporation of protections for plant species, which is voluntary because the Act does not prohibit take of plant species. In the case of *B. filifolia* in Orange County, the partnership and commitment by the County resulted in lands being conserved and managed for the long-term that will contribute to the recovery of the species.

The Orange County Southern Subregion HCP addresses conservation issues from a coordinated, integrated perspective rather than a piecemeal, project-by-project approach (as would occur under sections 7 of the Act or through smaller HCPs), thus resulting in coordinated landscape-scale conservation that can contribute to genetic diversity by preserving covered species populations, habitat, and interconnected linkage areas that support recovery of *Brodiaea filifolia* and other listed species. Additionally, many landowners perceive critical

habitat as an unfair and unnecessary regulatory burden given the expense and time involved in developing and implementing complex regional and jurisdiction-wide HCPs, such as the Orange County Southern Subregion HCP (as discussed below in Comments 57 and 75 of the Summary of Comments and Recommendations section of this rule). Exclusion of Orange County Southern Subregion HCP lands would help preserve the partnership we developed with the County of Orange and other permittees in the development of the HCP, and foster future partnerships and development of future HCPs.

In summary, we believe excluding land covered by the Orange County Southern Subregion HCP from revised critical habitat could provide the significant benefit of maintaining existing regional HCP partnerships and fostering new ones.

Weighing Benefits of Exclusion Against Benefits of Inclusion—Orange County Southern Subregion HCP

We reviewed and evaluated the benefits of inclusion and benefits of exclusion for all lands owned by or under the jurisdiction of Orange County Southern Subregion HCP permittees as revised critical habitat for *Brodiaea filifolia.* The benefits of including lands already conserved and managed in the revised critical habitat designation are relatively small compared to the benefits of exclusion. Approximately 192 ac (78 ha) of land in Subunit 4b at Caspers Wilderness Park are conserved and managed. Thus, it is unlikely that Federal actions that would adversely affect *B. filifolia* or its habitat will occur within Caspers Wilderness Park, and any regulatory benefits provided by section 7(a)(2) of the Act would be minimal and largely redundant with the protections already in place for this habitat. Because the habitat identified in Caspers Wilderness Park within Subunit 4b is already conserved and managed under the Caspers Wilderness Park Program, we do not believe critical habitat designation for *B. filifolia* will provide additional educational benefits.

In contrast to the benefits of inclusion, the benefits of excluding conserved and managed land covered by the Caspers Wilderness Park Program (under the Orange County Southern Subregion HCP) from revised critical habitat are significant. The exclusion of these lands from revised critical habitat will help preserve the partnership and conservation and management we developed with Orange County and other local stakeholders in the development of the Orange County Southern Subregion HCP and the Caspers Wilderness Park Program, and foster additional partnerships for the benefit of *Brodiaea filifolia* and other species. Therefore, in consideration of the relevant impact to current and future partnerships, we determined the significant benefits of exclusion outweigh the minor benefits of critical habitat designation. We analyzed the benefits of including lands within Subunits 4c, 4g, and the reminder of 4b (that is not conserved and managed) in the final designation and the benefits of excluding those lands from the designation. We recognize that the plan has established valuable partnerships that are intended to implement conservation actions for *B. filifolia.* However, in conducting our evaluation of the conservation benefits to *B. filifolia* and its proposed revised critical habitat that have resulted to date from these partnerships, we did not conclude that the benefits of excluding Subunits 4c, 4g, and the remainder of 4b (that is not conserved and managed) from revised critical habitat outweighs the benefits of inclusion.

Exclusion Will Not Result in Extinction of the Species—Subunit 4b, Orange County Southern Subregion HCP

We determined that the exclusion of approximately 192 ac (78 ha) of land in Subunit 4b owned by or under the jurisdiction of Orange County Southern Subregion HCP permittees from the final revised critical habitat designation for *Brodiaea filifolia* will not result in extinction of the species. These areas are permanently conserved and managed to provide a benefit to *B. filifolia* and its habitat. Therefore, based on the above discussion, we are exercising our delegated discretion to exclude approximately 192 ac (78 ha) of land conserved and managed by Orange County Southern Subregion HCP permittees in Subunit 4b from this final revised critical habitat designation.

San Diego Multiple Habitat Conservation Program (MHCP)—Carlsbad Habitat Management Plan (Carlsbad HMP)

We determined approximately 261 ac (106 ha) of land in Subunits 7a, 7b, 7c, and 7d within the Carlsbad HMP planning area meet the definition of critical habitat under the Act. In making our final decision with regard to these lands, we considered several factors, including conservation measures and management that are in place on these lands, our relationship with the participating MHCP jurisdiction, our relationship with other MHCP stakeholders, existing consultations, and impacts to current and future partnerships. Under section 4(b)(2) of the Act, for the reasons discussed in the following sections, we are exercising our delegated discretion to exclude 156 ac (63 ha) of land within Subunit 7d and portions of Subunits 7a and 7c from this final revised critical habitat designation. We are including approximately 106 ac (43 ha) of land within Subunit 7b and portions of Subunits 7a and 7c in this revised critical habitat designation. As described in our section 4(b)(2) analysis below, we reached this determination in consideration of the benefits of exclusion balanced against the benefits of including the areas in the final revised critical habitat designation.

The Carlsbad HMP is a subarea plan under the purview of the San Diego MHCP. The San Diego MHCP is a comprehensive, multi-jurisdictional planning program designed to create, manage, and monitor an ecosystem preserve in northwestern San Diego County. The San Diego MHCP is also a subregional plan under the State of California's Natural Communities Conservation Plan (NCCP) program and was developed in cooperation with CDFG. The MHCP preserve system is intended to protect viable occurrences of native plant and animal species and their habitats in perpetuity, while accommodating continued economic development and quality of life for residents of northern San Diego County. The MHCP includes an approximately 112,000-ac (45,324-ha) plan area within the cities of Carlsbad, Encinitas, Escondido, San Marcos, Oceanside, Vista, and Solana Beach. At this time, only the City of Carlsbad has completed its Subarea Plan (Carlsbad HMP). The section 10(a)(1)(B) permit for the City of Carlsbad HMP was issued on November 9, 2004 (Service 2004a).

Brodiaea filifolia is a covered species under the Carlsbad HMP. Nine occurrences of *B. filifolia* exist within the City of Carlsbad. We proposed 4 of these 9 occurrences as revised critical habitat in Subunits 7a, 7b, 7c, and 7d. Under the Carlsbad HMP, all known occurrences of *B. filifolia* within existing preserve areas (7 of 9 known occurrences) will be conserved at 100 percent. All covered activities impacting *B. filifolia* outside of already preserved areas are required to be consistent with the MHCP's narrow endemic policy, which requires mitigation for unavoidable impacts and management practices designed to achieve no net loss of narrow endemic populations, occupied acreage, or population viability within Focused Planning Areas (planning areas within which preserves may be designated by city subarea

plans). Additionally, cities cannot permit more than 5 percent gross cumulative loss of narrow endemic populations or occupied acreage within the Focused Planning Areas, and no more than 20 percent cumulative loss of narrow endemic locations, population numbers, or occupied acreage outside of Focused Planning Areas (AMEC 2003, pp. 2–14, D–1). All conserved populations of *B. filifolia* will be incorporated into the Carlsbad HMP's preserve areas. The Carlsbad HMP includes provisions to manage the populations within the preserve areas in order to provide for the long-term conservation of the species. Portions of Subunits 7a and 7c, and Subunit 7b in its entirety are within pre-existing open space easements owned by private landowners outside Focused Planning Areas and are not yet incorporated into the Carlsbad HMP's preserve. Therefore, additional regulatory protection could provide significant conservation benefits to *B. filifolia* and its habitat in portions of Subunits 7a and 7c, and the entirety of Subunit 7b.

At the time the Carlsbad HMP permit was issued (November 9, 2004), *Brodiaea filifolia* was a conditionally covered species under the Carlsbad HMP, as the proposed reserve on the Fox-Miller property within Subunit 7a did not meet the conditions for coverage of the species under the Carlsbad HMP. The project was subsequently redesigned to meet the narrow endemic standards by impacting less than five percent of the known population, and a long-term management plan was submitted. On December 2, 2005, the Service and CDFG concluded that the City of Carlsbad would receive full coverage for *B. filifolia* under the Carlsbad HMP (CDFG and Service 2005, p. 1).

Approximately 13 ac (5 ha), of lands that meet the definition of critical habitat within Subunit 7a are conserved and managed under the Long-Term Management Plan for Fox-Miller Property Open Space (Fox-Miller Management Plan) in conformance with the Carlsbad HMP, and, for the reasons discussed in the following sections, we are exercising our delegated discretion to exclude these lands from this final revised critical habitat designation pursuant to section 4(b)(2) of the Act. The approximately 13 ac (5 ha) have been conserved and managed in a preserve to mitigate impacts to the biological resources associated with the development of the Fox-Miller property (RECON 2005, p. 1). The Fox-Miller Management Plan provides a framework for the enhancement and management of *Brodiaea filifolia,* its habitat, and other habitats within the preserve. The preserve will be managed in perpetuity to maintain and improve the habitat quality on-site. Scheduled management activities include: (1) Vegetation mapping performed at a minimum of every five years; (2) annual exotic species removal and control within the preserve; (3) preserve signage creation, installation, and monitoring; (4) monthly site visits to check fencing and identify any threats to the habitat, such as unauthorized access to the site; (5) annual monitoring of the *B. filifolia* population and its habitat; (6) annual publication of an educational newsletter to surrounding businesses; and (7) preparation of annual reports to the City of Carlsbad, CDFG, and the Service (RECON 2005, pp. 12–13, 16, 18, 24).

Approximately 45 ac (18 ha), or 63 percent, of Subunit 7c is covered by the Calavera Hills Phase II Final Habitat Management Plan (Calavera Hills Management Plan) in conformance with the Carlsbad HMP, and, for the reasons discussed in the following sections, we are exercising our delegated discretion to exclude these lands from this final revised critical habitat designation pursuant to section 4(b)(2) of the Act. Within this area is a population of *Brodiaea filifolia* that is conserved and managed within a 144 ac (58 ha) habitat preserve set aside by the developer of Calavera Hills Phase II (Planning Systems 2002, pp. 1, 4). The purpose of the Calavera Hills Management Plan is to establish parameters for the permanent protection and management of the preserve (Planning Systems 2002, p. 3). Scheduled management activities include, but are not limited to: (1) Habitat monitoring and mapping; (2) patrolling for signs of trespassing, dumping, vandalism, off-road vehicle use, homeowner encroachment, and any other disturbances by humans; (3) trash removal conducted at a minimum of every six months; (4) publication of an educational flyer for distribution to surrounding property owners; (5) photograph documentation of site conditions; (6) monitoring of preserve signage and fencing; (7) exotic species removal and control; (8) erosion control; and (9) preparation of annual reports to the City of Carlsbad, CDFG, and the Service (Planning Systems 2002, pp. 9–14, 16, 25–26). In addition to routine monitoring of the preserve, specific management strategies that benefit *B. filifolia* and its proposed revised critical habitat include: (1) Annual mapping and counting of the *B. filifolia* population; and (2) protection from human trampling or other potential threats to the degree feasible (Planning Systems 2002, p. 11).

Approximately 98 ac (40 ha), or 100 percent, of Subunit 7d is covered by the Habitat Management Plan for the Rancho La Costa Habitat Conservation Area (Rancho La Costa Management Plan) in conformance with the Carlsbad HMP, and, for the reasons discussed in the following sections, we are exercising our delegated discretion to exclude these lands from this final revised critical habitat designation pursuant to section 4(b)(2) of the Act. Within this area is a population of *Brodiaea filifolia* and its habitat that is conserved and managed in its entirety within a 1,400 ac-(565-ha) habitat preserve set aside by the property owners as mitigation for impacts to natural habitat as part of the Villages of La Costa and University Commons developments (CNLM 2005, pp. 1, 5). Management strategies outlined in the plan include: (1) Annual counts of the *B. filifolia* population; (2) exotic species removal and control; (3) regular patrolling of the preserve to monitor public use; (4) maintenance of access control (*e.g.,* fencing and signage) and trails; (5) informing and educating the local residents through publication of outreach information, guided nature walks, and annual publication of educational newsletters; and (6) preparation of annual reports to the Cities of Carlsbad and San Marcos, CDFG, and the Service (CNLM 2005, pp. 28, 32–34, 36, 38). In addition to routine monitoring of the preserve, specific management strategies that would benefit *B. filifolia* and its proposed revised critical habitat include monitoring percent cover of native and nonnative annual plant species within its habitat and removing nonnative plant species (CNLM 2005, p. 21).

Benefits of Inclusion—Carlsbad HMP

The principal benefit of including an area in a critical habitat designation is the requirement of Federal agencies to ensure actions they fund, authorize, or carry out are not likely to result in the destruction or adverse modification of any designated critical habitat; the regulatory standard of section 7(a)(2) of the Act under which consultation is completed. Federal agencies must consult with the Service on actions that may affect critical habitat and must avoid destroying or adversely modifying critical habitat. Federal agencies must also consult with us on actions that may affect a listed species and refrain from undertaking actions that are likely to jeopardize the continued existence of such species. The analysis of effects to critical habitat is a separate and different analysis from that of the effects

to the species. Therefore, the difference in outcomes of these two analyses represents the regulatory benefit of critical habitat. For some species (including *Brodiaea filifolia*), and in some locations, the outcome of these analyses will be similar, because effects to habitat will often also result in effects to the species. However, the regulatory standard is different, as the jeopardy analysis investigates the action's impact to survival and recovery of the species, while the adverse modification analysis investigates the action's effects to the designated habitat's contribution to conservation. This will, in many instances, lead to different results and different regulatory requirements. Thus, critical habitat designations may provide greater benefits to the recovery of a species than would listing alone.

Any protections provided by critical habitat that are redundant with protections already in place reduce the benefits of inclusion in critical habitat. The consultation provisions under section 7 of the Act constitute the regulatory benefits of designating lands as critical habitat. As discussed above, Federal agencies must consult with us on actions that may affect critical habitat and must avoid destroying or adversely modifying critical habitat. Critical habitat may provide a regulatory benefit for *Brodiaea filifolia* when there is a Federal nexus present for a project that might adversely modify critical habitat. Specifically, we expect projects in wetland areas would require a 404 permit under the Clean Water Act from the Army Corps of Engineers. Therefore, critical habitat designation could have an additional regulatory benefit to the conservation of *B. filifolia* by prohibiting adverse modification of revised critical habitat. However, the probability of a project with a Federal nexus occurring in land covered by the Carlsbad HMP within Subunits 7a, 7b, 7c, and 7d is low, as the areas are outside any wetland areas, and are privately owned; the probability of a project with a Federal nexus occurring in Subunit 7d (which is conserved and managed) or the conserved and managed portions of Subunits 7a and 7c is further lessened by the fact that these areas are protected from development and other potential impacts. If such actions do occur in the conserved and managed portions of Subunits 7a, 7c, or 7d, it is likely that the protections provided the species and its habitat under section 7(a)(2) of the Act would be largely redundant with the protections offered by conservation under the Carlsbad HMP. Thus, we expect the regulatory benefit to the conservation of *B. filifolia* of including the conserved and managed areas proposed for designation in Subunits 7a, 7c, and 7d in revised critical habitat would be minimal. However, we expect the regulatory benefit to the conservation of *B. filifolia* of including areas proposed for designation that are not conserved and managed in Subunits 7a, 7b, and 7c in revised critical habitat would be greater than the benefit to the conserved and managed areas.

Another possible benefit of including lands in critical habitat is public education regarding the potential conservation value of an area that may help focus conservation efforts on areas of high conservation value for certain species. Any information about *Brodiaea filifolia* and its habitat that reaches a wide audience, including parties engaged in conservation activities, is valuable. The inclusion of lands in the *B. filifolia* proposed and final revised critical habitat designation that are not conserved and managed is beneficial to the species because the proposed and final rules identify those lands that require management for the conservation of *B. filifolia.* The process of proposing and finalizing revised critical habitat provided the opportunity for peer review and public comment on habitat we determined meets the definition of critical habitat. This process is valuable to landowners and managers in prioritizing conservation and management of identified areas. However, we do not believe critical habitat designation for *B. filifolia* will provide significant additional educational benefits in areas that are already conserved and managed because this species has been a focus of conservation in the City of Carlsbad for several years.

The designation of *Brodiaea filifolia* critical habitat may also strengthen or reinforce some of the provisions in other State and Federal laws, such as CEQA or NEPA. These laws analyze the potential for projects to significantly affect the environment. In the City of Carlsbad, the additional protections associated with revised critical habitat may be beneficial in areas not currently conserved. Critical habitat may signal the presence of sensitive habitat that could otherwise be missed in the review process for these other environmental laws.

In summary, we believe that designating revised critical habitat would provide minimal regulatory benefits under section 7(a)(2) of the Act in areas that meet the definition of critical habitat and are currently conserved and managed under the Carlsbad HMP. We also believe no significant educational benefits will be realized in areas that meet the definition of critical habitat and are currently conserved and managed under the Carlsbad HMP because this species has been a focus of conservation in the City of Carlsbad for many years. In areas that are not currently conserved and managed, we believe there may be more significant regulatory benefits of critical habitat designation.

Benefits of Exclusion—Carlsbad HMP

We believe conservation benefits would be realized by forgoing designation of revised critical habitat on lands covered by the Carlsbad HMP including: (1) Continuance and strengthening of our effective working relationships with all MHCP jurisdictions and stakeholders to promote conservation of *Brodiaea filifolia* and its habitat; (2) allowance for continued meaningful proactive collaboration and cooperation in working toward species recovery, including conservation benefits that might not otherwise occur; (3) encouragement of other jurisdictions to complete subarea plans under the MHCP (*i.e.,* the cities of Encinitas, Escondido, San Marcos, Oceanside, Vista, and Solana Beach); and (4) encouragement of additional conservation and management in the future on other lands for this and other federally listed and sensitive species, including incorporation of protections for plant species, which is voluntary because the Act does not prohibit take of plant species.

The Carlsbad HMP addresses conservation issues from a coordinated, integrated perspective rather than a piecemeal, project-by-project approach (as would occur under section 7 of the Act or through smaller HCPs), thus resulting in coordinated landscape-scale conservation that can contribute to genetic diversity by preserving covered species populations, habitat, and interconnected linkage areas that support recovery of *Brodiaea filifolia* and other listed species. Additionally, many landowners perceive critical habitat as an unfair and unnecessary regulatory burden given the expense and time involved in developing and implementing complex regional and jurisdiction-wide HCPs, such as the Carlsbad HMP (as discussed further in Comments 57 and 75 below in the Summary of Comments and Recommendations section of this rule). Exclusion of Carlsbad HMP lands would help preserve the partnership we developed with the City of Carlsbad in the development of the HMP, and foster

future partnerships and development of future HCPs.

In summary, we believe excluding land covered by the Carlsbad HMP from revised critical habitat could provide the significant benefit of maintaining existing regional HCP partnerships and fostering new ones.

Weighing Benefits of Exclusion Against Benefits of Inclusion—Carlsbad HMP

We reviewed and evaluated the benefits of inclusion and benefits of exclusion for all lands covered by the Carlsbad HMP proposed as revised critical habitat for *Brodiaea filifolia.* The benefits of including lands covered by the Carlsbad HMP that are conserved and managed in the revised critical habitat designation are relatively small compared to the benefits of exclusion. Approximately 13 ac (5 ha) of land in Subunit 7a at Fox-Miller, approximately 45 ac (18 ha) of land in Subunit 7c at Calavera Hills, and all of the approximately 98 ac (40 ha) of land in Subunit 7d at Rancho La Costa are already conserved and managed. Thus, it is unlikely that Federal actions that would adversely affect *B. filifolia* or its habitat will occur within these areas, and any regulatory benefits provided by section 7(a)(2) of the Act would be minimal and largely redundant with the protections already in place for this habitat. Because this species has been a focus of conservation in the City of Carlsbad for several years, we do not believe critical habitat designation for *B. filifolia* will provide additional educational benefits in areas that are already conserved and managed.

In contrast to the benefits of inclusion, the benefits of excluding conserved and managed land covered by the Carlsbad HMP from revised critical habitat are significant. The exclusion of these lands from revised critical habitat will help preserve the partnership and conservation and management we developed with the City of Carlsbad and other local stakeholders in the development of the Carlsbad HMP, and foster additional partnerships for the benefit of *Brodiaea filifolia* and other species. Therefore, in consideration of the relevant impact to current and future partnerships, we determined the significant benefits of exclusion outweigh the minor benefits of critical habitat designation. We analyzed the benefits of including lands within Subunit 7b and portions of Subunits 7a and 7c (that are not conserved and managed) in the final designation and the benefits of excluding those lands from the designation. We recognize that the Carlsbad HMP has established valuable partnerships that are intended to implement conservation actions for *B. filifolia.* However, in conducting our evaluation of the conservation benefits to *B. filifolia* and its proposed revised critical habitat that have resulted to date from these partnerships, we did not conclude that the benefits of excluding areas that are not conserved and managed (Subunit 7b and portions of Subunits 7a and 7c) from revised critical habitat outweigh the benefits of inclusion.

Exclusion Will Not Result in Extinction of the Species—Subunits 7a, 7c, and 7d, Carlsbad HMP

We determined that the exclusion of approximately 156 ac (63 ha) of land covered by the Carlsbad HMP in Subunit 7d and a portion of Subunits 7a and 7c from the final revised critical habitat designation for *Brodiaea filifolia* will not result in extinction of the species. These areas are permanently conserved and managed to provide a benefit to *B. filifolia* and its habitat. Therefore, based on the above discussion, we are exercising our delegated discretion to exclude approximately 156 ac (63 ha) of conserved and managed land in Subunit 7d and portions of Subunits 7a and 7c from this final revised critical habitat designation.

Western Riverside County Multiple Species Habitat Conservation Plan (Western Riverside County MSHCP)

We determined that approximately 1,494 ac (604 ha) of land in Subunits 11a, 11b, 11c, 11d, 11e, 11f, 11g, and 11h that are within the Western Riverside County MSHCP planning area meet the definition of critical habitat under the Act. In making our final decision with regard to these lands, we considered several factors including our relationships with participating jurisdictions and other stakeholders, existing consultations, conservation measures and management that are in place on these lands, and impacts to current and future partnerships. Under section 4(b)(2) of the Act, for the reasons discussed in the following sections, we are exercising our delegated discretion to exclude 381 ac (154 ha) of land within Subunits 11g, 11h, and a portion of Subunit 11f from this final revised critical habitat designation. We are including 1,113 ac (450 ha) of land within Subunits 11a, 11b, 11c, 11d, 11e, and a portion of Subunit 11f in this revised critical habitat designation. As described in our analysis below, we reached this conclusion by weighing the benefits of exclusion balanced against the benefits of including an area in the final revised critical habitat designation.

The Western Riverside County MSHCP is a regional, multi-jurisdictional HCP encompassing approximately 1.26 million ac (510,000 ha) of land in western Riverside County. The Western Riverside County MSHCP addresses 146 listed and unlisted "covered species," including *Brodiaea filifolia.* The Western Riverside County MSHCP includes a multi-species conservation program designed to minimize and mitigate the effects of expected habitat loss and associated incidental take of covered species. On June 22, 2004, the Service issued a single incidental take permit under section 10(a)(1)(B) of the Act to 22 permittees under the Western Riverside County MSHCP for a period of 75 years (Service 2004b, TE–088609–0). We concluded in our biological opinion (Service 2004b, p. 386) that implementation of the plan, as proposed, was not likely to jeopardize the continued existence of *B. filifolia.* Our determination was based on our conclusion that 78 percent of *B. filifolia* suitable habitat and at least 76 percent of the extant occurrences known at that time would be protected or will remain within the Western Riverside County MSHCP Conservation Area.

The Western Riverside County MSHCP, when fully implemented, will establish approximately 153,000 ac (61,917 ha) of new conservation lands (Additional Reserve Lands) to complement the approximately 347,000 ac (140,426 ha) of pre-existing natural and open space areas (Public/Quasi-Public (PQP) lands). These PQP lands include those under ownership of public or quasi-public agencies, primarily the United States Forest Service (USFS) and Bureau of Land Management (BLM), as well as permittee-owned or controlled open-space areas managed by the State of California and Riverside County. Collectively, the Additional Reserve Lands and PQP lands form the overall Western Riverside County MSHCP Conservation Area. The configuration of the 153,000 ac (61,916 ha) of Additional Reserve Lands is not mapped or precisely identified ("hard-lined") in the Western Riverside County MSHCP. Rather, it is based on textual descriptions of habitat conservation necessary to meet the conservation goals for all covered species within the bounds of the approximately 310,000-ac (125,453-ha) Criteria Area and is determined as implementation of the Western Riverside County MSHCP takes place. In an effort to predict one possible future configuration of the Additional Reserve Lands, we internally

mapped a "Conceptual Reserve Design" based on our interpretation of the textual descriptions of habitat conservation necessary to meet conservation goals.

Specific conservation objectives in the Western Riverside County MSHCP for *Brodiaea filifolia* include providing 6,900 ac (2,786 ha) of occupied or suitable habitat for the species in the MSHCP Conservation Area along portions of San Jacinto River (Subunits 11a, 11b, 11c, 11d), Mystic Lake, and Salt Creek (Subunit 11e) (Service 2004b, p. 384). This acreage can be attained through acquisition or other dedications of land assembled from within the Criteria Area (as these lands are acquired they become part of the Additional Reserve Lands). Floodplain processes along the San Jacinto River and along Salt Creek will be maintained to provide for persistence of the species. Additionally, at least 76 percent of the known *B. filifolia* occurrences as of 2004 will remain on existing PQP lands or be conserved within the Additional Reserve Lands. Finally, areas within the Criteria Area where there is potential suitable habitat for *B. filifolia* that is not yet protected are subject to the Additional Survey Needs and Procedures Policy (see Additional Survey Needs and Procedures, Western Riverside County MSHCP, Volume 1, section 6.3.2 in Dudek & Associates, Inc. 2003b). In these areas, surveys for *B. filifolia* are required as part of the project review process for public and private projects where suitable habitat is present (see Criteria Area Species Survey Area (CASSA) Map, Figure 6–2 of the Western Riverside County MSHCP, Volume I in Dudek & Associates, Inc. 2003b). For locations with positive survey results, 90 percent of those portions of the property that provide long-term conservation value for the species will be avoided until it is demonstrated that the conservation objectives for the species are met. Once species-specific objectives are met, avoided areas would be evaluated to determine whether they should be released for development or included in the MSHCP Conservation Area.

Preservation and management of approximately 6,900 ac (2,786 ha) of *Brodiaea filifolia* habitat under the Western Riverside County MSHCP will contribute to the conservation and ultimate recovery of this species. *Brodiaea filifolia* is threatened primarily by habitat destruction and fragmentation from urban and agricultural development, pipeline construction, alteration of hydrology and floodplain dynamics, excessive flooding, channelization, OHV activity, trampling by cattle and sheep, weed abatement, fire suppression practices (including discing and plowing), and competition from nonnative plant species (Service 2004b, p. 380). The Western Riverside County MSHCP will remove and reduce threats to *B. filifolia* and the physical and biological features essential to the conservation of the species as the plan is implemented by preserving large blocks of suitable habitat throughout the Conservation Area. The plan also generates funding for long-term management of conserved lands for the benefit of the species they protect.

Below is a brief analysis of the lands in Subunits 11g, 11h, and a portion of Subunit 11f that we are exercising our delegated discretion to exclude under section 4(b)(2) of the Act, and how these areas are conserved and managed consistent with the Western Riverside County MSHCP.

Approximately 381 ac (154 ha) of lands that meet the definition of critical habitat within Subunits 11g, 11h, and a portion of Subunit 11f are conserved and managed on PQP lands at the Santa Rosa Plateau Ecological Reserve (Santa Rosa Plateau). This reserve has four landowners: CDFG, the County of Riverside, the Metropolitan Water District of Southern California, and The Nature Conservancy. The landowners and the Service (which owns no land on the Santa Rosa Plateau) signed a cooperative management agreement on April 16, 1991 (Dangermond and Associates, Inc. 1991), and meet regularly to work on the management of the reserve (Riverside County Parks 2009, p. 2). These conserved lands in Subunits 11g, 11h, and a portion of Subunit 11f are part of the large, contiguous area of approximately 8,500 ac (3,432 ha) that make up the Santa Rosa Plateau, including areas that provide for habitat connectivity between *B. filifolia* populations. Thus, the Santa Rosa Plateau and associated management plan provides protection to the reserve's *B. filifolia* proposed revised critical habitat through the conservation and management of an area that may otherwise be left unprotected without the reserve.

Benefits of Inclusion—Western Riverside County MSHCP

The principal benefit of including an area in a critical habitat designation is the requirement of Federal agencies to ensure actions they fund, authorize, or carry out are not likely to result in the destruction or adverse modification of any designated critical habitat: the regulatory standard of section 7(a)(2) of the Act under which consultation is completed. Federal agencies must consult with the Service on actions that may affect critical habitat and must avoid destroying or adversely modifying critical habitat. Federal agencies must also consult with us on actions that may affect a listed species and refrain from undertaking actions that are likely to jeopardize the continued existence of such species. The analysis of effects to critical habitat is a separate and different analysis from that of the effects to the species. Therefore, the difference in outcomes of these two analyses represents the regulatory benefit of critical habitat. For some species (including *Brodiaea filifolia*), and in some locations, the outcome of these analyses will be similar, because effects to habitat will often also result in effects to the species. However, the regulatory standard is different, as the jeopardy analysis investigates the action's impact to survival and recovery of the species, while the adverse modification analysis investigates the action's effects to the designated habitat's contribution to conservation. This will, in many instances, lead to different results and different regulatory requirements. Thus, critical habitat designations may provide greater benefits to the recovery of a species than would listing alone.

Any protections provided by critical habitat that are redundant with protections already in place reduce the benefits of inclusion in critical habitat. The consultation provisions under section 7(a)(2) of the Act constitute the regulatory benefits of designating lands as critical habitat. As discussed above, Federal agencies must consult with us on actions that may affect critical habitat and must avoid destroying or adversely modifying critical habitat. Critical habitat may provide a regulatory benefit for *Brodiaea filifolia* when there is a Federal nexus present for a project that might adversely modify revised critical habitat. Specifically, we expect projects in wetland areas would require a 404 permit under the Clean Water Act from the Army Corps of Engineers. Therefore, critical habitat designation will have an additional regulatory benefit to the conservation of *B. filifolia* by prohibiting adverse modification of revised critical habitat.

As discussed above, the Western Riverside County MSHCP provides for protection of *Brodiaea filifolia* habitat considered necessary for survival and recovery of the species. For locations with positive survey results, impacts to 90 percent of portions of the property that provide long-term conservation value for the species will be avoided until it is demonstrated that the conservation objectives for the species

have been met. The Western Riverside County MSHCP does not include dumping of manure and other soil amendments as a covered activity, and thus does not include measures to minimize or mitigate impacts from that activity. However, the activity is occurring in some habitat areas that have not yet been conserved. As discussed in Comment 28 below, this threat is significant and ongoing within the Western Riverside County MSHCP plan area (specifically in Subunits 11b, 11c, and 11e) in habitat that is not yet conserved and managed to benefit the species. Therefore, for activities covered under the plan, we believe that protections provided by the designation of revised critical habitat will be partially redundant with protections provided by the HCP; however, additional regulatory protection from manure dumping could provide significant conservation benefits to *B. filifolia* in Subunits 11b, 11c, and 11e.

Another possible benefit of including lands in critical habitat is public education regarding the potential conservation value of an area that may help focus conservation efforts on areas of high conservation value for certain species. Any information about *Brodiaea filifolia* and its habitat that reaches a wide audience, including parties engaged in conservation activities, is valuable. The inclusion of lands in the *B. filifolia* proposed and final revised critical habitat designation that are not conserved and managed is beneficial to the species because the proposed rule identifies those lands that require management for the conservation of *B. filifolia.* The process of proposing and finalizing revised critical habitat provided the opportunity for peer review and public comment on habitat we determined meets the definition of critical habitat. This process is valuable to landowners and managers in prioritizing conservation and management of identified areas. In general, we believe the designation of critical habitat for *B. filifolia* will provide to the public additional information not already sufficiently emphasized through meetings, and educational materials provided to the general public by the County of Riverside.

The benefit of educating the public about *Brodiaea filifolia* habitat may be significant because the distribution of *B. filifolia* habitat in Riverside County is not well known and the importance of these habitat areas may not be known to the public. Activities are taking place that harm habitat where *B. filifolia* occurs (including the associated local watershed areas) in Riverside County possibly due to the lack of public awareness. For example, manure dumping on private property along the San Jacinto River is impacting habitat within the Western Riverside County MSHCP plan area. These impacts are occurring despite identification of these areas as important for the survival and recovery of *B. filifolia* in the Western Riverside County MSHCP and the critical habitat designation published in the **Federal Register** on December 13, 2005 (70 FR 73820) (*see* Comment 27 in the Summary of Comments and Recommendations section below). Manure dumping was not discussed as an impact to *B. filifolia* in the Biological Opinion on the Western Riverside County MSHCP (Service 2004b, pp. 378–386). We have been working with permittees to implement additional ordinances that will help to control activities (such as manure dumping) that may impact the implementation of the Western Riverside County MSHCP conservation objectives. To date, the City of Hemet is the only Western Riverside County MSHCP permittee that has addressed the negative impacts that manure dumping has on vernal pool habitat through the enactment of Ordinance 1666 (*i.e.,* the ordinance that prevents manure dumping activities and educates its citizens). We believe including areas in the *B. filifolia* revised critical habitat designation where manure dumping still occurs on non-conserved land will provide information to the public and local jurisdictions regarding the importance of addressing this threat, which alters the physical and biological features essential to the conservation of *B. filifolia.* Therefore, we believe there is a significant educational conservation benefit of critical habitat designation in areas where manure dumping occurs within the Western Riverside County MSHCP plan area. However, no educational benefits would be realized in the approximately 381 ac (154 ha) of lands that meet the definition of critical habitat within Subunits 11g, 11h, and a portion of Subunit 11f that are already conserved and managed on PQP lands at the Santa Rosa Plateau Ecological Reserve.

The designation of *Brodiaea filifolia* critical habitat may also strengthen or reinforce some of the provisions in other State and Federal laws, such as CEQA or NEPA. These laws analyze the potential for projects to significantly affect the environment. In Riverside County, the additional protections associated with revised critical habitat may be beneficial in areas not currently conserved. Critical habitat may signal the presence of sensitive habitat that could otherwise be missed in the review process for these other environmental laws.

In summary, we believe that designating revised critical habitat will provide minimal regulatory benefits under section 7(a)(2) of the Act in areas currently conserved and managed, and no additional educational benefits would be realized under these circumstances. In areas that are not currently conserved or where no local ordinance exists to protect *Brodiaea filifolia* habitat from manure dumping activities (*i.e.,* impacts that are not a covered activity under the Western Riverside County MSHCP), we believe that there are significant regulatory and educational benefits of critical habitat designation.

Benefits of Exclusion—Western Riverside County MSHCP

We believe conservation benefits would be realized by forgoing designation of revised critical habitat for *Brodiaea filifolia* on lands covered by the Western Riverside County MSHCP including:

(1) Continuance and strengthening of our effective working relationships with all Western Riverside County MSHCP jurisdictions and stakeholders to promote conservation of the *B. filifolia,* its habitat, and 145 other species covered by the HCP and their habitat;

(2) Allowance for continued meaningful proactive collaboration and cooperation in working toward protecting and recovering this species and the many other species covered by the HCP, including conservation benefits that might not otherwise occur;

(3) Encouragement for local jurisdictions to fully participate in the Western Riverside County MSHCP; and

(4) Encouragement of additional HCPs and other conservation and management activities in the future on other lands for this and other federally listed and sensitive species, including incorporation of protections for plant species which is voluntary because the Act does not prohibit take of plant species.

We developed a close partnership with the permittees of the Western Riverside County MSHCP through the development of the HCP, which incorporates protections (conserved lands) and management for *Brodiaea filifolia,* its habitat, and the physical and biological features essential to the conservation of this species. Additionally, many landowners perceive critical habitat as an unfair and unnecessary regulatory burden given the expense and time involved in

developing and implementing complex regional and jurisdiction-wide HCPs, such as the Western Riverside County MSHCP (as discussed further in Comments 57 and 75 below in the Summary of Comments and Recommendations section of this rule). Exclusion of Western Riverside County MSHCP lands would help preserve the partnerships we developed with the County of Riverside and other local jurisdictions in the development of the HCP, and foster future partnerships and development of future HCPs, and encourage the establishment of future conservation and management of habitat for *B. filifolia* and other sensitive species.

In summary, we believe excluding land covered by the Western Riverside County MSHCP from revised critical habitat could provide the significant benefit of maintaining existing regional HCP partnerships and fostering new ones.

Weighing Benefits of Exclusion Against Benefits of Inclusion—Western Riverside County MSHCP

We reviewed and evaluated the benefits of inclusion and benefits of exclusion for lands covered by the Western Riverside County MSHCP proposed as revised critical habitat for *Brodiaea filifolia.* The benefits of including conserved and managed lands under the Western Riverside County MSHCP in the revised critical habitat designation are relatively small compared to the benefits of exclusion. Approximately 381 ac (154 ha) of lands that meet the definition of critical habitat within Subunits 11g, 11h, and a portion of Subunit 11f are conserved and managed on PQP lands at the Santa Rosa Plateau. Thus, it is unlikely that Federal actions that would adversely affect *B. filifolia* or its habitat will occur within these areas, and any regulatory benefits provided by section 7(a)(2) of the Act would be minimal and largely redundant with the protections already in place for this habitat. Because these areas are conserved and managed, we do not believe critical habitat designation for *B. filifolia* will provide additional educational benefits.

In contrast to the benefits of inclusion, the benefits of excluding conserved and managed land covered by the Western Riverside County MSHCP from revised critical habitat are significant. The exclusion of these lands from revised critical habitat will help preserve the partnership and conservation and management we developed with Western Riverside County and other permitees and stakeholders in the development of the Western Riverside County MSHCP, and foster additional partnerships for the benefit of *Brodiaea filifolia* and other species. Therefore, in consideration of the relevant impact to current and future partnerships, we determined the significant benefits of exclusion outweigh the minor benefits of critical habitat designation for lands that are conserved and managed. We analyzed the benefits of including lands within Subunits 11a, 11b, 11c, 11d, 11e, and a portion of Subunit 11f (that are not conserved and managed) in the final designation and the benefits of excluding those lands from the designation. We recognize that the Western Riverside County MSHCP has established valuable partnerships that are intended to implement conservation actions for *B. filifolia.* However, in conducting our evaluation of the conservation benefits to *B. filifolia* and its proposed revised critical habitat that have resulted to date from these partnerships, we did not conclude that the benefits of excluding areas that are not conserved and managed (Subunits 11a, 11b, 11c, 11d, 11e, and a portion of Subunit 11f) from revised critical habitat outweigh the benefits of inclusion.

Exclusion Will Not Result in Extinction of the Species—Subunits 11f, 11g, and 11h, Western Riverside County MSHCP

We determined exclusion of 381 ac (154 ha) of land in Subunits 11g, 11h, and a portion of 11f within the Western Riverside County MSHCP planning area from the final revised critical habitat designation for *Brodiaea filifolia* will not result in extinction of the species. These areas are permanently conserved and managed to provide a benefit to *B. filifolia* and its habitat. Therefore, based on the above discussion, we are exercising our delegated discretion to exclude approximately 381 ac (154 ha) of conserved and managed land in Subunits 11g, 11h, and 11f from this final revised critical habitat designation.

San Diego Multiple Species Conservation Plan (MSCP)—County of San Diego Subarea Plan

The MSCP is a subregional HCP (one of multiple subregional HCPs in the San Diego County region) made up of several subarea plans. The MSCP has been in place for more than a decade. The subregional plan area encompasses approximately 582,243 ac (235,626 ha) (MSCP 1998, p. 2–1) and provides for conservation of 85 federally listed and sensitive species (“covered species”). The conservation of these species is being achieved through the establishment and management of approximately 171,920 ac (69,574 ha) of preserve lands within the Multi-Habitat Planning Area (MHPA) (City of San Diego Subarea Plan), Pre-Approved Mitigation Areas (PAMA) (County of San Diego Subarea Plan), and Mitigation Area (City of Poway Subarea Plan). The MSCP was developed in support of applications for incidental take permits by 12 participating jurisdictions in southwestern San Diego County. Under the umbrella of the MSCP, each of the 12 participating jurisdictions is required to prepare a subarea plan that implements the goals of the MSCP within that particular jurisdiction. *Brodiaea filifolia* was evaluated in the MSCP subregional plan, and is a covered species under the County of San Diego MSCP Subarea Plan. The Service issued the County of San Diego a single incidental take permit (TE–840414) under section 10(a)(1)(B) of the Act for the County of San Diego Subarea Plan under the MSCP for a period of 50 years on March 17, 1998.

The County of San Diego has both “hardline” boundaries as well as preserve areas that do not have “hardline” boundaries. In areas where the “hardlines” are not defined, the County’s subarea plan identifies areas where mitigation activities should be focused to assemble its preserve areas or the PAMA. Those areas of the County of San Diego Subarea preserve, and other MSCP subarea preserves that are either conserved or designated for inclusion in the preserves under the plan are referred to as the “MSCP preserve” in this discussion. When the preserve is completed, the public sector (Federal, State, and local government) and private landowners will have contributed 108,750 ac (44,010 ha) (63 percent) to the preserve, of which 81,750 ac (33,083 ha) (48 percent) was existing public land when the MSCP was established and 27,000 ac (10,927 ha) (16 percent) will have been acquired. At completion, the private sector will have contributed 63,170 ac (25,564 ha) (37 percent) to the preserve as part of the development process, either through avoidance of impacts or as compensatory mitigation for impacts to biological resources outside the preserve. Currently and in the future, Federal and State governments, local jurisdictions and special districts, and managers of privately owned lands will manage and monitor their lands in the preserve for species and habitat protection (MSCP 1998, p. 2–1).

At the time the permit was issued for the County of San Diego subarea plan, no occurrences of *Brodiaea filifolia* were known to exist within the MSCP. As *B. filifolia* is on the MSCP’s list of narrow

endemic species, each subarea plan specifies conservation measures for the species if an occurrence is newly identified. Occurrences within the County of San Diego Subarea will be avoided to the maximum extent practicable. Where complete avoidance is infeasible, encroachment may be authorized but will not exceed 20 percent.

As discussed under the *Benefits of Excluding Lands with HCPs* section of this rule, we considered excluding lands under the County of San Diego Subarea Plan. After reviewing the areas covered by the County of San Diego Subarea Plan, for the reasons discussed in the following sections, we are exercising our delegated discretion to exclude approximately 4 ac (2 ha) in Unit 12. We determined that approximately 109 ac (44 ha) of land in Unit 12 within the County of San Diego Subarea Plan meet the definition of critical habitat under the Act. We are including 105 ac (43 ha) of land within Unit 12 (within the County of San Diego Subarea Plan) in this revised critical habitat designation. In making our final decision with regard to these lands, we considered several factors including our relationships with participating jurisdictions and other stakeholders, existing consultations, conservation measures and management that are in place on these lands, and impacts to current and future partnerships. As described in our analysis below, we reached this conclusion by weighing the benefits of exclusion against the benefits of including an area in the final revised critical habitat designation.

Approximately 4 ac (2 ha), or 9 percent, of Unit 12 is covered by the Artesian Trails Resource Management Plan (Artesian Trails Management Plan) in conformance with the County of San Diego MSCP Subarea Plan, and, for the reasons discussed in the following sections, we are exercising our delegated discretion to exclude these lands from this final revised critical habitat designation pursuant to section 4(b)(2) of the Act. In this area, a population of *Brodiaea filifolia* is conserved and managed within a preserve set aside by the property owners consistent with a biological mitigation ordinance as part of the Artesian Trails Minor Subdivision project (Tierra Environmental 2007, pp. 1–2). The Artesian Trails Management Plan provides an overview of the property's operation, maintenance, and personnel requirements to implement management goals in perpetuity (Tierra Environmental 2007, pp. 1, 3). Planned management activities include: (1) Annual monitoring of the *B. filifolia* population; (2) exotic species removal and control; (3) maintenance of access control (such as fencing and signage); (4) site assessments with photo documentation; (5) trash removal; (6) notifying property owners of conditions degrading habitat; (7) maintaining community awareness of sensitive habitat and protection of area; and (8) preparation of annual reports to the County of San Diego, CDFG, and the Service (Tierra Environmental 2007, pp. 11–15, 17).

Benefits of Inclusion—County of San Diego Subarea Plan

The principal benefit of including an area in a critical habitat designation is the requirement of Federal agencies to ensure actions they fund, authorize, or carry out are not likely to result in the destruction or adverse modification of any designated critical habitat; the regulatory standard of section 7 of the Act under which consultation is completed. Federal agencies must consult with the Service on actions that may affect critical habitat and must avoid destroying or adversely modifying critical habitat. Federal agencies must also consult with us on actions that may affect a listed species and refrain from undertaking actions that are likely to jeopardize the continued existence of such species. The analysis of effects to critical habitat is a separate and different analysis from that of the effects to the species. Therefore, the difference in outcomes of these two analyses represents the regulatory benefit of critical habitat. For some species (including *Brodiaea filifolia*), and in some locations, the outcome of these analyses will be similar, because effects to habitat will often also result in effects to the species. However, the regulatory standard is different, as the jeopardy analysis investigates the action's impact to survival and recovery of the species, while the adverse modification analysis investigates the action's effects to the designated habitat's contribution to conservation. This will, in many instances, lead to different results and different regulatory requirements. Thus, critical habitat designations may provide greater benefits to the recovery of a species than would listing alone.

Any protections provided by critical habitat that are redundant with protections already in place reduce the benefits of inclusion in critical habitat. The consultation provisions under section 7(a)(2) of the Act constitute the regulatory benefits of designating lands as critical habitat. As discussed above, Federal agencies must consult with us on actions that may affect critical habitat and must avoid destroying or adversely modifying critical habitat. Critical habitat may provide a regulatory benefit for *Brodiaea filifolia* when there is a Federal nexus present for a project that might adversely modify revised critical habitat. Specifically, we expect projects in wetland areas where the species occurs would require a 404 permit under the Clean Water Act from the Army Corps of Engineers. Therefore, critical habitat designation would have a regulatory benefit to the conservation of *B. filifolia* by prohibiting adverse modification of revised critical habitat in wetland areas. In areas within Unit 12 that are not conserved and managed, we believe critical habitat designation would have a significant regulatory benefit to the conservation of *B. filifolia* due to the presence of a potential Federal nexus, and because the regulatory protections afforded by the designation of critical habitat would not be entirely redundant with protections already in place. However, in areas within the Artesian Trails Resource Management Plan area which are conserved and managed under the Artesian Trails Resource Management Plan, Federal actions that could adversely affect *B. filifolia* or its habitat are unlikely to occur. If such actions do occur in conserved and managed areas, it is likely that the protections provided the species and its habitat under section 7(a)(2) of the Act would be largely redundant with the protections offered by the Artesian Trails Resource Management Plan. Thus, we expect the regulatory benefit to the conservation of *B. filifolia* of including areas proposed for designation in revised critical habitat in Unit 12 that have not been conserved and managed could be significant, while the regulatory benefit of including areas that have been conserved and managed would be minimal.

Another possible benefit of including lands in critical habitat is public education regarding the potential conservation value of an area that may help focus conservation efforts on areas of high conservation value for certain species. Any information about *Brodiaea filifolia* and its habitat that reaches a wide audience, including parties engaged in conservation activities, is valuable. The inclusion of lands in the *B. filifolia* proposed and final revised critical habitat designation that are not conserved and managed is beneficial to the species because the proposed and final rules identify those lands that require management for the conservation of *B. filifolia*. The process of proposing and finalizing revised critical habitat provided the opportunity for peer review and public comment on

habitat we determined meets the definition of critical habitat. This process is valuable to landowners and managers in prioritizing conservation and management of identified areas that are not already conserved and managed. No educational benefits would be realized in portions of Unit 12 that are already conserved and managed under the Artesian Trails Resource Management Plan. However, the inclusion of lands in the *B. filifolia* revised critical habitat designation that are not conserved and managed could be beneficial to the species because designation will identify lands that require conservation and management for the recovery of *B. filifolia.*

The designation of *B. filifolia* critical habitat may also strengthen or reinforce some of the provisions in other State and Federal laws, such as CEQA or NEPA. These laws analyze the potential for projects to significantly affect the environment. In the County of San Diego, the additional protections associated with revised critical habitat may be beneficial in areas not currently conserved. Critical habitat may signal the presence of sensitive habitat that could otherwise be missed in the review process for these other environmental laws.

In summary, we believe designating revised critical habitat would provide minimal regulatory benefits under section 7(a)(2) of the Act in areas that meet the definition of critical habitat currently conserved and managed under the County of San Diego Subarea Plan, nor would any additional educational benefits be realized under these circumstances. In areas that are not expected to be conserved, we believe there are significant regulatory and educational benefits of critical habitat designation.

Benefits of Exclusion—County of San Diego Subarea Plan

We believe conservation benefits would be realized by forgoing designation of revised critical habitat for *Brodiaea filifolia* on lands covered by the County of San Diego Subarea Plan including: (1) Continuance and strengthening of our effective working relationships with all MSCP jurisdictions and stakeholders; (2) allowance for continued meaningful proactive collaboration and cooperation in working toward species recovery, including conservation benefits that might not otherwise occur; (3) the encouragement for local jurisdictions to fully participate in the MSCP; and (4) encouragement of additional conservation and management in the future on other lands for this and other federally listed and sensitive species, including incorporation of protections for plant species which is voluntary because the Act does not prohibit take of plant species. In the case of *B. filifolia* in San Diego County, the partnership and commitment by the County of San Diego resulted in lands being conserved and managed for the long-term that will contribute to the recovery of the species.

We developed a close partnership with the County of San Diego through the development of the subregional MSCP and the County of San Diego MSCP Subarea Plan, which incorporates substantial protections (conserved lands) and management for *Brodiaea filifolia,* its habitat, and the physical and biological features essential to the conservation of this species. By excluding approximately 4 ac (2 ha) of Unit 12 from this revised critical habitat designation, we eliminate an essentially redundant layer of regulatory review for projects covered by the Artesian Trails Management Plan (in conformance with the County of San Diego MSCP Subarea Plan), which helps preserve our ongoing partnership with the County of San Diego, supporters/contributors to the long-term preservation of the Artesian Trails preserve area, and encourages new partnerships with other landowners and jurisdictions and establishment of conservation and management for the benefit of *B. filifolia* and other sensitive species on additional lands; these partnerships and conservation actions are crucial for proactive conservation of *B. filifolia,* as opposed to the reactive, regulatory approach of consultation.

The County of San Diego MSCP Subarea Plan addresses conservation issues from a coordinated, integrated perspective rather than a piecemeal, project-by-project approach (as would occur under section 7 or section 10 of the Act for smaller scale management plans or HCPs), thus resulting in coordinated landscape-scale conservation that can contribute to genetic diversity by preserving covered species populations, habitat, and interconnected linkage areas that support recovery of *Brodiaea filifolia* and other listed species. Additionally, many landowners perceive critical habitat as an unfair and unnecessary regulatory burden given the expense and time involved in developing and implementing complex management plans or regional and jurisdiction-wide HCPs (as discussed below in Comments 57 and 75 of the Summary of Comments and Recommendations section).

In summary, we believe excluding land covered by the County of San Diego Subarea Plan from revised critical habitat could provide the significant benefit of maintaining existing regional management plan and HCP partnerships and fostering new ones.

Weighing Benefits of Exclusion Against Benefits of Inclusion—County of San Diego Subarea Plan

We reviewed and evaluated the benefits of inclusion and benefits of exclusion from revised critical habitat for *Brodiaea filifolia* for lands under the County of San Diego Subarea Plan. The benefits of including conserved and managed lands covered by the Artesian Trails Resource Management Plan in the revised critical habitat designation are relatively small compared to the benefits of exclusion. Approximately 4 ac (2 ha), of land in Unit 12 at the Artesian Trails Minor Subdivision is already conserved and managed. Thus, it is unlikely that Federal actions that would adversely affect *B. filifolia* or its habitat will occur within this area, and any regulatory benefits provided by section 7(a)(2) of the Act would be minimal and largely redundant with the protections already in place for this habitat. We do not believe critical habitat designation for *B. filifolia* will provide additional educational benefits for conserved and managed portions of Unit 12 since these benefits (protection and management of the habitat area) have already been realized. However for the portions of Unit 12 that have not been conserved and managed, we believe inclusion in the revised critical habitat designation could have significant regulatory and educational benefits due to the existence of a potential Federal nexus, the lack of existing protections that would diminish the likelihood of development or other impacts and that would be redundant with additional regulatory protection, and the need for additional protection and management that may be brought about through public education.

In contrast to the benefits of inclusion, the benefits of excluding conserved and managed land covered by the County of San Diego MSCP Subarea Plan from revised critical habitat are significant. The exclusion of these lands from revised critical habitat will help preserve the partnership and conservation and management we developed with the County of San Diego and other local stakeholders in the development of the County of San Diego MSCP Subarea Plan and the Artesian Trails Resource Management Plan, and foster additional partnerships for the benefit of *Brodiaea filifolia* and other species. Therefore, in consideration of the relevant impact to current and future partnerships, we determined the

significant benefits of exclusion outweigh the minor benefits of critical habitat designation for lands that are conserved and managed. We analyzed the benefits of including lands within Unit 12 that are not conserved and managed in the final revised designation and the benefits of excluding those lands from the designation. We recognize that the County of San Diego MSCP Subarea Plan has established valuable partnerships that are intended to implement conservation actions for *B. filifolia.* However, in conducting our evaluation of the conservation benefits to *B. filifolia* and its proposed revised critical habitat that have resulted to date from these partnerships, we did not conclude that the benefits of excluding areas in Unit 12 that are not conserved and managed from revised critical habitat outweighs the benefits of inclusion.

Exclusion Will Not Result in Extinction of the Species—Unit 12, County of San Diego Subarea Plan

We determined that the exclusion of approximately 4 ac (2 ha) of land covered by the County of San Diego Subarea Plan in Unit 12 from the final revised critical habitat designation for *Brodiaea filifolia* will not result in extinction of the species. These areas are permanently conserved and managed to provide a benefit to *B. filifolia* and its proposed revised critical habitat. Therefore, based on the above discussion, we are exercising our delegated discretion to exclude approximately 4 ac (2 ha) of conserved and managed land in Unit 12 from this final revised critical habitat designation.

Economics

An analysis of the economic impacts for the previous proposed critical habitat designation for *Brodiaea filifolia* was conducted and made available to the public on October 6, 2005 (70 FR 58361). That economic analysis was finalized for the final rule to designate critical habitat for *B. filifolia* published in the **Federal Register** on December 13, 2005 (70 FR 73820). The analysis determined that the costs associated with critical habitat for *B. filifolia* across the entire area considered for designation (across designated and excluded areas) were primarily a result of the potential effects of critical habitat designation on residential, industrial, and commercial development; water supply; flood control; transportation; agriculture; the development of HCPs; and the management of military bases, other Federal lands, and other public or conservation lands. After excluding land in Riverside, Orange, and San Diego counties from the 2004 proposed critical habitat (December 8, 2004 (69 FR 71284)), the economic impact was estimated to be between $1.0 and $3.3 million over the next 20 years expressed in undiscounted dollars. Based on the 2005 economic analysis, we concluded that the designation of critical habitat for *B. filifolia,* as proposed in 2004, would not result in significant small business impacts. This analysis is presented in the NOA for the economic analysis published in the **Federal Register** on October 6, 2005 (70 FR 58361).

We prepared a new economic impact analysis associated with this revised critical habitat designation for *Brodiaea filifolia.* In the revised DEA, we evaluated the potential economic effects on small business entities resulting from implementation of conservation actions related to the proposed revision to critical habitat for *B. filifolia.* The analysis is based on the estimated incremental impacts associated with the proposed rulemaking as described in Chapters 2 through 6 of the analysis. We announced the availability of the draft economic analysis in the **Federal Register** on July 20, 2010 (75 FR 42054).

The final economic analysis determined that the costs associated with revised critical habitat for *Brodiaea filifolia,* across the entire area considered for designation (both designated and excluded areas), are primarily a result of residential and commercial development, transportation, utility, and flood control projects, and public and conservancy lands management. The incremental economic impact of designating revised critical habitat was estimated to be between $500 and $600 thousand over the next 20 years using a 7 percent discount rate (Industrial Economics, Inc. (IEc) 2010, p. ES–7). The difference between the economic impacts projected with this designation compared to those in the 2005 designation are due to the use of an incremental analysis in this designation rather than the broader coextensive analysis used in the 2005 designation. Based on the 2010 final economic analysis, we concluded that the designation of revised critical habitat for *B. filifolia,* as proposed in 2009, would not result in significant small business impacts. This analysis is presented in the Economic Analysis of Revised Critical Habitat Designation for Thread-Leaved Brodiaea (IEc 2010).

Summary of Comments and Recommendations

We requested written comments from the public on the proposed rule to designate revised critical habitat for *Brodiaea filifolia* during two comment periods. The first comment period opened with the publication of the proposed revised rule in the **Federal Register** on December 8, 2009 (74 FR 64930), and closed on February 8, 2010. The second comment period opened with the publication of the notice of availability of the Draft Revised Economic Analysis (DEA) in the **Federal Register** on July 20, 2010 (75 FR 42054), and closed on August 19, 2010. During both public comment periods, we contacted appropriate Federal, State, and local agencies; scientific organizations; and other interested parties and invited them to comment on the proposed revised rule to designate critical habitat for *B. filifolia* and the associated revised DEA. During the comment periods, we requested that all interested parties submit comments or information related to the proposed revised critical habitat, including (but not limited to) the following: reasons why we should or should not designate habitat as "critical habitat"; information that may assist us in clarifying or identifying more specific PCEs; the appropriateness of designating critical habitat for this species; the amount and distribution of *B. filifolia* habitat included in this proposed rule; what areas are essential to the conservation of the species; unit boundaries and methodology used to delineate the areas proposed as revised critical habitat; land use designations and current or planned activities in the areas proposed as revised critical habitat; special management considerations; economic, national security, or other relevant impacts of designating any area; the exclusions being considered under section 4(b)(2) of the Act; whether the benefit of an exclusion of any particular area outweighs the benefit of inclusion under section 4(b)(2) of the Act; and how to improve public outreach during the critical habitat designation process.

During the first comment period, we received 11 comment letters-3 from peer reviewers and 8 from public organizations or individuals. During the second comment period we received 6 comment letters addressing the proposed revised critical habitat designation and the DEA. Of these latter comments, 1 was from a peer reviewer and 5 from public organizations or individuals. We did not receive any requests for a public hearing. We appreciate all peer reviewer and public comments submitted and their contributions to the improvement of the content and accuracy of this document.

Peer Review

In accordance with our Policy for Peer Review in Endangered Species Act Activities, published on July 1, 1994 (59 FR 34270), we solicited expert opinions from four knowledgeable individuals with scientific expertise that included familiarity with *Brodiaea filifolia,* the geographic region in which it occurs, and conservation biology principles pertinent to the species. Three peer reviewers submitted responses that included additional information, clarifications, and suggestions that we incorporated into this final revised critical habitat rule.

We reviewed all comments received from the peer reviewers and the public for substantive issues and new information regarding the designation of revised critical habitat for *Brodiaea filifolia.* All comments are addressed in the following summary and incorporated into this final revised rule as appropriate.

Peer Reviewer's Comments

Comment 1: Two peer reviewers expressed the opinion that the methods, analysis, and results of the proposed revised critical habitat for *Brodiaea filifolia* were careful, thoughtful, and in strict adherence to the requisite methodology to define and designate critical habitat. The peer reviewers also stated that the best available science and methodology was used to arrive at the conclusions in the proposed revised rule, and that the proposed revised critical habitat designation encompasses a representative range of habitat types, geographic distribution, and population sizes that meet the requirements of the Act (59 FR 34270, July 1, 1994) for designation of critical habitat. The peer reviewers believe the proposed revised critical habitat for *B. filifolia* is more comprehensive and more accurate than the December 13, 2005, final critical habitat rule for *B. filifolia* (70 FR 73820).

Our Response: We appreciate the peer reviewers' critical reviews.

Comment 2: One peer reviewer expressed confusion and concern with the Service's use of number of flowering stalks of *Brodiaea filifolia* as a measure of occurrence size, as discussed on page 64932 of the December 8, 2009, proposed revised rule (74 FR 64930). The peer reviewer stated that the number of flowering stalks does not provide a maximum number of *B. filifolia* in an occurrence and believed the Service should instead compare numbers of non-flowering plants between occurrences, which presents a more accurate estimate of relative size between populations. The peer reviewer believes that densities of *B. filifolia* are larger than reported based on flowering stalk counts, and appear to be dependent on soil types and geographical location.

A second peer reviewer believes that we did not clearly state that the locality counts used to determine the importance of each locality were based on stem counts. The second peer reviewer also questioned our reasoning concerning how to determine which occurrences should be considered the largest for this species, since any locality may in fact contain many more *Brodiaea filifolia* plants than surveys might indicate.

Our Response: As stated in the December 8, 2009, proposed revised rule (74 FR 64930) on page 64932, the Service considers the number of flowering *Brodiaea filifolia* stalks at a site to be an estimate of the minimum number of *B. filifolia* plants present, not a maximum number or an exact count. We understand that the number of *B. filifolia* individuals in a population is larger than the number of flowering stalks; thus, we only used the number of flowering stalks as an estimate useful in comparing the relative abundance of *B. filifolia* at various sites across the species' range. We thank the peer reviewer for the information regarding soil type and geographic location.

In response to the issues brought up by the second peer reviewer; we stated plainly in the Criteria Used To Identify Critical Habitat section—rather than being buried in a discussion of various survey methods—that we are using counts of flowering stalks to estimate relative *Brodiaea filifolia* population sizes. It is possible that a very large population of the species could be mistakenly recorded as having an average or low number of plants if only a few individuals flower and the vegetative portions of the plants are difficult to see. It seems unlikely, however, that the largest occurrences would be so cryptic as to appear to be average or small occurrences.

Comment 3: One peer reviewer asked if it is known whether the field study on Santa Rosa Plateau that noted the 8:1 ratio of corms to flowering stems might have been conducted using *Brodiaea santarosae* instead of *B. filifolia.*

Our Response: Comparing the description of the occurrence used in the field study (EO 5 in Morey (1995, p. 2)) and the description of the only known occurrence of *Brodiaea filifolia* within the range of *B. santarosae* in Chester *et al.* (2007, p. 195), it appears the two are the same occurrence. The field study was conducted on an occurrence of *B. filifolia;* although some individuals of *B. santarosae* may have been present as well.

Comment 4: One peer reviewer noted that the text in the "*Taxonomy andFamily Placement—Movement of Brodiaea From Liliaceae (Lily Family) to Themidaceae (Cluster Lily Family)*" section of the proposed revised rule describing hybrids being described as *Brodiaea santarosae* should have cited Chester *et al.* (2007), since this reference provides the original description for this species.

Our Response: We thank the peer reviewer for this observation; Chester *et al.* (2007) is cited later in the passage, but should have been cited at the first mention of *Brodiaea santarosae* in that section of the text.

Comment 5: One peer reviewer suggested that the term "systematic surveys" should be replaced with "comprehensive surveys" at the top of page 64933 in the proposed revised rule, stating that in close proximity with the discussion on taxonomy, the use of the term "systematic surveys" suggests a study of the relationship of species within the genus *Brodiaea.*

Our Response: We appreciate the peer reviewer's critical review, and will note the potential for confusion when using the word "systematic" when we mean "methodical" when drafting future rules.

Comment 6: One peer reviewer recommended revision to a sentence on page 64933 in the **Background** section of the proposed revised rule to read, "Additionally, plants that were previously identified as hybrids and not pure *B. filifolia* have now been described as *B. santarosae* (Chester *et al.* 2007). Pires (2007.1) and Preston (2007, pers. comm.) intend to include *B. santarosae* as a separate species in their treatment of the genus *Brodiaea* for the revision of the Jepson Manual that is now in progress." The peer reviewer felt the passage was awkward as written in the proposed rule. Pires (2007.1) refers to J.C. Pires, Assistant Professor of Biological Sciences, University of Missouri-Columbia, pers. comm. to G. Wallace, Service September 17, 2007; Preston (2007, pers. comm.) refers to R. Preston, Senior Botanist, IFC Jones and Stokes, Sacramento, California, pers. comm. to G. Wallace, Service September 17, 2007.

Our Response: We agree that the revision provided by the peer reviewer communicates the information in question more clearly; however, we could not revise this passage for the final revised rule because the **Background** section is not repeated in the final revised rule.

Comment 7: Two peer reviewers expressed concern regarding the

Service's argument that adding an 820-ft (250-m) radius area around populations of *Brodiaea filifolia* to provide adequate habitat for pollinators based on flight distances for the pollinators is the best way to determine critical habitat subunit boundaries. Both peer reviewers believe the arguments behind this methodology are speculative in part because studies have not established what species is or are the most important pollinators for *B. filifolia* or the pollinator's conservation requirements. One peer reviewer reported speaking with a local insect expert who believes bumblebees cannot pollinate *B. filifolia* because they are too heavy.

Our Response: On page 64936 of the December 8, 2009, proposed revised rule (74 FR 64930), we outline a number of insects known to pollinate *Brodiaea filifolia* and cite documented observations of these insects pollinating *B. filifolia,* including bumblebees (*Bombus californicus*). While we may not know what species is the most frequent pollinator of *B. filifolia,* we do know that the majority of species that have been observed pollinating *B. filifolia* have flight distances that fall within the 820-ft (250-m) range; therefore, we believe using this measurement to define critical habitat boundaries is appropriate and not speculative.

Comment 8: One peer reviewer believes that the critical habitat boundaries should not be limited to the 820-ft (250-m) pollinator area if there is additional contiguous suitable or restorable habitat, or if the population is within a larger landscape feature such as a floodplain with an ecology that relies upon a suite of characters such as hydrology and soils to support *Brodiaea filifolia.* According to the peer reviewer, this is because there is much scientific information indicating that soils, hydrology, and plant community structure are the most important factors in plant distribution; because if there are additional populations separated by 300 to 1,000 meters within a contiguous block of suitable habitat it is not always certain additional *B. filifolia* populations could not exist in the intervening habitat; and because habitat conservation works more effectively with larger conservation areas than in small areas. The peer reviewer suggests that soil type boundaries (recommends using the boundaries of the Willows soils unit, at least from San Jacinto Ave. south), changes in plant community type, drainage watershed boundaries, or barriers such as roads and existing development may make more appropriate critical habitat boundary limits. A second peer reviewer was in agreement, stating that developing critical habitat based on pollinator dispersal does not appear to be as valid as a basic habitat approach in conserving the PCEs for *B. filifolia* at critical localities. The second peer reviewer suggested that the determination of the critical habitat for this species should be based on potential habitat that could be occupied by this species in the vicinity of occupied habitat, and should also consider the basics of reserve design, and developing more consolidated critical habitat areas rather than fragmented and isolated pockets of habitat.

Our Response: To include areas in the revised critical habitat designation that are contiguous suitable or restorable unoccupied habitat between areas occupied by *Brodiaea filifolia* at the time of listing, we need evidence that these areas are essential for the conservation of the species. Additionally, our regulations at 50 CFR 424.12(e) state that we "shall designate as critical habitat areas outside the geographical area presently occupied by a species only when a designation limited to its present range would be inadequate to ensure the conservation of the species." Based on the best scientific information available to us at this time, we believe that limiting the designation to the species' present range is adequate to ensure the conservation of *B. filifolia,* and except for unoccupied habitat areas within the geographical area occupied by the species at the time of listing needed to sustain pollinators of the species, unoccupied habitat, in and of itself, is not essential for the conservation of *B. filifolia.*

Comment 9: One peer reviewer stated that pollinators should only be one element considered in drawing critical habitat unit boundaries, and noted that many populations of *B. filifolia* reproduce largely by clone and some (*e.g.,* the Glendora population) appear to have been isolated from cross-pollination for some time and continue to persist as significant contributors to the species.

Our Response: In addition to identifying undisturbed habitats able to support pollinators as a criterion for determining the revised critical habitat boundaries we used numerous other criteria such as: (1) Areas supporting occurrences on rare or unique habitat within the species' range; (2) areas supporting the largest known occurrences of *Brodiaea filifolia;* or (3) areas supporting stable occurrences. We thank the peer reviewer and have taken into consideration *B. filifolia* population dynamics and other interactions through the use of the above criteria as identified in the Criteria Used To Identify Critical Habitat section of this rule.

Comment 10: One peer reviewer recommended altering PCE 2 to read "Areas with a natural, generally intact or lightly disturbed surface * * *" According to the peer reviewer *B. filifolia* can persist in areas that have been disked, especially if the subsoil structure is intact. A second peer reviewer also felt PCE 2 should be eliminated or altered to reduce its significance for the same reasons.

Our Response: We appreciate the suggestion, but do not believe this change is necessary since "generally intact" was meant to indicate that the surface could be lightly disturbed as long as the disturbance did not result in permanent alteration of the surface or subsurface soil structure.

Comment 11: One peer reviewer asked how an intact soil surface provides habitat for pollinators, and whether this was an error and we meant "intact plant community."

Our Response: The passage actually reads, "* * * generally intact surface and subsurface soil structure and support habitat for pollinators * * *" In other words, the soil surface should be able to support pollinator habitat, not the pollinators themselves.

Comment 12: One peer reviewer suggested that the Special Management Considerations or Protection section of the revised critical habitat rule should discuss potential gaps in the conservation or management of localities that could be considered critical habitat for *Brodiaea filifolia* within existing or proposed HCPs. The peer reviewer goes on to state that some HCPs have little control over current land use practices on lands proposed for inclusion into the reserve system, and some HCPs have limited control on agricultural conversion of these lands.

Our Response: We appreciate the peer reviewer's suggestion, however the appropriate place for this discussion is in the Exclusions under Section 4(b)(2) of the Act section of the rule. In this section, we discuss the protections afforded the species and its habitat by various relevant HCPs and management plans.

Comment 13: One peer reviewer asked whether extremely large localities, *e.g.*, over 10,000 plants, should be given a higher priority as a factor in determining occurrences being determined for critical habitat.

Our Response: It is unclear what the peer reviewer means by giving occurrences 'priority.' All occurrences

that met one or more of the criteria were proposed as critical habitat in the proposed revised critical habitat designation. Critical habitat designation acreage is not limited; therefore, there was no need to prioritize or rank occurrences to make sure those with the highest conservation value were included in the proposal.

Comment 14: One peer reviewer felt that Criterion 3 was inconsistently applied to *Brodiaea filifolia* occurrences in the proposed revised critical habitat rule. According to the peer reviewer, it is unclear whether the Service intended Criterion 3 to mean that the population is stable and persistent despite recent losses, stable and persistent because it is in protected habitat without immediate future threat, or has not suffered declines in recent years.

Our Response: We meant "stable and persistent" in the ecological sense, *i.e.,* to mean that a population is resilient—it contains enough individuals to sustain the population over time. We did not consider impacts or threats when evaluating *Brodiaea filifolia* occurrences in the context of this criterion.

Comment 15: One peer reviewer pointed out that, according to Table 1 of the December 8, 2009, proposed revised critical habitat rule (74 FR 64930), the *Brodiaea filifolia* occurrence in Subunit 11a does not meet Criterion 2, but according to the text on page 64942 this occurrence does meet Criterion 2.

Our Response: We thank the peer reviewer for this observation. The text on page 64942 of the December 8, 2009, proposed revised rule (74 FR 64930) is incorrect; this occurrence does not meet criterion 2. Table 1 in the proposed revised rule (Table 3 in this final revised rule) is correct.

Comment 16: One peer reviewer suggested that we confirm the *Brodiaea filifolia* occurrence in Corona Cala Camino is in fact *B. filifolia.* According to the peer reviewer, this area is within the general range of *B. santarosae,* and the plants may actually be affiliated with that taxon.

Our Response: We will attempt to verify this occurrence as time permits. The data reported in the proposed revised critical habitat rule represents the best data available to us at the time the proposed revision was written. Because this occurrence does not meet any of the criteria for designation as *Brodiaea filifolia* critical habitat, this uncertainty is outside the scope of this critical habitat analysis and will not be addressed here.

Comment 17: One peer reviewer stated that the Cristianitos Canyon Pendleton occurrence is actually within San Onofre State Beach, therefore, it would appear that this occurrence would not be exempt from critical habitat designation under section 4(a)(3) of the Act.

Our Response: According to the GIS data provided to us by MCB Camp Pendleton, the Cristianitos Canyon Pendleton occurrence is located on the northern end of MCB Camp Pendleton.

Comment 18: One peer reviewer pointed out that Devil Canyon (Subunit 5b) is noted as both occurrence 38 and 39 in CNDDB. The reviewer suggests noting in the revised rule whether this subunit includes both occurrences or is limited to occurrence 39. The peer reviewer adds that since CNDDB notes this site as a hybrid population, additional citations should be provided in the revised rule, noting the current opinion on the species of *Brodiaea* found at this locality.

Our Response: Subunit 5b includes occurrence 39 only. We see the reviewer's point regarding adding a note to the revised rule to indicate that Subunit 5b does not contain CNDDB occurrence 38; however, we feel this may cause unnecessary confusion for readers who are not familiar with the situation. Our understanding at this point is that occurrence 39 (Subunit 5b) does not entirely comprise hybrids (Chester 2007, p. 191).

Comment 19: One peer reviewer asked how areas with PCEs were mapped if there was no actual field review of the localities being considered for critical habitat. According to the peer reviewer, a more precise mapping would require actual field examinations of the localities being mapped.

Our Response: We used GIS data from multiple sources as well as other resources outlined in the Criteria Used To Identify Critical Habitat section of this revised final rule to map the areas containing PCEs. We do not have staffing or resources to field identify each occurrence; therefore, we must rely on the best information available.

Comment 20: According to one peer reviewer, the *Brodiaea filifolia* occurrence in Subunit 11e meets Criterion 1 because it is the only remaining occurrence known to be associated with relatively high-quality annual alkali grassland. This occurrence is also unique because it persists in a more mesic habitat than is typically found along the San Jacinto River.

Our Response: Our analysis found the *Brodiaea filifolia* occurrence in Subunit 11e to meet Criterion 1 (see Table 3 above).

Comment 21: One peer reviewer pointed out that some of the survey results used to determine whether a population of *Brodiaea filifolia* had sufficient number of plants to be considered stable (850 flowering plants) were counts of non-flowering plants while others were counts of flowering plants.

Our Response: We consider the number of flowering *Brodiaea filifolia* stalks at a site to be an estimate of the minimum number of *B. filifolia* plants present. We understand that the number of *B. filifolia* individuals in a population is larger than the number of flowering stalks, thus we only used the number of flowering stalks as an estimate useful in comparing the relative abundance of *B. filifolia* at various sites across the species' range. If survey results for a site are reported in counts of non-flowering plants, and the numbers exceeded 850 plants, we could say with confidence that the site contained a sufficient number of plants to meet Criterion 3; if survey results reported in counts of non-flowering plants and were less than 850 plants, we would take into consideration the fact that non-flowering plant counts were used and also examine other characteristics of the occurrence to determine whether the occurrence met the stability standards of Criterion 3: "Additionally, we looked at all occurrences with fewer than 850 flowering stalks to determine if any of these exhibited the same persistence and stability characteristics to provide similar conservation value as the other identified occurrences with greater than 850 flowering stalks (since the counts for an occurrence vary from year to year)" (*see* Criteria Used To Identify Critical Habitat section above).

Comment 22: One peer reviewer suggested that the "2005 fCH" box for Unit 10 in Table 2 of the proposed revised critical habitat rule should read "Not designated; based on misidentification of *Brodiaea orcuttii*" rather than "Not designated, did not meet the definition of critical habitat" because the suggested revision more accurately reflects the situation. The peer reviewer feels it is important to separate such reports from those that actually support *B. filifolia* but did not meet the criteria for critical habitat.

Our Response: We have changed the entry in the "2005 fCH" box for Unit 10 in Table 2 of the proposed revised critical habitat rule to "Not designated; could not verify occurrence", because that is the language used in the 2005 final critical habitat rule (see 70 FR 73834).

Comment 23: Two peer reviewers suggested that Table 2 should indicate that the Corona North, Corona South, and Moreno Valley occurrences were not designated as critical habitat in 2005

because they were based on unsubstantiated claims that the locations were occupied by *Brodiaea filifolia.* The peer reviewers feel it is important to separate such reports from those that actually support *B. filifolia* but did not meet the criteria for critical habitat.

Our Response: We have changed the entry in the "2005 fCH" box for the Corona North, Corona South, and Moreno Valley occurrences to "Not designated, could not verify occurrence" as suggested by the peer reviewer.

Comment 24: One peer reviewer recommended the Service verify the number of *Brodiaea filifolia* plants found in Unit 3. The peer reviewer is not aware of any reports substantiating this number, and other sources (including the peer reviewer's own survey data) indicate a much smaller number of *B. filifolia* in this area. The peer review added that the population should be considered stable and persistent.

Our Response: We will attempt to verify these data as time permits. The data reported in the proposed revised critical habitat rule represents the best data available to us at the time the proposed revision was written. Because this occurrence meets Criterion 1 and thus qualifies for designation as *Brodiaea filifolia* critical habitat regardless of the accuracy of the survey data in question, this uncertainty is outside the scope of this critical habitat analysis and will not be addressed here.

Comment 25: One peer reviewer stated that the unit descriptions in the proposed revised rule generally provide a good overview of each locality proposed for critical habitat. However, the reviewer recommended that the Service add more information regarding the plant communities that occur in each of the units/subunits. The peer reviewer believes the unit descriptions are overly repetitive, and that these descriptions should focus on the existing plant communities, soils, and unique features of each locality. According to the reviewer, these descriptions should also provide more information on sites with large *Brodiaea filifolia* populations, noting the total number and distribution of plants within the unit or subunit of critical habitat. The reviewer then provides specific suggestions along these lines for a number of units/subunits as well as proposing instances where subunits could be expanded into adjacent unoccupied habitat, providing corrections where inaccurate information is given for an occurrence.

Our Response: We appreciate the peer reviewer's thorough review, suggestions, and information provided to improve this revised critical habitat rule and associated designation. We have incorporated the reviewer's suggested edits where appropriate.

Comment 26: One peer reviewer noted that many of the *Brodiaea* plants in Subunit 8b could be *B. orcuttii* or *B. filifolia* x *B. orcuttii* hybrids; however, the peer reviewer agrees with the Service that there is a sizable population of *B. filifolia* at this site and that the site qualifies for critical habitat based on supporting a persistent population. The reviewer also added that recent evidence suggests that *B. filifolia* and *B. orcuttii* do not hybridize readily, so hybridization may not be a long-term concern.

Our Response: We thank the peer reviewer for this information. *Please see* the Special Management Considerations Or Protection section above for further discussion of hybridization among species of *Brodiaea.*

Comment 27: One peer reviewer argued that in cases where conservation for species facing significant threats is not a priority of landowners, designating critical habitat will probably have little additional negative impact on either the condition of habitat or the willingness of landowners to participate in conservation because landowners are already actively degrading the habitat on their properties and are already unwilling to participate in conservation activities.

According to the peer reviewer, in Western Riverside County in particular, there are many examples indicating that designation of critical habitat would likely not make the conservation situation any worse than it is, or make the private stakeholders any less willing to participate in conservation actions than they have historically been. The peer reviewer believes that landowners in Western Riverside County are aware of the conservation value of lands such as the areas along the San Jacinto River and at Hemet that are necessary to the conservation of *Brodiaea filifolia* and other sensitive species, and are purposely working to eradicate resources via increases in discing frequency, early season discing, manure dumping, and irrigated cultivation rather than partner with regulators.

Because of this, the peer reviewer believes that in Western Riverside County there is no merit to the Service's argument that designating critical habitat on lands already covered by HCPs discourages landowners from participating in conservation actions and makes landowners believe having endangered species on their property is a liability because it has been clearly demonstrated that the landowners hold these views regardless. Thus Service should employ all regulatory mechanisms available including critical habitat designations to protect biological resources in these areas.

Our Response: Section 4(b)(2) of the Act authorizes the Secretary to designate critical habitat after taking into consideration the economic impacts, national security impacts, and any other relevant impacts of specifying any particular area as critical habitat. An area may be excluded from critical habitat if it is determined that the benefits of exclusion outweigh the benefits of designating a particular area as critical habitat, unless the failure to designate will result in the extinction of the species. We believe the exclusions made in this final revised rule are legally supported under section 4(b)(2) of the Act and scientifically justified. After analyzing the benefits of inclusion and exclusion of proposed revised critical habitat units and subunits on lands covered under the Western Riverside County MSHCP, we determined that the benefits of exclusion outweighed the benefits of inclusion of lands already conserved and managed in Subunits 11g, 11h, and portions of 11f (see Weighing Benefits of Exclusion Against Benefits of Inclusion—Western Riverside County MSHCP section above). Service biologists continue to work with the County of Riverside and permittees of the HCP to ensure *B. filifolia* and its habitat receive the full extent of protections anticipated by the Western Riverside County MSHCP.

Comment 28: One peer reviewer stated that manure dumping is probably the most significant and immediate threat to the seasonally flooded alkali vernal plains habitat and *B. filifolia* along the San Jacinto River. The peer reviewer further stated that the Western Riverside County MSHCP appears to have provided no mechanism to stop the manure dumping.

Our Response: We realize that manure dumping is not a covered activity under the Western Riverside County MSHCP. Because of the lack of protection afforded to biological resources against manure dumping by the Western Riverside County MSHCP, we have not excluded any areas that are subject to this activity from this revised critical habitat designation.

Comment 29: One peer reviewer expressed doubt that the partnership between the Service and the County of Riverside provides enough conservation potential to warrant excluding lands covered under the Western Riverside County MSHCP from critical habitat

designation in order to preserve this partnership. The peer reviewer believes that preserving this partnership is important, but if the partnership does not result in significant conservation benefits and does little to offset immediate and clearly identifiable threats, it should not preclude the introduction of additional regulatory conservation tools (such as critical habitat designations).

The peer reviewer goes on to state that the partnerships between the Service and the City of Carlsbad and the County of San Diego are more meaningful, making the argument in favor of excluding lands covered under the Carlsbad HMP and the County of San Diego MSCP Subarea Plan in order to preserve these partnerships more valid.

Our Response: Although we are striving to maintain and improve our partnerships with the Western Riverside County MSHCP permittees, they do not restrict the Service from designating critical habitat on lands covered by the Western Riverside County MSHCP. In this revised critical habitat designation for *Brodiaea filifolia,* we have not concluded that the partnership benefits of excluding lands in areas owned by or under the jurisdiction of Western Riverside County MSHCP permittees outweigh the benefits of including those lands in Subunits 11a, 11b, 11c, 11d, 11e, and a portion of 11f that are not currently conserved and managed (see Weighing Benefits of Exclusion Against Benefits of Inclusion—Western Riverside County MSHCP section above).

We also agree with the peer reviewer that the conservation actions taken by the City of Carlsbad over time, and the willingness of the County of San Diego to work toward species conservation, serve to support the argument in favor of excluding under section 4(b)(2) of the Act lands covered under the Carlsbad HMP and the County of San Diego MSCP Subarea Plan. However, in our balancing analysis under section 4(b)(2) of the Act, we relied more heavily on the presence of conservation and management on lands considered for exclusion than partnership benefits. As a result, we are only exercising our delegated discretion to exclude lands covered by the Carlsbad HMP (in Subunit 7d, and portions of Subunit 7a and 7c) and the County of San Diego MSCP Subarea Plan (portion of Unit 12), which are conserved and managed (see Weighing Benefits of Exclusion Against Benefits of Inclusion—Carlsbad HMP and Weighing Benefits of Exclusion Against Benefits of Inclusion—County of San Diego Subarea Plan sections above).

Comment 30: One peer reviewer stated that although the Orange County Southern Subregion HCP is untested at this point, the 2006 Environmental Impact Report/Environmental Impact Statement for the HCP proposed significant impacts to rare plants, including *Brodiaea filifolia,* suggests that while the plan will not jeopardize *B. filifolia,* it could significantly reduce recovery options within Orange County. The peer reviewer believes that the proposed revised rule did not offer enough specifics in its discussion of this HCP to support an exclusion of lands that are covered under the Orange County Southern Subregion HCP under section 4(b)(2).

Our Response: We may exercise our delegated discretion to exclude an area from critical habitat under section 4(b)(2) of the Act if we conclude that the benefits of exclusion of the area outweigh the benefits of its designation. We do not exclude areas based on the mere existence of management plans or other conservation measures. The existence of a plan may reduce the benefits of inclusion of an area in critical habitat to the extent the protections provided under the plan are redundant with conservation benefits of the critical habitat designation. In particular, we believe that the exclusion of lands may be justified when they are managed and conserved in perpetuity. Thus, in some cases the benefits of exclusion in the form of sustaining and encouraging partnerships that result in on the ground conservation of listed species may outweigh the incremental benefits of inclusion. The areas covered by the Orange County Southern Subregion HCP in Subunits 4c, and 4g, and approximately 12 ac (5 ha) in Subunit 4b, are not currently conserved and managed for the benefit of *Brodiaea filifolia,* and we have not concluded that the partnership benefits of excluding these areas outweigh the benefits of including these areas in the final revised designation. We are not exercising our delegated discretion to exclude these areas under section 4(b)(2) of the Act in this the final revised critical habitat designation (see Weighing Benefits of Exclusion Against Benefits of Inclusion—Orange County Southern Subregion HCP section).

Comment 31: One peer reviewer discussed numerous problems he believes exist within the Western Riverside County MSHCP that may impede *Brodiaea filifolia* conservation or even contribute to the decline of the species:

- There is no guarantee that many of the MSHCP goals will be achieved.
- Establishment of baseline populations, monitoring, and management take place only after the County of Riverside has acquired lands for conservation or when an environmental review is triggered for a specific development project.
- There are no hard-line conservation goals. Criteria Areas are merely guidelines for where conservation will take place but do not assure that the most suitable habitat is set aside in an appropriate configuration.
- The goals of the Western Riverside County MSHCP may be irrelevant to occurrences of *B. filifolia* along the San Jacinto River that could be extirpated or near extirpation before conservation triggers are activated within the HCP. If impacts continue at the current rate, there will be almost no *B. filifolia* habitat remaining along the San Jacinto River outside of the San Jacinto Wildlife Area within another 5 years.
- There has been no effort to stop land use activities that are greatly reducing the viability of habitats, such as proposed flood control projects along the San Jacinto River.
- The requirement that 90 percent of those portions of a property with long-term conservation value within the Criteria Area Species Survey Area will be avoided until the species conservation objectives are met is (1) unachievable relative to historic baseline conditions because over 10 percent of the original habitat has been degraded or developed, and (2) ineffective relative to a baseline established after habitat has been degraded.
- The current rate of acquiring land and implementing management on these lands is too slow to appreciably contribute to the stabilization and recovery of *B. filifolia.*
- Contradicting designations and directives within the Western Riverside County MSHCP undermine the effectiveness of proposed conservation measures.
- The Western Riverside County MSHCP calls for 6,900 ac (2,792 ha) of *B. filifolia* habitat to be set aside to provide adequate conservation and contribute to the recovery of the species. However, the Santa Rosa Plateau, which was likely expected to constitute a significant portion of this conservation area, can no longer contribute much acreage to the conservation area as only a small portion of the Santa Rosa Plateau is occupied by *B. filifolia.*

Our Response: The Western Riverside County MSHCP has provided an opportunity for valuable partnerships to be established and conservation measures for *Brodiaea filifolia* to be

implemented. Although we are striving to maintain and improve our partnerships with the Western Riverside County MSHCP permittees, they do not restrict the Service from designating critical habitat on lands covered by the Western Riverside County MSHCP. In this revised critical habitat designation for *Brodiaea filifolia,* in evaluating the partnership benefits contributed by the Western Riverside County MSHCP in the context of the current status the species and its habitat, we have not concluded that the benefits of excluding areas owned by or under the jurisdiction of Western Riverside County MSHCP permittees outweigh the benefits of including those lands in Subunits 11a, 11b, 11c, 11d, 11e, and a portion of 11f that are not currently conserved and managed (*see* Weighing Benefits of Exclusion Against Benefits of Inclusion—Western Riverside County MSHCP section above).

Comment 32: One peer reviewer stated that HCPs are required only to meet an extinction (*i.e.,* jeopardy) standard, and because recovery is not a requirement of HCPs, Section 10/HCP requirements to avoid jeopardy could result in reducing a species to a minimal existence that contributes little to the overall biotic community, and could also leave a species at perpetual risk of extinction from a variety of factors, while technically not qualifying as a jeopardy.

Our Response: We appreciate the peer reviewer's concerns regarding the long-term recovery of *Brodiaea filifolia.* Although not specifically stated by the peer reviewer, their comment indicates they believe that lands covered under an HCP should not be a basis for exclusion from a critical habitat designation because the plans do not protect a listed species to the level beyond that evaluated in a jeopardy analysis under section 7 of the Act. We do not agree that protections given to listed species under HCPs are necessarily limited to avoidance of jeopardy; we believe the protections afforded by each HCP for each species differ and need to be assessed on a case-by-case basis, which is what we have done in our exclusion analysis. *See* the Exclusions under Section 4(b)(2) of the Act section above for a detailed discussion.

Section 4(b)(2) of the Act states that critical habitat shall be designated, and revised, on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. An area may be excluded from critical habitat if it is determined that the benefits of exclusion outweigh the benefits of specifying a particular area as critical habitat, unless the failure to designate such area as critical habitat will result in the extinction of the species. Consequently, we may exercise our delegated discretion to exclude an area from critical habitat under section 4(b)(2) of the Act based on economic impacts, impacts on national security, or other relevant impacts, such as preservation of conservation partnerships, if we determine the benefits of excluding an area from critical habitat outweigh the benefits of including the area in critical habitat, provided the action of excluding the area will not result in the extinction of the species. We do not exclude areas based on the mere existence of management plans or other conservation measures. The existence of a plan may reduce the benefits of inclusion of an area in critical habitat to the extent the protections provided under the plan are redundant with conservation benefits of the critical habitat designation. In particular, we believe that the exclusion of lands may be justified when they are managed and conserved in perpetuity. Thus, in some cases the benefits of exclusion in the form of sustaining and encouraging partnerships that result in on the ground conservation of listed species may outweigh the incremental benefits of inclusion. *See* Exclusions under Section 4(b)(2) of the Act and *Benefits of Excluding Lands with HCPs* section for further discussion.

We found the benefits of excluding lands that are both conserved and managed under the Western Riverside County MSHCP, the County of San Diego MSCP Subarea Plan, the Carlsbad HMP, and the Orange County South and Central-Coastal HCPs to be greater than the benefits of including these lands. *See* the Exclusions under Section 4(b)(2) of the Act section above for a detailed discussion.

Comment 33: One peer reviewer stated that critical habitat is intended to provide for the conservation of the species (*i.e.,* to go beyond just preventing extinction and achieve a status where the protections afforded by the Act are no longer necessary); and that critical habitat designations within the context of regional HCPs could assure that the intent of the Act is achieved and improve the opportunity for recovery. The peer reviewer stated that relinquishing an important tool for conservation (*i.e.,* critical habitat) in cases where a Federal nexus would otherwise exist because of the HCP overlay is not wise if the overall strategic goal is to recover or stabilize an endangered species.

Our Response: Please see our response to Comment 32.

Comment 34: One peer reviewer stated that critical habitat is a tool that Federal agencies can use for conservation and by excluding lands within HCP boundaries other Federal agencies may miss opportunities to conserve species and their critical habitat.

Our Response: As a conservation tool, a critical habitat designation ensures that when actions with a Federal nexus may impact critical habitat, the Federal action agency consults with the Service to determine if the action will adversely modify critical habitat. Critical habitat does not require a Federal agency to perform any additional conservation actions nor does it direct conservation actions. With regard to areas that are within the boundaries of an HCP, each exclusion is based on our determination that the benefits of exclusion outweigh the benefits of inclusion, and that exclusion of an area will not result in extinction of a species. For the areas that we are exercising our delegated discretion to exclude under section 4(b)(2) of the Act from this final rule, we have evaluated the benefits of highlighting the importance of these areas for Federal agencies and the public, but found that the benefits of exclusion outweigh the benefits of inclusion for the areas we are excluding (*see* the Exclusions under Section 4(b)(2) of the Act section above for details).

Comment 35: One peer reviewer submitted numerous comments requesting additions to the text of the revised critical habitat rule regarding the life history, ecology, and habitat of *Brodiaea filifolia:*

- More information should have been presented on the significance of the clonal populations, even if seed production is a rare occurrence.
- More information on the population biology of monocots in this genus would be very helpful in determining the needs for habitat conservation.
- Any known information on seed viability in this or related species of *Brodiaea* should also be presented. Seed viability should provide some information on the rate of successful out-crossing in known occurrences of this species.
- The recorded localities of the two *Brodiaea* species on or near Santa Rosa Plateau need to be carefully reviewed to determine the actual remaining localities of *Brodiaea filifolia* found on the plateau or adjacent areas.

Our Response: We agree with the peer reviewer that having more information on the species would be helpful. We

have based our determinations in this revised critical habitat designation on the best available information, and have addressed the need for further information in our five-year review of the species (Service 2009a, pp. 35–36).

Comment 36: One peer reviewer stated that the description of *Brodiaea filifolia* habitat should also include riparian habitats, specifically riparian herb communities.

Our Response: We thank the peer reviewer for this information, and have added this to the text of the final revised critical habitat rule.

Comment 37: One peer reviewer suggested that the text of the rule be expanded to note that all areas excluded from the revised critical habitat designation under section 4(b)(2) of the Act are found within the Western Riverside County MSHCP Criteria Area cells or CASSA survey areas.

Our Response: We are exercising our delegated discretion to exclude only those areas that are both conserved and managed from this revised designation. These areas are protected from development impacts. Therefore, whether or not excluded areas under the Western Riverside County MSHCP fall within the Criteria Area or CASSA survey areas is not relevant.

Comment 38: One peer reviewer submitted a number of comments recommending edits or changes to the *Western Riverside County Multiple Species Habitat Conservation Plan (Western Riverside County MSHCP)* section of the revised critical habitat rule to correct or clarify information presented in the proposed revised rule, or add information the peer reviewer felt was relevant but missing from the rule.

Our Response: The *Western Riverside County Multiple Species Habitat Conservation Plan (Western Riverside County MSHCP)* section of the final revised rule includes the changes and additional information suggested by the peer reviewer as appropriate.

Comment 39: One peer reviewer requested additional explanation detailing why *Brodiaea filifolia* occurrences in San Diego and Riverside counties have been excluded from this revised critical habitat designation when more protected occurrences of the species are needed to offset the loss of many "secure" *B. filifolia* locations on Santa Rosa Plateau which were to be an important component of the recovery strategy for the species.

Our Response: Only units/subunits protected by conservation and management have been excluded from this revised critical habitat designation; the peer reviewer's issue is therefore moot. The Exclusions under Section 4(b)(2) of the Act and *Benefits of Excluding Lands with HCPs* sections of this revised critical habitat rule explain in detail our exclusion analyses and the outcomes thereof.

Comment 40: One peer reviewer expressed dissatisfaction with the Service's practice of not publishing "literature cited" sections with the text of **Federal Register** rules or on-line following the publication of a rule in the **Federal Register**.

Our Response: Complete lists of all references cited in any Service rulemaking are made available on-line at *http://www.regulations.gov* following publication of a rule. For rules written by the Carlsbad Fish and Wildlife Office, reference cited lists are also available upon request from the Field Supervisor of the Carlsbad Fish and Wildlife Office (*see* **FOR FURTHER INFORMATION CONTACT** section of the rule).

Comment 41: One peer reviewer pointed out that apparently some previous summaries of location information on *Brodiaea filifolia* prepared by Service staff (Roberts 1997, Roberts and Vanderwier 1997) were overlooked in the preparation of the proposed revised critical habitat rule. The peer reviewer believes that this material should have been used as the basis for the information in the text of the proposal and could have potentially eliminated some of the errors in the proposed revised rule. The peer reviewer added that other important updates provided to the Service by the California Native Plant Society (CNPS) (Roberts 2002a and 2002b) were also not reviewed in the preparation of the proposed revised critical habitat rule.

Our Response: We do have copies of the references the peer reviewer referred to in his comment. We used information from these resources to complete the 5-year review for *Brodiaea filifolia;* much of the occurrence information in this revised critical habitat rule was derived from the 5-year review.

Public Comments

Comment 42: One commenter expressed agreement with the Service's proposed exclusion of all lands covered by the Western Riverside County MSHCP from the revised critical habitat designation for *Brodiaea filifolia* (Subunits 11a, 11b, 11c, 11d, 11e, 11f, 11g, and 11h). The commenter stated that under provisions in section 6.9 of the Western Riverside County MSHCP and section 14.10 of the Implementing Agreement for the Western Riverside County MSHCP, no critical habitat for *Brodiaea filifolia* should be designated in the Western Riverside County MSHCP plan area; that the proposed exclusion of lands covered by the Western Riverside MSHCP was consistent with the United States District Court's (E.D.Cal. Nov. 11, 2006) Case No. 05–629–WBS–KJMA, which upheld the Service's decision to exclude the Western Riverside County MSHCP from the designation of critical habitat for the 15 vernal pool species, finding that this exclusion was a reasonable exercise of the Service's discretion; and that the Western Riverside County MSHCP already adequately provides for the survival and recovery of the species.

Our Response: With regard to the commenter's assertion that lands owned or under the jurisdiction of the Western Riverside County MSHCP should be excluded because the HCP provides adequate protection for the species, the adequacy of an HCP to protect a species and its essential habitat is one consideration taken into account in our evaluation under section 4(b)(2). Exclusion of an area from critical habitat is based on our determination that the benefits of exclusion outweigh the benefits of inclusion, and that exclusion of an area will not result in extinction of a species, which is a more complex analysis process. We have examined the protections afforded *Brodiaea filifolia* by the Western Riverside County MSHCP during our exclusion analysis in this revised critical habitat designation for *B. filifolia,* and have not concluded that the benefits of excluding areas owned by or under the jurisdiction of Western Riverside County MSHCP permittees outweigh the benefits of including Subunits 11a, 11b, 11c, 11d, 11e, and a portion of Subunit 11f that are not currently conserved and managed, and we are not exercising our delegated discretion to exclude these lands under section 4(b)(2) of the Act in this final revised critical habitat rule. Our determination not to exercise our delegated discretion to exclude areas from critical habitat designation under section 4(b)(2) of the Act is committed to agency discretion by law and is not reviewable (see *Home Builders Ass'n of N. Cal.* v. *U.S. Fish & Wildlife Serv.,* 2006 U.S. Dist. LEXIS 80255 at *66 (E.D. Cal. Nov. 2, 2006); *Cape Hatteras Access Preservation Alliance et al.* v. *U.S. Dept. of the Interior,* 2010 U.S. Dist. LEXIS 84515 ** 36–38 (D.D.C. August 17, 2010)). We did, however, determine that the benefits of excluding lands in areas owned by or under the jurisdiction of Western Riverside County MSHCP permittees that are conserved and managed (Subunits 11g, 11h, and a portion of Subunit 11f) outweigh the

benefits of including those lands as revised critical habitat for *B. filifolia* (see Weighing Benefits of Exclusion Against Benefits of Inclusion—Western Riverside County MSHCP section above).

With regard to the commenter's belief that critical habitat should not be designated in the Western Riverside County MSHCP Plan Area based on language in section 6.9 of the HCP and the associated Implementing Agreement, section 14.10 of the Implementing Agreement does not preclude critical habitat designation within the plan area (Dudek & Associates 2003b, p. 6–109; Western Riverside County Regional Conservation Authority *et al.,* p. 51). Consistent with our commitment under the Implementing Agreement, and after public review and comment on the proposed revised critical habitat for *Brodiaea filifolia,* we determined through our analysis under section 4(b)(2) of the Act that the maximum extent of allowable exclusions under the Western Riverside County MSHCP is limited to the exclusion of lands owned by or under the jurisdiction of the permittees of the Western Riverside County MSHCP that are both conserved and managed (Subunits 11g, 11h, and a portion of Subunit 11f) (see Benefits of Exclusion—Western Riverside County MSHCP section above for a detailed discussion of the exclusion analysis).

Comment 43: Two commenters stated that the Orange County Southern Subregion Habitat Conservation Plan provides for the conservation and management of *Brodiaea filifolia.* One of the commenters requested that the Secretary exercise his discretion under section 4(b)(2) of the Act to exclude the Orange County Southern Subregion Subarea 1 lands from the revised critical habitat designation for *B. filifolia,* and provided a number of reasons in support of a 4(b)(2) exclusion of the Orange County Southern Subregion Subarea 1 lands.

Our Response: We may exercise our delegated discretion to exclude an area from critical habitat under section 4(b)(2) of the Act if we conclude that the benefits of exclusion of the area outweigh the benefits of its designation. We do not exclude areas based on the mere existence of management plans or other conservation measures. The existence of a plan may reduce the benefits of inclusion of an area in critical habitat to the extent the protections provided under the plan are redundant with conservation benefits of the critical habitat designation. In particular, we believe that the exclusion of lands may be justified when they are managed and conserved in perpetuity. Thus, in some cases the benefits of exclusion in the form of sustaining and encouraging partnerships that result in on the ground conservation of listed species may outweigh the incremental benefits of inclusion. However, in reviewing the specific circumstances of *Brodiaea filifolia,* we have not concluded that the partnership benefits of excluding lands covered by the Orange County Southern Subregion HCP, the Western Riverside County MSHCP, the Carlsbad HMP, and the City and County of San Diego MSCP Subarea Plans that are not currently conserved and managed outweigh the regulatory and educational benefits afforded under section 7 of the Act as a consequence of designating critical habitat in these areas (*see* Exclusions under Section 4(b)(2) of the Act section above for details), and we are not exercising our delegated discretion to exclude these lands under section 4(b)(2) of the Act in this final revised critical habitat rule. Our determination not to exercise our delegated discretion to exclude areas from critical habitat designation under section 4(b)(2) of the Act is committed to agency discretion by law and is not reviewable (see *Home Builders Ass'n of N. Cal.* v. *U.S. Fish & Wildlife Serv.,* 2006 U.S. Dist. LEXIS 80255 at *66 (E.D. Cal. Nov. 2, 2006); *Cape Hatteras Access Preservation Alliance et al.* v. *U.S. Dept. of the Interior,* 2010 U.S. Dist. LEXIS 84515 ** 36–38 (D.D.C. August 17, 2010)).

Comment 44: Two commenters stated that the Service should have conducted the 4(b)(2) analysis in the proposed revised critical habitat rule and based its proposed revision on that analysis, because deferral of this analysis deprives the commenting public of information that is necessary to review and to provide meaningful comments on the proposed revised rule.

Our Response: Generally, it is our practice to include a discussion of areas we are considering for exclusion in proposed critical habitat rules in order to inform the commenting public of what areas may be excluded from the final designation under section 4(b)(2) of the Act and why, and allow the public opportunity to comment on potential exclusions prior to conducting a final exclusion analysis under section 4(b)(2) of the Act.

Comment 45: Two commenters stated that the Service should exclude the proposed 241 Completion Project right-of-way from Subunit 4c of the revised critical habitat designation. One of the commenters also pointed out that the Service issued a biological opinion finding that the construction of the 241 Completion Project would not appreciably reduce the likelihood of the survival and recovery of *Brodiaea filifolia.*

Our Response: Please see our response to Comment 43. While the 241 Completion Project did not specifically factor into our exclusion analysis, it is within the plan boundaries of the Orange County Southern Subregion HCP and our section 4(b)(2) analysis for the HCP covers this area.

Comment 46: One commenter expressed a belief that the proposed revised critical habitat rule for *Brodiaea filifolia* is flawed because it does not include all areas of occupied habitat. The commenter believes that at least 33 extant populations of *B. filifolia* that were present at the time of listing were arbitrarily dismissed from the proposed revised designation because they do not meet the criteria. According to the commenter, at least one of these populations is at the edge of the species range, and may thus have unique genetic characteristics that can impart novel evolutionary potential that may be particularly important under climate change scenarios.

Our Response: All currently occupied and formerly occupied habitat (including all extant CNDDB Element Occurrences) was considered for designation as revised critical habitat for *Brodiaea filifolia,* and all occurrences were included in the proposed revised critical habitat unless they were known to have been extirpated, presumed to have been extirpated based on documented negative survey results, are not natural occurrences (transplants or plants moved from their natural location with fill soil), or did not meet the criteria used to identify critical habitat (*see* Criteria Used To Identify Critical Habitat section above).

While we recognize that climate change is an important issue with potential effects to listed species and their habitats, we lack adequate information to make accurate predictions regarding its effects to *B. filifolia* at this time. However, the revised critical habitat subunits have been designed to capture the areas we believe to support the most stable and persistent populations, unique and rare habitat, and the largest populations of the species (*see* Criteria Used To Identify Critical Habitat section above). We believe these areas will be important to the conservation of *B. filifolia* under climate change scenarios.

Comment 47: One commenter expressed a belief that the Service failed to justify why the three criteria used to define revised critical habitat for *Brodiaea filifolia* are the only criteria

used to identify habitat critical for the survival and recovery of the species. The commenter believes that the three criteria fail to incorporate the effect of global climate change on the persistence of *B. filifolia* and that many more criteria are needed to identify essential plant habitat.

Our Response: We believe the three criteria used to define revised critical habitat for *Brodiaea filifolia* were broad enough to result in the proposal of a wide range of occurrences of the species. As a result, we expect the revised designation will afford protections to the species that will enhance its overall stability and persistence as well as providing for conservation. Because we cannot predict what effects global climate change may have on *B. filifolia,* its habitat, or distribution of the species and its habitat, we are unable to craft criteria that specifically address this issue.

Comment 48: One commenter expressed a belief that the proposed revised rule is flawed because it does not include unoccupied habitat that the commenter considers essential to the recovery of the species. The commenter further states that not including additional habitat that may not be occupied currently but was occupied in the recent past and where field conditions have not changed precludes the opportunity for species recovery in these areas, which the commenter considers essential.

Our Response: Critical habitat designation is a different process than development of recovery goals and objectives that are outlined in a recovery plan (which has not yet been developed for *Brodiaea filifolia*). A critical habitat designation is a regulatory action that defines specific areas that are essential to the conservation of the species in accordance with the statutory definition. A recovery plan (and the associated recovery goals and objectives) is a guidance document developed in cooperation with partners, which provides a roadmap with detailed site-specific management actions to help conserve listed species and their ecosystems. Recovery plans provide important information about the species and the actions that are needed to bring about a species' recovery.

We believe we have, to the best of our ability and based on the best available scientific and commercial information, identified all habitat areas that are essential to the conservation of *Brodiaea filifolia.* We recognize that the designation of revised critical habitat may not include all of the habitat that may eventually be determined to be necessary for the recovery of *B. filifolia,* and critical habitat designations do not signal that habitat outside the designation is unimportant or may not contribute to recovery. Areas outside the revised critical habitat designation will continue to be subject to conservation actions implemented under section 7(a)(1) of the Act and regulatory protections afforded by the section 7(a)(2) jeopardy standard and the prohibitions of section 9 of the Act if actions occurring in these areas may affect *B. filifolia;* these protections and conservation tools will continue to contribute to recovery of this species.

Comment 49: One commenter stated that species with designated critical habitat are more likely to be recovering than species that lack the designation, citing Taylor *et al.* 2005. This commenter believes that without critical habitat, *Brodiaea filifolia* has a reduced chance of persisting and recovering. This commenter goes on to state that the Service should consider and evaluate the recovery benefits of critical habitat designation in order to promulgate a legally valid critical habitat rule (which the commenter believes was not done in the proposed revised rule).

Our Response: Taylor *et al.* (2005) did not evaluate the effects of the conservation benefits provided by HCPs, long-term management plans, or INRMPs on the population trends of the species they evaluated in their study. We believe that the conservation benefits provided by critical habitat designation in areas we have included in the revised designation and by INRMPs, long-term management plans, and HCPs in areas exempted or excluded from the designation will provide the protection to *Brodiaea filifolia* anticipated by section 4 of the Act. Please see the response to comment 49 regarding recovery benefits to the species.

Comment 50: One commenter expressed opposition to any exclusions from the proposed revised critical habitat of areas that may be covered by other management plans, HCPs or INRMPs, pursuant to section 3(5)(A) under the logic that they do not need "special management" or under section 4(b)(2). The commenter believes that all *Brodiaea filifolia* essential habitat needs special management because of the variety of direct and indirect impacts to the habitat. The commenter stated that areas that require special management considerations but which are covered or will be covered in the future by management plans or conservation plans should not be excluded pursuant to ESA section 3(5)(A) or 4(b)(2) from the protection that a designation of critical habitat provides. The commenter went on to state that, in *Center for Biological Diversity, et al.* v. *Norton,* 240 F. Supp. 2d 1090, 1099 (D. Az. 2003), the court found that the existence of a management plan, far from being a reason to exclude an area from critical habitat, is indisputable proof that the area qualifies as critical habitat. An additional comment states that the Service fails to conduct the required 4(b)(2) analysis of the benefits of exclusion versus inclusion of lands covered by the existing HCPs.

Our Response: The Service does not interpret the definition of critical habitat (section 3(5)(A) of the Act) to mean that areas receiving protection or management do not meet the definition of critical habitat. We agree with the commenter that prong one of the definition of critical habitat in section 3(5)(A) of the Act requires only that an area contain a physical or biological feature essential to the conservation of the species that "may require" special management considerations or protection; it does not require an absolute finding that the area requires special management considerations or protection. Prong two of the definition of critical habitat does not require a finding that special management considerations or protection may be required.

Under section 4(b)(2) of the Act, exclusion of an area from critical habitat designation is based on our determination that the benefits of exclusion outweigh the benefits of inclusion, and that exclusion of the area will not result in extinction of a species, which is a complex analysis process. We found the benefits of exclusion of lands that are both conserved and managed under HCPs or long-term management plans to be greater than the benefits of including these lands in the revised critical habitat designation in large part because the associated HCPs and management plans afford protection to the excluded areas, and due to the benefits of preserving partnerships and encouraging development of additional HCPs and other conservation plans in the future. We believe we appropriately applied our exclusion analysis as required by section 4(b)(2) of the Act for existing HCPs. For more information, *see* the Exclusions under Section 4(b)(2) of the Act section for a detailed discussion.

Section 4(a)(3)(B)(i) of the Act states: "The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources

management plan prepared under section 101 of the Sikes Act [Improvement Act of 1997 (Sikes Act)] (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation."

We determined that conservation efforts identified in the INRMP provide a benefit to the populations of *Brodiaea filifolia* and this species' habitat occurring on MCB Camp Pendleton (the only military lands on which the species is known to occur) (MCB Camp Pendleton 2007, Section 4, pp. 51–76). The INRMP provides measures that promote the conservation of *B. filifolia* within the 1,531 ac (620 ha) of habitat that we believe contain the features essential to the conservation of *B. filifolia* on MCB Camp Pendleton, which are subject to the INRMP, within the following areas: Cristianitos Canyon, Bravo One, Bravo Two South, Basilone/San Mateo Junction, Camp Horno, Pilgrim Creek, and South White Beach. As a result, we are not including these areas in this final revised critical habitat designation.

Comment 51: One commenter stated that whether habitat does or does not require special management is not determinative on whether or not that habitat is "critical" to a threatened or endangered species; what is determinative is whether or not the habitat is "essential to the conservation of the species" and special management of that habitat is possibly necessary (16 U.S.C. 1532(5)(A)(i)). Thus, according to the commenter, the fact that a particular habitat does, in fact, require special management is demonstrative evidence that the habitat is "critical."

Our Response: We agree with the commenter that prong one of the definition of critical habitat in section 3(5)(A) of the Act requires only that an area contain a physical or biological feature essential to the conservation of the species that "may require" special management considerations or protection; it does not require an absolute finding that the area requires special management considerations or protection. Prong two of the definition of critical habitat does not require a finding that special management considerations or protection may be required. *Please see* the Criteria Used To Identify Critical Habitat and Exclusions Under Section 4(b)(2) of the Act sections for a detailed discussion of the process followed to delineate critical habitat for this revised designation.

Comment 52: One commenter stated that any exclusion of critical habitat that relies on not yet adopted, preliminary and not publicly reviewed plans for conservation is unacceptable and provides only a highly speculative conservation benefit at best. The commenter does not believe that the proposed revised critical habitat rule demonstrates unequivocally that the benefits of excluding these areas from the revised critical habitat designation for *Brodiaea filifolia* outweigh the benefits of including them in the designation.

Our Response: We did not exclude any habitat from this revised critical habitat designation that falls within the plan area of an HCP permit that has not yet been issued. *Please see* the Exclusions Under Section 4(b)(2) of the Act section for a detailed discussion on our exclusion analyses of those areas we considered for exclusion in the proposed revised critical habitat designation (74 FR 64292).

Comment 53: One commenter recommended that the revised critical habitat designation carefully consider all of the existing conservation investments through mitigation of impacts to *Brodiaea filifolia* and support those investments so that they can succeed. The commenter expressed concern that withdrawing these lands from the revised critical habitat designation would undermine and devalue the previous conservation investments because the surrounding land would no longer be highly valued for conservation, which would lead to isolation and fragmentation of adjacent areas which would degrade the mitigation lands, and ultimately make irrelevant the mitigation.

Our Response: We have excluded only lands that are both conserved and managed from this revised designation. Some of these excluded areas include lands set aside as mitigation or as a result of consultations under section 7 of the Act to offset project impacts. We do not agree with the commenter's assertion that not designating revised critical habitat would decrease the perceived conservation value of mitigation areas because these lands are understood to have high conservation value due to their conserved status.

Comment 54: One commenter asserted that the Service needs to include all occupied and suitable unoccupied habitat in the revised final economic analysis (FEA) and final revised critical habitat rule, and not rely on the proposed revised critical habitat rule as the basis for the economic analysis.

Our Response: The purpose of the economic analysis is to identify and analyze the potential incremental economic impacts associated with the revised designation of critical habitat for *Brodiaea filifolia.* Occupied areas not proposed as revised critical habitat are outside the scope of the Economic Analysis, as they are not expected to be impacted by the designation.

Comment 55: One commenter noted that Subunit 8f is in unincorporated San Diego County, not the City of San Marcos as indicated in the proposed revised critical habitat rule. It is within the County of San Diego MSCP North County Plan, but owned by the San Marcos Unified School District. School districts are their own jurisdiction and not subject to the County plans and regulations. The commenter does not object to the designation of this area as critical habitat for *Brodiaea filifolia.*

Our Response: We thank the commenter for this information and have incorporated it into the final revised critical habitat rule.

Comment 56: One commenter noted that Unit 12 is in a Minor Amendment area of the County of San Diego MSCP Subarea Plan; therefore, proposed projects require Service concurrence of proposed impacts and mitigation to move forward. Because Service concurrence is required, the commenter believes there will be no additional benefit from critical habitat. Approximately 28 ac (11 ha) of the southern portion of Unit 12 are Take Authorized and approximately 3.5 ac (1.4 ha) are hardline preserve. Mitigation for the Take Authorized area was coordinated with the Service prior to the approval of the Subarea Plan; therefore these areas should not be included in the revised critical habitat designation for *Brodiaea filifolia* according to this commenter.

Our Response: We may exercise our delegated discretion to exclude an area from critical habitat under section 4(b)(2) of the Act if we conclude that the benefits of exclusion of the area outweigh the benefits of its designation. We do not exclude areas based on the mere existence of management plans or other conservation measures. The existence of a plan may reduce the benefits of inclusion of an area in critical habitat to the extent the protections provided under the plan are redundant with conservation benefits of the critical habitat designation. In particular, we believe that the exclusion of lands may be justified when they are managed and conserved in perpetuity. Thus, in some cases the benefits of exclusion in the form of sustaining and encouraging partnerships that result in on the ground conservation of listed species may outweigh the incremental benefits of inclusion. Only a portion of the Minor Amendment area of the

County of San Diego MSCP Subarea Plan is both conserved and managed, and we have not concluded that the partnership benefits of excluding all lands within the Minor Amendment area under section 4(b)(2) of the Act outweigh the benefits of including these areas in the final revised critical habitat designation. Based on the results of our exclusion analysis for proposed lands covered under the County of San Diego MSCP Subarea Plan, we did determine that the benefits of exclusion outweighed the benefits of inclusion in the area already conserved and managed under the Artesian Trails Management Plan, and this is the only portion of the Minor Amendment area of the County of San Diego MSCP Subarea Plan that has been excluded from this revised designation.

Comment 57: One commenter suggested we exclude the Metropolitan Water District right-of-way from Unit 11a of the revised critical habitat designation. According to the commenter, the right-of-way includes the shoulders of Davis Road, which are highly disturbed and not suitable for sensitive plants. Alternatively, the commenter suggests we exclude all of Subunit 11a under 4(b)(2) of the Act because it is within the area covered by the Western Riverside County MSHCP. The commenter further expressed concern that the designation of revised critical habitat for *Brodiaea filifolia* may delay, limit, or impede access needed to ensure safe and effective operation of critical infrastructure (Metropolitan Water District) facilities in Subunit 11a. The commenter is concerned that maintenance activities in these areas could be delayed or prevented by additional permitting requirements of regulatory agencies due to the revised critical habitat designation.

Our Response: When determining the revised critical habitat boundaries, we made every effort to map precisely only the areas that contain the PCEs and provide for the conservation of *Brodiaea filifolia.* However, we cannot guarantee that every fraction of critical habitat contains the PCEs due to the mapping scale we use to draft critical habitat boundaries. We made every attempt to avoid including developed areas such as lands underlying buildings, paved areas, and other structures that lack PCEs for *B. filifolia.* The scale of maps prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed areas. Any developed structures and the land under them inadvertently left inside critical habitat boundaries shown on the maps of this final revised critical habitat designation are excluded by text in this rule and are not designated as critical habitat. Therefore, Federal actions involving these lands would not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific actions may affect the species or PCEs in adjacent critical habitat.

Please see our response to Comment 42 for a discussion regarding our 4(b)(2) analysis for areas covered by the Western Riverside County MSHCP. We are not exercising our delegated discretion under section 4(b)(2) of the Act to exclude Subunit 11a from this final revised critical habitat designation. Therefore, any Metropolitan Water District activities that might impact lands in Subunit 11a outside of the Davis Road right-of-way will require consultation with the Service if there is a Federal nexus; this may result in project delays.

Comment 58: One commenter pointed out that Metropolitan Water District purchased 74 ac (30 ha) of land and funded research to conserve and enhance populations of *Brodiaea filifolia* as part of the consultation under section 7 of the Act for the Inland Feeder Project (Service 1999 (1–6–99–F–18)). The commenter stated that these lands should be excluded from the revised critical habitat designation for *B. filifolia* because they have been conferred to CDFG for inclusion into the San Jacinto Wildlife Area, and are protected and managed by CDFG as part of the wildlife area.

Our Response: Please see our response to Comment 42 for a discussion regarding our 4(b)(2) analysis for areas covered by the Western Riverside County MSHCP. We are not exercising our delegated discretion under section 4(b)(2) of the Act to exclude lands within the San Jacinto Wildlife Area from this final revised critical habitat designation. Therefore, any Metropolitan Water District activities that might impact lands in Subunit 11a outside of the Davis Road right-of-way will require consultation with the Service if there is a Federal nexus.

Comment 59: One commenter submitted several comments describing needed and planned research activities for the Devil's Canyon (Subunit 5b) occurrence of *Brodiaea filifolia.*

Our Response: We thank the commenter for this information. We will consider this information in our next 5-year review for this species.

Economic Analysis Comments

General Comments About Framework, Assumptions, and Economic Benefits

Comment 60: Two commenters stated the discount rate applied and the development projections should be reevaluated given current economic conditions. The next few years will have far lower economic activity than expected, and should be reevaluated given current economic conditions.

Our Response: The U.S. Office of Management and Budget (OMB) requires Federal agencies to report results using discount rates of three and seven percent (see OMB, Circular A–4, 2003). The DEA relies on growth projections at the census tract level provided by the San Diego Association of Governments (SANDAG) and the Southern California Association of Governments (SCAG). These projections forecast growth over a 20-year period; however, they generally do not provide information about the percent of this growth occurring in intermediate time periods. It is possible that, given current economic conditions, development activity will be slower in the early part of this timeframe and more aggressive during the latter half. However, lacking specific data on which to base assumptions about a variable growth rate, we assume linear growth between 2010 and 2030. A note has been added to Exhibit 3–13 of the FEA to draw attention to this assumption (IEc 2010, p 3–20).

Comment 61: One commenter stated that as a result of decreased development and associated construction spending, it appears that there may not be funding available for many of the conservation efforts included in the HCPs. Therefore, the DEA's assumptions regarding the implementation of conservation measures under the HCPs and the availability of funds to carry out these measures are flawed.

Our Response: The DEA does not evaluate the broader goals of the regional HCPs and whether they will be achieved. The costs of implementing the HCPs outside of proposed revised critical habitat are not estimated. Rather, the DEA identifies development that is likely to occur over the next 20 years based on data obtained from regional planning agencies and uses the conservation and mitigation requirements defined in the HCPs as proxies for the best estimate of the outcome of future section 7 consultations. Specifically, the DEA assumes that 95 percent of critical habitat acres overlapping a development project must be preserved and salvaging

and transplantation of plants occurs on the remaining 5 percent. We agree that if a developer does not have the funds to carry out these measures, then the project is unlikely to move forward. However, the loss in land value that occurs as a result of these requirements is real, regardless of whether the individual projects actually take place.

Comment 62: One commenter stated that the DEA does not clearly define how it estimates potential cost associated with time delays, regulatory uncertainty, and stigma.

Our Response: Chapter 2 defines these categories of cost for the purposes of the analysis (IEc 2010, pp. 2–1–2–22). Data are not readily available to quantify potential impacts from regulatory uncertainty and stigma, thus they are discussed qualitatively.

Comment 63: One commenter stated that because all units within the proposed revised critical habitat are currently occupied by *Brodiaea filifolia,* no additional expenses would be incurred during section 7 consultation to address adverse modification of critical habitat.

Our Response: As is described in Chapter 2, new consultations taking place after critical habitat designation must include additional analysis and text to address whether the action will adversely modify critical habitat (IEc 2010, pp. 2–12–2–14). The Service, relevant action agencies, and third party participants in section 7 consultations have provided information for this and other economic analyses of critical habitat designation estimating the additional regulatory and administrative burdens imposed by this requirement. These costs are incremental because absent designation, no requirement to evaluate, comment on, or address the potential for adverse modification exists.

Comment 64: One commenter stated that including the cost of considering additional land for pollinators as an incremental cost of the designation is inappropriate because the Service must consider pollinators in consultations for impacts to the species regardless of designation of critical habitat.

Our Response: This assumption is explained in detail in the incremental effects memorandum from the Service provided in Appendix D (IEc 2010, p. D–1). It represents the professional judgment of Service staff and represents the best available information.

Comment 65: One commenter stated that no data are presented to justify the assumption that in areas greater than 50 ft (15 m) of a known *Brodiaea filifolia* occurrence, 20 percent of the time the action agency would not have been aware of the need to consult on potential effects to *B. filifolia.* Furthermore, relying upon this assumption to assign all costs associated with these consultations to the designation of critical habitat is not accurate. The commenter argues that these consultations should be required under the listing of the species and thus should be considered a baseline cost.

Our Response: The incremental effects memorandum provided in Appendix D justifies this assumption (IEc 2010, p. D–1). The Service relies upon consultation data for the San Diego fairy shrimp to determine the number of consultations which would not have occurred absent critical habitat. The Service states that "similar to [*Brodiaea filifolia*], impacts to lands adjacent to the habitat physically occupied by San Diego fairy shrimp (*i.e.,* the local watershed that surrounds a vernal pool) were not necessarily addressed through consultation with the Service prior to critical habitat designation" (Service 2010, *in litt.*). The Service determines that the designation of critical habitat for the fairy shrimp resulted in a 20 percent increase in the number of consultations and believes that it may see a comparable increase in the number of consultations for *B. filifolia* after the designation of revised critical habitat. This behavioral change is directly attributable to the designation of revised critical habitat; thus we count the costs of this new behavior as incremental. This assumption represents the professional judgment of Service staff and represents the best available information.

Comment 66: Two commenters stated that the administrative costs of consultation used in the analysis are underestimated. One commenter suggested that based on personal experience, the cost for technical assistance varies from $5,000 to $10,000 and can be more if outside legal counsel is necessary. Similarly, the costs for preparing a biological assessment are also underestimated; a more accurate figure would be $10,000 to $25,000. Another commenter suggested that the cost of preparing a biological assessment for a new consultation considering only adverse modification should be 5–10 times higher than the amount given in Exhibit 2–3 ($4,200). Additionally, the commenter believes that third party costs of consultation are substantially underestimated.

Our Response: We have reviewed the cost estimates presented by the commenters and find that they fall within acceptable range limits identified through discussions with other project proponents and as a result, have adjusted the FEA to reflect this new information on administrative costs associated with the designation. The FEA uses an administrative cost of preparing a biological assessment of $25,000; this estimate reflects the high-end estimate provided by one commenter and falls within the range provided by another commenter. The FEA uses an administrative cost to third parties of $10,000 for all types of consultation. It should be noted that a cost of $250,000 for a programmatic consultation and CEQA review of the Inland Feeder Project is used in place of the costs provided in Exhibit 2–3; because a cost estimate specific to the project was provided by the stakeholder (IEc 2010, p. 2–15).

Comment 67: One commenter stated that the Service's methodological approach of separately estimating incremental impacts of the designation relative to existing baseline protections omits substantial economic impacts resulting from the proposed rule.

Our Response: The identification and estimation of incremental impacts is consistent with direction provided by OMB to Federal agencies for the estimation of the costs and benefits of Federal regulations (*see* OMB, Circular A–4, 2003). It is also consistent with several recent court decisions, including *Cape Hatteras Access Preservation Alliance* v. *U.S. Department of the Interior,* 344 F. Supp. 2d 108 (D.D.C.) and *Center for Biological Diversity* v. *U.S. Bureau of Land Management,* 422 F. Supp. 2d 1115 (N.D. Cal. 2006). Those decisions found that estimation of incremental impacts stemming solely from the designation is proper.

Comment 68: One commenter stated that the Service's framework ignores indirect and cumulative effects of the designation of critical habitat. The measurement of these types of impacts is required under another Federal environmental law, the National Environmental Policy Act (NEPA).

Our Response: Executive Order 12866, Regulatory Planning and Review, and OMB's Circular A–4, which provides direction to Federal agencies on the implementation of Executive Order 12866, represent the framework used to estimate the costs and benefits of regulations promulgated by all Federal agencies. They do not require the estimation of indirect or cumulative impacts. Furthermore, section 4(b)(2) of the ESA is silent on the definition of "economic impacts" to be considered prior to the designation of critical habitat. Thus, the Service relies on the well-established and universally followed principles laid out in Circular A–4.

Also it is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses as defined by NEPA (42 U.S.C. 4321 *et seq.*) in connection with designating critical habitat under the Act. *See National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.)* section below.

Comment 69: One commenter stated that the DEA does not consider added environmental reviews by other regulatory agencies that could trigger more complex permits and more mitigation measures. Nor did it assess the costs of consultation under section 10 of the Act.

Our Response: Chapter 2 of the DEA explains that critical habitat designation may provide new information to a community about the sensitive ecological nature of a geographic region, potentially triggering additional economic impacts under State or local laws, such as CEQA (IEc 2010, pp. 2-1–2-22). Where appropriate the DEA includes costs associated with CEQA review. We are not aware of any new HCPs likely to be prepared under section 10 of the Act to cover *Brodiaea filifolia.* The HCPs currently in place were developed prior to the designation of critical habitat for *B. filifolia* and thus are outside of the scope of this analysis. Additionally, HCPs are usually not prepared for plant species because there is no prohibition against take of plants. In general, plant species will be covered by an HCP only if a listed animal species is present in the area.

Comment 70: One commenter stated that the DEA should consider cumulative effects (defined as the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions (40 CFR 1508.7)) of the revised critical habitat designation for *Brodiaea filifolia* and other existing or pending critical habitat designations in Southern California. The commenter stated NEPA and its implementing regulations require Federal agencies to evaluate these cumulative impacts.

Our Response: It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses as defined by NEPA in connection with designating critical habitat under the Act, including the economic analyses performed as part of the critical habitat designation process. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). The Ninth Circuit of the U.S. Court of Appeals upheld this position (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

Comment 71: One commenter stated that the DEA fails to include consideration of all the benefits resulting from the designation, such as the positive impact on property values in the surrounding community due to the designation and non-development of open space; protection of clean water and clean air; preservation of natural habitat for other species which may alleviate the need for listing species in the future; and maintaining a mosaic of habitat types that native species use as movement corridors in arid southern California. The commenter asserts that these benefits should be assessed and quantified where possible or otherwise included in a detailed qualitative analysis.

Our Response: As described in Chapter 6 of the DEA, the purpose of critical habitat is to support the conservation of *Brodiaea filifolia* (IEc 2010, pp. 6-1–6-4). The data required to estimate and value in monetary terms the incremental changes in the probability of conservation resulting from the designation are not available. Depending on the project modifications ultimately implemented as a result of the regulation, other ancillary benefits that are not the stated objective of critical habitat (such as increasing the value of homes adjacent to preserved habitat or preserving habitat for other non-listed species) may occur. These benefits are discussed qualitatively. The DEA includes a discussion of the potential benefits to property values as well as the overall benefit to ecosystem health that is shared by other, coexisting species. The FEA has been revised to include discussion of the new ancillary benefit categories referenced in the comment (see Exhibit 6–1 of the FEA) (IEc 2010, p. 6-4).

Impacts to Residential and Commercial Development Activities

Comment 72: One commenter stated that the DEA's assertion that the areas proposed for designation covered by the Orange County Southern Subregion HCP are within lands mapped as Reserves and Open Space Areas is incorrect. The commenter calculates that the proposed revised critical habitat designation covers 43.8 ac (17.7 ha) of land designated for development in Planning Area 2. This land falls within Subunit 4c.

Our Response: Chapter 3 of the DEA states that 90 ac (36 ha) out of a total 133 ac (54 ha) in Subunit 4c is or will be conserved under the Orange County Southern Subregion HCP (see Exhibit 3–2) (IEc 2010, p. 3–4). This leaves 43 ac (17 ha) of land that is not within lands mapped as Reserves and Open Space. The text on page 2–18 has been revised to clarify that only a portion of the land covered by the Orange County Southern Subregion HCP is within lands mapped as Reserves and Open Space (IEc 2010, p. 2–18).

Comment 73: One commenter stated that acres of private developable land attributable to Subunit 4c should be 43.8 ac (17.7 ha), not 18.53 ac (7.49 ha) set forth in Exhibit 3–3.

Our Response: The DEA characterizes potentially developable land as that where development is not currently restricted (*e.g.,* lands not conserved under an HCP) that has been categorized as "vacant" by SCAG or SANDAG. The FEA has been revised to reflect the information about potentially developable land in Subunit 4c provided by this comment. The FEA considers 25.01 ac (10.12 ha) categorized as "non-irrigated cropland and improved pastureland" as potentially developable land in addition to the 18.53 ac (7.49 ha) of vacant land. Exhibit 3–3 has been revised to reflect this new information and the economic impact estimates in the FEA have been revised accordingly (IEc 2010, p. 3–6).

Impacts to Transportation, Utility, and Flood Control Activities

Comment 74: One commenter stated that the DEA should include an evaluation of the impacts of designating revised critical habitat on the 241 Completion Project and all other transportation projects including project delays, the economic impact of designing, refining, and negotiating a preferred alternative to avoid *Brodiaea filifolia* critical habitat, costs associated with mitigation measures, and impacts arising from reduction in housing supply.

Our Response: The FEA evaluates potential economic impacts of this revised critical habitat designation on all known transportation projects within the areas proposed as revised critical habitat. Regarding the 241 Completion Project, we have become aware that the proposed project does not meet the requirements of the Coastal Zone Management Act and the California Coastal Commission (CCC) has denied a permit for this project as currently planned based on concerns related to a portion of the project located outside of revised critical habitat. Based on the

CCC's concerns, it appears that no viable project alternatives exist at this time and the proposed project as currently designed cannot move forward without project modification. Because the issues related to the CCC's permit denial concern areas not proposed as revised critical habitat, we consider these costs to be baseline and have identified these costs in the FEA (see 241 Completion Project in the FEA) (IEc 2010, p. 4-3). All other impacts on known transportation projects as a result of the designation are identified in Chapter 4 of the FEA (IEc 2010, pp. 4-1–4-3).

Comment 75: One commenter stated that designation of revised critical habitat for *Brodiaea filifolia* may result in increased economic burden to the Metropolitan Water District in Subunit 11a due to increased number of consultations with permitting agencies including consultations under section 10 of the Act where there is no Federal nexus (technically referred to as issuing an incidental take permit; the term 'consultation' refers to the process under section 7 of the Act, not under section 10 of the Act), increased environmental compliance costs for mitigation and CEQA documentation, and increased time and cost to obtain permits for maintenance operations.

Our Response: The FEA evaluated potential economic impacts of this revised critical habitat designation on all landowners and project proponents within the designated area. Regarding Metropolitan Water District activities, the FEA assumes that a programmatic consultation resulting entirely from the designation of revised critical habitat and CEQA review will occur in 2011. The FEA estimated the incremental costs to Metropolitan Water District to be $250,000. Additionally, according to the FEA, any project modifications that are requested as a result of the consultation are also considered incremental costs of the designation. However, because specific project modifications likely to be requested were not known at the time the FEA was completed, project modification costs have not been quantified for this project. Also, note that if there is no Federal nexus, issuing an incidental take permit under section 10 of the Act is not required for plant species.

Comment 76: One commenter stated that during consultation for the Inland Feeder project in Subunit 11A additional mitigation requirements may be imposed increasing the cost of compliance with the Act.

Our Response: The DEA includes the costs of a programmatic consultation resulting entirely from the designation of revised critical habitat and CEQA review for this project. Because this consultation would not have occurred absent critical habitat, any project modification costs would be considered incremental impacts of the designation. At this time we do not know specific project modifications that may be requested and thus cannot estimate potential costs. A qualitative discussion of the potential for additional project modification costs has been added to Chapter 4.

Comment 77: One commenter stated that the DEA should have included transportation projects in the regional and interregional transportation plans prepared for regional and Federal transportation planning and Federal air quality conformity such as the Regional Transportation Plans and Regional Transportation Improvement Plans.

Our Response: The SCAG and SANDAG Regional Transportation Plans and Regional Transportation Improvement Plans have been reviewed for the FEA. This review identified two projects that may occur within Subunit 11c: the widening of Case Road between Goetz Road and I–215 and construction of a two-lane arterial and two-lane grade separation on Ellis Avenue. These projects are identified as "financially constrained projects" that are subject to available funding. Because these projects are not yet funded and are, therefore, uncertain they will not be included in this analysis. A footnote to this effect has been added to Chapter 4 of the FEA.

Comment 78: One commenter stated that the DEA improperly and in violation of the requirement to use the "best scientific data available" excludes the 241 Completion Project from consideration of economic impacts resulting from the proposed rule. The commenter states that: the Service's conclusion that no viable alternatives exist for the 241 Completion Project is outside of the scope of the agency's expertise; new information alone is not a trigger for re-initiation of consultation; and the Service cannot determine at this time whether the 2008 biological opinion is no longer valid.

Our Response: As is described in the text box on page ES–11 and in Chapter 4 of the DEA the Service believes that no viable alternative exists for this project (IEc 2010, pp. ES–11, 4–2). The Service maintains that the Foothill/Eastern Transportation Corridor Agency would need to engage in additional consultation under section 7 of the Act for a redesigned project.

Required Determinations

Regulatory Planning and Review—Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule is not significant and has not reviewed this proposed rule under Executive Order 12866 (E.O. 12866). OMB bases its determination upon the following four criteria:

(1) Whether the rule will have an annual effect of $100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(2) Whether the rule will create inconsistencies with other Federal agencies' actions.

(3) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(4) Whether the rule raises novel legal or policy issues.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions), as described below. However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. In this final rule, we are certifying that the revised critical habitat designation for *Brodiaea filifolia* will not have a significant economic impact on a substantial number of small entities. The following discussion explains our rationale.

According to the Small Business Administration, small entities include small organizations, such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and

heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term "significant economic impact" is meant to apply to a typical small business firm's business operations.

To determine if the designation of revised critical habitat for *Brodiaea filifolia* would significantly affect a substantial number of small entities, we consider the number of small entities affected within particular types of economic activities, such as residential and commercial development. We apply the "substantial number" test individually to each industry to determine if certification is appropriate. However, the SBREFA does not explicitly define "substantial number" or "significant economic impact." Consequently, to assess whether a "substantial number" of small entities is affected by this designation, this analysis considers the relative number of small entities likely to be impacted in an area. In some circumstances, especially with critical habitat designations of limited extent, we may aggregate across all industries and consider whether the total number of small entities affected is substantial. In estimating the number of small entities potentially affected, we also consider whether their activities have any Federal involvement.

Designation of critical habitat affects only activities conducted, funded, permitted, or authorized by Federal agencies. Some kinds of activities are unlikely to have any Federal involvement and so will not be affected by critical habitat designation. In areas where the species is present, Federal agencies already are required to consult with us under section 7 of the Act on activities they fund, permit, or implement that may affect *Brodiaea filifolia.* Federal agencies also must consult with us if their activities may affect critical habitat. Designation of critical habitat, therefore, could result in an additional economic impact on small entities due to the requirement to reinitiate consultation for ongoing Federal activities (*see Application of the* "*Adverse Modification*" *Standard* section).

In our final economic analysis of the revised critical habitat designation, we evaluated the potential economic effects on small business entities resulting from implementation of conservation actions related to the revised designation of critical habitat for *Brodiaea filifolia.* The analysis is based on the estimated impacts associated with the rulemaking as described in sections 3 through 5 of the analysis and evaluates the potential for economic impacts related to: Commercial and residential development; transportation, utility, and flood control; and public and conservancy lands management (IEc 2010, p. 1–5). The FEA estimates the total incremental impacts associated with development as a whole to be $280,000 to $384,000 over the 20-year timeframe of the FEA. The FEA identifies incremental impacts to small entities to occur only due to residential and commercial development (IEc 2010, p. A–4). The other categories of projects either will have no impacts (transportation, utility, and flood control; management of public and conservation lands) or are Federal, State, or public entities not considered small or exceed the criteria for small business status (IEc 2010, p. A–4). Of the approximately 1,025 ac (415 ha) of land considered developable in the designation, only 132 ac (53 ha) have been forecasted to be developed over the next 20-year timeframe (IEc 2010, p. A–5). The FEA equates this acreage to 23 projects, with one developer per project (IEc 2010, p. A–6). The FEA summarizes that less than one new project is likely to occur annually that may be affected by the designation of revised critical habitat resulting in total annualized incremental impacts to small entities of $24,700 to $33,900 (IEc 2010, p. 3–19). The FEA assumes all developers are considered small; this estimate may overstate impacts if not all of the developers are small. Please refer to our final economic analysis of the revised critical habitat designation for *B. filifolia* for a more detailed discussion of potential economic impacts.

In summary, we considered whether this designation would result in a significant economic effect on a substantial number of small entities. The total number of small businesses impacted annually by the designation is estimated to be fewer than one, with an annualized impact of approximately $24,700 to $33,900. This impact is less than 10 percent of the total incremental impact identified for development activities. Based on the above reasoning and currently available information, we concluded this rule would not result in a significant economic impact on a substantial number of small entities for transportation, development, and flood control impacts as identified in the FEA (IEc 2010, p. A–1–A–6). Therefore, we are certifying that the designation of revised critical habitat for *Brodiaea filifolia* will not have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act, we make the following findings:

(1) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or Tribal governments, or the private sector, and includes both "Federal intergovernmental mandates" and "Federal private sector mandates." These terms are defined in 2 U.S.C. 658(5)–(7). "Federal intergovernmental mandate" includes a regulation that "would impose an enforceable duty upon State, local, or Tribal governments," with two exceptions. First, it excludes "a condition of federal assistance." Second, it also excludes "a duty arising from participation in a voluntary Federal program," unless the regulation "relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and Tribal governments under entitlement authority," if the provision would "increase the stringency of conditions of assistance" or "place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding" and the State, local, or Tribal governments "lack authority" to adjust accordingly. "Federal private sector mandate" includes a regulation that "would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance; or (ii) a duty arising from participation in a voluntary Federal program."

Critical habitat designation does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. Designation of critical habitat may indirectly impact non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency. However, the legally binding duty to avoid destruction or adverse

modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above on to State governments.

(2) As discussed in the FEA of the proposed designation of revised critical habitat for *Brodiaea filifolia,* we do not believe that this rule would significantly or uniquely affect small governments because it would not produce a Federal mandate of $100 million or greater in any year; that is, it is not a "significant regulatory action" under the Unfunded Mandates Reform Act. The FEA concludes incremental impacts may occur due to administrative costs of section 7 consultations for development activities; however, these are not expected to affect small governments. Incremental impacts stemming from various species conservation and development control activities are expected to be borne by the Federal Government, California Department of Transportation, CDFG, Riverside County, Riverside County Flood Control and Water Conservation District, and City of Perris, which are not considered small governments. Consequently, we do not believe that the revised critical habitat designation would significantly or uniquely affect small government entities. As such, a Small Government Agency Plan is not required.

Takings—Executive Order 12630

In accordance with E.O. 12630 ("Government Actions and Interference with Constitutionally Protected Private Property Rights"), we analyzed the potential takings implications of designating revised critical habitat for *Brodiaea filifolia* in a takings implications assessment. Critical habitat designation does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits. The designation of revised critical habitat for *B. filifolia* does not pose significant takings implications for the above reasons.

Federalism—Executive Order 13132

In accordance with E.O. 13132 (Federalism), this rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior policy, we requested information from, and coordinated development of this proposed revised critical habitat designation with, appropriate State resource agencies in California. The designation may have some benefit to these governments because the areas that contain the features essential to the conservation of the species are more clearly defined, and the PCEs of the habitat necessary to the conservation of the species are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist these local governments in long-range planning (because these local governments no longer have to wait for case-by-case section 7 consultations to occur).

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) would be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

Civil Justice Reform—Executive Order 12988

In accordance with Executive Order 12988 (Civil Justice Reform), it has been determined that the rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have designated critical habitat in accordance with the provisions of the Act. This rule uses standard property descriptions and identifies the PCEs within the designated areas to assist the public in understanding the habitat needs of *Brodiaea filifolia.*

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.)

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses as defined by NEPA (42 U.S.C. 4321 *et seq.*) in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, Government-to-Government Relations with Native American Tribal Governments (59 FR 22951), E.O. 13175, and the Department of the Interior's manual at 512 DM 2, we have a responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes.

We determined that there are no tribal lands occupied at the time of listing that contain the features essential to the conservation of the species, nor are there any unoccupied tribal lands that are essential for the conservation of *Brodiaea filifolia.* Therefore, critical habitat for *B. filifolia* is not being designated on tribal lands.

Energy Supply, Distribution, or Use—Executive Order 13211

E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. OMB has provided guidance for implementing this Executive Order that outlines nine outcomes that may constitute "a significant adverse effect" when compared to not taking the regulatory action under consideration. The economic analysis finds that none of these criteria are relevant to this analysis. Thus, based on information in the economic analysis, energy-related

impacts associated with *Brodiaea filifolia* conservation activities within revised critical habitat are not expected. As such, the designation of revised critical habitat for *Brodiaea filifolia* is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

References Cited

A complete list of all references cited in this rulemaking is available on *http://www.regulations.gov* at Docket No. FWS–R8–ES–2009–0073 and upon request from the Field Supervisor, Carlsbad Fish and Wildlife Office (*see* **FOR FURTHER INFORMATION CONTACT** section).

Author(s)

The primary author of this notice is the staff from the Carlsbad Fish and Wildlife Office (*see* **FOR FURTHER INFORMATION CONTACT** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

■ 2. In § 17.12(h), revise the entry for "*Brodiaea filifolia* (thread-leaved brodiaea)" under family Themidaceae to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
*	*	*	*	*	*		*
FLOWERING PLANTS							
*	*	*	*	*	*		*
Brodiaea filifolia	Thread-leaved brodiaea.	U.S.A. (CA)	Themidaceae ..	T	650	17.96(a)	NA
*	*	*	*	*	*		*

■ 3. Amend § 17.96(a) by:

■ a. Removing the entry for "*Brodiaea filifolia* (thread-leaved brodiaea)" under Family Liliaceae; and

■ b. Adding a new entry for "*Brodiaea filifolia* (thread-leaved brodiaea)" under Family Themidaceae in alphabetic order by family name to read as follows:

§ 17.96 Critical habitat—plants.

(a) *Flowering plants.*

* * * * *

Family Themidaceae: *Brodiaea filifolia* (thread-leaved brodiaea)

(1) Critical habitat units are depicted for Los Angeles, San Bernardino, Riverside, Orange, and San Diego Counties, California, on the maps below.

(2) Within these areas, the primary constituent elements (PCE) for *Brodiaea filifolia* consist of two components:

(i) PCE 1—Appropriate soil series at a range of elevations and in a variety of plant communities, specifically:

(A) Clay soil series of various origins (such as Alo, Altamont, Auld, or Diablo), clay lenses found as unmapped inclusions in other soils series, or loamy soils series underlain by a clay subsoil (such as Fallbrook, Huerhuero, or Las Flores) occurring between the elevations of 100 and 2,500 ft (30 and 762 m).

(B) Soils (such as Cieneba-rock outcrop complex and Ramona family-Typic Xerothents soils) altered by hydrothermal activity occurring between the elevations of 1,000 and 2,500 ft (305 and 762 m).

(C) Silty loam soil series underlain by a clay subsoil or caliche that are generally poorly drained, moderately to strongly alkaline, granitic in origin (such as Domino, Grangeville, Traver, Waukena, or Willows) occurring between the elevations of 600 and 1,800 ft (183 and 549 m).

(D) Clay loam soil series (such as Murrieta) underlain by heavy clay loams or clays derived from olivine basalt lava flows occurring between the elevations of 1,700 and 2,500 ft (518 and 762 m).

(E) Sandy loam soils derived from basalt and granodiorite parent materials; deposits of gravel, cobble, and boulders; or hydrologically fractured, weathered granite in intermittent streams and seeps occurring between 1,800 and 2,500 ft (549 and 762 m).

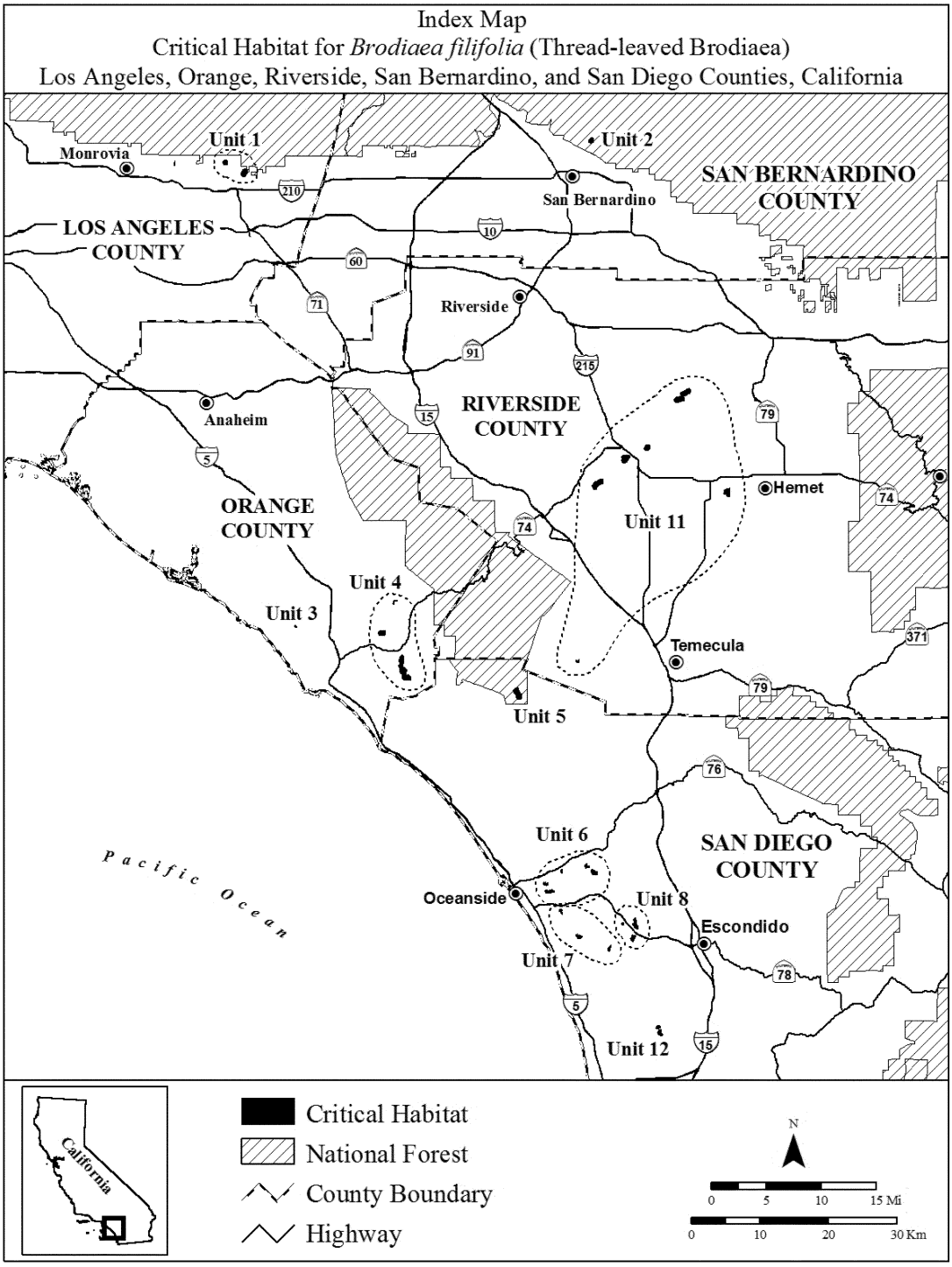
(ii) PCE 2—Areas with a natural, generally intact surface and subsurface soil structure, not permanently altered by anthropogenic land use activities (such as deep, repetitive discing, or grading), extending out up to 820 ft (250 m) from mapped occurrences of *Brodiaea filifolia* to provide for space for individual population growth, and space for pollinators.

(3) Critical habitat does not include manmade structures existing on the effective date of this rule and not containing one or more of the primary constituent elements, such as buildings, aqueducts, airports, and roads, and the land on which such structures are located.

(4) *Critical habitat map units.* Data layers defining map units were created using a base of U.S. Geological Survey 7.5' quadrangle maps. Critical habitat units were then mapped using Universal Transverse Mercator (UTM) zone 11, North American Datum (NAD) 1983 coordinates.

(5) *Note:* Index map of critical habitat units for *Brodiaea filifolia* (thread-leaved brodiaea) follows:

BILLING CODE 4310–55–P



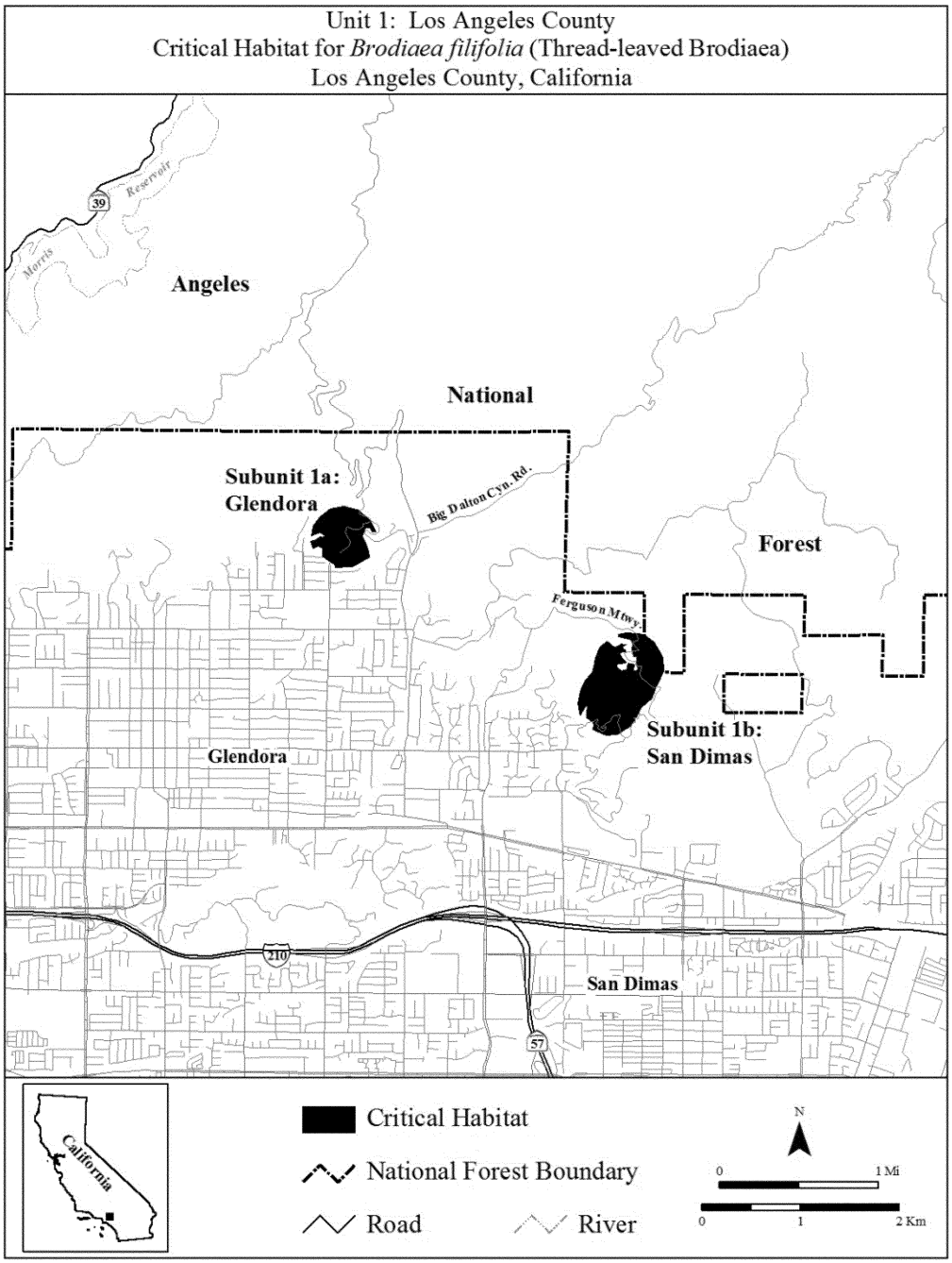
(6) Unit 1: Los Angeles County. From USGS 1:24,000 quadrangle map Glendora, Los Angeles County, California.

(i) Subunit 1a: Glendora. Land bounded by the following Universal Transverse Mercator (UTM) Zone 11, North American Datum of 1983 (NAD83) coordinates (E, N): 422408, 3779882; 422462, 3779764; 422424, 3779771; 422405, 3779809; 422356, 3779811; 422323, 3779723; 422353, 3779662; 422391, 3779567; 422397, 3779509; 422224, 3779417; 422051, 3779401; 422039, 3779437; 422008, 3779452; 421977, 3779480; 421925, 3779519; 421920, 3779598; 421883, 3779624; 421826, 3779599; 421803, 3779670; 421860, 3779684; 421896, 3779720; 421919, 3779713; 421945, 3779727; 421896, 3779760; 421809, 3779730; 421815, 3779760; 421829, 3779825; 421899, 3779920; 422002, 3779999; 422139, 3780025; 422294, 3779985; thence returning to 422408, 3779882.

(ii) Subunit 1b: San Dimas. Land bounded by the following UTM NAD83 coordinates (E, N): 425325, 3778572; 425359, 3778490; 425367, 3778364; 425315, 3778234; 425284, 3778164; 425246, 3778076; 425149, 3777990; 425092, 3777884; 425044, 3777802; 424905, 3777719; 424787, 3777708; 424656, 3777764; 424662, 3777823; 424647, 3777849; 424590, 3777886;

424590, 3777928; 424597, 3778011; 424571, 3777991; 424529, 3777914; 424515, 3777936; 424506, 3778028; 424518, 3778113; 424537, 3778181; 424582, 3778271; 424644, 3778345; 424667, 3778401; 424676, 3778492; 424719, 3778597; 424795, 3778660; 424826, 3778640; 424843, 3778626; 424851, 3778608; 424889, 3778602; 424920, 3778616; 424940, 3778637; 424968, 3778629; 424993, 3778622; 424973, 3778619; 424951, 3778602; 424961, 3778582; 424985, 3778568; 424985, 3778557; 424964, 3778557; 424936, 3778546; 424928, 3778529; 424953, 3778490; 424979, 3778462; 424990, 3778449; 424984, 3778438; 424930, 3778435; 424896, 3778429; 424896, 3778402; 424908, 3778387; 424931, 3778378; 424945, 3778359; 425004, 3778379; 425004, 3778413; 425016, 3778438; 425027, 3778427; 425044, 3778433; 425072, 3778426; 425076, 3778399; 425064, 3778387; 425066, 3778358; 425087, 3778364; 425112, 3778384; 425097, 3778407; 425089, 3778424; 425098, 3778441; 425095, 3778477; 425095, 3778509; 425067, 3778508; 425052, 3778572; 425058, 3778633; 425038, 3778671; 424916, 3778705; 424914, 3778733; 425001, 3778749; 425169, 3778727; 425271, 3778648; thence returning to 425325, 3778572.

(iii) *Note:* Map of Unit 1, Los Angeles County, follows:

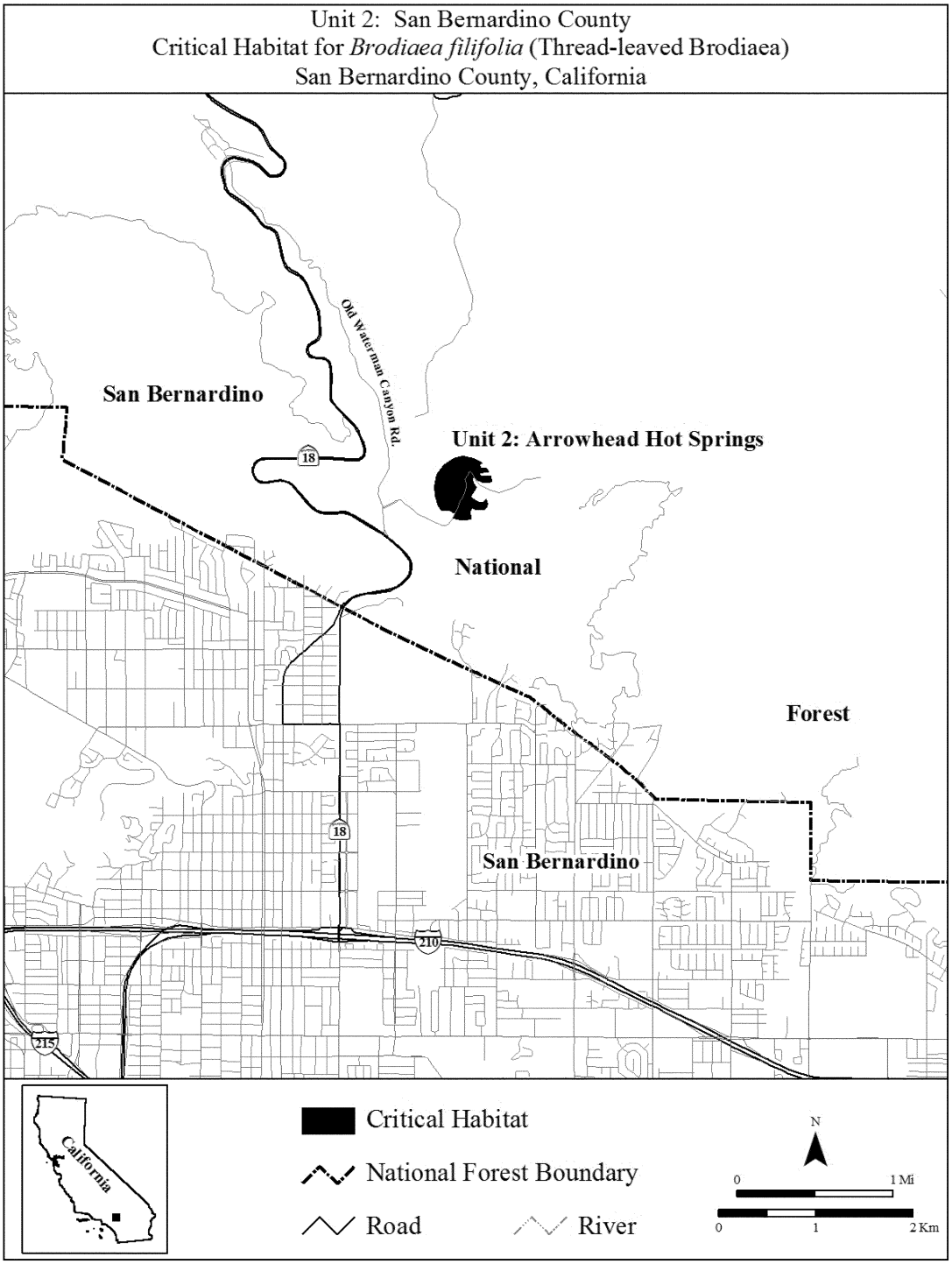


(7) Unit 2: San Bernardino County. From USGS 1:24,000 quadrangle map San Bernardino North, San Bernardino County, California.

(i) Arrowhead Hot Springs. Land bounded by the following UTM NAD83

coordinates (E, N): 475756, 3783146; 475763, 3783104; 475808, 3783104; 475830, 3783096; 475842, 3783067; 475744, 3783060; 475761, 3783023; 475827, 3783025; 475863, 3783021; 475876, 3782965; 475854, 3782962; 475836, 3782958; 475800, 3782956; 475773, 3782962; 475744, 3782971; 475721, 3782983; 475709, 3783006; 475684, 3783005; 475682, 3782992; 475686, 3782947; 475711, 3782920; 475716, 3782905; 475709, 3782895; 475705, 3782874; 475681, 3782844; 475668, 3782829; 475666, 3782807; 475682, 3782791; 475714, 3782768; 475748, 3782753; 475784, 3782755; 475820, 3782787; 475838, 3782735; 475827, 3782707; 475801, 3782677; 475790, 3782677; 475744, 3782680; 475705, 3782677; 475677, 3782696; 475654, 3782661; 475660, 3782581; 475612, 3782573; 475545, 3782573; 475482, 3782592; 475504, 3782635; 475472, 3782646; 475440, 3782672; 475403, 3782667; 475358, 3782674; 475324, 3782715; 475290, 3782821; 475289, 3782917; 475311, 3783037; 475380, 3783142; 475483, 3783208; 475584, 3783230; 475689, 3783208; 475767, 3783164; 475773, 3783155; thence returning to 475756, 3783146.

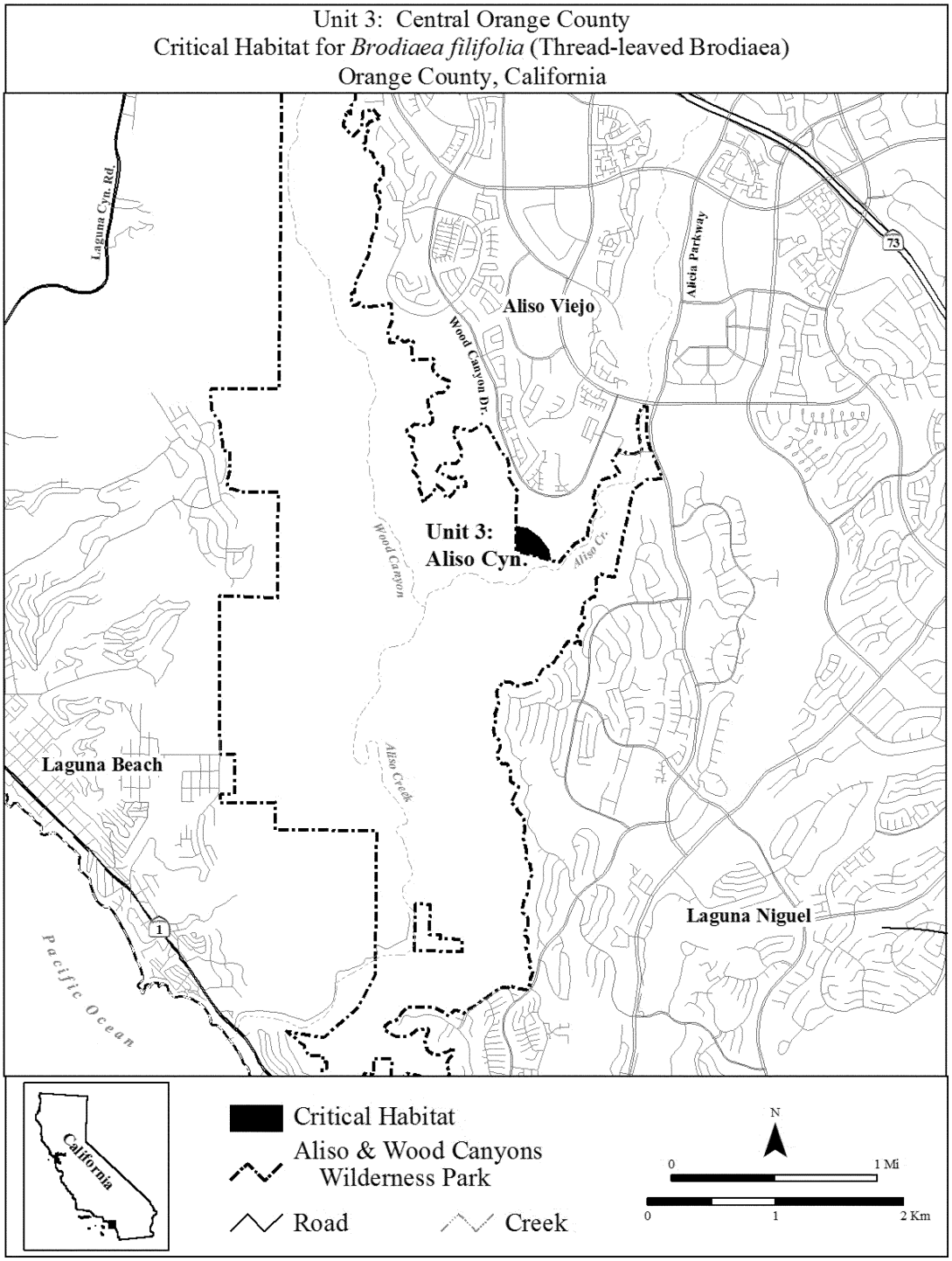
(ii) *Note:* Map of Unit 2, San Bernardino County, follows:



(8) Unit 3: Central Orange County. From USGS 1:24,000 quadrangle map San Juan Capistrano, Orange County, California.

(i) Aliso Canyon. Land bounded by the following UTM NAD83 coordinates (E, N): 432560, 3711875; 432501, 3711891; 432471, 3711899; 432436, 3711909; 432389, 3711922; 432289, 3711950; 432288, 3712146; 432371, 3712127; 432467, 3712061; 432539, 3711960; thence returning to 432560, 3711875.

(ii) *Note:* Map of Unit 3, Central Orange County, follows:



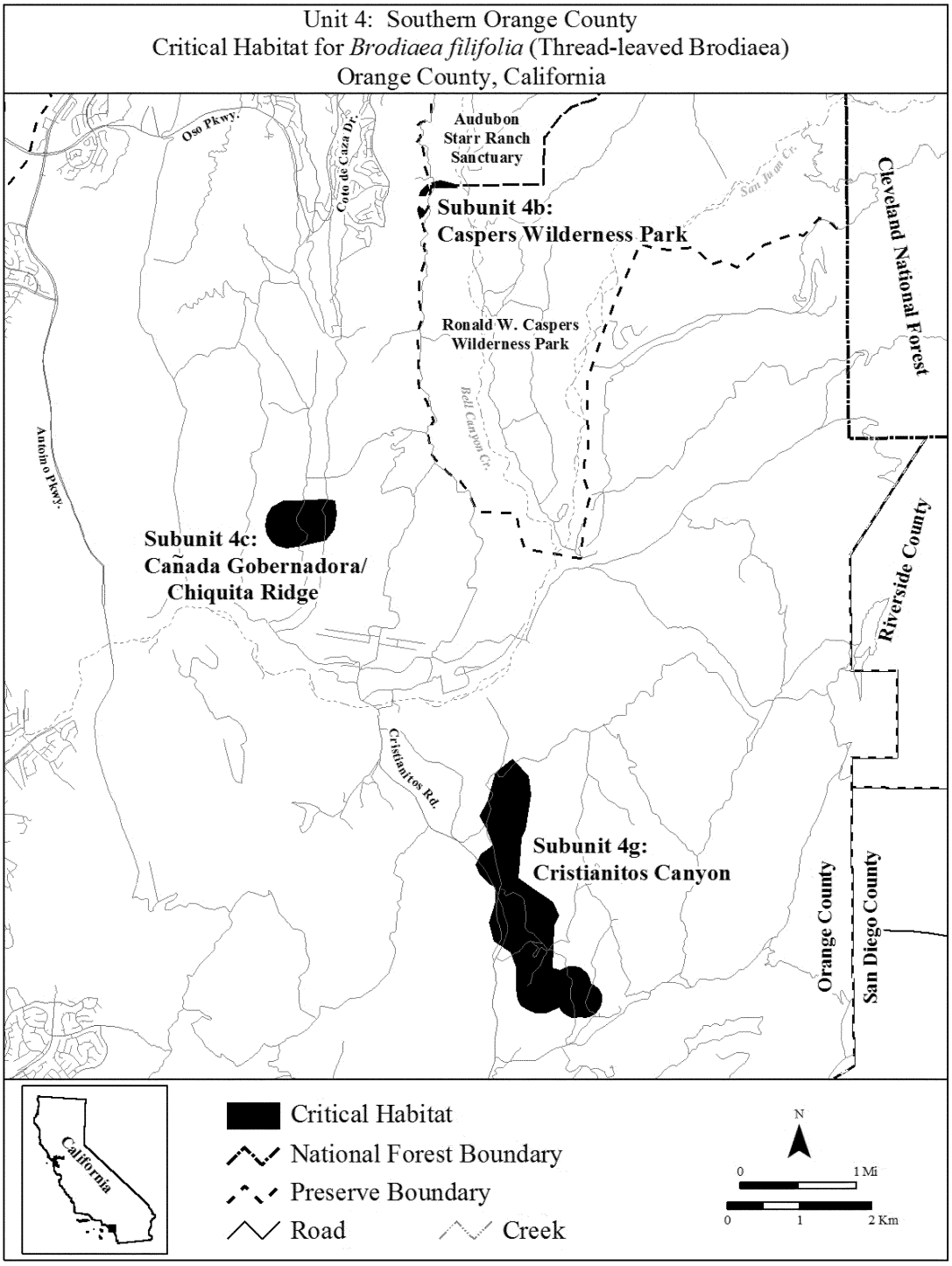
(9) Unit 4: Southern Orange County. From USGS 1:24,000 quadrangle map Cañada Gobernadora, Orange County, California.

(i) Subunit 4b: Caspers Wilderness Park. Land bounded by the following UTM NAD83 coordinates (E, N): 446657, 3715594; 446679, 3715660; 446777, 3715754; 446787, 3715756; 446802, 3715670; 446787, 3715650; 446749, 3715599; thence returning to 446657, 3715594. Continue to 446672, 3715282; 446635, 3715383; 446634, 3715424; 446664, 3715452; 446750, 3715379; 446725, 3715324; thence returning to 446672, 3715282. Continue to 447195, 3715710; 446853, 3715710; 446834, 3715765; 446831, 3715772; 446952, 3715811; 447141, 3715767; thence returning to 447195, 3715710.

(ii) Subunit 4c: Cañada Gobernadora/Chiquita Ridgeline. Land bounded by the following UTM NAD83 coordinates (E, N): 444988, 3710736; 444822, 3710714; 444688, 3710749; 444620, 3710811; 444555, 3710909; 444525, 3711030; 444549, 3711176; 444622, 3711280; 444769, 3711366; 444952, 3711370; 445174, 3711382; 445357, 3711387; 445494, 3711375; 445509, 3711195; 445478, 3710975; 445371, 3710832; 445127, 3710778; thence returning to 444988, 3710736.

(iii) Subunit 4g: Cristianitos Canyon. Land bounded by the following UTM NAD83 coordinates (E, N): 448505, 3704899; 448619, 3704865; 448693, 3704908; 448753, 3704920; 448807, 3704923; 448869, 3704911; 448913, 3704891; 448985, 3704826; 449023, 3704752; 449034, 3704695; 449095, 3704664; 449153, 3704605; 449187, 3704527; 449193, 3704439; 449172, 3704362; 449116, 3704286; 449051, 3704239; 448973, 3704215; 448885, 3704225; 448831, 3704215; 448781, 3704219; 448727, 3704235; 448660, 3704282; 448631, 3704315; 448603, 3704363; 448423, 3704282; 448272, 3704282; 448162, 3704323; 448074, 3704378; 448026, 3704460; 448012, 3704611; 448012, 3704741; 448012, 3704830; 448012, 3704912; 447930, 3705117; 447800, 3705206; 447704, 3705275; 447635, 3705535; 447717, 3705816; 447724, 3706014; 447635, 3706076; 447505, 3706199; 447444, 3706336; 447519, 3706480; 447684, 3706606; 447615, 3706809; 447498, 3707014; 447615, 3707206; 447724, 3707603; 447950, 3707795; 448176, 3707567; 448204, 3707309; 448128, 3706809; 448073, 3706701; 448057, 3706368; 448033, 3706154; 448231, 3706001; 448430, 3705877; 448512, 3705802; 448594, 3705631; 448525, 3705487; thence returning to 448505, 3704899.

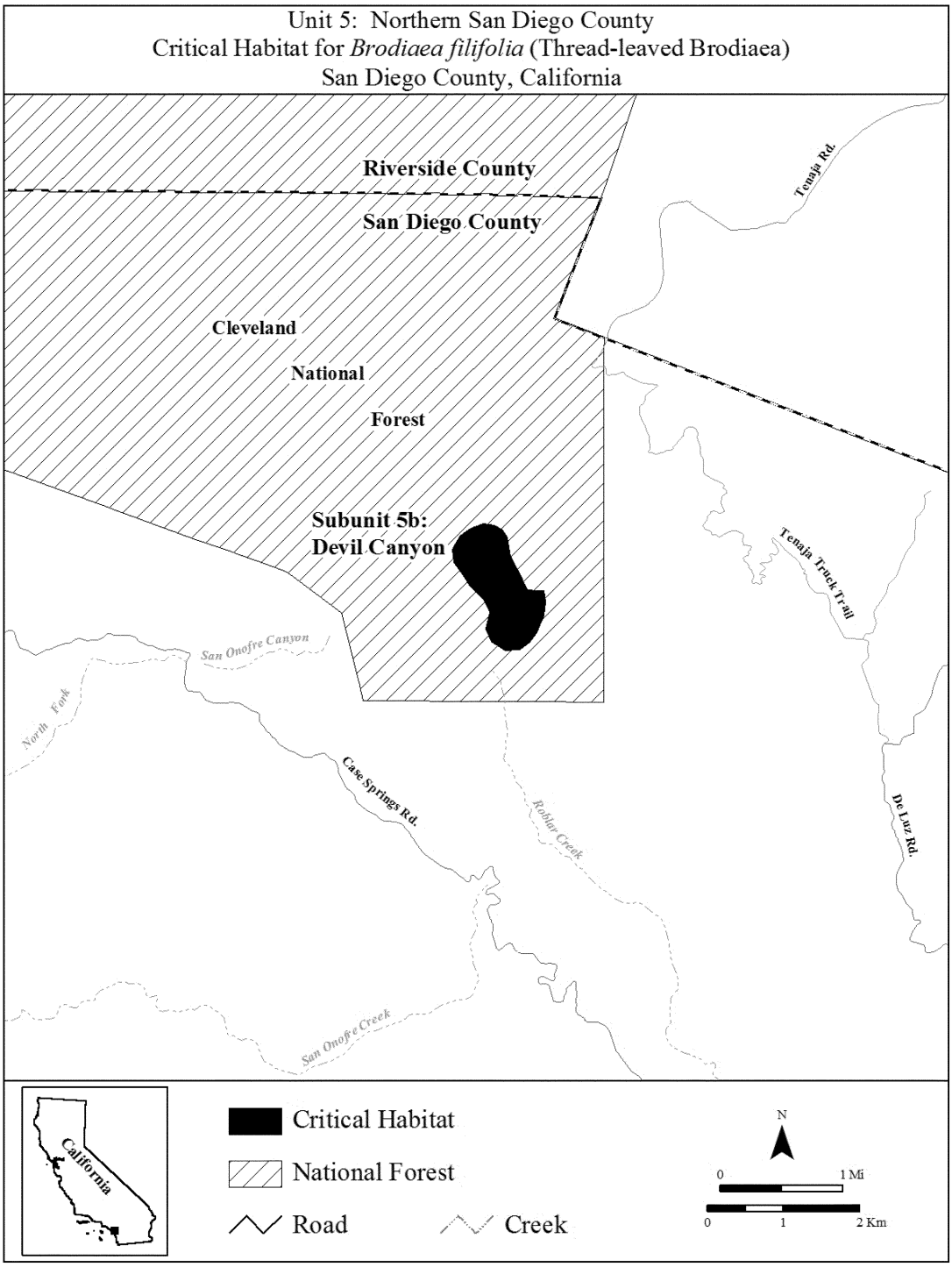
(iv) *Note:* Map of Unit 4, Southern Orange County, follows:



(10) Unit 5: Northern San Diego County. From USGS 1:24,000 quadrangle maps Fallbrook and Margarita Peak, San Diego County, California.

(i) Subunit 5b: Devil Canyon. Land bounded by the following UTM NAD83 coordinates (E, N): 465203, 3702184; 465318, 3702168; 465420, 3702168; 465439, 3702023; 465428, 3701850; 465333, 3701622; 465239, 3701500; 465113, 3701402; 464908, 3701394; 464732, 3701504; 464665, 3701669; 464716, 3701889; 464645, 3702050; 464448, 3702235; 464342, 3702416; 464248, 3702534; 464228, 3702719; 464323, 3702888; 464464, 3702990; 464633, 3703049; 464775, 3703026; 464885, 3702963; 464948, 3702872; 464964, 3702739; 464987, 3702616; 465070, 3702463; 465144, 3702322; thence returning to 465203, 3702184.

(ii) *Note:* Map of Unit 5, Northern San Diego County, follows:



(11) Unit 6: Oceanside, San Diego County, California. From USGS 1:24,000 quadrangle map San Luis Rey, San Diego County, California.

(i) Subunit 6a: Alta Creek. Land bounded by the following UTM NAD83 coordinates (E, N): 470033, 3673422; 470028, 3673364; 470103, 3673390; 470049, 3673279; 469947, 3673268; 469933, 3673297; 469861, 3673292; 469765, 3673271; 469754, 3673290; 469733, 3673288; 469694, 3673241; 469647, 3673203; 469340, 3673150; 469290, 3673280; 469454, 3673280; 469472, 3673385; 469461, 3673464; 469459, 3673517; 469775, 3673595; 469819, 3673600; 469861, 3673591; 469965, 3673540; 469936, 3673513; 469941, 3673452; thence returning to 470033, 3673422. Continue to 469160, 3673457; 469299, 3673146; 469251, 3673150; 469207, 3673154; 469101, 3673149; 469028, 3673175; 468994, 3673187; 468917, 3673248; 468862, 3673350; 468862, 3673358; 468853, 3673464; 468852, 3673477; thence returning to 469160, 3673457.

(ii) Subunit 6b: Mesa Drive. Land bounded by the following UTM NAD83 coordinates (E, N): 468915, 3674517; 468893, 3674517; 468892, 3674526; 468877, 3674541; 468863, 3674561; 468863, 3674587; 468857, 3674609; 468848, 3674625; 468844, 3674648; 468835, 3674670; 468864, 3674678; 468878, 3674689; 468899, 3674707;

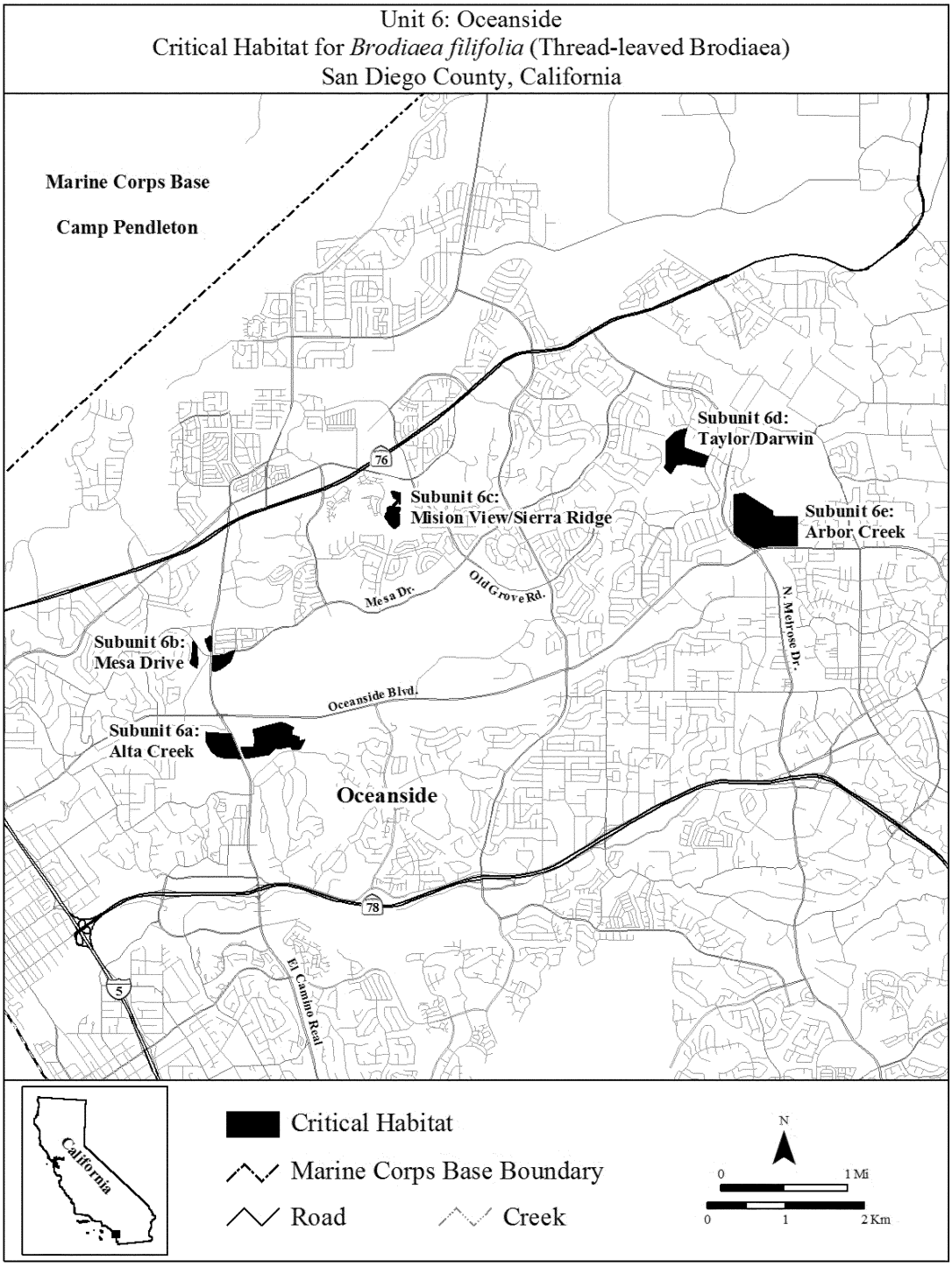
468918, 3674700; thence returning to 468915, 3674517. Continue to 468732, 3674337; 468733, 3674299; 468680, 3674337; 468641, 3674369; 468652, 3674387; 468664, 3674416; 468674, 3674490; 468682, 3674548; 468687, 3674609; 468687, 3674641; 468711, 3674605; 468736, 3674562; 468736, 3674526; 468736, 3674474; 468739, 3674441; 468749, 3674423; 468750, 3674395; 468750, 3674374; 468743, 3674350; thence returning to 468732, 3674337. Continue to 468977, 3674272; 468936, 3674260; 468942, 3674457; 469035, 3674460; 469086, 3674475; 469154, 3674504; 469216, 3674523; 469195, 3674471; 469172, 3674417; 469150, 3674383; 469103, 3674339; 469064, 3674311; 469028, 3674288; thence returning to 468977, 3674272.

(iii) Subunit 6c: Mission View/Sierra Ridge. Land bounded by the following UTM NAD83 coordinates (E, N): 471256, 3676540; 471308, 3676525; 471322, 3676525; 471325, 3676497; 471325, 3676436; 471323, 3676399; 471318, 3676384; 471293, 3676426; 471285, 3676401; 471265, 3676381; 471248, 3676356; 471263, 3676342; 471293, 3676341; 471310, 3676341; 471323, 3676329; 471323, 3676322; 471306, 3676295; 471293, 3676269; 471310, 3676248; 471318, 3676235; 471312, 3676210; 471305, 3676181; 471313, 3676166; 471313, 3676151; 471313, 3676137; 471301, 3676117; 471275, 3676100; 471265, 3676085; 471241, 3676075; 471182, 3676137; 471149, 3676188; 471137, 3676205; 471137, 3676236; 471145, 3676267; 471167, 3676279; 471167, 3676346; 471182, 3676354; 471228, 3676354; 471236, 3676386; 471263, 3676413; 471280, 3676418; 471288, 3676440; 471253, 3676466; 471234, 3676476; 471226, 3676502; 471216, 3676525; 471216, 3676540; thence returning to 471256, 3676540.

(iv) Subunit 6d: Taylor/Darwin. Land bounded by the following UTM NAD83 coordinates (E, N): 475246, 3676994; 475198, 3676860; 474920, 3676914; 474920, 3676911; 474917, 3676900; 474843, 3676895; 474840, 3676895; 474762, 3676777; 474688, 3676855; 474720, 3676903; 474720, 3677197; 474818, 3677296; 474888, 3677325; 474968, 3677352; 474925, 3677213; 474936, 3677192; 474928, 3677106; thence returning to 475246, 3676994.

(v) Subunit 6e: Arbor Creek/Colucci. Land bounded by the following UTM NAD83 coordinates (E, N): 475917, 3675848; 475854, 3675822; 475695, 3675915; 475579, 3676018; 475583, 3676501; 475701, 3676520; 476070, 3676287; 476071, 3676228; 476380, 3676221; 476380, 3675858; 476001, 3675858; thence returning to 475917, 3675848.

(vi) *Note:* Map of Unit 6, Oceanside, follows:



(12) Unit 7: Carlsbad, San Diego County, California.

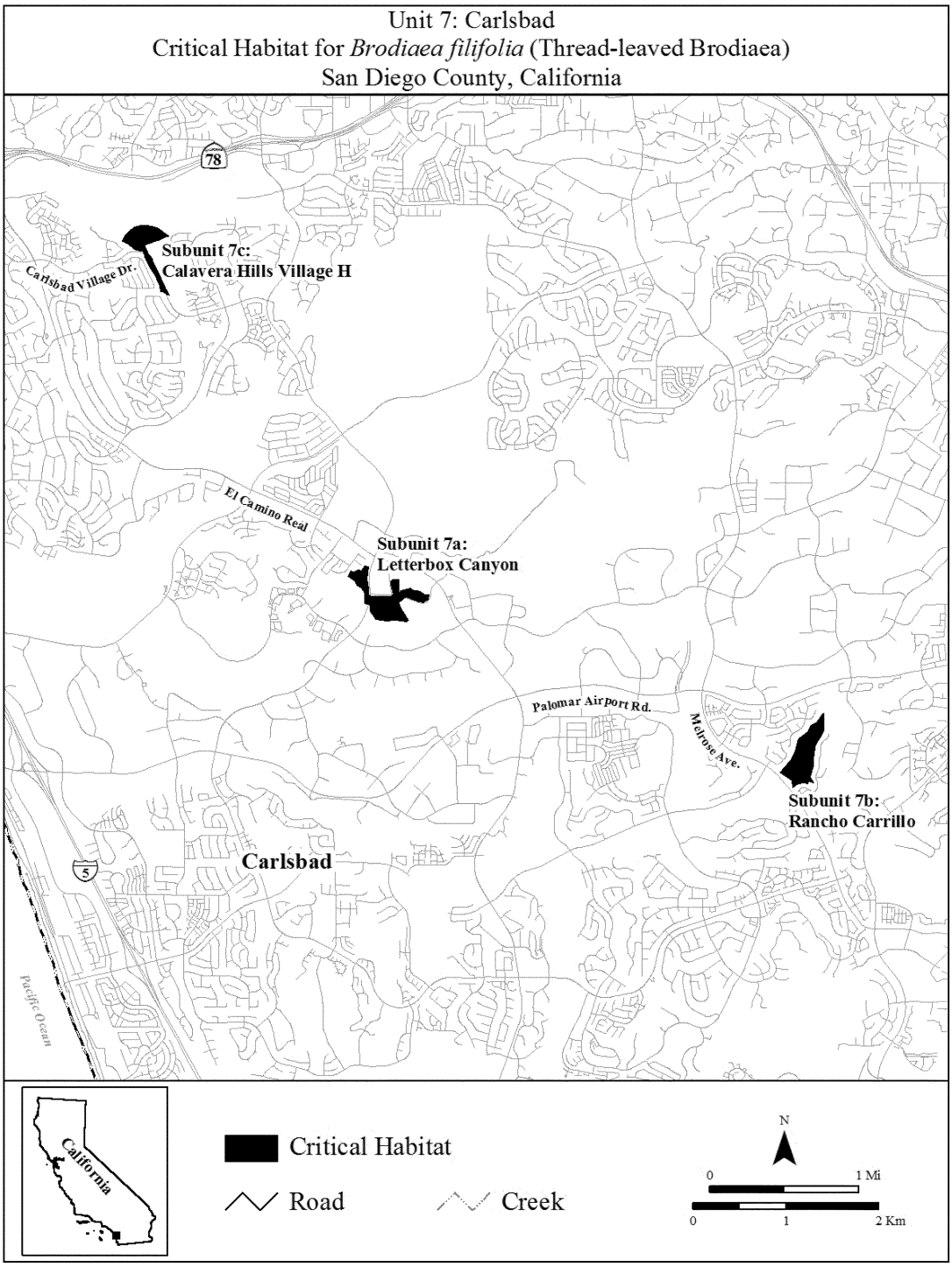
(i) Subunit 7a: Letterbox Canyon. From USGS 1:24,000 quadrangle map San Luis Rey, land bounded by the following UTM NAD83 coordinates (E, N): 473516, 3667072; 473504, 3666941; 473516, 3666839; 473519, 3666765; 473558, 3666762; 473635, 3666758; 473759, 3666758; 473782, 3666785; 473756, 3666880; 473761, 3666926; 473777, 3666940; 473845, 3666935; 473846, 3666935; 473847, 3666778; 473848, 3666778; 473849, 3666778; 473850, 3666781; 473860, 3666822; 473904, 3666832; 473971, 3666844; 473968, 3666840; 473973, 3666838; 473978, 3666836; 474005, 3666824; 474011, 3666821; 474033, 3666818; 474036, 3666817; 474081, 3666811; 474121, 3666781; 474134, 3666779; 474136, 3666779; 474149, 3666777; 474151, 3666777; 474156, 3666777; 474159, 3666776; 474161, 3666776; 474167, 3666775; 474173, 3666774; 474160, 3666727; 474159, 3666726; 474159, 3666724; 474155, 3666721; 474153, 3666720; 474120, 3666699; 474118, 3666698; 474112, 3666694; 474100, 3666695; 474099, 3666695; 474098, 3666695; 474095, 3666695; 474090, 3666695; 474087, 3666695; 474061, 3666696; 473920, 3666753; 473848, 3666694; 473861, 3666635; 473890, 3666593; 473952, 3666506; 473930, 3666483; 473810, 3666500;

473706, 3666498; 473599, 3666515; 473533, 3666593; 473539, 3666667; 473480, 3666686; 473474, 3666798; 473441, 3666848; 473394, 3666880; 473370, 3666918; 473297, 3666974; 473330, 3667034; 473360, 3667013; 473404, 3667041; 473441, 3667031; 473480, 3667085; thence returning to 473516, 3667072.

(ii) Subunit 7b: Rancho Carrillo. From USGS 1:24,000 quadrangle maps Rancho Santa Fe and San Marcos, land bounded by the following UTM NAD83 coordinates (E, N): 478285, 3664797; 478307, 3664759; 478307, 3664749; 478251, 3664772; 478244, 3664745; 478200, 3664753; 478146, 3664747; 478085, 3664702; 478076, 3664774; 477946, 3664862; 477994, 3664920; 478066, 3664996; 478104, 3665067; 478117, 3665119; 478147, 3665221; 478249, 3665297; 478278, 3665368; 478339, 3665400; 478409, 3665501; 478419, 3665498; 478419, 3665496; 478419, 3665309; 478383, 3665244; 478345, 3665196; 478327, 3665137; 478319, 3665051; 478304, 3665021; 478303, 3664935; 478270, 3664821; thence returning to 478285, 3664797.

(iii) Subunit 7c: Calavera Hills Village H. From USGS 1:24,000 quadrangle map San Luis Rey, land bounded by the following UTM NAD83 coordinates (E, N): 471354, 3670039; 471355, 3670036; 471357, 3670032; 471361, 3670025; 471364, 3670018; 471374, 3669997; 471361, 3669999; 471345, 3669999; 471310, 3670039; 471282, 3670039; 471271, 3670102; 471257, 3670129; 471225, 3670198; 471181, 3670281; 471131, 3670366; 471109, 3670410; 471099, 3670466; 471068, 3670472; 471018, 3670480; 470999, 3670495; 470982, 3670510; 470940, 3670542; 470876, 3670576; 470871, 3670578; 470893, 3670639; 470935, 3670684; 471000, 3670729; 471009, 3670731; 471066, 3670749; 471099, 3670749; 471119, 3670749; 471188, 3670741; 471258, 3670710; 471348, 3670646; 471362, 3670634; 471362, 3670629; 471351, 3670626; 471252, 3670590; 471219, 3670578; 471107, 3670536; 471141, 3670460; 471150, 3670442; 471154, 3670434; 471156, 3670431; 471158, 3670429; 471161, 3670426; 471163, 3670423; 471165, 3670421; 471168, 3670418; 471170, 3670416; 471172, 3670413; 471174, 3670410; 471176, 3670408; 471178, 3670405; 471180, 3670402; 471182, 3670399; 471183, 3670396; 471185, 3670393; 471187, 3670390; 471189, 3670387; 471190, 3670384; 471192, 3670381; 471193, 3670378; 471195, 3670375; 471262, 3670230; 471322, 3670100; 471325, 3670092; 471328, 3670086; 471332, 3670079; 471335, 3670072; 471339, 3670065; 471344, 3670056; 471350, 3670046; thence returning to 471354, 3670039.

(iv) *Note:* Map of Unit 7, Carlsbad, follows:



(13) Unit 8: San Marcos and Vista. From USGS 1:24,000 quadrangle map San Marcos, San Diego County, California.

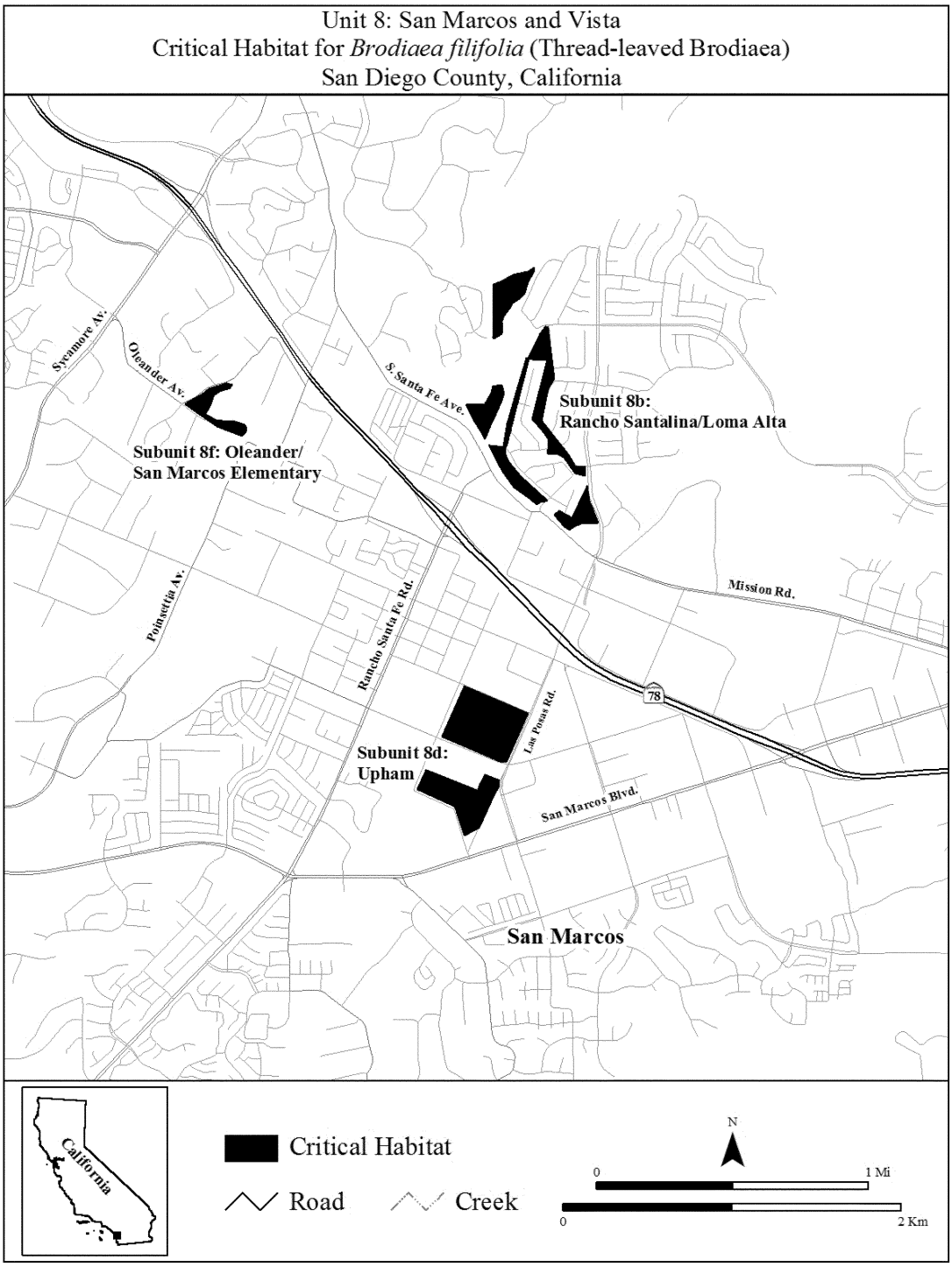
(i) Subunit 8b: Rancho Santalina/Loma Alta. Land bounded by the following UTM NAD83 coordinates (E, N): 482357, 3668036; 482390, 3667949; 482348, 3667946; 482282, 3667946; 482244, 3667925; 482220, 3667908; 482187, 3667931; 482127, 3667997; 482157, 3668021; 482235, 3667976; 482324, 3668168; 482336, 3668078; thence returning to 482357, 3668036. Continue to 481816, 3669068; 481771, 3669038; 481765, 3669046; 481771, 3669329; 481771, 3669358; 481807, 3669373; 481891, 3669418; 481974, 3669435; 482013, 3669456; 482007, 3669432; 481974, 3669373; 481953, 3669307; 481921, 3669274; 481879, 3669244; 481870, 3669223; 481865, 3669217; 481831, 3669175; 481819, 3669136; 481822, 3669089; thence returning to 481816, 3669068. Continue to 481753, 3668523; 481720, 3668446; 481689, 3668496; 481648, 3668562; 481604, 3668646; 481714, 3668649; 481723, 3668661; 481756, 3668718; 481768, 3668756; 481816, 3668766; 481831, 3668715; 481819, 3668670; 481786, 3668595; thence returning to 481753, 3668523. Continue to 482091, 3669106; 482121, 3668876; 482130, 3668802; 482091, 3668736; 482052, 3668553; 482214, 3668350; 482258,

3668281; 482312, 3668281; 482315, 3668230; 482258, 3668242; 482253, 3668242; 482187, 3668338; 482154, 3668356; 482091, 3668356; 482091, 3668386; 482097, 3668443; 482052, 3668502; 481995, 3668562; 482085, 3668912; 482000, 3668916; 481989, 3668917; 481980, 3668918; 481877, 3668514; 481876, 3668512; 481872, 3668496; 481872, 3668494; 481862, 3668457; 481861, 3668453; 481852, 3668416; 481837, 3668383; 481840, 3668353; 481841, 3668350; 481861, 3668308; 481933, 3668224; 482085, 3668084; 482064, 3668072; 482046, 3668072; 482025, 3668060; 481986, 3668093; 481888, 3668164; 481819, 3668260; 481809, 3668280; 481786, 3668323; 481783, 3668329; 481741, 3668407; 481828, 3668398; 481852, 3668541; 481915, 3668751; 481962, 3668927; 481974, 3668923; 482046, 3669067; 482062, 3669090; 482076, 3669110; thence returning to 482091, 3669106.

(ii) Subunit 8d: Upham. Land bounded by the following UTM NAD83 coordinates (E, N): 481849, 3666534; 481819, 3666534; 481462, 3666688; 481594, 3666985; 481973, 3666823; thence returning to 481849, 3666534. Continue to 481372, 3666489; 481677, 3666364; 481689, 3666409; 481719, 3666459; 481804, 3666429; 481801, 3666386; 481779, 3666359; 481687, 3666147; 481597, 3666102; 481550, 3666247; 481535, 3666274; 481320, 3666376; thence returning to 481372, 3666489.

(iii) Subunit 8f: Oleander/San Marcos Elementary. Land bounded by the following UTM NAD83 coordinates (E, N): 480307, 3668488; 480280, 3668462; 480137, 3668521; 480047, 3668580; 479946, 3668654; 480044, 3668711; 480087, 3668741; 480190, 3668776; 480226, 3668765; 480210, 3668748; 480149, 3668728; 480117, 3668702; 480092, 3668639; 480066, 3668592; 480125, 3668556; 480158, 3668554; 480241, 3668547; 480297, 3668531; 480310, 3668511; thence returning to 480307, 3668488.

(iv) *Note:* Map of Unit 8, San Marcos and Vista, follows:



(14) Unit 11: Western Riverside County, Riverside County, California.

(i) Subunit 11a: San Jacinto Wildlife Area. From USGS 1:24,000 quadrangle maps Lakeview and Perris, land bounded by the following UTM NAD83 coordinates (E, N): 488983, 3745493; 489065, 3745348; 489100, 3745144; 489088, 3745019; 489008, 3744998; 488955, 3744984; 488940, 3744982; 488834, 3744968; 488827, 3744966; 488803, 3744959; 488696, 3744929; 488626, 3744907; 488610, 3744902; 488565, 3744888; 488532, 3744878; 488500, 3744869; 488441, 3744853; 488363, 3744831; 488314, 3744794; 488285, 3744772; 488171, 3744760; 487999, 3744760; 487873, 3744819; 487818, 3744885; 487811, 3744894; 487796, 3744916; 487773, 3744954; 487767, 3744964; 487765, 3744983; 487756, 3745058; 487756, 3745172; 487783, 3745258; 487846, 3745333; 487948, 3745395; 487978, 3745412; 488042, 3745450; 488050, 3745454; 488159, 3745489; 488289, 3745470; 488336, 3745470; 488438, 3745517; 488563, 3745603; 488728, 3745658; 488786, 3745693; 488724, 3745740; 488677, 3745854; 488669, 3745964; 488692, 3746105; 488739, 3746179; 488783, 3746226; 488785, 3746227; 488803, 3746231; 488885, 3746250; 488990, 3746269; 489131, 3746336; 489273, 3746420; 489374, 3746481; 489511, 3746574; 489547, 3746598;

489652, 3746637; 489668, 3746643; 489719, 3746661; 489876, 3746657; 489895, 3746633; 489982, 3746517; 490025, 3746461; 490033, 3746371; 490018, 3746275; 490013, 3746242; 489983, 3746214; 489951, 3746183; 489637, 3745987; 489425, 3745858; 489198, 3745787; 489096, 3745677; 488998, 3745634; thence returning to 488983, 3745493.

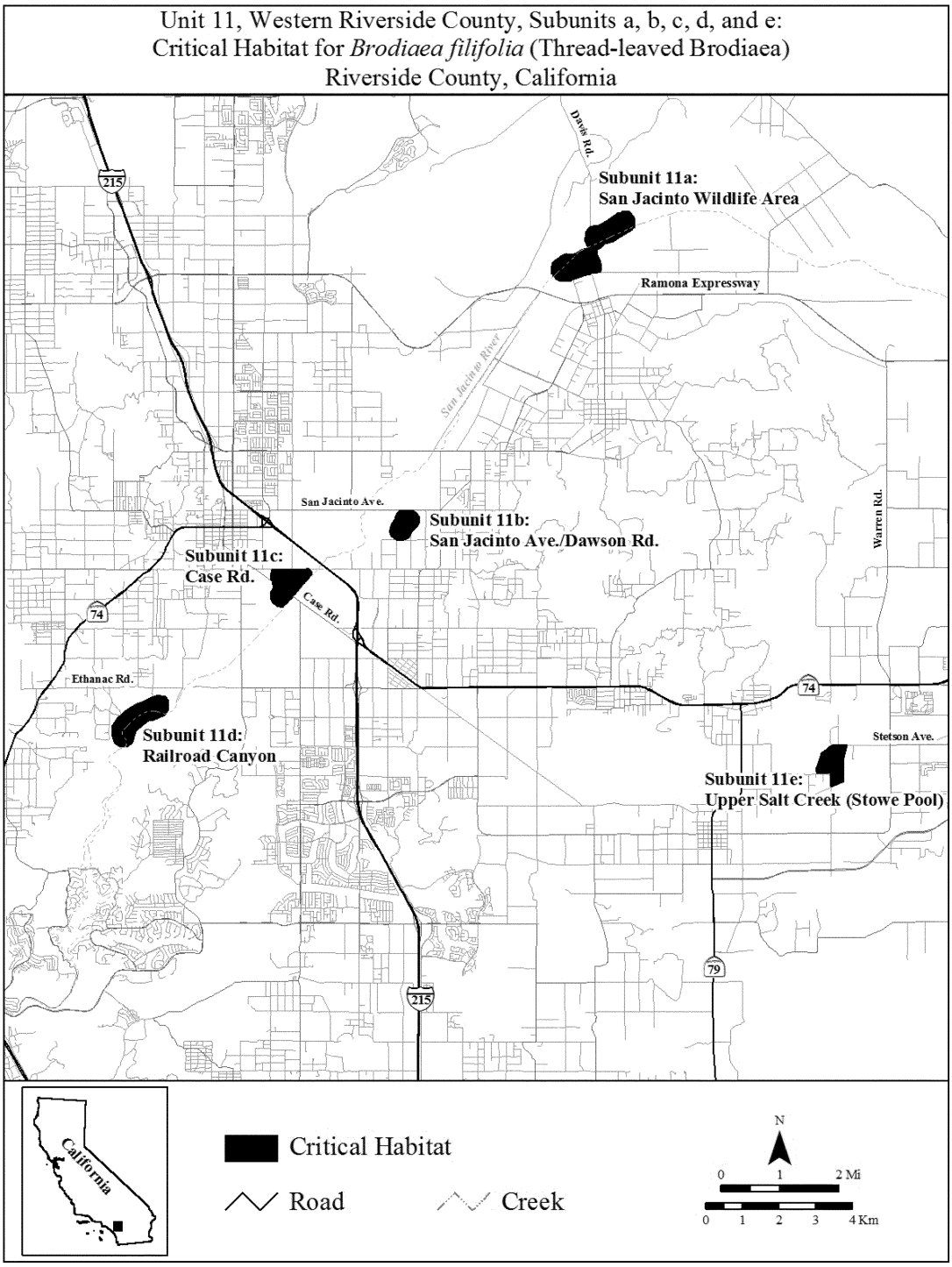
(ii) Subunit 11b: San Jacinto Avenue/Dawson Road. From USGS 1:24,000 quadrangle map Perris, land bounded by the following UTM NAD83 coordinates (E, N): 483682, 3737705; 483570, 3737705; 483524, 3737712; 483463, 3737755; 483380, 3737824; 483344, 3737895; 483344, 3737975; 483366, 3738075; 483387, 3738129; 483423, 3738183; 483470, 3738269; 483491, 3738345; 483538, 3738434; 483621, 3738506; 483983, 3738506; 484059, 3738445; 484127, 3738348; 484145, 3738186; 484116, 3738104; 484023, 3738021; 483965, 3737949; 483922, 3737867; 483865, 3737777; 483789, 3737741; thence returning to 483682, 3737705.

(iii) Subunit 11c: Case Road. From USGS 1:24,000 quadrangle map Perris, land bounded by the following UTM NAD83 coordinates (E, N): 481228, 3736775; 480714, 3736203; 480100, 3736631; 480093, 3736652; 480100, 3736807; 480139, 3736897; 481124, 3736908; 481192, 3736854; thence returning to 481228, 3736775. Continue to 480689, 3736146; 480416, 3735873; 480258, 3735905; 480121, 3736024; 480082, 3736139; 480100, 3736315; 480172, 3736390; 480157, 3736473; 480150, 3736548; thence returning to 480689, 3736146.

(iv) Subunit 11d: Railroad Canyon. From USGS 1:24,000 quadrangle maps Lake Elsinore and Romoland, land bounded by the following UTM NAD83 coordinates (E, N): 476192, 3732071; 476177, 3732058; 476095, 3732067; 476092, 3732068; 476075, 3732070; 475968, 3732083; 475828, 3732198; 475767, 3732413; 475789, 3732650; 475922, 3732859; 475949, 3732877; 476026, 3732931; 476086, 3732989; 476141, 3733042; 476417, 3733214; 476590, 3733286; 476816, 3733401; 476878, 3733419; 476891, 3733423; 476983, 3733450; 477099, 3733465; 477223, 3733446; 477305, 3733326; 477300, 3733201; 477280, 3733049; 477274, 3733042; 477252, 3733009; 477230, 3732975; 477227, 3732972; 477210, 3732947; 477204, 3732938; 477090, 3732890; 477055, 3732876; 476892, 3732809; 476888, 3732808; 476755, 3732787; 476694, 3732744; 476583, 3732650; 476410, 3732510; 476367, 3732352; 476342, 3732230; 476335, 3732194; 476265, 3732134; 476216, 3732091; thence returning to 476192, 3732071.

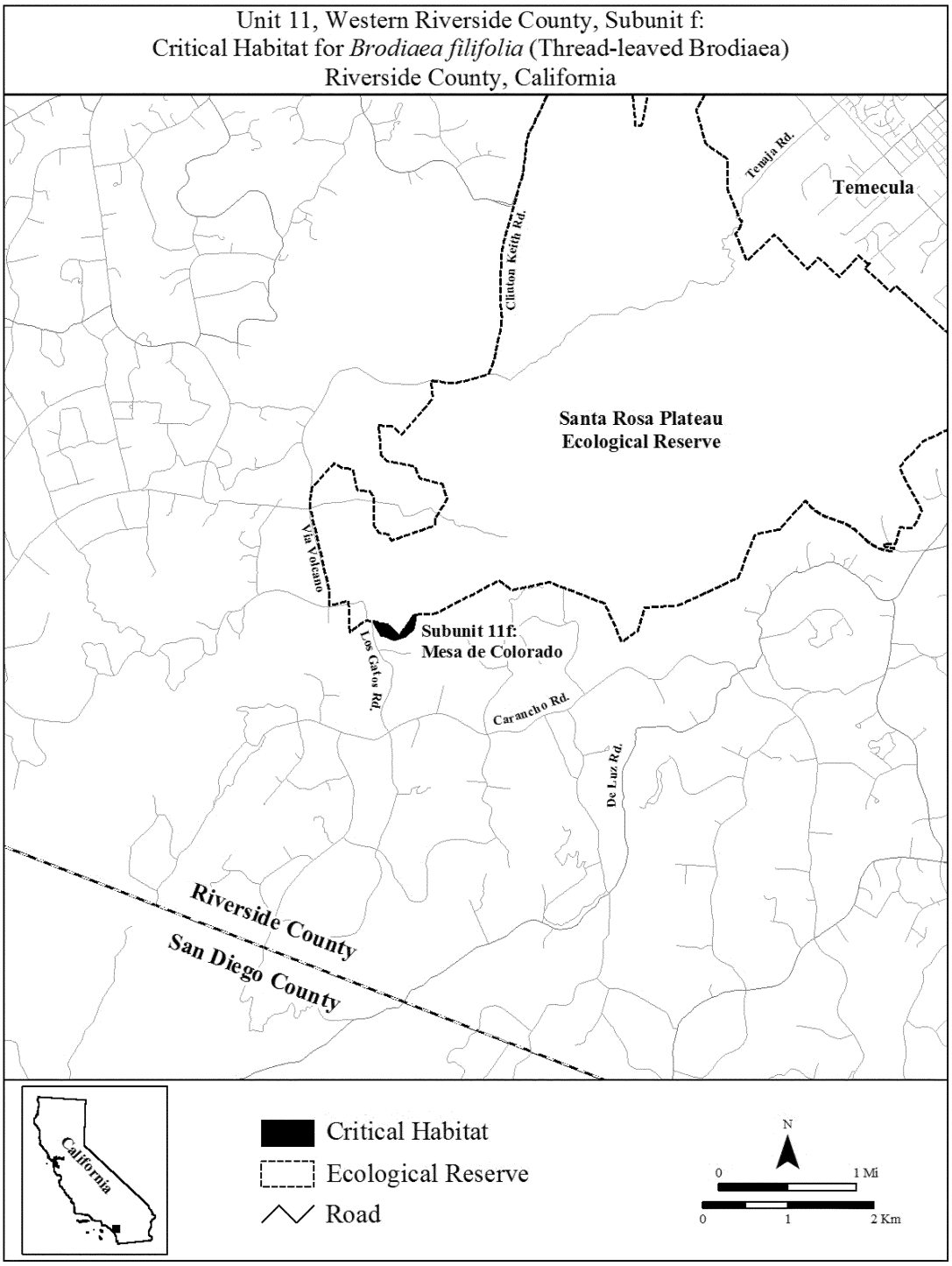
(v) Subunit 11e: Upper Salt Creek (Stowe Pool). From USGS 1:24,000 quadrangle map Winchester, land bounded by the following UTM NAD83 coordinates (E, N): 495693, 3731707; 495719, 3731126; 495375, 3730970; 495372, 3731340; 494997, 3731340; 494979, 3731381; 494982, 3731490; 495018, 3731613; 495074, 3731735; 495112, 3731898; 495260, 3732003; 495334, 3732070; 495421, 3732105; 495811, 3732113; thence returning to 495693, 3731707.

(vi) *Note:* Map of Unit 11, Western Riverside County, Subunits a, b, c, d, and e, follows:



(vii) Subunit 11f: Santa Rosa Plateau—Mesa de Colorado. From USGS 1:24,000 quadrangle maps Wildomar, land bounded by the following UTM NAD83 coordinates (E, N): 473758, 3706932; 473672, 3706842; 473581, 3706815; 473540, 3706803; 473426, 3706843; 473384, 3706858; 473296, 3706997; 473298, 3707017; 473454, 3706981; 473594, 3706853; 473766, 3707097; 473785, 3707063; thence returning to 473758, 3706932.

(viii) *Note:* Map of Unit 11, Western Riverside County, Subunit 11f, follows:

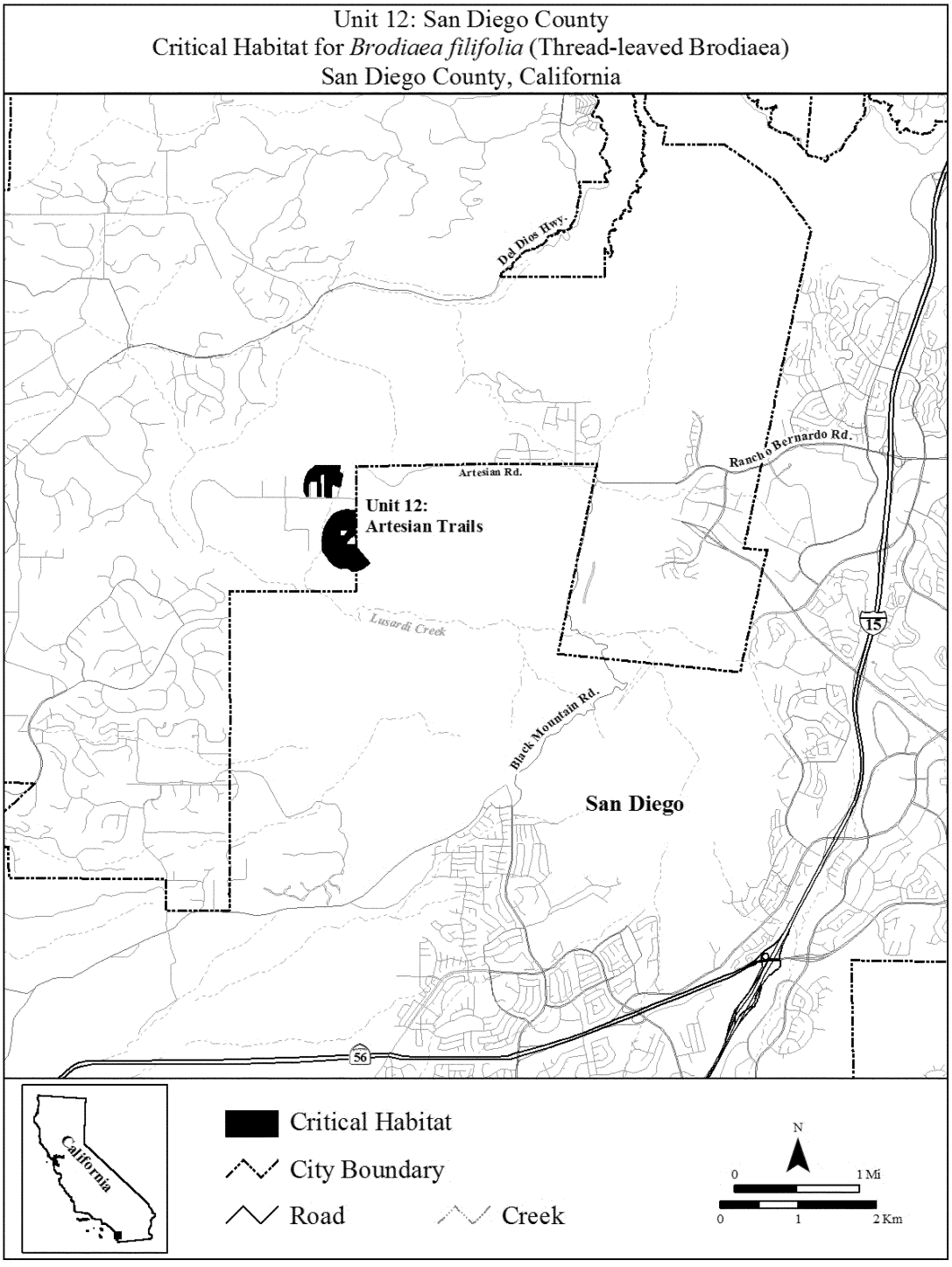


(15) Unit 12: San Diego County. From USGS 1:24,000 quadrangle map Rancho Santa Fe, San Diego County, California.

(i) Artesian Trails. Land bounded by the following UTM NAD83 coordinates (E, N): 485589, 3653612; 485575, 3653542; 485571, 3653524; 485570, 3653490; 485569, 3653489; 485569, 3653487; 485569, 3653486; 485569, 3653474; 485565, 3653471; 485564, 3653470; 485563, 3653469; 485543, 3653449; 485537, 3653450; 485493, 3653460; 485462, 3653486; 485459, 3653480; 485448, 3653449; 485448, 3653343; 485448, 3653326; 485448, 3653319; 485444, 3653319; 485370, 3653319; 485356, 3653325; 485354, 3653500; 485354, 3653526; 485354, 3653577; 485354, 3653610; 485332, 3653612; 485299, 3653597; 485307, 3653383; 485307, 3653327; 485255, 3653327; 485256, 3653411; 485257, 3653522; 485169, 3653522; 485164, 3653522; 485146, 3653473; 485144, 3653466; 485146, 3653323; 485112, 3653325; 485086, 3653397; 485086, 3653470; 485096, 3653542; 485114, 3653602; 485146, 3653657; 485216, 3653715; 485227, 3653725; 485557, 3653721; 485556, 3653713; 485554, 3653696; 485551, 3653660; 485549, 3653645; 485550, 3653644; thence returning to 485589, 3653612. Continue to 485700, 3653157; 485748, 3653150; 485750, 3653151; 485754, 3652943; 485754, 3652911; 485759, 3652710;

485760, 3652681; 485761, 3652680; 485768, 3652672; 485939, 3652471; 485934, 3652466; 485932, 3652465; 485925, 3652459; 485863, 3652401; 485766, 3652366; 485761, 3652364; 485748, 3652359; 485702, 3652364; 485668, 3652395; 485636, 3652403; 485583, 3652399; 485569, 3652394; 485477, 3652439; 485406, 3652509; 485400, 3652515; 485324, 3652630; 485319, 3652795; 485346, 3652902; 485396, 3653009; 485458, 3653090; 485468, 3653103; 485481, 3653110; 485495, 3653117; 485496, 3653118; 485529, 3653134; 485557, 3653142; 485581, 3653148; 485652, 3653163; thence returning to 485700, 3653157; excluding land bounded by 485555, 3652857; 485555, 3652822; 485572, 3652827; 485610, 3652827; 485613, 3652829; 485651, 3652882; 485667, 3652882; 485667, 3652899; 485556, 3652899; 485555, 3652857; and land bounded by 485629, 3652710; 485749, 3652710; 485749, 3652807; 485746, 3652807; 485745, 3652820; 485744, 3652822; 485723, 3652822; 485717, 3652810; 485708, 3652806; 485690, 3652791; 485679, 3652788; 485671, 3652784; 485670, 3652780; 485665, 3652765; 485663, 3652761; 485649, 3652754; 485648, 3652750; 485635, 3652718; 485629, 3652710.

(ii) *Note:* Map of Unit 12, San Diego County, follows:



* * * * *

Dated: January 25, 2011.

Thomas L. Strickland,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2011–2403 Filed 2–7–11; 8:45 am]

BILLING CODE 4310–55–C



FEDERAL REGISTER

Vol. 76 Tuesday,
No. 26 February 8, 2011

Part III

Federal Communications Commission

47 CFR Parts 0, 1, 2 et al.
Radio Experimentation and Market Trials Under Part 5 of the Commission's Rules and Streamlining Other Related Rules; Proposed Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, 2, 5, 22, 73, 74, 80, 87, 90 and 101

[ET Docket No. 10–236; FCC 10–197]

Radio Experimentation and Market Trials Under Part 5 of the Commission's Rules and Streamlining Other Related Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks to promote innovation and efficiency in spectrum use in the Experimental Radio Service (ERS). For many years, the ERS has provided fertile ground for testing innovative ideas that have led to new services and new devices for all sectors of the economy. The Commission proposes to leverage the power of experimental radio licensing to accelerate the rate at which these ideas transform from prototypes to consumer devices and services. Its goal is to inspire researchers to dream, discover and deliver the innovations that push the boundaries of the broadband ecosystem. The resulting advancements in devices and services available to the American public and greater spectrum efficiency over the long term will promote economic growth, global competitiveness, and a better way of life for all Americans.

DATES: Comments must be filed on or before March 10, 2011, and reply comments must be filed on or before April 11, 2011.

FOR FURTHER INFORMATION CONTACT: For further information, contact James Burtle at (202) 418–2445, Doug Young at (202) 418–2440, and James Miller at (202) 418–7351, Office of Engineering and Technology; or via the Internet at *James.Burtle@fcc.gov, Douglas.Young@fcc.gov,* and *James.Miller@fcc.gov,* respectively.

ADDRESSES: You may submit comments, identified by ET Docket No. 10–236, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- *E-mail:* [Optional: Include the e-mail address only if you plan to accept comments from the general public]. Include the docket number(s) in the subject line of the message.
- *Mail:* [Optional: Include the mailing address for paper, disk or CD–ROM submissions needed/requested by your Bureau or Office. Do not include the Office of the Secretary's mailing address here.]
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, *see* the **SUPPLEMENTARY INFORMATION** of this document.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking,* ET Docket No. 10–236, FCC 10–197, adopted and released on November 30, 2010. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room, CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.*

Pursuant to §§ 1.415, 1.419, and 1.430 of the Commission's rules, 47 CFR 1.415, 1.419, and 1.430, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121, May 2, 1998.

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/*or the Federal eRulemaking Portal: *http://www.regulations.gov.*
- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW–A325, Washington, DC 20554. The filing hours are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Paperwork Reduction Act of 1995 Analysis

This document contains proposed modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Summary of Notice of Proposed Rulemaking

1. In the *Notice of Proposed Rulemaking* (NPRM), the Commission observes that numerous provisions for experimentation and development of new radio equipment and techniques that are scattered throughout Title 47 of the Code of Federal Regulations (CFR). The ERS rules, which are contained in part 5 and permit a broad range of experiments in all services except for broadcast systems, prescribe the manner in which the radio spectrum may be made available to manufacturers, inventors, entrepreneurs, and students

to experiment with new radio technologies, equipment designs, characteristics of radio wave propagation, or service concepts related to the use of the radio spectrum. In order to encourage innovation, the part 5 rules provide great flexibility regarding allowable frequency range, power, and emissions. In exchange for the flexibility we give researchers to design and conduct experiments and tests, experimental operations are not protected from harmful interference from allocated services and they must not cause harmful interference to stations of authorized services, including secondary services. Additionally, experimental stations can be required to immediately cease operation at our request, and are subject to revocation without notice.

2. There are seven additional rule parts that allow for developmental work within a particular service, and these rules are generally more restrictive than those contained in part 5. Specifically, parts 22, 73, 74, 80, 87, 90, and 101 of our rules provide for issuance of developmental licenses. Like ERS licenses, developmental licenses are issued on a non-interference basis. However, they are limited to applicants eligible for licenses in that particular service and on frequencies that are allocated to that service. Additionally, the developmental rules may require that applications be accompanied by a petition for rulemaking seeking changes consistent with the operation under investigation. Experimentation with broadcast radio technologies is not permitted under the ERS rules but is instead allowed under separate provisions set forth in parts 73 and 74 of our rules.

3. The ERS program has a record of success, and there is an overall trend of increasing experimental activity under the part 5 rules. By contrast, there has been limited use of the developmental rules for non-broadcast experimentation.

4. To further provide flexibility, the Commission permits limited market studies so that developers can assess whether their equipment designs show promise in the marketplace. Just like the experimental rules, the rules for market studies can be found in multiple rule parts. Under part 5, limited market studies are permitted for experimental operations provided that all transmitting and receiving equipment is owned by the licensee, the licensee informs all participants in the study that it is strictly temporary, and the size and scope of the study is limited. For devices that are beyond the experimental stage, but have not yet been certified (*e.g.* a new mobile phone), rules in part 2 allow exceptions to the general prohibition on marketing of radio frequency (RF) devices prior to equipment authorization, subject to disclosure and labeling requirements and other restrictions. The restrictions on unauthorized RF equipment also limit the number of devices that may be imported to conduct tests or market studies. Generally, up to 2,000 units are permitted to be imported within an authorized service for which an operating license is required, and up to 200 units are permitted to be imported for all other products.

5. The Commission proposes rule changes in six specific areas to build on the experimental licensing program's record of promoting innovation and creating cutting-edge technologies in order to accelerate innovation in this space. Given the immense spectrum challenges created by the tsunami of broadband demand, the Commission seeks to find ways to use the power of experimental licensing to shorten the time it takes to transform concepts into consumer products and to bring ideas from the lab to the marketplace. The goal is to inspire researchers to dream, discover and deliver the innovations that push the boundaries of the broadband ecosystem. The resulting advancements in devices and services available to the American public and greater spectrum efficiency over the long term will promote economic growth, global competitiveness, and a better way of life for all Americans.

6. The first three areas where the Commission proposes rule changes involve the creation of a new type of experimental license—a program experimental license—which would carry broad authority to conduct an ongoing program of research and experimentation under a single experimental authorization, and that would only be available to qualified institutions. The three varieties of proposed program experimental licenses are: (1) The research program experimental radio license; (2) the innovation zone program experimental radio license; and (3) the medical program experimental radio license. Under our proposed rule revisions, the Commission would continue to offer individual conventional experimental radio licenses to conduct research and experimentation related to the development of new radio technologies and techniques and for product development and market trials. These conventional experimental radio licenses would be available to entities not qualified to hold a program experimental radio license, and for those experimental activities that would not be authorized under program licenses.

7. The research program experimental radio license would allow qualified institutions to use of a large range of radio frequencies for research and experimentation on a non-interference basis without having to obtain prior authorization for the use of specific frequencies. Holders of the new research program experimental radio license will be given broad authority to conduct any experiments that further the goals of innovation and efficiency in spectrum use under such a license, subject to limitations discussed below and ongoing reporting requirements through, for example, narrative filings submitted via a Commission web page. These institutions would still be able to continue to apply for conventional experimental radio licenses, as appropriate to the needs of the institution and type of research being conducted.

8. Given the unique abilities of universities and research institutions to act as trusted stewards of the radio resource, and based on their track record of impressive research results, the Commission believes that they are well suited for this proposed new type of program license. The existing experimental licensing rules are not a good fit for the type of work being conducted at many universities and research institutions. By limiting experiments to a narrowly defined inquiry, specific frequencies, emissions and power levels, our current rules can prevent researchers from using the results of experiments to try out new ideas and make innovative changes unless they obtain a new or modified authorization. The time and process for obtaining experimental authorizations can also be a roadblock to innovation. The research program experimental radio license proposal is an attempt to find a balance that allows research organizations the greatest level of flexibility to experiment—particularly in high-value bands that may host the newest generation of consumer devices and applications—in order to unlock enormous economic and social benefits, while respecting the fundamental principle that experiments must be designed to avoid harmful interference to existing services.

9. This new research license will be limited to colleges, universities, and non-profit research organizations. These institutions typically have a record of generating the types of innovations and technological breakthroughs we seek to foster. The Commission tentatively proposes to limit applications under

this rule to Accreditation Board for Engineering and Technology (ABET) accredited institutions with graduate research programs in place or existing industry partnerships and to nationally recognized non-profit research laboratories. Further, the Commission proposes that these institutions must have defined campus settings and institutional processes to monitor and effectively manage a wide variety of research projects. The Commission seeks comment on this proposal. Specifically, it seeks comment on what criteria it should use to define a "nationally recognized non-profit research laboratory." Are there any standards or certifications that it should require for such institutions? Additionally, if commenters believe the Commission should incorporate a broader range of institutions, what criteria should it use for selection, and how does that more effectively balance the interests at stake here?

10. Section 15.205(a) of our rules lists "restricted bands" that typically host sensitive operations and that warrant special attention to prevent possible harmful interference. Because it would not be appropriate to include these frequencies in a research program experimental radio license, the Commission proposes that the license not allow experiments on frequencies that are listed in § 15.205(a). The Commission recognizes that § 15.205 categorically exclude all frequencies above 38.6 GHz. The National Broadband Plan observed that frequencies above 20 GHz may be modestly used in urban areas and may be nonexistent in most other areas. The Commission concludes that it would be counterproductive to exclude spectrum in the 38–300 GHz range from the benefits of added innovation and research, but that it is also important to protect sensitive bands above 38.6 GHz. Many federal agencies use spectrum above 38.6 GHz for satellite communication and scientific research which use extremely low received signal levels. Thus, the Commission proposes that a research program experimental radio license also allow experiments on those frequencies above 38.6 GHz except for those that are listed in footnote US246 of the Table of Frequency Allocations. Under this proposal the Commission would permit licensees to conduct experiments on all other frequencies. It seeks comment on these proposals. Are there other frequencies that it should categorically exclude, and if so why?

11. All operations conducted under the authority of a research program experimental radio license would be restricted to the grounds of the license holder's campus. In this regard, the Commission proposes that the applicant for a research license specify a geographic area that is inclusive of an institution's real-property facilities, and that the application may be returned or a license restricted to specify a smaller area if necessary to ensure adequate interference protection. The Commission also proposes that emissions must not exceed non-interfering levels beyond the authorized geographical area. Should it rely on the licensees to meet this requirement by evaluating the radiofrequency use in the proximity of its campus, or should there be a specific measure, such as a maximum measured power flux density (pfd) limit a set distance from the boundary? If so, at what level should this pfd be set? Should there be different pfd limits for different bands? If so, how should the pfd vary by frequency band? And finally, the Commission seeks comment on whether a standard method needs to be specified for calculating the pfd. It seeks comment on whether additional technical limits should be imposed. Should it restrict transmitters to specific sites? Should experiments be limited to terrestrial operations or can airborne operations also be permitted? If so, are there special requirements that should be imposed on airborne operations given the long line of site distances of these operations. Finally, should there be a threshold power limit above which the Commission would always require an individual license under our traditional experimental authorization procedures, and if so, what should this power be—100 watts, 10 watts, the limits specified for part 15 unlicensed operations, or some other limit? Commenters who advocate a specific limit should also discuss how the levels of interference protection that such a limit would provide would also allow sufficient flexibility to conduct a wide range of experiments. The Commission also seeks comment on whether it should make special distinctions between indoor and outdoor use, either as part of the general terms of the research program experimental radio license grant or through distinct requirements associated with the testing and reporting requirements.

12. The Commission also proposes to afford institutions much greater flexibility in choosing the frequency band(s) and technical characteristics associated with individual tests and experiments conducted under the authority of a research program experimental radio license. It recognizes that some types of experiments have added filing requirements under our existing rules. For example, § 5.53(c) requires the submission of an environmental assessment in certain cases, § 5.63(e) requires applicants for an experimental authorization involving a satellite system not already authorized by the Commission to submit information regarding orbital debris mitigation plans, and § 5.63(a) sets forth procedures for requesting non-disclosure of proprietary information. These rules serve important legal and public interest purposes, and cannot be readily accommodated under the broad research license concept. The Commission therefore proposes to provide that a research program experimental radio license will not authorize any experiment that would require additional, specialized filings beyond the standard application requirements for an experimental radio license. Researchers proposing these types of experiments must apply for a conventional experimental radio license to obtain the necessary authorization for their tests. The Commission seeks comment on this proposal. In addition, are there other types of tests in addition to those discussed that require additional filings and, therefore, should not be authorized under a research program experimental radio license?

13. While the Commission does not believe that it is necessary to impose overly prescriptive methods to control the potential for interference from experiments conducted under the broad authority of a research program experimental radio license, it emphasizes that all experiments must be conducted on a non-interference basis to primary and secondary licensees, and that the licensee must take all necessary technical and operational steps to avoid harmful interference to authorized services. Before conducting tests, a licensee must evaluate the propagation characteristics of the frequencies to be used in individual experiments, the operational nature of the services normally operating on those and nearby frequencies, and the specific operations listed within the Commission's licensing databases. On-line tools, such as the Commission's General Menu Reports system (GenMen), which allows users to search many different FCC licensing databases from one place, will facilitate these tasks. Experiments must be designed to use the minimum power necessary and be restricted to the smallest practicable area needed to accomplish the experiment's goals. Researchers may also decide to reduce the frequencies used in the experiment,

restrict the time of use, limit the duration of tests, or employ other means to address potential interference concerns. The Commission further proposes to require that all experiments must comply with our existing experimental rules involving matters such as protected areas and antenna structure placement, but that these issues will not be routinely evaluated during the grant of the research license. In addition, the Commission notes that our existing experimental licensing rules require a licensee to transmit its assigned call sign unless it has been specifically exempted by the terms of its station authorization. The Commission believes that this requirement is important in that it makes it easier to identify signals from experiments, but it also recognizes that not all experimentation lends itself to easy over-the-air station identification. The Commission proposes to require that tests conducted under the authority of a research license either transmit station identification as part of the broadcast or provide detailed testing information (such as starting time and duration) via a web-based reporting portal. Because of the nature of the research license, the Commission proposes to require the communication of information that is sufficient to identify the license holder and the geographic coordinates of the station. The Commission is especially interested in comments regarding how it would structure the web-based reporting, and whether there are other notification methods that it should allow that do not require use of the actual experimental radio broadcast. The Commission seeks comment on these proposals.

14. Prior to a new spectrum user's commencement of operations, notification is generally conducted to ensure that harmful interference concerns can be identified and corrected. In many cases under our existing experimental licensing procedures, the Commission issue grants that are conditioned on notifying or successfully coordinating with existing licensees. The Commission's diverse policies and procedures reflect the different operational, business, and engineering concerns posed by the many sharing scenarios of the multitude of spectrum uses possible under our rules. Under the research program experimental radio license concept, the Commission envisions that the nature and scope of individual tests will vary greatly. Some experiments will be conducted with the support of and in conjunction with existing licensees as part of research to improve existing network devices and system designs. For others, experimenters may opt to use short-term leasing or other secondary market mechanisms to secure access to spectrum bands on which they want to experiment. Many experiments may be confined to laboratory settings, or be conducted in shielded environments, such as Faraday cages, where the interference environment is tightly controlled. Because the appropriate level of notification to and coordination with incumbent licensees will necessarily vary for each of these experiments, we are not proposing to establish a specific coordination requirement for research program experimental radio licenses.

15. The Commission nevertheless believes that it must make provisions for licensed users whose operations are geographically and/or spectrally near ongoing experiments. First, the Commission proposes to require that prior to commencement of any experiment or test, certain information be made publicly available via a Commission developed web-based registration. The Commission proposes that such registrations contain contact information for the researcher in charge who can address concerns raised prior to testing as well as act as a "stop buzzer" in the event that a licensee reports an unanticipated interference incident during the actual testing phase. In addition, the Commission proposes that these registrations contain the frequencies or frequency bands under test, the maximum effective isotropically radiated power (EIRP) or effective radiated power (ERP) under consideration (as applicable to the proposed experiment) and a description of the geographic area in which the test will be conducted. Should other information also be collected? The Commission proposes that these registrations be completed at least seven calendar days prior to commencement of any test or experiment to ensure that interested parties have sufficient time to assess whether they believe harmful interference may occur to their systems. Unlike our existing rules, however, experimenters would not have to await specific approval or authorization to conduct the test once the seven days has elapsed. Before conducting the experiment, the experimenter must evaluate and account for interference concerns raised by interested parties, and it must obey any instructions from the Commission to delay, modify, or abandon the experiment. Specifically, if any licensee of an authorized service raises interference concerns, the Commission proposes that the service licensee must contact the research program experimental radio license responsible party and the service licensee must post its concerns along with supporting documentation to the web registration page. The Commission proposes that the experiment not be permitted to commence until the parties resolve the issue. The Commission further proposes that the service licensee will bear the burden of proof that the proposed experiment will cause harmful interference. It is expected that parties work in good faith to resolve such concerns, including modifying experiments if necessary to reach an agreeable resolution. In making this proposal, the Commission seeks to balance the interests of incumbent spectrum users with the ability to conduct tests in a timely manner. Is seven days a sufficient timeframe? Or is it too long such that it may constrain testers from being able to adjust on-the-fly as they analyze current test results? Will the proposed method for resolving interference concerns prior to experimentation result in an efficient and fair process for identifying and addressing such concerns? Should the Commission require a specific dispute resolution process? At what point would it expect parties to raise their concerns directly with us?

16. The Commission also notes that, under its existing rules, experiments must avoid use of public safety frequencies except when a compelling showing can be made that such use is in the public interest. Operation on public safety frequencies must also be coordinated. Should these provisions continue to apply to tests conducted under a research license? Will these requirements, in conjunction with the seven-day notice requirement we propose, be sufficient to protect public safety interests while encouraging important research and experimentation in this area? The Commission seeks comment on these proposals.

17. Additionally, the Commission believes that the web-based registration can capture two reporting requirements that are currently part of our application process for conventional experimental radio licenses. In cases where the experiment is to be used for the purpose of fulfilling requirements of a contract with an agency of the United States government, or if the experiment is to be used for the sole purpose of developing equipment for exportation to be employed by stations under the jurisdiction of a foreign government, the Commission proposes that the registration contain the information currently required under § 5.63(b) and

(c) of its rules. The Commission seeks comment on this proposal.

18. The Commission proposes to implement additional measures that will make it easier for incumbent licensees and other interested parties to become aware of pending tests and make experimenters aware of their concerns, and seek comment on what those measures should be. Should the Commission develop an automated process for distributing such information by RSS feeds or other means? If so, should it further categorize this information by frequency band, geographic location, or other means? Would the Commission's Tower Construction Notification System (TCNS) serve as a useful model? TCNS allows companies to voluntarily submit notifications of proposed tower constructions to the FCC which in turn provides this information to federally-recognized Indian Tribes, Native Hawaiian Organizations (NHOs), and State Historic Preservation Officers (SHPOs) who can then respond directly to the companies if they have concerns about a proposed construction. The Commission seeks comment on this proposal.

19. The Commission further believes that it must make special provisions to prevent harmful interference on the frequency bands that are commonly used in a campus setting and that are vital for public safety purposes or are used for campus security operations. For example, experiments on bands assigned to mobile service providers (*e.g.* the Cellular Radiotelephone Service, broadband PCS, AWS, 700 MHz) could have the potential to disrupt mobile telephone use on campus—at a minimum inconveniencing one of the most active and engaged mobile device user communities, and at worst, impeding the ability to reach 911 or receive campus-wide emergency text alerts. Television and radio broadcast bands are used in support of the Emergency Alert System (EAS). In recognition of these vital interests, the Commission proposes to require that, for tests that affect bands used for the provision of commercial mobile services, emergency notifications, or public safety purposes on the institution's grounds, the licensee first develop a specific plan that avoids interference to these bands. The plan would: (1) Provide notice to those who might be affected by the test; (2) allow for the quick identification and elimination of any harm the experiment is causing users, and (3) in the case of vital public safety functions, provide an alternate means for accomplishing such tasks during the duration of the experiment. The Commission further proposes to require that the holder of the research program experimental radio license submit this plan to the Commission in conjunction with the registration it submits at least seven days prior to commencement of any test or experiment, as described above. The Commission would routinely make the entire submission publicly available. Should it also require that a licensee be required to specifically notify the commercial carrier(s) or other entit(ies) listed as the licensee for the affected band(s) in all of these situations, or only in situations where specified conditions are met (such as when the experiment will be conducted outside of buildings or away from controlled venues where access can be restricted, such as laboratories)? If so, should the Commission require the licensee's concurrence prior to the test? Ultimately, it wants to establish a process which delivers the benefits of experiments conducted at universities and research institutions, but that also prevents interference to users of wireless services and frequencies used for emergency and public safety purposes. The Commission seeks comment on these proposals.

20. The Commission seeks comment on how it should address noncompliance with our rules and procedures, including the failure of a holder of a research program experimental radio license to address and resolve cases of harmful interference within a reasonable amount of time. The Commission proposes to modify the cancellation provisions of our rules to make it clear that it can both deny permission to conduct specific tests under a research program experimental radio license and that we can revoke the research program experimental radio license at any time. As an ultimate safeguard, the Commission will not hesitate to revoke a research program experimental radio license in cases where we find that an institution has not properly managed the expanded privileges associated with the license.

21. The Commission notes that many institutions have offices that conduct administrative functions and provide coordination and support on a campus-wide scale. The Commission proposes to require each institution to identify a single point of contact who will be ultimately responsible for all experiments conducted under the research license—including that the reporting requirements it establishes for this type of authorization are met and all applicable rules are observed. This individual will serve as the initial point of contact for all matters involving interference resolution, and must have the ability to discontinue any and all experiments being conducted under the license, if necessary. The Commission proposes to require a licensee to identify this individual along with contact information such as a phone number and e-mail address at which he or she can be reached at any time of the day, and to keep this information current. The Commission seeks comment on other requirements, such as whether this designated individual should be required to respond to inquiries within a set time period, or possess the ability to halt experiments within a certain period of time? The Commission seeks comment on these matters, as well as the overall concept of requiring a single point of contact with this level of responsibility.

22. The Commission believes that in addition to the registration process described, there should be a reporting requirement associated with the research program experimental radio license. The Commission tentatively concludes that it should be as minimally burdensome as possible and should be narrowly tailored to ensure that experiments conducted under the license comply with the Commission's rules and procedures and to build a public record of active innovation in the field of radio communications that can be used to encourage and inspire further technological advancements. Are there additional objectives the Commission has overlooked? How can it meet these objectives? The Commission proposes to require that after completion of an experiment, the license holder file a brief narrative statement describing the results of the test, including any interference incidents and steps taken to resolve them. What should constitute a "test" and at what point has a test evolved sufficiently to require a supplemental filing? Should the holder of a research program experimental radio license be required to file periodic reports (*e.g.,* a yearly report) updating the status of ongoing tests, or summarizing the activity conducted under a research license? The Commission seeks comment on these matters.

23. The Commission seeks comment on the duration, terms, and scope of a research license. While such a license is intended to afford qualified institutions greater flexibility in how they conduct experiments, it intends to ensure that all other rules and limitations of our existing experimental procedures will continue to apply. For example, holders of a research license cannot deploy permanent facilities or offer services for

sale. Similarly, the Commission proposes to issue these licenses for a limited, five-year duration, which is consistent with the longest experimental license term our rules currently allow. The Commission would permit license renewals. Is this an appropriate timeframe? In this context, would it make sense to issue initial research licenses for a lesser period and subsequently, upon sufficient showing of compliance with the rules the Commission adopts, issue renewals for five-year periods? It also asks how research licenses should govern experiments conducted by multiple institutions conducted across different campuses. The Commission proposes to require that each participating institution hold a research license (or obtain an individual license that would authorize the experiment), but that only one institution would be required to fulfill the reporting requirements associated with the research conducted across different campuses and that that institution be charged with identifying and making available the single point of contact with authority over the experiment. The Commission also seeks comment on how it should address specific licensing issues involving individual institutions. For example, if an institution has multiple campuses, should it issue one research program experimental radio license per institution that encompasses all campuses, or should it issue a separate license for each campus? Are situations where it should routinely issue more than one research program experimental radio license for a single campus, and if so, what are they? The Commission expects to direct applicants for research licenses to use FCC Form 442 and attach a supplemental narrative that sets forth the information it needs to assess the application (*e.g.* a showing that the applicant is a qualified institution, a description of the campus the license will cover, etc.). As the Commission transitions to a new Consolidated Licensing System (CLS), it will assess whether there is a more effective way to collect the information it needs to evaluate a research license application. The Commission seeks comment on these proposals.

24. The Commission also asks whether it would be appropriate to initiate the research license concept in the context of a pilot program, by which it would choose a limited number of institutions to which it would grant licenses and under which it would evaluate the program before expanding its scope. The Commission recognizes that while the research license concept holds great promise for promoting research investment and fostering wireless innovation, it also needs to be sensitive to questions and concerns that commenters may raise in how to deploy this concept. Would a pilot program be an appropriate way to balance our interests in promoting innovation and flexibility while protecting against harmful or unanticipated interference? If so, would ten institutions be an appropriate number, and what criteria should be used to select them? Are there other provisions we should adopt that would make such a pilot program more successful? The Commission seeks comment on all of these proposals.

25. Finally, the Commission notes that the experimental licensing rules currently have a provision for school and student authorizations. These rules, last updated in 1998, are generally intended for use by students through high school for purposes such as science fairs, school projects, and participation in radio clubs. The rules provide for an informal application by letter and allow transmissions in limited frequency bands at low power levels. Given the changes in both technology and the Commission's processes over the last twelve years including those proposed herein, the Commission questions whether these rules are still necessary. First, it is not aware that these rules have seen widespread use. In addition, the Commission notes that all applications are now required to be filed electronically and that students may want to experiment in more bands than those provided for in this rule. Thus, it proposes to eliminate this rule and require that students desiring to experiment obtain a conventional experimental radio license using the electronic filing process. If there is a good reason to keep these special provisions for students, how can we provide for a streamlined process? Advocates for such a process should provide specific suggestions regarding how such streamlining should be implemented. Alternatively, the Commission asks if these provisions should be maintained, but moved to part 15 to allow for student use of approved equipment on an unlicensed basis. Advocates for such an action should also address whether certain safeguards need to be added to the rule to ensure proper radio usage.

26. The second proposed program license type—the innovation zone program experimental radio license—would give innovators greater flexibility to conduct and modify the terms of their experiments without having to secure the additional approvals that the traditional experimental authorization rules would require. Licensees nevertheless would still be bound by the general limitations that come with an experimental license and would be expected to limit individual experiments conducted under the license to the minimum scope and size necessary to accomplish the test's goals. The Commission envisions that innovation zones, which could include isolated or protected areas, could become havens for enterprise and innovation because it would permit experimenters to explore a variety of technologies with reduced barriers to entry.

27. Innovation zone program experimental radio licenses would be structured similar to the research program experimental radio license model discussed above, and would have the same types of application and reporting requirements, except where described differently in the NPRM and accompanying proposed rules. Also, the eligibility and use restrictions would be different from those used for the research program experimental radio license program. Specifically, the Commission proposes that each licensee must hold appropriate technical credentials demonstrating advanced technical competence in radio engineering, but emphasize that applicants will not necessarily have to be associated with a college, university, or non-profit research organization to be eligible for an innovation zone program experimental radio license. The Commission envisions that innovation zones would permit operations over large areas, and would not be appropriate for use by a single entity at its exclusive-use facility (such as within a large manufacturer's plant grounds). Innovation zones would, however, be ideal for universities and research institutions that wish to conduct research in off-campus settings. The Commission seeks comment on this proposal generally, and whether there are additional technical qualifications that it should require of these licensees.

28. The Commission seeks comment on what criteria it should use to identify areas that are sufficiently isolated or protected to serve as innovation zones. What propagation, geographic or other wireless engineering characteristics should it look for? To be effective, the authorization for innovation zones must allow for access to the largest range of frequencies practical. The Commission proposes that the innovation zone program experimental radio license broadly permit experiments on any frequency that is not specifically listed in § 15.205(a) of its rules, except that experiments could use frequencies

above 38.6 GHz so long as they are not listed in footnote US246 of the Table of Frequency Allocations. The Commission recognizes that in geographically remote areas it may not be necessary to impose limitations on the use of the restricted frequency bands. The Commission seeks comment on when and how it should impose restrictions on individual licenses and/or in particular innovation zones that are located in remote areas. The Commission recognizes that certain geographic areas offer great potential as innovation zones, but their use would raise additional considerations. For example, how should the Commission treat geographic areas and frequencies that it considers, here, to be in the Commission's inventory because they are not licensed? These large areas could provide an excellent opportunity for researchers to experiment on a wide scale with different network topologies and advanced communications systems without fear of encroaching on existing spectrum use. However, such areas could be subject to re-auction, limiting long-term research opportunities. The Commission proposes to permit such areas to be licensed as innovation zones, but to emphasize that experimental use is subject to discontinuance if the bands are re-auctioned prior to the end of the innovation zone license term. Similarly, should the Commission ties the availability of an innovation zone to specific frequency bands in the Commission's inventory? The Commission seeks comment on these matters.

29. The Commission seeks comment on what requirements are necessary to allow for proper oversight of innovation zone program experimental radio licenses. The Commission proposes to delegate to the Office of Engineering and Technology the responsibility for establishing, maintaining, and routinely updating the list of available innovation zones. What additional provisions should it adopt? Should the Commission first identify geographic areas that are suitable innovation zones and promote their use among researchers, or are there different ways to build the innovation zone inventory? Should it limit the number of applicants for a specific zone or otherwise manage the use of this resource among different parties? Should it provide a single license with a requirement to provide and manage access to all parties seeking to conduct an experiment at fair and reasonable terms? For example, a single licensee could assign different experiments to different areas within the larger geographic area or provide a means for time-sharing equipment or could manage a database providing access on an as-needed basis to parties. Would this be a better approach than issuing multiple licenses within an innovation zone? The Commission points out that in the single licensee case there would be a single responsible party that could be contacted for gaining access or in instances where interference may be occurring. The Commission asks that advocates of the single licensee model provide comment on criteria it could use to select such a licensee.

30. The Commission proposes to require the responsible party to file an application that describes the requested geographic area of operation, the frequencies to be used for testing, the maximum power levels associated with planned operations, and any other relevant technical characteristics pertaining to test equipment, antennas, etc., that would be necessary to identify and mitigate potential interference. An innovation zone licensee would then be permitted, under the terms of its license, to design and conduct any test that meets these criteria. The licensee would, however, be required to provide the Commission on a timely basis and through a web-based reporting system, an up-to-date list of the testing that is being conducted with at least a seven-day lead time before the tests are performed. It would also have to report the conclusion of individual tests. Should the holder of an innovation zone program experimental radio license be required to file periodic reports (*e.g.,* a yearly report) updating the status of ongoing tests, or summarizing the activity conducted under its license? Are additional notification or coordination procedures warranted for experiments conducted in certain bands, such as those used for public safety or EAS purposes? If so, should the Commission apply the same pre-test notice process that it is proposing for the research licensee? The Commission tentatively concludes that innovation zone program experimental radio licenses should be granted for the same five-year duration it proposes for research experimental licenses to encourage robust levels of experimentation by minimizing administrative burdens, and that the Commission permit license renewals. The Commission also proposes to require the licensee to identify a single point of contact who has authority to stop any tests being conducted in the innovation zone, and to apply the same dispute resolution procedures it adopts for research program experimental radio licenses. The Commission seeks comment on these proposals.

31. The third type of proposed program license is the medical program experimental radio license. This license would be available to hospitals and other health care institutions, and would facilitate the creation of cutting-edge test-bed facilities where manufacturers and developers could try out new wireless medical technologies and assess operational readiness. A medical experimental authorization would allow for the testing and operation of new medical devices that use wireless telecommunications technology for therapeutic, monitoring, or diagnostic purposes that have not yet been submitted for equipment certification, or for devices that use RF for ablation, so long as the equipment is designed to meet the FCC's technical rules. The FDA's investigational device exemption (IDE) may be applicable when these experiments involve patients. In this regard, the Commission notes that the FDA in consultation with the FCC is exploring approaches to streamline IDEs for wireless medical devices, when an IDE is required.

32. The medical experimental license program would be supervised by the FCC in consultation with the FDA to determine the applicability and approval of the license to ensure that patient safety is considered. This program is not intended to replace the FDA's existing oversight and review programs.

33. It is important that the Commission limit eligibility of medical program experimental radio licenses to the right institutions. Should it restrict licensing to entities that meet specific criteria, such as accreditation by a particular certification body—or should it instead require an entity, as part of its submission, to make an affirmative showing that it is engaged in the health care field and that it has sufficient resources and expertise to oversee tests conducted under the authority of a blanket license? How might the Commission include federal medical institutions such as those operated by the Department of Veterans Affairs or military services in this program, where the facility itself is under the jurisdiction of the Executive Branch and authorizations would ordinarily be granted by the NTIA, but certain tests might be conducted by non-federal entities? How could the Commission structure the coordination process between these governmental entities to balance the interests of military services while at the same time expediting the development of new medical devices? The Commission seeks comment on this

matter. The Commission proposes to require that, in all cases, facilities that seek a medical program experimental radio license demonstrate that they possess basic expertise in radio management. The Commission seeks comment on whether it should require baseline qualifications for demonstrating this expertise, or if it will be sufficient for applicants to make an affirmative showing that they hold these skills. For example, the Commission believes it is important to have the ability to identify and correct RF related problems. In this regard, it recognizes that some institutions may not be well versed in the FCC rules or spectrum management issues and may have to collaborate with an industry partner to develop new devices once a specific need is identified. In these instances, can the requirement for basic expertise in radio management be satisfied by the industry partner or should it reside with the host institution? Alternatively, could a third party be used to manage spectrum under the medical experimental authorization? For example, the American Society for Healthcare Engineering (ASHE) was designated by the Commission to manage the use of medical wireless telemetry equipment in health care settings. The Commission seeks comment on whether such an approach can work for medical research activities.

34. The Commission tentatively concludes that the medical program experimental radio license should be granted to the institution that creates and manages the test bed environment in which the specific research activities will be conducted, as opposed to the manufacturers and experimenters who may be conducting the actual tests. The Commission believes that this approach strikes the right balance between our goal of promoting robust radio experimentation and the necessity of providing safeguards against harmful interference, because institutions can establish a single point of contact with knowledge of and control over all testing that is being conducted, and because such institutions should have ultimate control over their facilities. To the extent that the Commission permits the requirement for basic expertise in radio management to be satisfied an industry partner or third-party manager, how should it structure the licensing process? Should the Commission, for example, issue multiple licenses but require one party to identify itself as the responsible party?

35. As with the research program experimental radio license and innovation zone program experimental radio license proposals, above, the Commission proposes that a medical program experimental radio license will offer broad authority under which individual tests will be conducted, but that such tests should be limited in scope to what is necessary to meet a particular test's goals. For example, the tests conducted under a medical program experimental radio license will provide researchers an opportunity to assess the susceptibility of new devices to interference as well as whether they might cause interference to other devices. Such tests can be conducted in a controlled environment so that any electromagnetic interference issues can be identified and remedied prior to devices being distributed to the public. The Commission proposes the same limitation on use of frequencies for medical program experimental radio licenses as it does for research program experimental radio and innovation zone program experimental radio licenses. That is, researchers may use any frequency so long as it is not listed in § 15.205(a), except that frequencies above 38.6 GHz may be used so long as they are not listed in footnote US242 of the Table of Frequency Allocations.

36. The Commission seeks comment on what information it should require of an applicant, in addition to a demonstration of its qualifications to hold a license. The Commission proposes to follow the same general application procedures as those to be established for the other program experimental radio license types. The Commission tentatively concludes that a licensee must specify the rule parts, frequencies, and geographic areas in which it plans to conduct tests. Is there additional information that it should require at the application stage? The Commission proposes that the license term be set for an initial five-year period, and that we permit license renewals. What other provisions should be incorporated into our rules?

37. How should the Commission define the scope of permissible operations under a medical program experimental radio license? The Commission tentatively concludes that experiments conducted under the medical experimental authorization should be limited to investigations and tests involving therapeutic, monitoring, and diagnostic medical equipment and that the institution be given broad leeway to choose the frequency band(s) and technical characteristics appropriate to each experiment without having to seek specific prior FCC approval. The Commission also takes a fresh look at its existing experimental authorization rules as applied to medical equipment. Are there any rules that it should relax or modify due to the unique nature of or the importance of promoting advancements in the medical device field? As an initial matter, the Commission proposes that tests conducted under a medical experimental authorization not be subject to our traditional station identification rules. Our past experience in the medical device field suggests that such requirements are impractical for many of the devices it expects to be tested under the proposed new authorization, and that the typical power level and deployment environment for such devices will serve to reduce the potential for unanticipated interference that cannot be readily identified and resolved. Although the Commission proposes to require that operations must be tailored to comply with applicable FCC technical rules, should it also establish a method by which innovators can test devices that may not completely conform to the rules provided they have performed a risk assessment that includes an evaluation of how to protect the existing base of devices already in use in the medical facility? Are there any standards for risk assessment that should be used in this regard? The Commission asks because the test beds it hope to foster through medical experimental authorizations appear to be ideal venues to conduct empirical testing to support assertions that devices and systems will operate successfully in real-world settings. Should operations conducted under a medical experimental authorization be limited to a specific geographic area—such as the licensee's medical campus—or will the other proposed limitations on eligibility and operations provide sufficient protection against unanticipated consequences? More specifically can testing under a medical program experimental radio license be expanded to include body worn or implanted devices that travel with the patient, or should these types of tests be governed by the conventional experimental radio license? The Commission seeks comment on all of these matters.

38. The Commission also seeks comment on what reporting requirements it should impose under a medical program experimental radio license. In exchange for the flexibility to conduct these tests, it believes that a license-holding institution should bear an obligation to prepare and submit a report detailing the results of its findings for review by the FCC and for dissemination to the medical community at large. Thus, just as teaching hospitals provide a venue

where new techniques can be developed and the knowledge shared, the medical experimental authorization would offer medical innovators fertile ground in which they could nurture and develop their ideas in a real-world setting, and where ideas and advancements can readily propagate throughout the medical community. The Commission proposes to require that the licensee submit, through the same Web site used for project registration, a report within 30 days after conclusion of the test that briefly summarizes its findings, and that the licensee also file a yearly report to the experimental licensing system of the activity that has been performed under the license. The Commission's intent with these reporting requirements is not to make public proprietary or company confidential information, but to provide a venue for sharing information that researchers would find beneficial in the goal of patient care. It also proposes that the licensee must provide the Commission on a timely basis an up-to-date list of the testing that is being conducted with at least a seven calendar day lead time before the tests are performed, and include such basic information as the frequencies and rule parts under which the medical device is intended to operate, the number of units that may be employed, the duration of the study, and the geographic scope of the experiment. Such information would make it easier to identify and remedy any unanticipated interference that may occur during the test. The Commission also proposes to apply the same dispute resolution procedures it adopts for research program experimental radio licenses. As with our other program experimental radio license proposals, the Commission anticipates that reports would be filed via a Commission web page, and that filings would be posted in a public and easily accessible manner. Because one of our objectives is to make available findings for review and dissemination to the medical community at large, the Commission specifically seeks comment on whether these proposed reporting requirements are sufficient to meet our goals. Specifically, are there other recognized reporting policies or protocols that are used within the medical community that we should be aware of? Are there ways for us to align elements of our reporting requirements with those policies?

39. The Commission believes that the medical experimental authorization will create a new path for bringing innovative broadband and wireless-enabled medical devices to market, and will foster tangible advancements in the vital area of health care. By restricting licenses to qualified health care entities and for therapeutic, monitoring, and diagnostic medical equipment will provide protection against unanticipated harmful interference to other medical devices and existing radio services. As a practical matter, the Commission observes that many medical devices typically operate on a shared, non-exclusive secondary basis and at low power levels. Moreover, because of the coordination of this program with the FDA, as well as with that agency's overall regulatory oversight of medical devices, we believe that the testing of new and innovative devices under medical experimental authorizations can be accomplished in a way that protects patient safety and health. The Commission seeks comment on its proposal, and encourages commenters to help us craft this concept into rules that will create test-beds for the rapid and robust development of new medical devices.

40. The Commission also proposes to modify the rules and procedures in order to bring more clarity to its rules regarding operating and marketing of RF devices prior to equipment approval and also to relax the conditions under which market trials can be conducted. The existing rules generally prohibit devices from being marketed or operated prior to receiving a grant of equipment authorization. However, exceptions do exist. Section 2.803 of the rules allows for conditional sales, advertising and display, and outright sales to certain businesses of equipment not yet certified so long as proper notice is provided to the prospective buyer. That rule section also provides for a manufacturer to operate its product for demonstration or evaluation purposes under the authority of a local FCC-licensed service provider. Additionally, § 5.3(j) of our rules permits licensees operating under experimental radio authorizations to conduct "limited market studies." Such studies are not defined in part 5, but § 5.93 of our rules restrict equipment ownership to the licensee, require notice to participants that the operation is temporary, and stipulate that the size and scope of the experiment be subject to the limitations that the Commission establishes on a case-by-case basis.

41. Section 2.803 of our rules describes when radio frequency devices may be marketed or operated prior to equipment authorization and typically would apply during the later stages of product development and pre-production. The Commission proposes to split this rule into two separate rules for marketing and for operating such devices. Our goal is to maintain the general requirement that devices may not be marketed or operated prior to equipment authorization, but to clarify and simplify the existing exceptions to this rule. Marketing of devices prior to equipment authorization is permitted limited purposes, such as making conditional sales contracts or in conjunction with trade show displays. Operation of devices prior to equipment authorization is conducted under the authority of a service license or a grant of special temporary authority, or under the rules for unlicensed devices in parts 15, 18 or 95. Additionally, both operation and marketing of radio frequency devices prior to equipment authorization is permitted pursuant to trials conducted under the authority of a part 5 experimental radio service authorization. The Commission proposes to clearly state this as an exception to our general part 2 rules.

42. The Commission proposes to cross-reference the definition of "marketing" as it is used in § 2.803(e)(4) of our rules in the revised part 5 market trial rules we ultimately adopt. Under § 2.803(e)(4), marketing is defined to include sale or lease of equipment, or offering for sale or lease, including advertising for sale or lease, or importation, shipment, or distribution for the purpose of selling or leasing or offering for sale or lease. The Commission seeks comment on whether this definition meets the needs of parties interested in conducting market trials and ask if there alternative definitions or additional categories that should be added. The Commission will use the proposed definition as the basis for the remainder of our proposals, and make appropriate changes based on the record should the Commission move to adopt different market trial rules. Thus, the Commission asks that commenters who propose to expand the existing definition of "marketing" also provide detailed information on how other related rules need to be similarly modified.

43. The Commission proposes to expand upon the existing concept of "limited market studies" as currently codified in our part 5 rules. Specifically, the Commission proposes to adopt a new subpart that contains provisions for two types of trials—product development trials and market trials. A product development trial would be defined as an experimental program designed to evaluate product performance in the conceptual, developmental, and design stages, and that typically requires testing under expected use conditions. A market trial would be defined as a program designed

to evaluate product performance and customer acceptability prior to the production stage, and that typically requires testing under expected use conditions to evaluate actual performance and effectiveness. These trials would be conducted under the authority of a part 5 license and, because they would typically involve equipment that has not yet been authorized, would operate as an exception to our part 2 rules.

44. The Commission's proposed rules for product development trials are designed to generally track the existing rules for limited market studies. The Commission proposes to explicitly prohibit the marketing of devices operated as part of a product development trial and retain the restrictions on ownership to the licensee and notification to users that are part of the existing limited market study rule. The Commission seeks comment on the proposed product development trial rules.

45. A wide range of entities would be eligible to obtain an experimental authorization to conduct market trials, and we would grant multiple licenses in situations where more than one entity will be responsible for conducting the same market trial—such as when a manufacturer, system integrator, and service provider are testing consumer acceptance of a new device. Under the existing rules, a manufacturer may offer equipment for sale prior to certification but the prospective buyer is not authorized to operate the equipment; similarly, a manufacturer is authorized to operate the equipment at the prospective buyer's facilities but the licensee remains the responsible party. The Commission's proposed part 5 rules would provide a simpler means for manufactures and prospective buyers to conduct market trials. Additionally, because these rules are specifically designed to provide for expanded marketing opportunities to consumers and other third parties, we propose that when a market trial involves a device that has not yet been authorized, that the device must be operated in compliance with existing Commission rules, waivers of such rules that are in effect at the time of operation, or rules that have been adopted by the Commission but that have not yet become effective. The Commission seeks comment on these proposals.

46. The Commission recognizes that a market trial often involves the offer for sale or lease of a device operated pursuant to a license so that manufacturers and service providers can evaluate customer demand for new capabilities or services and at what price. The proposed rules would permit us to issue part 5 licenses to more than one party conducting a market trial together (*e.g.,* a manufacturer working in conjunction with a service provider) and allow licensees to sell equipment to each other. Licensees would retain ownership of equipment and only be permitted to lease equipment to trial participants, such as consumer end users, for purposes of the trial. Licensees would have to ensure that trial devices are either rendered inoperable or are retrieved at the end of the trial. Thus, the Commission does not propose to allow sales to consumers of equipment that has not yet been certified. While the benefits of allowing direct sales are clear from a marketing perspective, such a provision would put the ownership of uncertified equipment directly with consumers and complicate the Commission's efforts to enforce its rules. To the extent commenters discuss options that would provide for direct sales to consumers, they should provide detailed information regarding how such rules would be envisioned to function to enable valuable marketing information to be obtained, while ensuring that uncertified products do not flood the market without proper controls or create widespread interference. Specifically, what controls would need to be placed on such sales or on the operation of the devices marketed in this manner? Would it be feasible to transmit unique manufacturer codes to facilitate the resolution of interference issues? In the case of devices designed to be authorized under parts 15, 19 or 95 of our rules, and which would not normally require a license prior to operation, the Commission proposes to require that when these devices are to be included in a market trial that they be authorized under a part 5 license as would any other RF device. This approach would ensure that we have a licensee identified as the responsible party for conducting the market trial. The Commission seeks comment on this proposal.

47. In many instances, developers and system integrators seek to obtain evaluation kits from manufacturers to test and evaluate a component that the manufacturer intends to offer for sale to facilitate the purchaser's development of hardware and software for use with that component. These kits typically consist of a component the manufacturer intends to offer for sale, mounted on a board, with or without an enclosure, in configurations that provide connections to a power supply, easy access to terminals, and sometimes supporting devices or other hardware. Under current rules, sales of these kits are not permitted before equipment authorization is granted for the component. This restriction delays the ability of manufacturers and system integrators to develop hardware and software for use with the component. To remedy this situation, the Commission proposes to modify § 2.803 of the rules to allow the sale of these evaluation kits so long as notice stating that the component has not yet been certified is provided to any buyer. The Commission seeks comment on this proposal. Does our description of evaluation kits meet the needs of manufacturers or is too restrictive or not restrictive enough? Should the Commission restrict such sales to developers and system integrators? If so, how should it define these entities? Should such sales be limited in number? For example, should it only allow a manufacturer to sell 1000 kits for a specific component per twelve month period? Are there any other considerations for which we need to account?

48. The Commission also seeks comment on compliance testing under our rules. Section 2.803 of our rules provides for the operation of radio frequency devices for purposes of compliance testing, but does not eliminate the requirement to obtain a station license for products that normally require a license to operate. How should laboratories engaged in the testing of equipment, but that are not themselves manufacturers or licensed service providers, be authorized to conduct their work? Should the Commission make specific provisions in our part 5 experimental radio service rules to issue licenses to laboratories accredited by accreditation bodies that it recognizes for RF product testing and consistent with their approved competencies? If so, should they be patterned after the program license model discussed, or in a different manner? What would be an appropriate license term and renewal process for such a license? Is there a different way to authorize these entities to perform compliance testing? The Commission seeks comment on this matter.

49. An additional issue related to the ability to conduct effective market trials implicates our part 2 rules that limit equipment importation for devices that have not yet been certified. Section 2.1204(a)(3) of our rules permits radio frequency devices to be imported in limited quantities "for testing and evaluation to determine * * * suitability for marketing," but limits quantities to 2000 units for products designed solely for operation within a

radio service which requires an operating license and 200 units for all other purposes (*e.g.,* part 15 unlicensed devices, part 18 Industrial, Scientific and Medical equipment, and part 95 equipment that is licensed by rule). Recognizing that the majority of equipment and devices today are manufactured in other countries, the Commission believes that the current import restrictions may unduly constrain innovators from having the ability to conduct meaningful market studies and related tests. Practical experience, as measured by a steady stream of requests for waivers of this rule submitted to staff in our Office of Engineering and Technology, supports this observation.

50. In response to a solicitation for comments for the 2006 biennial review of the telecommunication regulations pursuant to Section 11 of the Communications Act (2006 Biennial Review), Hewlett-Packard (HP) submitted comments recommending that the 200 device limit for RF devices that do not require an individual station license be amended to allow the importation of up to 1200 units for product development purposes. In addition, HP recommends that the importer be required to comply with rigorous reporting requirements, reflected in a quarterly report to the Commission, for importations greater than 200 units. The Information Technology Industry Council (ITI) supports HP's recommendations, believing that they would reduce the burden on companies that have product development programs within the United States, but that utilize prototypes assembled outside of the United States. In a Staff Report, the Office of Engineering and Technology concurred with HP's recommendation to raise the import limit and recommended that the Commission issue a Notice of Proposed Rulemaking to modify § 2.1204 of the rules. The Commission believes that the time is ripe to increase the importation limit for devices that will not require an individual station license from 200 units to the 1200 units recommended by HP. This will better reflect current manufacturing, design, and marketing techniques and also decrease the administrative burden on both industry and the Commission. Is 1200 the correct ceiling? Should the limit be set higher to provide for more extensive market studies? Would a lower limit achieve an appropriate balance between easing the manufacturing process and our interest in maintaining appropriate controls on the importation of RF devices? Similar to our proposal above regarding the size of a market trial, the Commission tentatively concludes here that it would treat devices that contain both licensed and unlicensed transmitters under the more liberal 2000 unit limit applicable for licensed devices. The Commission seeks comment on this proposal. The Commission declines to propose HP's recommendation to implement a quarterly reporting system. The Commission believes that the same benefit can be achieved in a less burdensome way by requiring importers to maintain records of their imports under these provisions, allowing the Commission to request this information if needed. The Commission also proposes to clarify that RF devices may be imported not only for testing and evaluation purposes, but also for product development purposes. The Commission requests comment on these proposals.

51. Finally, the Commission discusses the parties who should be held responsible for market trials. In the case of a manufacturer, the responsible party is readily apparent as the entity that built the device is conducting the study. However, in other instances, it is not always so apparent. For example, if a commercial carrier were to conduct a study using a new, not yet certified handset built by a third party is the carrier or the manufacturer the most logical responsible party? Similarly, manufacturers are increasingly incorporating one or more radio modules into devices. These modules can be manufactured by different entities and may be different than the final product assembler. Accordingly, the Commission has structured its proposed part 5 market trial rules to specify that, in cases where separate licenses are issued because more than one entity is involved in conducting the same market trial, one party must be designated as the responsible party for the trial. The Commission seeks comment on this proposal. The Commission also invites comment on how and when to hold parties that are not designated as the responsible party for the trial liable for any rule violations.

52. The Commission proposes to consolidate all experimental licensing rules under part 5 of the rules and to update the title of part 5 to remove the distinction between broadcast and all other experimental licenses. The Commission believes that there are enough similarities between the various Commission rules that allow for experimentation that the developmental licensing rules can be subsumed by the experimental licensing rules. Accordingly, the Commission proposes to eliminate the developmental rules and evaluate all future applications seeking any form of experimental or developmental authority under our part 5 experimental authorization rules. The Commission believes this will provide clear and consistent guidelines to all parties seeking to experiment and innovate. In addition, because the part 5 rules are generally more flexible than the various developmental rules, the Commission believes that this will only increase opportunities for experimentation as it removes several barriers that currently exist under its rules. We also point out that the Commission has announced its intention to develop a consolidated licensing system as a long-term initiative to combine the functions of our current licensing and applications systems. The purpose of this initiative is to develop a consolidated licensing system that is transparent, easy to use for the public and Commission staff, consistent with the FCC's data driven and fact-based rulemaking strategies, adaptable to evolving requirements, efficient, cost-effective and green. The Commission believes that its proposals here will also advance the Commission's stated system development goals in this endeavor. The Commission seeks comment on its proposal to remove these developmental rules from the various service rule parts, and our observation that the types of operations permitted under developmental licenses can also be granted under our current part 5 experimental rules.

53. The Commission recognizes that the developmental rules are not exact duplicates of our part 5 rules, and asks if are there any particular requirements under the various developmental rule sections that we must migrate to our part 5? For example, the rules for private radio meteor burst communications in § 90.250 require that new authorizations be issued subject to the developmental grant procedure and that an application for issuance of a permanent authorization is to be filed prior to the expiration of the developmental authorization. The Commission proposes to retain the current structure of this rule when we move it to part 5, but to replace the existing requirement that an entity must first obtain a developmental authorization with the requirement that it must obtain an experimental license. The Commission seeks comment on this proposal and, more generally, whether the "pre-license" concept embodied in the rule is even necessary. With respect to all of our existing developmental

rules, Commenters should specifically identify the rules they believe must be retained, and describe why the Commission's part 5 rules are inadequate by themselves.

54. The proposal observes that there are currently ten active developmental licenses (four with pending renewal applications), and asks how to treat these existing developmental licenses. The Commission proposes to reissue these authorizations as experimental licenses under our part 5 rules, but seek comment on alternate approaches, such as allowing them to run to term and reapply for an experimental license or cancelling them outright and requiring licensees to reapply for an experimental license.

55. The Broadcast services have their own set of rules delineating experimentation in parts 73 and 74 of our rules apart and separate from the more general part 5 rules. Experiments in the Broadcasting services rely heavily on broadcasting-specific engineering and licensing knowledge, and are typically designed to support the operations of existing broadcasters. Accordingly, the Commission does not propose to alter the process for conducting broadcast experiments under these rules, the ways these applications are filed or evaluated by the Media Bureau, or otherwise disturb existing practice. The Commission believes, however, that there is value in providing a single place within our rules where an applicant can see the entire breadth of what is permitted on an experimental basis. Thus, the Commission proposes to create a new subpart within part 5 into which it would move the relevant portions of the existing rules that are now in parts 73 and 74; where possible, the Commission would take advantage of any similarities between existing part 5 rules and those currently in parts 73 and 74 to ensure the removal of duplicative or unneeded rules. One benefit of this unified approach is that the Commission could provide clearer guidance than is available today regarding when an applicant should file for a broadcast experimental license as opposed to a more general experimental license, while retaining the necessary distinctions for broadcast-specific experimentation. The Commission seeks comment on this proposal and suggestions for any additional changes to these rules or other modifications necessary to accomplish our goals. Finally, by consolidating these regulations into part 5 the Commission does not intend to propose any change to the section 106 historic preservation review applicable to broadcast experimental radio stations authorized by the Commission. The Commission seeks comment on new § 5.205(c), governing the licensing of such stations, that would clarify that such stations do not qualify for the exclusion applicable generally to experimental authorizations simply because such authorizations are now issued under part 5 of the rules.

56. The last topic addressed by the NPRM pertains to whether there are specific changes to the experimental rules and procedures that can be implemented to open new opportunities for experimentation and remove barriers that may have prevented timely and productive testing. The Commission also seeks comment on whether there are additional rules that it should modify or clarify in order to promote the overall goals of this proceeding. Should the Commission modify its rules to permit operation of radio frequency devices that are not yet certified without the need for an experimental license, so long as the devices are operated as part of a trade show demonstration and at or below the maximum power level permitted for unlicensed devices under our part 15 rules? For example, the Commission believes that it would be beneficial to permit a land mobile radio that has been modified to not operate in excess of the part 15 power limits to be demonstrated without requiring an experimental authorization, given that our current rules allow demonstrations of devices designed to operate under the part 15 rules. Under such an approach, are there necessary limitations—such as restricting use to indoor environments or excluding the use of devices while in motion—that we need to consider? The Commission seeks comment. The Commission also finds that there are several part 5 rules that warrant additional review. For example, by eliminating the developmental rules, it can also delete § 5.51(b) which directs potential applicants eligible for a service specific license seeking to develop an improvement in that service to apply for a developmental license rather than an experimental license. The Commission notes that § 5.51(a) limits prospective applicants to persons qualified to conduct experimentation utilizing radio waves. Does this technical fitness test discourage potential innovators who wish to explore new ideas from seeking approval to conduct experiments and, if so, how could the Commission modify or restate this requirement? The Commission also seeks comment on whether other provisions of its rules serve to create unnecessarily burdensome checks on robust experimentation. Does § 5.125, which restricts communications to other experimental stations authorized under part 5, stifle the potential for innovative technical solutions between experimental and developmental stages of product developments?

57. The current experimental licensing rules do not address operation within an anechoic chamber or Faraday cage. This has led to many questions over the years regarding licensing requirements when operating RF equipment within either of these spaces. In addressing this situation, Commission staff has generally informed entities that for operations within anechoic chambers or Faraday cages, an experimental license was not needed because the potential for interfering with other radio services was practically non-existent. The Commission now seeks to codify this policy in the rules. Specifically, the Commission proposes to permit RF tests and experiments that are fully contained within an anechoic chamber or a Faraday cage to occur without the need for obtaining an experimental license. The Commission seeks comment on this proposal. Also, the Commission asks commenters to address the following questions. Should it specify a minimum standard for the shielding effectiveness of the chamber? Is their an industry standard that it can reference in setting forth such qualifications? If so, should one be specified within our rules?

58. RF devices must meet certain technical requirements before they may be legally operated within the United States. Compliance with these requirements is ensured through the Commission's equipment authorization process which includes provisions for certification, verification and declaration of conformity. Often the equipment approval process requires testing at an open area test site (OATS). An OATS is typically located outside in areas free of reflective objects. Under our current rules, an experimental license is required for radiation emissions testing in conjunction with regulatory approval. How should entity's engaged in open area testing, but that are not themselves manufacturers or licensed service providers, be authorized to conduct their work? Should the Commission make specific provisions in its part 5 experimental radio service rules to issue licenses to these entities? If so, should the licenses be patterned after the program license model discussed, or in a different manner? What would be an appropriate license term and renewal process for such a license? Is there a different way to authorize these entities to perform testing? Are there any

limitations that the Commission should place on outdoor open area test sites? The Commission seeks comment on this matter.

59. The Commission seeks comment on the proposals as discussed both within in this NPRM and in the accompanying appendix that sets forth our proposed rules, and on any related matter that is raised in this context. Commenters proposing a different course than the Commission has proposed in either this text or the accompanying rules should provide specific information detailing how their proposals fit into our overall goals of providing more flexibility for innovation and providing clear, concise experimental guidelines to the public.

Initial Regulatory Flexibility Analysis

60. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rulemaking (NPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines specified on the first page of this document. The Commission will send a copy of this NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).[2]

A. Need for and Objectives of the Proposed Rules

61. In this NPRM the Commission takes steps to promote innovation and efficiency in spectrum use in our Part 5 Experimental Radio Service (ERS). For many years, the ERS has provided fertile ground for testing innovative ideas that have led to new services and new devices for all sectors of the economy. We propose specific steps to accelerate the rate at which these ideas transform from prototypes to consumer devices and services. These proposals will contribute to advancements in devices and services available to the American public by enabling a quicker equipment development process and promoting greater spectrum efficiency over the long term.

62. Six areas have been targeted which can provide increased opportunities for experimentation and innovation. In particular, our Notice of Proposed Rulemaking (NPRM) proposes to: (1) Create new opportunities for universities and researchers to use a wide variety of radio frequencies for experimentation under a broad research license that eliminates the need to obtain prior authorization before conducting individual experiments; (2) empower researchers to conduct tests in specified geographic locations with pre-authorized boundary conditions through the creation of new "innovation zones"; (3) promote advancement in the development of medical radio devices by creating a medical experimental authorization that would be available to qualified hospitals, Veterans Administration (VA) facilities, and other medical institutions; (4) broaden opportunities for market studies by revising and consolidating our rules; (5) promote greater overall experimentation by streamlining our existing rules and procedures; and (6) open new opportunities for experimentation by making targeted modifications to our rules and procedures.

B. Legal Basis

63. This action is authorized under sections 4(i), 301, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 301, and 303.

C. Description and Estimate of the Number of Small Entities to Which the Rules May Apply

64. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules.[3] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[4] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[5] A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[6]

65. Nationwide, there are a total of approximately 29.6 million small businesses, according to the SBA.[7] A "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."[8] Nationwide, as of 2002, there were approximately 1.6 million small organizations.[9] The term "small governmental jurisdiction" is defined generally as "governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand."[10] Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States.[11] We estimate that, of this total, 84,377 entities were "small governmental jurisdictions."[12] Thus, we estimate that most governmental jurisdictions are small.

66. There is an overall trend of increasing experimental activity. For example, disposals (grants and dismissals) under the ERS increased from 1,067 in 2000 to 1,235 in 2005 to a projected 1,481 in 2010.[13] By contrast, much less activity takes place under our developmental rules. Since 1999 in the non-broadcast (wireless) radio services, ten developmental licenses have been granted under part 22 (Public Mobile Services), one has been granted under part 80 (Maritime Services), 37 have been granted under part 87 (Aviation Services), and eight have been granted under part 90 (Private Land Mobile Radio Services). None have been granted since 1999 under part 101 (Fixed Microwave Services).

67. *Wireless Telecommunications Carriers (except Satellite).* Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601 through 612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996, (SBREFA) Public Law 104–121, Title II, 110 Stat. 857 (1996).

[2] *See* 5 U.S.C. 603(a).

[3] *See* 5 U.S.C. 603(b)(3), 604(a)(3).

[4] *Id.,* 601(6).

[5] *See* 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such terms which are appropriate to the activities of the agency and publishes such definitions(s) in the **Federal Register**."

[6] *See* 15 U.S.C. 632.

[7] *See* SBA, Office of Advocacy, "Frequently Asked Questions," *http://web.sba.gov/faqs/faqindex.cfm?areaID=24* (revised Sept. 2009).

[8] *See* 5 U.S.C. 601(4).

[9] Independent Sector, The New Nonprofit Almanac & Desk Reference (2002).

[10] *See* 5 U.S.C. 601(5).

[11] U.S. Census Bureau, Statistical Abstract of the United States: 2006, Section 8, page 272, Table 415.

[12] We assume that the villages, school districts, and special districts are small, and total 48,558. *See* U.S. Census Bureau, Statistical Abstract of the United States: 2006, section 8, page 273, Table 417. For 2002, Census Bureau data indicate that the total number of county, municipal, and township governments nationwide was 38,967, of which 35,819 were small. *Id.*

[13] These figures include all Part 5 experimental application types: New licenses, modifications of licenses, assignment of licenses, license renewals, transfers of control, and grants of Special Temporary Authority. *See https://fjallfoss.fcc.gov/oetcf/els/reports/GenericSearch.cfm.*

census category.[14] Prior to that time, such firms were within the now-superseded categories of "Paging" and "Cellular and Other Wireless Telecommunications."[15] Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees.[16] Because Census Bureau data are not yet available for the new category, we will estimate small business prevalence using the prior categories and associated data. For the category of Paging, data for 2002 show that there were 807 firms that operated for the entire year.[17] Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more.[18] For the category of Cellular and Other Wireless Telecommunications, data for 2002 show that there were 1,397 firms that operated for the entire year.[19] Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more.[20] Thus, we estimate that the majority of wireless firms are small.

68. *Fixed Microwave Services.* Fixed microwave services include common carrier,[21] private operational-fixed,[22] and broadcast auxiliary radio services.[23] At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not created a size standard for a small business specifically with respect to fixed microwave services. For purposes of this analysis, the Commission uses the SBA small business size standard for the category Wireless Telecommunications Carriers (except Satellite), which is 1,500 or fewer employees.[24] The Commission does not have data specifying the number of these licensees that have no more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of fixed microwave service licensees that would qualify as small business concerns under the SBA's small business size standard. Consequently, the Commission estimates that there are 22,015 or fewer common carrier fixed licensees and 61,670 or fewer private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services that may be small and may be affected by the rules and policies proposed herein. We note, however, that the common carrier microwave fixed licensee category includes some large entities.

69. *Unlicensed Personal Communications Services.* As its name indicates, UPCS is not a licensed service. UPCS consists of intentional radiators operating in the frequency bands 1920–1930 MHz and 2390–2400 MHz that provide a wide array of mobile and ancillary fixed communication services to individuals and businesses. The NPRM potentially affects UPCS operations in the 1920–1930 MHz band; operations in those frequencies are given flexibility to deploy both voice and data-based services. There is no accurate source for the number of operators in the UPCS. Since 2007, the Census Bureau has placed wireless firms within the new, broad, economic census category Wireless Telecommunications Carriers (except Satellite).[25] Prior to that time, such firms were within the now-superseded category of "Paging" and "Cellular and Other Wireless Telecommunications."[26] Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees.[27] Because Census Bureau data are not yet available for the new category, we will estimate small business prevalence using the prior categories and associated data. For the category of Paging, data for 2002 show that there were 807 firms that operated for the entire year.[28] Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more.[29] For the category of Cellular and Other Wireless Telecommunications, data for 2002 show that there were 1,397 firms that operated for the entire year.[30] Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more.[31] Thus, we estimate that the majority of wireless firms are small.

70. *Aviation and Marine Radio Services.* There are approximately 26,162 aviation, 34,555 marine (ship), and 3,296 marine (coast) licensees.[32] The Commission has not developed a small business size standard specifically

[14] U.S. Census Bureau, 2007 NAICS Definitions, "517210 Wireless Telecommunications Categories (Except Satellite)"; *http://www.census.gov/naics/2007/def/ND517210.HTM#N517210.*

[15] U.S. Census Bureau, 2002 NAICS Definitions, "517211 Paging"; *http://www.census.gov/epcd/naics02/def/NDEF517.HTM.;* U.S. Census Bureau, 2002 NAICS Definitions, "517212 Cellular and Other Wireless Telecommunications"; *http://www.census.gov/epcd/naics02/def/NDEF517.HTM.*

[16] *See* 13 CFR 121.201, NAICS code 517210 (2007 NAICS). The now-superseded, pre-2007 CFR citations were 13 CFR 121.201, NAICS codes 517211 and 517212 (referring to the 2002 NAICS).

[17] U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization," Table 5, NAICS code 517211 (issued Nov. 2005).

[18] *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with "1,000 employees or more."

[19] U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization," Table 5, NAICS code 517212 (issued Nov. 2005).

[20] *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with "1,000 employees or more."

[21] *See* 47 CFR 101 *et seq.* for common carrier fixed microwave services (except Multipoint Distribution Service).

[22] Persons eligible under parts 80 and 90 of the Commission's rules can use Private Operational-Fixed Microwave services. *See* 47 CFR parts 80 and 90. Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use the operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

[23] Auxiliary Microwave Service is governed by part 74 of Title 47 of the Commission's rules. *See* 47 CFR part 74. This service is available to licensees of broadcast stations and to broadcast and cable network entities. Broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile television pickups, which relay signals from a remote location back to the studio.

[24] *See* 13 CFR 121.201, NAICS code 517210.

[25] U.S. Census Bureau, 2007 NAICS Definitions, "517210 Wireless Telecommunications Categories (Except Satellite)"; *http://www.census.gov/naics/2007/def/ND517210.HTM#N517210.*

[26] U.S. Census Bureau, 2002 NAICS Definitions, "517211 Paging"; *http://www.census.gov/epcd/naics02/def/NDEF517.HTM.;* U.S. Census Bureau, 2002 NAICS Definitions, "517212 Cellular and Other Wireless Telecommunications"; *http://www.census.gov/epcd/naics02/def/NDEF517.HTM.*

[27] *See* 13 CFR 121.201, NAICS code 517210 (2007 NAICS). The now-superseded, pre-2007 CFR citations were 13 CFR 121.201, NAICS codes 517211 and 517212 (referring to the 2002 NAICS).

[28] U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization," Table 5, NAICS code 517211 (issued Nov. 2005).

[29] *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with "1,000 employees or more."

[30] U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization," Table 5, NAICS code 517212 (issued Nov. 2005).

[31] *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with "1,000 employees or more."

[32] Vessels that are not required by law to carry a radio and do not make international voyages or communications are not required to obtain an individual license. *See* Amendment of Parts 80 and 87 of the Commission's Rules To Permit Operation of Certain Domestic Ship and Aircraft Radio Stations Without Individual Licenses, *Report and Order,* WT Docket No. 96–82, 11 FCC Rcd 14849 (1996).

applicable to all licensees. For purposes of this analysis, we will use the SBA small business size standard for the category Wireless Telecommunications Carriers (except Satellite), which is 1,500 or fewer employees.[33] We are unable to determine how many of those licensed fall under this standard. For purposes of our evaluations in this analysis, we estimate that there are up to approximately 62,969 licensees that are small businesses under the SBA standard.[34] In 1998, the Commission held an auction of 42 VHF Public Coast licenses in the 157.1875–157.4500 MHz (ship transmit) and 161.775–162.0125 MHz (coast transmit) bands. For this auction, the Commission defined a "small" business as an entity that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed $15 million dollars. In addition, a "very small" business is one that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed $3 million dollars.[35] Further, the Commission made available Automated Maritime Telecommunications System ("AMTS") licenses in Auctions 57 and 61.[36] Winning bidders could claim status as a very small business or a small business. A very small business for this service is defined as an entity with attributed average annual gross revenues that do not exceed $3 million for the preceding three years, and a small business is defined as an entity with attributed average annual gross revenues of more than $3 million but less than $15 million for the preceding three years.[37] Three of the winning bidders in Auction 57 qualified as small or very small businesses, while three winning entities in Auction 61 qualified as very small businesses.

71. *Public Safety Radio Services.* Public Safety radio services include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services.[38] There are a total of approximately 127,540 licensees in these services. Governmental entities [39] as well as private businesses comprise the licensees for these services. All governmental entities with populations of less than 50,000 fall within the definition of a small entity.[40] The small private businesses fall within the "wireless" category described *supra.*

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirement for Small Entities

72. The Notice of Proposed Rulemaking proposes to create a new type of experimental radio license, the program experimental radio license, which will permit qualified institutions to conduct an ongoing program of research and experimentation that would otherwise require the issuance of multiple individual experimental radio license authorizations under our existing rules. We have proposed new license application rules for these licenses, and program experimental radio licensees would have new requirements to file notification of planned experiments to be conducted under the license, resolve interference concerns that are raised by other licensees, and file post-experiment reports with the Commission. The Notice of Proposed Rulemaking also proposes to consolidate, clarify and streamline existing rules to facilitate experimentation in the radio spectrum. These proposed rules will, for example, permit entities to engage in additional marketing activities, but will more clearly specify when and how such marketing may take place, and what authorization is needed to operate radiofrequency equipment in conjunction with marketing activities. We project that by creating a new license type and by revising our existing rules, the proposed rules will serve to reduce the reporting, recordkeeping and other compliance requirements associated with the issuance of an experimental radio license.

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

73. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[41]

74. We encourage comment regarding the possible alternatives to the approaches proposed, including any cost estimates. For instance, we note that we have considered and tentatively declined HP's recommendation to implement a quarterly tracking system.[42] Comments with proposed alternatives will assist in reaching the best outcomes.

F. Federal Rules That Might Duplicate, Overlap, or Conflict With the Proposed Rules

75. None.

Ordering Clauses

76. Pursuant to sections 4(i), 301, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 301, and 303, this Notice of Proposed Rulemaking *is adopted.*

77. The Commission's Consumer and Governmental Affairs Bureau, Reference

[33] *See* 13 CFR 121.201, NAICS code 517210.

[34] A licensee may have a license in more than one category.

[35] *Amendment of the Commission's Rules Concerning Maritime Communications,* PR Docket No. 92–257, Third Report and Order and Memorandum Opinion and Order, 13 FCC Rcd 19853 (1998).

[36] *See* "*Automated Maritime Telecommunications System Spectrum Auction Scheduled for September 15, 2004, Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Auction Procedures,*" Public Notice, 19 FCC Rcd 9518 (WTB 2004); "*Auction of Automated Maritime Telecommunications System Licenses Scheduled for August 3, 2005, Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Auction Procedures for Auction No. 61,*" Public Notice, 20 FCC Rcd 7811 (WTB 2005).

[37] *See* 47 CFR 80.1252.

[38] With the exception of the special emergency service, these services are governed by Subpart B of part 90 of the Commission's rules, 47 CFR 90.15 through 90.27. The police service includes approximately 27,000 licensees that serve state, county, and municipal enforcement through telephony (voice), telegraphy (code) and teletype and facsimile (printed material). The fire radio service includes approximately 23,000 licensees comprised of private volunteer or professional fire companies as well as units under governmental control. The local government service that is presently comprised of approximately 41,000 licensees that are state, county, or municipal entities that use the radio for official purposes not covered by other public safety services. There are approximately 7,000 licensees within the forestry service which is comprised of licensees from state departments of conservation and private forest organizations who set up communications networks among fire lookout towers and ground crews. The approximately 9,000 state and local governments are licensed to highway maintenance service provide emergency and routine communications to aid other public safety services to keep main roads safe for vehicular traffic. The approximately 1,000 licensees in the Emergency Medical Radio Service ("EMRS") use the 39 channels allocated to this service for emergency medical service communications related to the delivery of emergency medical treatment. 47 CFR 90.15 through 90.27. The approximately 20,000 licensees in the special emergency service include medical services, rescue organizations, veterinarians, handicapped persons, disaster relief organizations, school buses, beach patrols, establishments in isolated areas, communications standby facilities, and emergency repair of public communications facilities. 47 CFR 90.33 through 90.55.

[39] *See* 47 CFR 1.1162.

[40] *See* 5 U.S.C. 601(5).

[41] *See* 5 U.S.C. 603(c).

[42] *See* Notice of Proposed Rulemaking at paragraph 71.

Information Center, *shall send* a copy of this Notice of Proposed Rule Making, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR

Part 0

Organization and functions (Government agencies).

Part 1

Administrative practice and procedures, Reporting and recordkeeping requirements.

Parts 2 and 74

Communications equipment, Radio, Reporting and recordkeeping requirements.

Part 5

Radio, Reporting and recordkeeping requirements. Parts 22, 73, 80, 87, 90 and 101 Communications equipment, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rules

For the reasons set forth in the preamble the Federal Communications Commission proposes to amend 47 CFR parts 0, 1, 2, 5, 22, 73, 74, 80, 87, 90 and 101 to read as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

2. Section 0.406 is amended by revising paragraph (b)(4) to read as follows:

§ 0.406 The rules and regulations.

* * * * *

(b) * * *

(4) *Part 5, experimental radio service (including market trials).* Part 5 deals with the temporary use of radio frequencies for research in the radio art, for communications involving other research projects, for the development of equipment, data, or techniques, and for the conduct of equipment product development or market trials.

* * * * *

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 et seq.; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 303(r), and 309.

4. Section 1.77 is amended by revising paragraph (d) to read as follows:

§ 1.77 Detailed application procedures; cross references.

* * * * *

(d) Rules governing applications for authorizations in the Experimental Radio Service (including market trials) are set forth in part 5 of this chapter.

* * * * *

5. Section 1.544 is revised to read as follows:

§ 1.544 Application for broadcast station to conduct field strength measurements and for experimental operation.

See §§ 5.59 and 5.203 of this chapter.

6. Section 1.913 is amended by revising paragraph (a)(1) to read as follows:

§ 1.913 Application and notification forms; electronic and manual filing.

(a) * * *

(1) *FCC Form 601, Application for Authorization in the Wireless Radio Services.* FCC Form 601 and associated schedules are used to apply for initial authorizations, modifications to existing authorizations, amendments to pending applications, renewals of station authorizations, special temporary authority, notifications, requests for extension of time, and administrative updates.

* * * * *

7. Section 1.981 is revised to read as follows:

§ 1.981 Reports, annual and semiannual.

Where required by the particular service rules, licensees who have entered into agreements with other persons for the cooperative use of radio station facilities must submit annually an audited financial statement reflecting the nonprofit cost-sharing nature of the arrangement to the Commission's offices in Washington, DC or alternatively may be sent to the Commission electronically via the ULS, no later than three months after the close of the licensee's fiscal year.

8. Section 1.1307(b)(1) is amended by revising the entry "Experimental Radio, Auxiliary, Special Broadcast and Other Program Distributional Services (part 74)" to Table 1, to read as follows:

§ 1.1307 Actions that may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared.

* * * * *

(b) * * *

(1) * * *

TABLE 1—TRANSMITTERS, FACILITIES AND OPERATIONS SUBJECT TO ROUTINE ENVIRONMENTAL EVALUATION

Service (title 47 CFR rule part)	Evaluation required if:
* * * * * * *	
Auxiliary and Special Broadcast and Other Program Distributional Services (part 74)	Subparts G and L: power > 100 W ERP.
* * * * * * *	

* * * * *

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

9. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

§ 2.102 [Amended]

10. In § 2.102, remove and reserve paragraph (b)(2).

11. Section 2.803 is revised to read as follows:

§ 2.803 Marketing of radio frequency devices prior to equipment authorization.

(a) Marketing, as used in this section, includes sale or lease, or offering for sale or lease, including advertising for sale or lease, or importation, shipment, or distribution for the purpose of selling or leasing or offering for sale or lease.

(b) *General rule.* No person may market a radio frequency device unless:

(1) For devices subject to certification, the device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled as required by § 2.925 and other relevant sections in this chapter; or

(2) For devices subject to authorization under verification or Declaration of Conformity, the device complies with all applicable, technical, labeling, identification and administrative requirements; or

(3) For devices that do not require a grant of equipment authorization issued by the Commission, but which must comply with the specified technical standards prior to use, the device complies with all applicable, technical, labeling, identification and administrative requirements.

(c) *Exceptions.* The following marketing activities are permitted prior to equipment authorization:

(1) Activities under product development and market trials conducted pursuant to subpart F of this chapter.

(2) Limited marketing for devices that could be authorized under the current rules; could be authorized under waivers of such rules that are in effect at the time of marketing; or could be authorized under rules that have been adopted by the Commission but that have not yet become effective. These devices may not be operated unless permitted by § 2.805.

(i) Conditional sales contracts (including agreements to produce new products manufactured in accordance with designated specifications) are permitted between manufacturers and wholesalers or retailers provided that delivery is made contingent upon compliance with the applicable equipment authorization and technical requirements.

(ii) A radio frequency device that is in the conceptual, developmental, design or pre-production stage may be offered for sale solely to business, commercial, industrial, scientific or medical users (but not an offer for sale to other parties or to end users located in a residential environment) if the prospective buyer is advised in writing at the time of the offer for sale that the equipment is subject to the FCC rules and that the equipment will comply with the appropriate rules before delivery to the buyer or to centers of distribution.

(iii) Labeling requirements.

(A) A radio frequency device may be advertised or displayed, (*e.g.,* at a trade show or exhibition) if accompanied by a conspicuous notice containing this language:

This device has not been authorized as required by the rules of the Federal Communications Commission. This device is not, and may not be, offered for sale or lease, or sold or leased, until authorization is obtained.

(B) If the product being displayed is a prototype of a product that has been properly authorized and the prototype, itself, is not authorized due to differences between the prototype and the authorized product, this language may be used instead:

Prototype. Not for sale.

(d) Importation. The provisions of subpart K of this part continue to apply to imported radio frequency devices.

12. Section 2.805 is added to read as follows:

§ 2.805 Operation of radio frequency devices prior to equipment authorization.

(a) *General rule.* A radio frequency device may not be operated prior to equipment authorization.

(b) *Exceptions.* Operation prior to equipment authorization is permitted under the authority of an experimental radio service authorization issued under part 5 of this chapter or in accordance with the following provisions; however, except as provided elsewhere in this chapter, radio frequency devices operated under these provisions may not be marketed (as defined in § 2.803(a)):

(1) The radio frequency device will be operated in compliance with existing Commission rules, waivers of such rules that are in effect at the time of operation, or rules that have been adopted by the Commission but that have not yet become effective; and

(2) Operation is conducted under the authority of a service license or a grant of special temporary authority, or the radio frequency device is designed to operate under parts 15, 18, or 95 of this chapter; and

(3) The radio frequency device will be operated for at least one of these purposes:

(i) Conducting compliance testing;

(ii) Demonstrations at a trade show provided a notice containing the wording specified in § 2.803(c)(1)(iii) is displayed in a conspicuous location on, or immediately adjacent to, the device;

(iii) Demonstrations at an exhibition conducted at a business, commercial, industrial, scientific, or medical location, but excluding locations in a residential environment, provided a notice containing the wording specified § 2.803(c)(1)(iii) is displayed in a conspicuous location on, or immediately adjacent to, the device or all prospective buyers at the exhibition are advised in writing that the equipment is subject to the FCC rules and that the equipment will comply with the appropriate rules before delivery to the buyer or to centers of distribution; or

(iv) Evaluation of product performance and determination of customer acceptability, during developmental, design, or pre-production states provided such operation takes place at a business, commercial, industrial, scientific, or medical location, but excluding locations in a residential environment. If the product is not operated at the manufacturer's facilities, it must be labeled with the wording specified in § 2.803(c)(1)(iii).

(c) A manufacturer may operate its product for demonstration or evaluation purposes under the authority of a licensed service provider, provided that the licensee grants permission the manufacturer to operate in this manner and the licensee continues to remain responsible for complying with all of the operating conditions and requirements associated with its license.

(d) *Importation.* The provisions of subpart K of this part continue to apply to imported radio frequency devices.

13. Section 2.1204 is amended by revising (a)(3) to read as follows:

§ 2.1204 Import conditions.

(a) * * *

(3) The radio frequency device is being imported in limited quantities for testing and evaluation to determine compliance with the FCC Rules and Regulations, product development, or suitability for marketing. The devices will not be offered for sale or marketed. The phrase "limited quantities," in this context means:

(i) 2000 or fewer units, provided the product is designed, at least in part, for operation within one of the Commission's authorized radio services for which an operating license is required to be issued by the Commission; or

(ii) 1,200 or fewer units for all other products.

* * * * *

14. Revise part 5 to read as follows:

PART 5—EXPERIMENTAL RADIO SERVICE (INCLUDING MARKET TRIALS)

Subpart A—General

Sec.
5.1 Basis and purpose.
5.3 Scope of service.
5.5 Definition of terms.

Subpart B—Applications and Licenses

License Requirements

5.51 Eligibility of license.
5.53 Station authorization required.
5.54 Types of authorizations available.

General Filing Requirements

5.55 Filing of applications.
5.57 Who may sign applications.
5.59 Forms to be used.
5.61 Procedure for obtaining a special temporary authorization.
5.63 Supplemental statements required.
5.64 Special provisions for satellite systems.
5.65 Defective applications.
5.67 Amendment or dismissal of applications.
5.69 License grants that differ from applications.
5.71 License period.
5.73 Experimental report.
5.77 Change in equipment and emission characteristics.
5.79 Transfer and assignment of station authorization for conventional experimental radio licenses.
5.81 Discontinuance of station operation.
5.83 Cancellation provisions.
5.84 Non-interference basis.
5.85 Frequencies and policy governing their assignment.
5.91 Notification of the National Radio Astronomy Observatory.
5.95 Informal objections.

Subpart C—Technical Standards and Operating Requirements

5.101 Frequency stability.
5.103 Types of emission.
5.105 Authorized bandwidth.
5.107 Transmitter control requirements.
5.109 Inspection and maintenance of antenna structure marking and associated control equipment.
5.110 Power limitations.
5.111 Limitations on use.
5.115 Station identification.
5.121 Station record requirements.
5.123 Inspection of stations.
5.125 Authorized points of communication.

Subpart D—Broadcast Experimental Licenses

5.201 Applicable rules.
5.203 Experimental authorizations for licensed broadcast stations.
5.205 Licensing requirements, necessary showing.
5.207 Supplemental reports with application for renewal of license.

Technical Operation and Operators

5.211 Frequency monitors and measurements.
5.213 Time of operation.
5.215 Program service and charges.
5.217 Rebroadcasts.
5.219 Broadcasting emergency information.

Subpart E—Program Experimental Licenses

Requirements for all Program Experimental Radio Licenses

5.301 Requirements in other subparts.
5.303 Frequencies.
5.305 Program license not permitted.
5.307 Responsible party.
5.309 Notification requirements.
5.311 Additional requirements related to safety of the public.

Requirements Specific to Research Program Experimental Radio Licenses

5.321 Eligibility.
5.323 Area of operations.

Requirements Specific to Innovation Zone Program Experimental Radio Licenses

5.331 Eligibility.
5.333 Area of operations.

Requirements Specific to Medical Program Experimental Radio Licenses

5.341 Eligibility.
5.343 Additional requirements.

Subpart F—Product Development and Market Trials

5.401 Product Development Trials.
5.403 Market Trials.

Authority: Secs. 4, 302, 303, 307, 336 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 302, 303, 307, 336. Interpret or apply sec. 301, 48 Stat. 1081, as amended; 47 U.S.C. 301.

Subpart A—General

§ 5.1 Basis and purpose.

(a) The rules following in this part are promulgated pursuant to the provisions of Title III of the Communications Act of 1934, as amended, which vests authority in the Federal Communications Commission to regulate radio transmissions and to issue licenses for radio stations.

(b) This part prescribes the manner in which parts of the radio frequency spectrum may be made available for experimentation as defined and provided for in this part.

(c) This part prescribes the manner for conducting product development and market trials.

§ 5.3 Scope of service.

Stations operating in the Experimental Radio Service will be permitted to conduct the following type of operations:

(a) Experimentations in scientific or technical radio research.

(b) Experimentations in the broadcast services.

(c) Experimentations under contractual agreement with the United States Government, or for export purposes.

(d) Communications essential to a research project.

(e) Technical demonstrations of equipment or techniques.

(f) Field strength surveys.

(g) Demonstration of equipment to prospective purchasers by persons engaged in the business of selling radio equipment.

(h) Testing of equipment in connection with production or regulatory approval of such equipment.

(i) Development of radio technique, equipment, operational data or engineering data, including field or factory testing or calibration of equipment, related to an existing or proposed radio service.

(j) Product development and market trials.

(k) Types of experiments that are not specifically covered under paragraphs (a) through (j) of this section will be considered upon demonstration of need for such additional types of experiments.

§ 5.5 Definition of terms.

For the purpose of this part, the following definitions shall be applicable. For other definitions, refer to part 2 of this chapter (Frequency Allocations and Radio Treaty Matters; General Rules and Regulations).

Authorized frequency. The frequency assigned to a station by the Commission and specified in the instrument of authorization.

Authorized power. The power assigned to a radio station by the Commission and specified in the instrument of authorization.

Experimental radio service. A service in which radio waves are employed for purposes of experimentation in the radio art or for purposes of providing essential communications for research projects that could not be conducted without the benefit of such communications.

Experimental station. A station utilizing radio waves in experiments with a view to the development of science or technique.

Fixed service. A radiocommunication service between specified fixed points.

Fixed station. A station in the fixed service.

Harmful interference. Any radiation or induction that endangers the functioning of a radionavigation or safety service, or obstructs or repeatedly interrupts a radio service operating in accordance with the Table of Frequency Allocations and other provisions of part 2 of this chapter.

Landing area. As defined by 49 U.S.C. 40102(a)(28), any locality, either of land

or water, including airdromes and intermediate landing fields, that is used, or intended to be used, for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo.

Land station. A station in the mobile service not intended for operation while in motion.

Market trials. A program designed to evaluate product performance and customer acceptability prior to the production stage, and typically requires testing a specific device under expected use conditions to evaluate actual performance and effectiveness.

Mobile service. A radiocommunication service between mobile and land stations, or between mobile stations.

Mobile station. A station in a mobile service intended to be used while in motion or during halts at unspecified points.

Person. An individual, partnership, association, joint stock company, trust, or corporation.

Product development trials. An experimental program designed to evaluate product performance in the conceptual, developmental, and design stages, and typically requires testing under expected use conditions.

Public correspondence. Any telecommunication that offices and stations, by reason of their being at the disposal of the public, must accept for transmission.

Radio service. An administrative subdivision of the field of radiocommunication. In an engineering sense, the subdivisions may be made according to the method of operation, as, for example, mobile service and fixed service. In a regulatory sense, the subdivisions may be descriptive of particular groups of licensees, as, for example, the groups of persons licensed under this part.

Station authorization. Any license or special temporary authorization issued by the Commission.

Subpart B—Applications and Licenses Requirements

§ 5.51 Eligibility of license.

(a) Authorizations for stations in the Experimental Radio Service will be issued only to persons qualified to conduct experimentation (including product development and market trials) using radio waves in a manner not provided by existing rules.

(b) A station license shall not be granted to or held by a foreign government or a representative thereof.

§ 5.53 Station authorization required.

No radio transmitter shall be operated in the Experimental Radio Service except under and in accordance with a proper station authorization granted by the Commission.

§ 5.54 Types of authorizations available.

The Commission will issue the following types of experimental licenses:

(a)(1) *Conventional experimental radio license.* A conventional experimental radio license will be issued for the conduct of a specific or series of related research or experimentation projects related to the development and advancement of new radio technologies and techniques or a product development trial or a market trial. Widely divergent and unrelated experiments must be conducted under separate licenses.

(2) *Special temporary authorization.* When an experimental program is expected to last no more than six months, its operation shall be considered temporary and the special temporary authorization procedure outlined in § 5.61 shall apply.

(b) *Broadcast experimental radio license.* A broadcast experimental radio license will be issued for the purposes of carrying on research and experimentation for the development and advancement of new broadcast technology, equipment, systems or services. This is limited to stations intended for reception and use by the general public.

(c) *Program experimental radio license.* A program experimental radio license will be issued to qualified institutions and carry broad authority to conduct an ongoing program of research and experimentation under a single experimental authorization subject to the requirements of subpart E of this part. Three types of program experimental radio licenses are available.

(1) *Research institutions.* These experimental licenses are available to qualified colleges, universities, and non-profit research organizations.

(2) *Innovation zones.* These experimental licenses are available to entities with technical credentials demonstrating competence in radio engineering for experimentation within Commission defined geographic areas.

(3) *Medical research.* These experimental licenses are available to hospital and health care institutions that demonstrate basic expertise in radio management for the testing and operation of new medical devices that use wireless telecommunications technology for therapeutic and diagnostic purposes or patient monitoring functions.

General Filing Requirements

§ 5.55 Filing of applications.

(a) To assure that necessary information is supplied in a consistent manner by all persons, standard forms are prescribed for use in connection with applications, except for applications for special temporary authority (STA), and reports submitted for Commission consideration. Standard numbered forms applicable to the Experimental Radio Service are discussed in § 5.59.

(b) Applications requiring fees as set forth in part 1, subpart G of this chapter must be filed in accordance with § 0.401(b) of this chapter.

(c) Each application for station authorization shall be specific and complete with regard to station location, proposed equipment, power, antenna height, and operating frequency; and other information required by the application form and this part.

(d) For conventional and program experimental radio licenses:

(1) Applications for radio station authorization shall be submitted electronically through the Office of Engineering and Technology Web site *http://www.fcc.gov/els*.

(2) Applications for special temporary authority shall be filed in accordance with the procedures of § 5.61.

(3) Any correspondence relating thereto that cannot be submitted electronically shall instead be submitted to the Commission's Office of Engineering and Technology, Washington, DC 20554.

(e) For broadcast experimental radio licenses, applications for radio station authorization shall be filed in accordance with the provisions of § 5.59.

§ 5.57 Who may sign applications.

(a) Except as provided in paragraph (b) of this section, applications, amendments thereto, and related statements of fact required by the Commission shall be personally signed by the applicant, if the applicant is an individual; by one of the partners, if the applicant is a partnership; by an officer or duly authorized employee, if the applicant is a corporation; or by a member who is an officer, if the applicant is an unincorporated association. Applications, amendments, and related statements of fact filed on behalf of eligible government entities, such as states and territories of the United States and political subdivisions thereof, the District of Columbia, and units of local government, including

incorporated municipalities, shall be signed by such duly elected or appointed officials as may be competent to do so under the laws of the applicable jurisdiction.

(b) Applications, amendments thereto, and related statements of fact required by the Commission may be signed by the applicant's attorney in case of the applicant's physical disability or of his/her absence from the United States. The attorney shall in that event separately set forth the reason why the application is not signed by the applicant. In addition, if any matter is stated on the basis of the attorney's belief only (rather than his/her knowledge), he/she shall separately set forth reasons for believing that such statements are true.

(c) Only the original of applications, amendments, or related statements of fact need be signed; copies may be conformed.

(d) Applications, amendments, and related statements of fact need not be submitted under oath. Willful false statements made therein, however, are punishable by fine and imprisonment, U.S. Code, title 18, Sec. 1001, and by appropriate administrative sanctions, including revocation of station license pursuant to section 312(a)(1) of the Communications Act of 1934, as amended.

(e) "Signed," as used in this section, means an original handwritten signature; however, the Office of Engineering and Technology may allow signature by any symbol executed or adopted by the applicant with the intent that such symbol be a signature, including symbols formed by computer-generated electronic impulses.

§ 5.59 Forms to be used.

(a) *Application for conventional and program experimental radio licenses.*

(1) *Application for new or modification.* Entities must submit FCC Form 442.

(2) *Application for renewal of experimental authorization.* Application for renewal of station license shall be submitted on FCC Form 405. Unless otherwise directed by the Commission, each application for renewal of license shall be filed at least 60 days prior to the expiration date of the license to be renewed.

(3) *Application for consent to assign an experimental authorization.* Application for consent to assign shall be submitted on FCC Form 702 when the legal right to control the use and operation of a station is to be transferred as a result of a voluntary act (contract or other agreement) or an involuntary act (death or legal disability) of the grantee of a station authorization or by involuntary assignment of the physical property constituting the station under a court decree in bankruptcy proceedings, or other court order, or by operation of law in any other manner.

(4) *Application for consent to transfer control of Corporation holding experimental authorization.* Application for consent to transfer control shall be submitted on FCC Form 703 whenever it is proposed to change the control of a corporation holding a station authorization.

(5) *Application for product development and market trials.* Application for product development and market trials shall be submitted on FCC Form 442.

(b) *Applications for broadcast experimental radio license.*

(1) *Application for new or modification.* An application for a construction permit for a new broadcast experimental station or modification of an existing broadcast experimental station must be submitted on FCC Form 309.

(2) *Application for a license.* An application for a license to cover a construction permit for a broadcast experimental station must be submitted on FCC Form 310.

(3) *Application for renewal of license.* An application for renewal of station license for a broadcast experimental station must be submitted on FCC Form 311. Unless otherwise directed by the Commission, each application for renewal of license shall be filed at least 60 days prior to the expiration date of the license to be renewed.

§ 5.61 Procedure for obtaining a special temporary authorization.

(a)(1) An applicant may request STA not to exceed 6 months for operation of a conventional experimental radio service station.

(2) Applications for STA must be filed at least 10 days prior to the proposed operation. Applications filed less than 10 days prior to the proposed operation date will be accepted only upon a showing of good cause.

(3) In special situations defined in § 1.915(b)(1) of this chapter, a request for STA may be made by telephone or telegraph provided a properly signed application is filed within 10 days of such request.

(b) An application for special temporary authorization shall contain the following information:

(1) Name, address, phone number (also e-mail address and facsimile number, if available) of the applicant.

(2) Description of why an STA is needed.

(3) Description of the operation to be conducted and its purpose.

(4) Time and dates of proposed operation.

(5) Class(es) of station (fixed, mobile, fixed and mobile) and call sign of station (if applicable).

(6) Description of the location(s) and, if applicable, geographical coordinates of the proposed operation.

(7) Equipment to be used, including name of manufacturer, model and number of units.

(8) Frequency(ies) desired.

(9) Maximum effective radiated power (ERP) or equivalent isotropically radiated power (EIRP).

(10) Emission designator (*see* § 2.201 of this chapter) or describe emission (bandwidth, modulation, etc.)

(11) Overall height of antenna structure above the ground (if greater than 6 meters above the ground or an existing structure, *see* part 17 of this chapter concerning notification to the FAA).

(c) Extensions of a special temporary authorization will be granted provided that an application for a regular experimental license that is consistent with the terms and conditions of that temporary authority has been filed at least 15 days prior to the expiration of the licensee's temporary authority. When such an application is timely filed, operations may continue in accordance with the other terms and conditions of the temporary authority pending disposition of the application, unless the applicant is notified otherwise by the Commission.

§ 5.63 Supplemental statements required.

Applicants must provide the information set forth on the applicable form as specified in § 5.59. In addition, applicants must provide supplemental information as described below:

(a) If installation and/or operation of the equipment may significantly impact the environment (*see* § 1.1307 of this chapter) an environmental assessment as defined in § 1.1311 of this chapter must be submitted with the application.

(b) If an applicant requests non-disclosure of proprietary information, requests shall follow the procedures for submission set forth in § 0.459 of this chapter.

(c) For conventional and broadcast experimental radio licenses, each application must include:

(1) A narrative statement describing in detail the program of research and experimentation proposed, the specific objectives sought to be accomplished; and how the program of experimentation has a reasonable promise of contribution to the development, extension, or expansion, or use of the radio art, or is along lines not already investigated.

(2) If the authorization is to be used for the purpose of fulfilling the requirements of a contract with an agency of the United States Government, a narrative statement describing the project, the name of the contracting agency, and the contract number.

(3) If the authorization is to be used for the sole purpose of developing equipment for exportation to be employed by stations under the jurisdiction of a foreign government, a narrative statement describing the project, any associated contract number, and the name of the foreign government concerned.

(4) If the authorization is to be used with a satellite system, a narrative statement containing the information required in § 5.64.

(d) For program experimental radio licenses, each application must include a narrative statement describing how the applicant meets the eligibility criteria set forth in subpart E of this part.

§ 5.64 Special provisions for satellite systems.

(a) Construction of proposed experimental satellite facilities may begin prior to Commission grant of an authorization. Such construction will be entirely at the applicant's risk and will not entitle the applicant to any assurances that its proposed experiment will be subsequently approved or regular services subsequently authorized. The applicant must notify the Commission's Office of Engineering and Technology in writing that it plans to begin construction at its own risk.

(b) Except where the satellite system has already been authorized by the FCC, applicants for an experimental authorization involving a satellite system must submit a description of the design and operational strategies the satellite system will use to mitigate orbital debris, including the following information:

(1) A statement that the space station operator has assessed and limited the amount of debris released in a planned manner during normal operations, and has assessed and limited the probability of the space station becoming a source of debris by collisions with small debris or meteoroids that could cause loss of control and prevent post-mission disposal;

(2) A statement that the space station operator has assessed and limited the probability of accidental explosions during and after completion of mission operations. This statement must include a demonstration that debris generation will not result from the conversion of energy sources on board the spacecraft into energy that fragments the spacecraft. Energy sources include chemical, pressure, and kinetic energy. This demonstration shall address whether stored energy will be removed at the spacecraft's end of life, by depleting residual fuel and leaving all fuel line valves open, venting any pressurized system, leaving all batteries in a permanent discharge state, and removing any remaining source of stored energy, or through other equivalent procedures specifically disclosed in the application;

(3) A statement that the space station operator has assessed and limited the probability of the space station becoming a source of debris by collisions with large debris or other operational space stations. Where a space station will be launched into a low-Earth orbit that is identical, or very similar, to an orbit used by other space stations, the statement must include an analysis of the potential risk of collision and a description of what measures the space station operator plans to take to avoid in-orbit collisions. If the space station operator is relying on coordination with another system, the statement shall indicate what steps have been taken to contact, and ascertain the likelihood of successful coordination of physical operations with, the other system. The statement must disclose the accuracy—if any—with which orbital parameters of non-geostationary satellite orbit space stations will be maintained, including apogee, perigee, inclination, and the right ascension of the ascending node(s). In the event that a system is not able to maintain orbital tolerances, i.e., it lacks a propulsion system for orbital maintenance, that fact shall be included in the debris mitigation disclosure. Such systems shall also indicate the anticipated evolution over time of the orbit of the proposed satellite or satellites. Where a space station requests the assignment of a geostationary-Earth orbit location, it shall assess whether there are any known satellites located at, or reasonably expected to be located at, the requested orbital location, or assigned in the vicinity of that location, such that the station keeping volumes of the respective satellites might overlap. If so, the statement shall identify those parties and the measures that will be taken to prevent collisions;

(4) A statement detailing the post-mission disposal plans for the space station at end of life, including the quantity of fuel—if any—that will be reserved for post-mission disposal maneuvers. For geostationary-Earth orbit space stations, the statement shall disclose the altitude selected for a post-mission disposal orbit and the calculations that are used in deriving the disposal altitude. The statement shall also include a casualty risk assessment if planned post-mission disposal involves atmospheric re-entry of the space station. In general, an assessment shall include an estimate as to whether portions of the spacecraft will survive re-entry and reach the surface of the Earth, as well as an estimate of the resulting probability of human casualty.

§ 5.65 Defective applications.

(a) Applications that are defective with respect to completeness of answers to required questions, execution or other matters of a purely formal character may not be accepted for filing by the Commission, and may be returned to the applicant with a brief statement as to the omissions.

(b) If an applicant is requested by the Commission to file any documents or information not included in the prescribed application form, a failure to comply with such request will constitute a defect in the application.

(c) Applications not in accordance with the Commission's rules, regulations, or other requirements will be considered defective unless accompanied either by:

(1) A petition to amend any rule, regulation, or requirement with which the application is in conflict; or

(2) A request for waiver of any rule, regulation, or requirement with which the application is in conflict. Such request shall show the nature of the waiver desired and set forth the reasons in support thereof.

§ 5.67 Amendment or dismissal of applications.

(a) Any application may be amended or dismissed without prejudice upon request of the applicant. Each amendment to, or request for dismissal of an application shall be signed, authenticated, and submitted in the same manner as required for the original application. All subsequent correspondence or other material that the applicant desires to have incorporated as a part of an application already filed shall be submitted in the form of an amendment to the application.

(b) Defective applications, as defined in § 5.65, are subject to dismissal. Such dismissal will be without prejudice.

§ 5.69 License grants that differ from applications.

In cases when the Commission grants a license with parameters that differ from those set forth in the application, an applicant may reject the grant by

filing, within 30 days from the effective date of the grant, a written description of its objections. Upon receipt of such request, the Commission will coordinate with the applicant in an attempt to resolve problems arising from the grant.

§ 5.71 License period.

(a) Conventional experimental radio licenses.

(1) The regular license period is 2 years. An applicant may apply for a license term up to 5 years, but must provide justification for a license of that duration.

(2) A license may be renewed for up to 5 years upon an adequate showing of need to complete the experiment.

(b) Program experimental radio licenses. Licenses are issued for 5 years and may be renewed.

(c) Broadcast experimental radio license. Licenses for broadcast experimental radio stations will be issued for a maximum one-year period.

§ 5.73 Experimental report.

(a) Conventional experimental radio licenses.

(1) The Commission may, as a condition of authorization, request the licensee to forward periodic reports in order to evaluate the progress of the experimental program.

(2) An applicant may request that the Commission withhold from the public certain reports and associated material and the Commission will do so unless the public interest requires otherwise. These requests should follow the procedures for submission set forth in § 0.459 of this chapter.

(b) Program and broadcast experimental radio licenses must follow the requirements in §§ 5.207 and 5.309, respectively.

§ 5.77 Change in equipment and emission characteristics.

(a) The licensee of a conventional or broadcast experimental radio station may make any changes in equipment that are deemed desirable or necessary provided:

(1) That the operating frequency is not permitted to deviate more than the allowed tolerance;

(2) That the emissions are not permitted outside the authorized band;

(3) That the power output complies with the license and the regulations governing the same; and

(4) That the transmitter as a whole or output power rating of the transmitter is not changed.

(b) For conventional experimental radio stations, the changes permitted in paragraph (a) of this section may be made without prior authorization from the Commission provided that the license supplements its application file with a description of such change. If the licensee wants these emission changes to become a permanent part of the license, an application for modification must be filed.

(c) Prior authorization from the Commission is required before the following antenna changes may be made at a station at a fixed location:

(1) Any change that will either increase the height of a structure supporting the radiating portion of the antenna or decrease the height of a lighted antenna structure.

(2) Any change in the location of an antenna when such relocation involves a change in the geographic coordinates of latitude or longitude by one second or more, or when such relocation involves a change in street address.

§ 5.79 Transfer and assignment of station authorization for conventional experimental radio licenses.

A station authorization, the frequencies authorized to be used by the grantee of such authorization, and the rights therein granted by such authorization shall not be transferred, assigned, or in any manner either voluntarily or involuntarily disposed of, unless the Commission decides that such a transfer is in the public interest and gives its consent in writing.

§ 5.81 Discontinuance of station operation.

In case of permanent discontinuance of operation of a station in the Experimental Radio Service, the licensee shall notify the Commission.

§ 5.83 Cancellation provisions.

The applicant for a station in the Experimental Radio Services accepts the license with the express understanding:

(a) That the authority to use the frequency or frequencies permitted by the license is granted upon an experimental basis only and does not confer any right to conduct an activity of a continuing nature; and

(b) That said grant is subject to change or cancellation by the Commission at any time without notice or hearing if in its discretion the need for such action arises. However, a petition for reconsideration or application for review may be filed to such Commission action.

§ 5.84 Non-interference basis.

Operation of an experimental radio station is permitted only on the condition that harmful interference will not be caused to any station operating in accordance with the Table of Frequency Allocation of part 2 of this chapter. If harmful interference to an established radio service develops, the licensee shall cease transmissions and such transmissions shall not be resumed until it is certain that harmful interference will not be caused.

§ 5.85 Frequencies and policy governing their assignment.

(a) Stations operating in the Experimental Radio Service may be authorized to use any government or non-government frequency designated in the Table of Frequency Allocations set forth in part 2 of this chapter, provided that the need for the frequency requested is fully justified by the applicant, except that experimental stations may not be authorized the use of any frequency or frequency band exclusively allocated to the passive services (including the radio astronomy service).

(b) Each frequency or band of frequencies available for assignment to stations in the Experimental Radio Service is available on a shared basis only, will not be assigned for the exclusive use of any one applicant, and such use may also be restricted to specified geographical areas.

(c) *Broadcast experimental radio stations.* (1) Frequencies best suited to the purpose of the experimentation and on which there appears to be the least likelihood of interference to established stations shall be selected.

(2) Except as indicated only frequencies allocated to broadcasting service will be assigned. If an experiment cannot be feasibly conducted on frequencies allocated to a broadcasting service, an experimental station may be authorized to operate on other frequencies upon a satisfactory showing of the need therefore and a showing that the proposed operation can be conducted without causing harmful interference to established services.

(d) *Use of Public Safety Frequencies.* Applicants in the Experimental Radio Service must avoid use of public safety frequencies identified in part 90 of this chapter except when a compelling showing can be made that use of such frequencies is in the public interest. If an experimental license to use public safety radio frequencies is granted, the authorization will be conditioned to require coordination between the experimental licensee and the appropriate frequency coordinator and/or all of the public safety licensees in its intended area of operation.

(e) The Commission may, at its discretion, condition any experimental license or STA on the requirement that before commencing operation, the new licensee coordinate its proposed facility

with other licensees that may receive interference as a result of the new licensee's operations.

(f) *Protection of FCC monitoring stations.* (1) Applicants may need to protect FCC monitoring stations from harmful interference and their station authorization may be conditioned accordingly. Geographical coordinates of such stations are listed in § 0.121(b) of this chapter.

(2) In the event that calculated value of expected field strength exceeds a direct wave fundamental field strength of greater than 10 mV/m in the authorized bandwidth of service (–65.8 dBW/m^2 power flux density assuming a free space characteristic impedance of 120π ohms) at the reference coordinates, or if there is any question whether field strength levels might exceed the threshold value, the applicant should consult with the FCC's Enforcement Bureau, telephone (202) 418–1210, to discuss any protection necessary.

(3) Coordination is suggested particularly for those applicants who have no reliable data that indicates whether the field strength or power flux density figure indicated in (e) of this section would be exceeded by their proposed radio facilities (except mobile stations). The following is a suggested guide for determining whether coordination is needed:

(i) All stations within 2.4 kilometers (1.5 statute miles);

(ii) Stations within 4.8 kilometers (3 statute miles) with 50 watts or more average ERP in the primary plane of polarization in the azimuthal direction of the Monitoring Station;

(iii) Stations within 16 kilometers (10 statute miles) with 1 kW or more average ERP in the primary plane of polarization in the azimuthal direction of the Monitoring Station; and

(iv) Stations within 80 kilometers (50 statute miles) with 25 kW or more average ERP in the primary plane of polarization in the azimuthal direction of the Monitoring Station.

(4) Advance coordination for stations operating above 1,000 MHz is recommended only where the proposed station is in the vicinity of a monitoring station designated as a satellite monitoring facility in § 0.121(b) of this chapter and also meets the criteria outlined in paragraphs (e) and (f)(3) of this section.

§ 5.91 Notification of the National Radio Astronomy Observatory.

In order to minimize possible harmful interference at the National Radio Astronomy Observatory site located at Green Bank, Pocahontas County, West Virginia, and at the Naval Radio Research Observatory site at Sugar Grove, Pendleton County, West Virginia, any applicant for a station authorization other than mobile, temporary base, temporary fixed, Personal Radio, Civil Air Patrol, or Amateur seeking a station license for a new station, or a construction permit to construct a new station or to modify an existing station license in a manner that would change either the frequency, power, antenna height or directivity, or location of such a station within the area bounded by 39 deg. 15′ N on the north, 78 deg. 30′ W on the east, 37 deg. 30′ N on the south and 80 deg. 30′ W on the west shall, at the time of filing such application with the Commission, simultaneously notify the Director, National Radio Astronomy Observatory, P.O. Box NZ2, Green Bank, West Virginia 24944, in writing, of the technical particulars of the proposed station. Such notification shall include the geographical coordinates of the antenna, antenna height, antenna directivity if any, frequency, type of emission, and power. In addition, the applicant shall indicate in its application to the Commission the date notification was made to the Observatory. After receipt of such applications, the Commission will allow a period of twenty (20) days for comments or objections in response to the notifications indicated. If an objection to the proposed operation is received during the twenty-day period from the National Radio Astronomy Observatory for itself or on behalf of the Naval Radio Research Observatory, the Commission will consider all aspects of the problem and take whatever action is deemed appropriate.

§ 5.95 Informal objections.

A person or entity desiring to object to or to oppose an Experimental Radio application for a station license or authorization may file an informal objection against that application. The informal objection and any responsive pleadings shall comply with the requirements set forth in §§ 1.41 through 1.52 of this chapter.

Subpart C—Technical Standards and Operating Requirements

§ 5.101 Frequency stability.

Licensees must use a frequency tolerance that would confine emissions within the band of operation, unless permission is granted to use a lesser frequency tolerance. Equipment is presumed to operate over the temperature range −20 to +50 degrees Celsius with an input voltage variation of 85% to 115% of rated input voltage, unless justification is presented to demonstrate otherwise.

§ 5.103 Types of emission.

Stations in the Experimental Radio Service may be authorized to use any of the classifications of emissions covered in part 2 of this chapter.

§ 5.105 Authorized bandwidth.

Each authorization issued to a station operating in this service will show, as the prefix to the emission classification, a figure specifying the maximum necessary bandwidth for the emission used. The authorized bandwidth is considered to be the occupied or necessary bandwidth, whichever is greater. This bandwidth shall be determined in accordance with § 2.202 of this chapter.

§ 5.107 Transmitter control requirements.

Each licensee shall be responsible for maintaining control of the transmitter authorized under its station authorization, including the ability to terminate transmissions should interference occur.

(a) Conventional experimental radio stations. The licensee shall ensure that transmissions are in conformance with the operating characteristics prescribed in the station authorization and that the station is operated only by persons duly authorized by the licensee.

(b) Program experimental radio stations. The licensee shall ensure that transmissions are in conformance with the requirements in subpart E of this part and that the station is operated only by persons duly authorized by the licensee.

(c) Broadcast experimental stations. Except where unattended operation is specifically permitted, the licensee of each station authorized under the provisions of this part shall designate a person or persons to activate and control its transmitter. At the discretion of the station licensee, persons so designated may be employed for other duties and for operation of other transmitting stations if such other duties will not interfere with the proper operation of the station transmission systems.

§ 5.109 Inspection and maintenance of antenna structure marking and associated control equipment.

The owner of each antenna structure required to be painted and/or illuminated under the provisions of section 303(q) of the Communications Act of 1934, as amended, shall operate and maintain the antenna structure painting and lighting in accordance with part 17 of this chapter. In the event of default by the owner, each licensee or

permittee shall be individually responsible for conforming to the requirements pertaining to antenna structure painting and lighting.

§ 5.110 Power limitations.

(a) The operating power for all stations authorized under the experimental radio service shall be limited to the minimum practical radiated power.

(b) For broadcast experimental radio stations, the operating power shall not exceed more than 5 percent above the maximum power specified. Engineering standards have not been established for these stations. The efficiency factor for the last radio stage of transmitters employed will be subject to individual determination but shall be in general agreement with values normally employed for similar equipment operated within the frequency range authorized.

§ 5.111 Limitations on use.

(a) Stations may make only such transmissions as are necessary and directly related to the conduct of the licensee's stated program of experimentation and the related station instrument of authorization, and as governed by the provisions of the rules and regulations contained in this part. When transmitting, the licensee must use every precaution to ensure that it will not cause harmful interference to the services carried on by stations operating in accordance with the Table of Frequency Allocations of part 2 of this chapter.

(b) A licensee shall adhere to the program of experimentation as stated in its application or in the station instrument of authorization.

(c) The radiations of the transmitter shall be suspended immediately upon detection or notification of a deviation from the technical requirements of the station authorization until such deviation is corrected, except for transmissions concerning the immediate safety of life or property, in which case the transmissions shall be suspended as soon as the emergency is terminated.

§ 5.115 Station identification.

(a) Conventional experimental radio licenses. A licensee, unless specifically exempted by the terms of the station authorization, shall transmit its assigned call sign at the end of each complete transmission: Provided, however, that the transmission of the call sign at the end of each transmission is not required for projects requiring continuous, frequent, or extended use of the transmitting apparatus, if, during such periods and in connection with such use, the call sign is transmitted at least once every thirty minutes. The station identification shall be transmitted in clear voice or Morse code. All digital encoding and digital modulation shall be disabled during station identification.

(b) Broadcast experimental licenses. Each experimental broadcast station shall make aural or visual announcements of its call letters and location at the beginning and end of each period of operation, and at least once every hour during operation.

(c) Program experimental radio licenses.

(1) Research licenses and innovation zone licenses must comply with either:

(i) Stations may transmit identifying information sufficient to identify the license holder and the geographic coordinates of the station. This information shall be transmitted at the end of each complete transmission except that: This information is not required at the end of each transmission for projects requiring continuous, frequent, or extended use of the transmitting apparatus, if, during such periods and in connection with such use, the information is transmitted at least once every thirty minutes. The station identification shall be transmitted in clear voice or Morse code. All digital encoding and digital modulation shall be disabled during station identification; or

(ii) Stations may post information sufficient to identify it on the Web site.

(2) Medical facility licenses. Stations authorized under a medical facility license are exempt from the station identification requirement.

§ 5.121 Station record requirements.

(a) For Conventional and program experimental radio stations, the current original authorization or a clearly legible photocopy for each station shall be retained as a permanent part of the station records, but need not be posted. Station records are required to be kept for a period of at least one year after license expiration.

(b) For Broadcast experimental radio stations, the license must be available at the transmitter site. The licensee of each experimental broadcast station must maintain and retain for a period of two years, adequate records of the operation, including:

(1) Information concerning the nature of the experimental operation and the periods in which it is being conducted.

(2) Information concerning any specific data requested by the FCC.

§ 5.123 Inspection of stations.

All stations and records of stations in the authorized under this Part shall be made available for inspection at any time while the station is in operation or shall be made available for inspection upon reasonable request of an authorized representative of the Commission.

§ 5.125 Authorized points of communication.

Generally, stations in the Experimental Radio Service may communicate only with other stations licensed in the Experimental Radio Service. Nevertheless, upon a satisfactory showing that the proposed communications are essential to the conduct of the research project, authority may be granted to communicate with stations in other services and U.S. Government stations.

Subpart D—Broadcast Experimental Licenses

§ 5.201 Applicable rules.

In addition to the rules in this subpart, broadcast experimental station applicants and licensees must follow the rules in subparts B and C of this part. In case of any conflict between the rules set forth in this subpart and the rules set forth in subparts B and C of this part, the rules in this subpart shall govern.

§ 5.203 Experimental authorizations for licensed broadcast stations.

(a) Licensees of broadcast stations (including TV Translator, LPTV, and TV Booster stations) may obtain experimental authorizations to conduct technical experimentation directed toward improvement of the technical phases of operation and service, and for such purposes may use a signal other than the normal broadcast program signal.

(b) Experimental authorizations for licensed broadcast stations may be requested by filing an informal application with the FCC in Washington, DC, describing the nature and purpose of the experimentation to be conducted, the nature of the experimental signal to be transmitted, and the proposed schedule of hours and duration of the experimentation. Experimental authorizations shall be posted with the station license.

(c) Experimental operations for licensed broadcast stations are subject to the following conditions:

(1) The authorized power of the station may not be exceeded more than 5 percent above the maximum power specified, except as specifically authorized for the experimental operations.

(2) Emissions outside the authorized bandwidth must be attenuated to the

degree required for the particular type of station.

(3) The experimental operations may be conducted at any time the licensed station is authorized to operate, but the minimum required schedule of programming for the class and type of station must be met. AM stations also may conduct experimental operations during the experimental period (12 midnight local time to local sunrise) and at additional hours if permitted by the experimental authorization provided no interference is caused to other stations maintaining a regular operating schedule within such period(s).

(4) If a licensed station's experimental authorization permits the use of additional facilities or hours of operation for experimental purposes, no sponsored programs or commercial announcements may be transmitted during such experimentation.

(5) The licensee may transmit regularly scheduled programming concurrently with the experimental transmission if there is no significant impairment of service.

(6) No charges may be made, either directly or indirectly, for the experimentation; however, normal charges may be made for regularly scheduled programming transmitted concurrently with the experimental transmissions.

(d) The FCC may request a report of the research, experimentation and results at the conclusion of the experimental operation.

§ 5.205 Licensing requirements, necessary showing.

(a) An applicant for a new experimental broadcast station, change in facilities of any existing station, or modification of license is required to make a satisfactory showing of compliance with the general requirements of the Communications Act of 1934, as amended, as well as the following:

(1) That the applicant has a definite program of research and experimentation in the technical phases of broadcasting which indicates reasonable promise of substantial contribution to the developments of the broadcasting art.

(2) That upon the authorization of the proposed station the applicant can and will proceed immediately with its program of research and experimentation.

(3) That the transmission of signals by radio is essential to the proposed program of research and experimentation.

(4) That the program of research and experimentation will be conducted by qualified personnel.

(b) A license for an experimental broadcast station will be issued only on the condition that no objectionable interference to the regular program transmissions of broadcast stations will result from the transmissions of the experimental stations.

(c) *Special provision for broadcast experimental radio station applications.* For purposes of the definition of "experimental authorization" in Section II.A.6 of the Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process set forth in Appendix C to part 1 of this chapter, a Broadcast Experimental Radio Station authorized under this Subpart shall be considered an "Experimental Broadcast Station authorized under part 74 of the Commission's rules."

§ 5.207 Supplemental reports with application for renewal of license.

A report shall be filed with each application for renewal of experimental broadcast station license which shall include a statement of each of the following:

(a) Number of hours operated.

(b) Full data on research and experimentation conducted including the types of transmitting and studio equipment used and their mode of operation.

(c) Data on expense of research and operation during the period covered.

(d) Power employed, field intensity measurements and visual and aural observations and the types of instruments and receivers utilized to determine the station service area and the efficiency of the respective types of transmissions.

(e) Estimated degree of public participation in reception and the results of observations as to the effectiveness of types of transmission.

(f) Conclusions, tentative and final.

(g) Program of further developments in broadcasting.

(h) All developments and major changes in equipment.

(i) Any other pertinent developments.

Technical Operation and Operators

§ 5.211 Frequency monitors and measurements.

The licensee of a broadcast experimental radio station shall provide the necessary means for determining that the frequency of the station is within the allowed tolerance. The date and time of each frequency check, the frequency as measured, and a description or identification of the method employed shall be entered in the station log. Sufficient observations shall be made to insure that the assigned carrier frequency is maintained within the prescribed tolerance.

§ 5.213 Time of operation.

(a) Unless specified or restricted hours of operation are shown in the station authorization, broadcast experimental radio stations may be operated at any time and are not required to adhere to a regular schedule of operation.

(b) The FCC may limit or restrict the periods of station operation in the event interference is caused to other broadcast or non-broadcast stations.

(c) The FCC may require that a broadcast experimental radio station conduct such experiments as are deemed desirable and reasonable for development of the type of service for which the station was authorized.

§ 5.215 Program service and charges.

(a) The licensee of a broadcast experimental radio station may transmit program material only when necessary to the experiments being conducted, and no regular program service may be broadcast unless specifically authorized.

(b) The licensee of a broadcast experimental radio station may make no charges nor ask for any payment, directly or indirectly, for the production or transmission of any programming or information used for experimental broadcast purposes.

§ 5.217 Rebroadcasts.

(a) The term *rebroadcast* means reception by radio of the programs or other transmissions of a broadcast station, and the simultaneous or subsequent retransmission of such programs or transmissions by a broadcast station.

(1) As used in this section, the word "program" includes any complete program or part thereof.

(2) The transmission of a program from its point of origin to a broadcast station entirely by common carrier facilities, whether by wire line or radio, is not considered a rebroadcast.

(3) The broadcasting of a program relayed by a remote broadcast pickup station is not considered a rebroadcast.

(b) No licensee of a broadcast experimental radio station may retransmit the program of another U.S. broadcast station without the express authority of the originating station. A copy of the written consent of the licensee originating the program must be kept by the licensee of the broadcast experimental radio station retransmitting such program and made available to the FCC upon request.

§ 5.219 Broadcasting emergency information.

(a) In an emergency where normal communication facilities have been disrupted or destroyed by storms, floods or other disasters, a broadcast experimental radio station may be operated for the purpose of transmitting essential communications intended to alleviate distress, dispatch aid, assist in rescue operations, maintain order, or otherwise promote the safety of life and property. In the course of such operation, a station of any class may communicate with stations of other classes and in other services. However, such operation shall be conducted only on the frequency or frequencies for which the station is licensed and the used power shall not exceed the maximum authorized in the station license. When such operation involves the use of frequencies shared with other stations, licensees are expected to cooperate fully to avoid unnecessary or disruptive interference.

(b) Whenever such operation involves communications of a nature other than those for which the station is licensed to perform, the licensee shall, at the earliest practicable time, notify the FCC in Washington, DC of the nature of the emergency and the use to which the station is being put and shall subsequently notify the same offices when the emergency operation has been terminated.

(c) Emergency operation undertaken pursuant to the provisions of this section shall be discontinued as soon as substantially normal communications facilities have been restored. The Commission may at any time order discontinuance of such operation.

Subpart E—Program Experimental Radio Licenses

Requirements for All Program Experimental Radio Licenses

§ 5.301 Requirements in other subparts.

In addition to the rules in this subpart, program experimental applicants and licensees must follow the rules in subparts B and C of this part. In case of any conflict between the rules set forth in this subpart and the rules set forth in subparts B and C of this part, the rules in this subpart shall govern.

§ 5.303 Frequencies.

Licensees may operate in any frequency band, including those above 38.6 GHz, except for frequency bands exclusively allocated to the passive services (including the radio astronomy service). In addition, licensees may not use any frequency or frequency band below 38.6 GHz that is listed in § 15.205(a) of this chapter.

§ 5.305 Program license not permitted.

Experiments are not permitted under this subpart and a conventional experimental radio license is required when:

(a) An environmental assessment must be filed with the Commission as required by § 5.63(a); or

(b) An orbital debris mitigation plan must be filed with the Commission as required by§ 5.64; or

(c) The applicant requires non-disclosure of proprietary information.

§ 5.307 Responsible party.

(a) Each program experimental radio license must identify a single point of contact responsible for all experiments conducted under the license, including

(1) Ensuring compliance with the notification requirements of § 5.309; and

(2) Ensuring compliance with all applicable rules; and

(b) The responsible individual will serve as the initial point of contact for all matters involving interference resolution and must have the ability to discontinue any and all experiments being conducted under the license, if necessary.

(c) The responsible individual along with contact information, such as a phone number and e-mail address at which he or she can be reached at any time of the day, must be identified on the license application and will be listed on the license. Licensees are required to keep this information current.

§ 5.309 Notification requirements.

(a) At least seven calendar days prior to commencement of any experiment under a program experimental radio license, licensees must provide the following information to the Web site to be provided in the final rules.

(1) A narrative statement describing the experiment;

(2) Contact information for the researcher in charge; and

(3) Technical details including:

(i) The frequency or frequency bands;

(ii) The maximum effective isotropically radiated power (EIRP) or effective radiated power (ERP) under consideration;

(iii)The emission designators to be used;

(iv) A description of the geographic area in which the test will be conducted;

(v) The number of units to be used;

(vi) A public safety mitigation plan as required by § 5.311, if necessary; and

(vii) For medical program experimental radio licenses, the rule part for which the experimental device is intended.

(b) Experiments may commence without specific approval or authorization once the seven calendar days have elapsed. However, if any licensee of an authorized service raises interference concerns, it must contact the program license responsible party and it must post its complaint along with supporting documentation to the Web page to be provided in the final rules. The experiment shall not commence until the parties resolve the complaint. The complainant bears the burden of proof that the proposed experiment will cause harmful interference. It is expected that parties work in good faith to resolve such concerns, including modifying experiments if necessary to reach an agreeable resolution.

(c) The Commission can prohibit or require modification of specific experiments under a program experimental radio license at any time without notice or hearing if in its discretion the need for such action arises.

(d) Within 30 days after completion of each experiment conducted under a program experimental radio license, the licensee shall file a narrative statement describing the results of the experiment, including any interference incidents and steps taken to resolve them. This narrative statement must be filed to the Web site to be provided in the final rules and be associated with the materials described in paragraphs (a) and (b) of this section.

(e) All information submitted pursuant to this section will be made publicly available.

§ 5.311 Additional requirements related to safety of the public.

For experiments that may affect bands used for the provision of commercial mobile services, emergency notifications, or public safety purposes the program experimental radio licensee shall, prior to commencing transmissions, develop a specific plan to avoid interference to these bands. The plan must include provisions for:

(a) Providing notice to parties, including other Commission licensees and end users, who might be affected by the experiment;

(b) Providing for the quick identification and elimination of any harm the experiment may cause; and

(c) Providing an alternate means for accomplishing potentially affected vital public safety functions during the experiment.

Requirements Specific to Research Program Experimental Radio Licenses

§ 5.321 Eligibility.

Research experimental licensees must:

(a) Be:

(1) An Accreditation Board for Engineering and Technology (ABET) accredited college or university with a graduate research program or existing industry partnership or

(2) A Nationally recognized non-profit research laboratory.

(b) Have a defined campus setting; and

(c) Have institutional processes to monitor and effectively manage a wide variety of research projects.

§ 5.323 Area of operations.

Applications must specify and the Commission will grant authorizations for a geographic area that is inclusive of an institution's real-property facilities.

Requirements Specific to Innovation Zone Program Experimental Radio Licenses

§ 5.331 Eligibility.

Each licensee must hold appropriate technical credentials demonstrating technical competence in radio spectrum management.

§ 5.333 Area of operations.

Innovation zone program experimental radio licenses are restricted to areas designated by the Commission as innovation zones, available for use by multiple parties, and will be listed on the Commission's Web site.

Requirement Specific to Medical Program Experimental Radio Licenses

§ 5.341 Eligibility.

Medical program experimental radio licenses may be granted to hospitals and health care institutions that have demonstrated expertise in radio spectrum management.

§ 5.343 Additional requirements.

(a) Experiments conducted under the authority of a medical program experimental radio license are limited to therapeutic and diagnostic medical equipment that is designed to meet the Commission's rules for such equipment.

(b) Licensees of medical program experimental radio licenses shall file a yearly report of the activity that has been performed under the license.

Subpart F—Product Development and Market Trials

§ 5.401 Product development trials.

Unless otherwise stated in the instrument of authorization, experimental radio licenses granted for the purpose of product development trials pursuant to § 5.3(j) of this part are subject to the following conditions:

(a) All transmitting and/or receiving equipment used in the study shall be owned by the licensee.

(b) The licensee is responsible for informing all participants in the experiment that the operation of the service or device is being conducted under an experimental authorization and is strictly temporary.

(c) Marketing of devices (as defined in § 2.803 of this chapter) or provision of services for hire is not permitted.

(d) The size and scope of the experiment are subject to limitations as the Commission shall establish on a case-by-case basis. If the Commission subsequently determines that a product development trial is not so limited, the trial shall be immediately terminated.

§ 5.403 Market trials.

Unless otherwise stated in the instrument of authorization, experimental radio licenses granted for the purpose of market trials pursuant to § 5.3(j) are subject to the following conditions:

(a) Marketing of devices (as defined in § 2.803 of this chapter) and provision of services for hire is permitted before the radio frequency device has been authorized by the Commission, provided that the device will be operated in compliance with existing Commission rules, waivers of such rules that are in effect at the time of operation, or rules that have been adopted by the Commission but that have not yet become effective.

(b) The operation of all radio frequency devices that are included in a market trial must be authorized under this rule section, including those devices that are designed to operate under parts 15, 18 or 95 of this chapter.

(c) If more than one entity will be responsible for conducting the same market trial *e.g.,* manufacturer and service provider, each entity will be authorized under a separate license. A service provider shall be either a current FCC licensee or eligible for a license in the service that would eventually deploy the device being tested. If more than one licensee is authorized, one shall be designated as the responsible party for the trial.

(d) All transmitting and/or receiving equipment used in the study shall be owned by the licensees. Marketing of devices is only permitted as follows:

(1) The licensees may sell equipment to each other, *e.g.,* manufacturer to service provider,

(2) The licensees may lease equipment to trial participants for purposes of the study, and

(3) The number of devices to be marketed shall be the minimum quantity of devices necessary to conduct the market trial as approved by the Commission.

(e) Licensees are required to ensure that trial devices are either rendered inoperable or retrieved by them from trial participants at the conclusion of the trial. Licensees are required to notify trial participants in advance that operation of the trial device is subject to this condition.

(f) The size and scope of the experiment are subject to limitations as the Commission shall establish on a case-by-case basis. If the Commission subsequently determines that a market trial is not so limited, the trial shall be immediately terminated.

PART 22—PUBLIC MOBILE SERVICES

15. The authority citation for part 22 continues to read as follows:

Authority: 47 U.S.C. 154, 222, 303, 309, and 332.

16. Section 22.165 is amended by revising paragraph (d)(2) to read as follows:

§ 22.165 Additional transmitters for existing systems.

* * * * *

(d) * * *

(2) Additional transmitters in the 43 MHz frequency range operate under experimental authority pursuant to part 5 of this chapter.

* * * * *

§ 22.377 [Amended]

17. Remove and reserve paragraph (b) of § 22.377.

Subpart D—[Removed and Reserved]

18. Remove and reserve Subpart D.

19. Section 22.591 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 22.591 Channels for point-to-point operation.

* * * * *

(a) The 72–76 MHz channels may be assigned under experimental authority pursuant to part 5 of this chapter and the requirements of § 22.599 (c) and (d). * * *

* * * * *

20. Section 22.599 is amended by revising paragraph (b) and adding new paragraphs (c) and (d) to read as follows:

§ 22.599 Assignment of 72–76 MHz channels.

* * * * *

(b) 72–76 MHz channels may be assigned for use within 16 kilometers (10 miles) of a full service TV station transmitting on TV Channel 4 or 5 under an experimental authorization, pursuant to Part 5 of this chapter. However, for use within 50 meters (164 feet) of a TV station transmitting on TV Channel 4 or 5, 72–76 MHZ channels may be assigned under a regular authorization, rather than an experimental authorization.

(c) *Carrier responsibility.* Carriers so authorized shall operate the 72–76 MHz fixed station under experimental authority for a period of at least six months. During the experimental period, carriers must resolve any broadcast television receiver interference problems that may occur as a result of operation of the 72–76 MHz transmitter(s).

(d) *Exceptions.* The FCC may grant a regular authorization in the Paging and Radiotelephone Service for a 72–76 MHz fixed station under the following circumstances:

(1) After six months of operation under experimental authorization, and provided that broadcast TV interference complaints have been resolved by the carrier in a satisfactory manner. Licensees that hold an experimental authorization for a 72–76 MHz fixed station and wish to request a regular authorization must file an application using FCC Form 601 via the ULS prior to the expiration of the experimental authorization.

(2) In the case of the assignment of or a transfer of control of a regular authorization of a 72–76 MHz fixed station in the Paging and Radiotelephone Service, the FCC may grant such assignment or consent to such transfer of control provided that the station has been in continuous operation providing service with no substantial interruptions.

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334, 336 and 339.

§ 73.1510 [Removed]

22. Remove § 73.1510.

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

23. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 307, 336(f), 336(h) and 554.

24. Section 74.1 is revised to read as follows:

§ 74.1 Scope.

(a) The rules in this subpart are applicable to the Auxiliary and Special Broadcast and Other Program Distributional Services.

(b) Rules in part 74 which apply exclusively to a particular service are contained in that service subpart, as follows: Remote Pickup Broadcast Stations, Subpart D; Aural Broadcast STL and Intercity Relay Stations, Subpart E; TV Auxiliary Broadcast Stations, Subpart F; Low-power TV, TV Translator and TV Booster Stations, Subpart G; Low-power Auxiliary Stations, Subpart H; FM Broadcast Translator Stations and FM Broadcast Booster Stations, subpart L of this part.

25. Section 74.5 is amended by revising the introductory text to read as follows:

§ 74.5 Cross reference to rules in other parts.

Certain rules applicable to Auxiliary, Special Broadcast and other Program Distribution services, some of which are also applicable to other services, are set forth in the following Parts of the FCC Rules and Regulations:

* * * * *

26. Section 74.15 is amended by removing and reserving paragraph (a) and revising paragraph (f) to read as follows:

§ 74.15 Station license period.

(a) [Reserved]

* * * * *

(f) The license of an FM translator or FM broadcast booster, TV translator or TV broadcast booster, or low power TV station will expire as a matter of law upon failure to transmit broadcast signals for any consecutive 12-month period notwithstanding any provision, term, or condition of the license to the contrary. Further, if the license of any AM, FM, or TV broadcasting station licensed under part 73 of this chapter expires for failure to transmit signals for any consecutive 12-month period, the licensee's authorizations under part 74, subparts D, E, F, and H in connection with the operation of that AM, FM, or TV broadcasting station will also expire notwithstanding any provision, term, or condition to the contrary.

* * * * *

27. Section 74.16 is revised to read as follows:

§ 74.16 Temporary extension of station licenses.

Where there is pending before the Commission any application, investigation, or proceeding which, after hearing, might lead to or make necessary the modification of, revocation of, or the refusal to renew an existing auxiliary broadcast station license or a television broadcast translator station license, the Commission in its discretion, may grant a temporary extension of such license: *Provided, however,* That no such temporary extension shall be construed as a finding by the Commission that the operation of any radio station there under will serve public interest, convenience, and necessity beyond the express terms of such temporary extension of license: *And provided further,* that such temporary extension of license will in no way affect or limit the action of the Commission with respect to any pending application or proceeding.

28. Section 74.28 is revised to read as follows:

§ 74.28 Additional orders.

In case the rules contained in this part do not cover all phases of operation with respect to external effects, the FCC may make supplemental or additional orders in each case as may be deemed necessary.

Subpart A—[Removed and Reserved]

29. Remove and reserve Subpart A.

30. Section 74.780 is amended by adding the entry "Part 5—Experimental Radio Service (including market trials) immediately following the introductory text, and removing the entry of "Section 73.1510—Experimental authorizations;" to read as follows:

§ 74.780 Broadcast regulations applicable to translators, low power, and booster stations.

* * * * *

Part 5—Experimental Radio Service (including market trials).

* * * * *

PART 80—STATIONS IN THE MARITIME SERVICES

31. The authority citation for part 80 continues to read as follows:

Authority: Secs. 4, 303, 307(e), 309, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307(e), 309, and 332, unless

otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

§ 80.25 [Amended]

32. Remove paragraph (c) of § 80.25.

§ 80.33 [Removed]

33. Remove § 80.33.

§ 80.203 [Amended]

34. Remove and reserve paragraph (j) of § 80.203.

§ 80.25 [Amended]

35. Remove paragraph (g) of § 80.211.

36. Section 80.377 is revised to read as follows:

§ 80.377 Frequencies for ship earth stations.

The frequency band 1626.5–1645.5 MHz is assignable for communication operations and radiodetermination and telecommand messages that are associated with the position, orientation and operational functions of maritime satellite equipment. The frequency band 1645.5–1646.5 MHz is reserved for use in the Global Maritime Distress and Safety System (GMDSS).

§ 80.391 [Removed]

37. Remove § 80.391 and the undesignated center heading preceding the section.

PART 87—AVIATION SERVICES

38. The authority citation for part 87 continues to read as follows:

Authority: 47 U.S.C. 154, 303 and 307(e), unless otherwise noted.

39. Section 87.27 is revised to read as follows:

§ 87.27 License term.

Licenses for stations in the aviation services will normally be issued for a term of ten years from the date of original issuance, or renewal.

§ 87.37 [Removed]

40. Remove § 87.37.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

41. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

§ 90.7 [Amended]

42. Section 90.7 is amended by removing the definition for "Developmental Operation."

§ 90.20 [Amended]

43. Remove and reserve paragraph (e)(3) of § 90.20.

§ 90.35 [Amended]

44. Amend § 90.35 as follows:

a. Remove the entry for "8,400 to 8,500" from the table in paragraph (b)(3).

b. Remove and reserve paragraphs (c)(75), (d)(6) and (e)(2) of § 90.35.

§ 90.129 [Amended]

45. Remove and reserve paragraph (f) of § 90.129.

§ 90.149 [Amended]

46. Remove paragraph (c) of § 90.149.

§ 90.175 [Amended]

47. Remove and reserve paragraph (j)(4) of § 90.175.

§ 90.203 [Amended]

48. Remove and reserve paragraph (b)(1) of § 90.203.

§ 90.241 [Amended]

49. Remove paragraph (e) of § 90.241.

50. Section 90.250 is amended by revising paragraph (i) to read as follows:

§ 90.250 Meteor burst communications.

* * * * *

(i) Stations employing meteor burst communications shall not cause interference to other stations operating in accordance with the allocation table. New authorizations will be issued subject to the Commission's experimental licensing rules in part 5 of this chapter. Prior to expiration of the experimental authorization, application Form 601 should be filed for issuance of a permanent authorization.

Subpart Q—[Removed and Reserved]

51. Remove and reserve Subpart Q.

PART 101—FIXED MICROWAVE SERVICES

52. The authority citation for part 101 continues to read as follows:

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

§ 101.21 [Amended]

53. Remove and reserve paragraph (b) of § 101.21.

54. Section 101.129 is amended by revising paragraph (a) to read as follows:

§ 101.129 Transmitter location.

(a) The applicant must determine, prior to filing an application for a radio station authorization, that the antenna site specified therein is adequate to render the service proposed. In cases of questionable antenna locations, it is desirable to conduct propagation tests to indicate the field intensity which may be expected in the principal areas or at the fixed points of communication to be served, particularly where severe shadow problems may be expected. In considering applications proposing the use of such locations, the Commission may require site survey tests to be made pursuant to an experimental license under part 5 of this chapter. In such cases, propagation tests should be conducted in accordance with recognized engineering methods and should be made with a transmitting antenna simulating, as near as possible, the proposed antenna installation. Full data obtained from such surveys and its analysis, including a description of the methods used and the name, address and qualifications of the engineer making the survey, must be supplied to the Commission.

* * * * *

Subpart F—[Removed and Reserved]

55. Remove and reserve Subpart F of part 101.

[FR Doc. 2011–1377 Filed 2–7–11; 8:45 am]

BILLING CODE 6712–01–P



FEDERAL REGISTER

Vol. 76 Tuesday,
No. 26 February 8, 2011

Part IV

Department of Transportation

Federal Transit Administration
FTA Fiscal Year 2011 Apportionments, Allocations, and Program Information; Notice

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

FTA Fiscal Year 2011 Apportionments, Allocations, and Program Information

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: The Federal Transit Administration (FTA) annually publishes one or more notices apportioning funds appropriated by law. In some cases, if less than a full year of funding is available, FTA publishes multiple partial apportionment notices. This notice is the first notice announcing partial apportionment of Fiscal Year (FY) 2011 formula funds. It also provides program guidance and requirements; and provides information on several program issues important in the current fiscal year. The notice also includes tables that show certain unobligated (carryover) funding discretionary programs from previous years that will be available for obligation during FY 2011.

FOR FURTHER INFORMATION CONTACT: For general information about this notice contact Kimberly Sledge, Team Leader, Transit Program Management Team, at (202) 366–2053. Please contact the appropriate FTA regional office for any specific requests for information or technical assistance. The Appendix at the end of this notice includes contact information for FTA regional offices. An FTA headquarters contact for each major program area is included in the discussion of that program in the text of the notice.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Overview
II. FY 2011 Available Funding for FTA Programs
A. Available Funding Based on Continuing Appropriations and Surface Transportation Extension Act, 2011, and Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU).
B. Program Funds Set-aside for Oversight
III. 2011 FTA Programs
A. Metropolitan Planning Program (49 U.S.C. 5305)
B. Statewide Planning and Research Program (49 U.S.C. 5305)
C. Urbanized Area Formula Program (49 U.S.C. 5307)
D. Capital Investment Program (49 U.S.C. 5309)—Fixed Guideway Modernization
E. Special Needs of Elderly Individuals and Individuals With Disabilities Program (49 U.S.C. 5310)
F. Nonurbanized Area Formula Program (49 U.S.C. 5311)
G. Rural Transportation Assistance Program (49 U.S.C. 5311(b)(3))
H. Job Access and Reverse Commute Program (49 U.S.C. 5316)
I. New Freedom Program (49 U.S.C. 5317)
J. Growing States and High Density States Formula (49 U.S.C. 5340)
IV. FTA Policy and Procedures for FY 2011 Grants Requirements
A. Automatic Pre-Award Authority to Incur Project Costs
B. Letter of No Prejudice (LONP) Policy
C. FTA FY 2011 Annual List of Certifications and Assurances
D. FHWA Funds Used for Transit Purposes
E. Technical Assistance
Tables
1. FTA FY 2011 Appropriations and Apportionments for Grant Programs
2. FTA FY 2011 Metropolitan Planning Program and Statewide Planning and Research Program Apportionments
3. FTA FY 2011 Section 5307 and Section 5340 Urbanized Area Apportionments
3–A. 2000 Census Urbanized Areas 200,000 or More in Population Eligible to Use Section 5307 Funds for Operating Assistance
4. FTA FY 2011 Section 5307 Apportionment Formula
5. FTA FY 2011 Formula Programs Apportionments Data Unit Values
6. FTA FY 2011 Small Transit Intensive Cities Performance Data and Apportionments
7. FTA Prior Year Unobligated Section 5308 Clean Fuels Allocations
8. FTA FY 2011 Section 5309 Fixed Guideway Modernization Apportionments
9. FTA FY 2011 Fixed Guideway Modernization Program Apportionment Formula
10. FTA Prior Year Unobligated Section 5309 Buses and Bus Related Equipment and Facilities Allocations
11. FTA Prior Year Unobligated Section 5309 New Starts Allocations
12. FTA FY 2011 Special Needs for Elderly Individuals and Individuals with Disabilities Apportionments
13. FTA FY 2011 Section 5311 and Section 5340 Nonurbanized Area Formula Apportionments, and Rural Transportation Assistance Program (RTAP) Allocations
14. FTA Prior Unobligated Tribal Transit Discretionary Allocations
15. FTA FY 2011 Section 5316 Job Access and Reverse Commute (JARC) Apportionments
16. FTA FY 2011 Section 5317 New Freedom Apportionments
17. 2011 FTA Prior Year Unobligated Section 5339 Alternatives Analysis Allocations
Appendix

I. Overview

FTA's current authorization, the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA–LU), expired September 30, 2009. Since that time, Congress has enacted short-term extensions allowing FTA to continue its current programs. Most recently, the Continuing Appropriations and Surface Transportation Extensions Act, 2011, *as amended,* (Pub. L. 111–322, Div. C), continues the authorization of the Federal transit programs of the U.S. Department of Transportation (DOT) through March 4, 2011. It extends contract authority for programs in the Formula and Bus Grants account provided in the previous authorization extension Hiring Incentives to Restore Employment Act (Pub. L. 111–147) until March 4, 2011, *i.e.,* approximately 5/12th of the contract authority available in FY 2010.

This document apportions approximately $3 billion in FY 2011 funds made available under the Continuing Appropriations and Surface Transportation Extensions of Act 2011, *as amended,* hereinafter, ("CR, 2011") among potential program recipients according to statutory formulas in 49 U.S.C. Chapter 53. This is in addition to over $4.2 billion existing in unobligated formula funds available from prior years. The notice includes FY 2011 formula funds that are currently available, which is approximately 5/12 or 42.47% of the amounts that were available under the Consolidated Appropriations Act, 2010 (Pub. L. 111–117). The notice does not include any extension or reprogramming of any discretionary funds that lapsed to the designated project as of September 30, 2010. FTA will issue a supplemental notice at a later date for any additional increments of formula and discretionary funds that become available.

For each FTA program included in this notice, we have provided relevant information on the FY 2011 funding currently available, program requirements, period of availability, and other related program information and highlights, as appropriate. A separate section of the document provides information on program requirements and guidance that are applicable to all FTA programs.

II. FY 2011 Available Funding for FTA Programs

A. Funding Based on the Continuing Appropriations and Surface Transportation Extensions Act, 2011 (Pub. L. 111–322)

The CR 2011 makes available approximately 5/12ths of the contract authority levels authorized in FY 2010 for the Formula programs. Table 1 of this document shows the funding that is currently available for the FTA programs. This Federal Register notice includes tables of apportionments and

allocations for FTA formula programs based on CR, 2011 and carryover discretionary funds.

B. Program Funds Set-aside for Project Management Oversight

As background, Section 5327 of title 49 U.S.C. authorizes the takedown of funds from FTA programs for project management oversight. Section 5327 provides oversight takedowns at the following levels: 0.5 percent of Planning funds, 0.75 percent of Urbanized Area Formula funds, 1 percent of Capital Investment funds, 0.5 percent of Special Needs of Elderly Individuals and Individuals with Disabilities formula funds, 0.5 percent of Non-urbanized Area Formula funds, and 0.5 percent of the Paul S. Sarbanes Transit in the Parks Program funds (formerly the Alternative Transportation in the Parks and Public Lands Program).

The funds are used to provide necessary oversight activities, including oversight of the construction of any major capital project under these statutory programs; to conduct State Safety Oversight, drug and alcohol, civil rights, procurement systems, management, planning certification and, financial reviews and audits, as well as evaluations and analyses of grantee specific problems and issues; and to provide technical assistance to correct deficiencies identified in compliance reviews and audits.

III. 2011 FTA Programs

This section of the notice provides the available FY 2011 funding through March 4, 2011, and/or other important program-related information for eleven FTA formula programs that are contained in this notice. Funding and/or other important information for each of the formula programs is presented immediately below. This includes program apportionments, certain program requirements, length of time FY 2011 funding is available for obligation and other significant program information pertaining to FY 2011.

A. Metropolitan Planning Program (49 U.S.C. 5305(d))

Section 5305(d) authorizes Federal funding to support a cooperative, continuous, and comprehensive planning program for transportation investment decision-making at the metropolitan area level. The specific requirements of metropolitan transportation planning are set forth in 49 U.S.C. 5303 and further explained in 23 CFR Part 450, as incorporated by reference in 49 CFR Part 613, *Statewide Transportation Planning; Metropolitan Transportation Planning; Final Rule.* State Departments of Transportation are direct recipients of funds allocated by FTA, which are then suballocated to Metropolitan Planning Organizations (MPOs) by formula, for planning activities that support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency; increasing the safety and security of the transportation system for motorized and non-motorized users; increasing the accessibility and mobility options available to people and for freight; protecting and enhancing the environment, promoting energy conservation, and improving quality of life; enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight; promoting efficient transportation system management and operation; and emphasizing the preservation of the existing transportation system. This funding must support work elements and activities resulting in balanced and comprehensive intermodal transportation planning for the movement of people and goods in the metropolitan area. Comprehensive transportation planning is not limited to transit planning or surface transportation planning, but also encompasses the relationships among land use and all transportation modes, without regard to the programmatic source of Federal assistance. Eligible work elements or activities include, but are not limited to studies relating to management, mobility management, planning, operations, capital requirements, and economic feasibility; evaluation of previously funded projects; peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analysis among MPOs and other transportation planners; work elements and related activities preliminary to and in preparation for constructing, acquiring, or improving the operation of facilities and equipment; development of coordinated public transit human services transportation plans. An exhaustive list of eligible work activities is provided in FTA Circular 8100.1C, Program Guidance for Metropolitan Planning and State Planning and Research Program Grants, dated September 1, 2008. For more about the Metropolitan Planning Program and the FTA Circular 8100.1C, contact Victor Austin, Office of Planning and Environment at (202) 366–2996.

1. FY 2011 Funding Availability

CR 2011 provides $39,790,936 to the Metropolitan Planning Program (49 U.S.C. 5305(d) to support metropolitan transportation planning activities set forth in 49 U.S.C. 5303. The total amount apportioned for the Metropolitan Planning Program to States for MPOs' use in urbanized areas (UZAs) is $39,591,981, as shown in the table below, after the deduction for oversight.

METROPOLITAN PLANNING PROGRAM

Total Appropriation	$39,790,936
Oversight Deduction	−198,955
Total Apportioned	39,591,981

States' apportionments for this program are displayed in Table 2.

2. Basis for Formula Apportionments

As specified in law, 82.72 percent of the amounts authorized for Section 5305 are allocated to the Metropolitan Planning program. FTA allocates Metropolitan Planning funds to the States according to a statutory formula. Eighty percent of the funds are distributed to the States as a basic allocation based on each State's UZA population, based on the most recent decennial Census. The remaining 20 percent is provided to the States as a supplemental allocation based on an FTA administrative formula to address planning needs in the larger, more complex UZAs. The amount published for each State is a combined total of both the basic and supplemental allocation.

3. Program Requirements

The State allocates Metropolitan Planning funds to MPOs in UZAs or portions thereof to provide funds for projects included in an annual work program (the Unified Planning Work Program, or UPWP) that includes both highway and transit planning projects. Each State has either reaffirmed or developed, in consultation with their MPOs, an allocation formula, based on the 2000 Census. The State allocation formula may be changed annually, but any change requires approval by the FTA regional office before grant approval. Program guidance for the Metropolitan Planning Program is found in FTA Circular 8100.1C, Program Guidance for Metropolitan Planning and State Planning and Research Program Grants, dated September 1, 2008. For more about the Metropolitan Planning Program and the FTA Circular 8100.1C, contact Victor Austin, Office of

Planning and Environment at (202) 366–2996.

4. Period of Availability

The funds apportioned under the Metropolitan Planning program to each State remain available for obligation by FTA to recipients for four fiscal years—which includes the year of apportionment plus three additional years. Any apportioned funds that remain unobligated at the close of business on September 30, 2014, will revert to FTA for reapportionment under the Metropolitan Planning Program.

5. Consolidated Planning Grants

FTA and FHWA planning funds under both the Metropolitan Planning and State Planning and Research Programs can be consolidated into a single consolidated planning grant (CPG), awarded by either FTA or FHWA. The CPG eliminates the need to monitor individual fund sources, if several have been used, and ensures that the oldest funds will always be used first. Unlike "flex funds" for capital programs, planning funds from FHWA may be combined with FTA planning funds in a single grant. Alternatively, FTA planning funds may be transferred to FHWA to be administered as combined grants.

Under the CPG, States can report metropolitan planning program expenditures (to comply with the Single Audit Act) for both FTA and FHWA under the Catalogue of Federal Domestic Assistance number for FTA's Metropolitan Planning Program (20.505). Additionally, for States with an FHWA Metropolitan Planning (PL) fund-matching ratio greater than 80 percent, the State can waive the 20 percent local share requirement, with FTA's concurrence, to allow FTA funds used for metropolitan planning in a CPG to be granted at the higher FHWA rate. For some States, this Federal match rate can exceed 90 percent.

States interested in transferring planning funds between FTA and FHWA should contact the FTA Regional Office or FHWA Division Office for more detailed procedures. Current guidelines are included in Federal Highway Administration Memorandum dated July 12, 2007, "Information: Final Transfers to Other Agencies that Administer Title 23 Programs."

For further information on CPGs, contact Nancy Grubb, Office of Budget and Policy, FTA, at (202)366–1635.

B. Statewide Planning and Research Program (49 U.S.C. 5305(e))

This program provides financial assistance to States for Statewide transportation planning and other technical assistance activities, including supplementing the technical assistance program provided through the Metropolitan Planning program. The specific requirements of Statewide transportation planning are set forth in 49 U.S.C. 5304 and further explained in 23 CFR Part 450 as referenced in 49 CFR Part 613, *Statewide Transportation Planning; Metropolitan Transportation Planning; Final Rule.* This funding must support work elements and activities resulting in balanced and comprehensive intermodal transportation planning for the movement of people and goods. Comprehensive transportation planning is not limited to transit planning or surface transportation planning, but also encompasses the relationships among land use and all transportation modes, without regard to the programmatic source of Federal assistance. For more information, contact Victor Austin, Office of Planning and Environment at (202) 366–2996.

1. FY 2011 Funding Availability

CR 2011 provides $8,312,227 to the State Planning and Research Program (49 U.S.C. 5305). The total amount apportioned for the State Planning and Research Program (SPRP) is $8,270,666 as shown in the table below, after the deduction for oversight (authorized by 49 U.S.C. 5327).

STATE PLANNING AND RESEARCH PROGRAM

Total Appropriation	$8,312,227
Oversight Deduction	−41,561
Total Apportioned	8,270,666

State apportionments for this program are displayed in Table 2.

2. Basis for Apportionment Formula

As specified in law, 17.28 percent of the amounts authorized for Section 5305 are allocated to the State Planning and Research program. FTA apportions funds to States by a statutory formula that is based on the most recent decennial Census, and the State's UZA population as compared to the UZA population of all States.

3. Requirements

Funds are provided to States for Statewide transportation planning programs. These funds may be used for a variety of purposes such as planning, technical studies and assistance, demonstrations, and management training. In addition, a State may authorize a portion of these funds to be used to supplement Metropolitan Planning funds allocated by the State to its UZAs, as the State deems appropriate. Program guidance for the State Planning and Research program is found in FTA Circular 8100.1C. This funding must support work elements and activities resulting in balanced and comprehensive intermodal transportation planning for the movement of people and goods. Comprehensive transportation planning is not limited to transit planning or surface transportation planning, but also encompasses the relationships among land use and all transportation modes, without regard to the programmatic source of Federal assistance. Eligible work elements or activities include, but are not limited to studies relating to management, planning, operations, capital requirements, and economic feasibility; evaluation of previously funded projects; peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analysis; work elements and related activities preliminary to and in preparation for constructing, acquiring, or improving the operation of facilities and equipment. An exhaustive list of eligible work activities is provided in FTA Circular 8100.1C, Program Guidance for Metropolitan Planning and State Planning and Research Program Grants, dated September 1, 2008. For more information, contact Victor Austin, Office of Planning and Environment at (202) 366–2996.

4. Period of Availability

The funds apportioned under the State Planning and Research program to each State remain available for obligation for four fiscal years, which include the year of apportionment plus three additional fiscal years. Any apportioned funds that remain unobligated at the close of business on September 30, 2014, will revert to FTA for reapportionment under the State Planning and Research Program.

C. Urbanized Area Formula Program (49 U.S.C. 5307)

Section 5307 authorizes Federal capital assistance, and in some cases, operating assistance for public transportation in UZAs. A UZA is an area with a population of 50,000 or more that has been defined and designated as such in the 2000 Census by the U.S. Census Bureau. The

Urbanized Area Formula Program funds may also be used to support planning activities, and may supplement planning projects funded under the Metropolitan Planning program. Urbanized Areas Formula Program funds used for planning must be shown in the Unified Planning Work Program (UPWP) for MPO(s) with responsibility for that area. Funding is apportioned directly to each UZA with a population of 200,000 or more, and to the State Governors for UZAs with populations between 50,000 and 200,000. Eligible applicants are limited to entities designated as recipients in accordance with 49 U.S.C. 5307(a)(2) and other public entities with the consent of the Designated Recipient. Generally, operating assistance is not an eligible expense for UZAs with populations of 200,000 or more. However, there are several exceptions to this restriction. The exceptions are described in section 3(d)(5) below.

For more information about the Urbanized Area Formula Program contact Kimberly Sledge, Office of Transit Programs, at (202) 366–2053.

1. FY 2011 Funding Availability

CR 2011 provides $1,763,230,999 to the Urbanized Area Formula Program (49 U.S.C. 5307). The total amount apportioned for the Urbanized Area Formula Program is $1,916,008,252 as shown in the table below, after the 0.75 percent deduction for oversight (authorized by 49 U.S.C. 5327) and including funds apportioned to UZAs from the appropriation for Section 5340 for Growing States and High Density States.

URBANIZED AREA FORMULA PROGRAM

Total Appropriation	[a] $1,763,230,999
Oversight Deduction	−13,224,232
Section 5340 Funds Added	166,001,486
Total Apportioned	1,916,008,252

[a] One percent set-aside for Small Transit Intensive Cities Formula.

Table 3 displays the amounts apportioned under the Urbanized Area Formula Program.

2. Basis for Formula Apportionment

FTA apportions Urbanized Area Formula Program funds based on legislative formulas. Different formulas apply to UZAs with populations of 200,000 or more and to UZAs with populations less than 200,000. For UZAs with 50,000 to 199,999 in population, the formula is based solely on population and population density. For UZAs with populations of 200,000 and more, the formula is based on a combination of bus revenue vehicle miles, bus passenger miles, fixed guideway revenue vehicle miles, and fixed guideway route miles, as well as population and population density. Table 4 includes detailed information about the formulas.

To calculate a UZA's FY 2011 apportionment, FTA used population and population density statistics from the 2000 Census and (when applicable) validated mileage and transit service data from transit providers' 2009 National Transit Database (NTD) Report Year. Consistent with 49 U.S.C. 5336(b), FTA used 60 percent of the directional route miles attributable to the Alaska Railroad passenger operations system to calculate the apportionment for the Anchorage, Alaska UZA.

FTA has calculated dollar unit values for the formula factors used in the Urbanized Area Formula Program apportionment calculations. These values represent the amount of money each unit of a factor is worth in this year's apportionment. The unit values change each year, based on all of the data used to calculate the apportionments. The dollar unit values for FY 2011 are displayed in Table 5. To replicate the basic formula component of a UZA's apportionment, multiply the dollar unit value by the appropriate formula factor (*i.e.,* the population, population x population density), and when applicable, data from the NTD (*i.e.,* route miles, vehicle revenue miles, passenger miles, and operating cost).

In FY 2011, one percent of funds appropriated for Section 5307, or $17,632,310 based on CR 2011 is set aside for Small Transit Intensive Cities (STIC). FTA apportions these funds to UZAs under 200,000 in population that operate at a level of service equal to or above the industry average level of service for all UZAs with a population of at least 200,000, but not more than 999,999, in one or more of six performance categories: passenger miles traveled per vehicle revenue mile, passenger miles traveled per vehicle revenue hour, vehicle revenue miles per capita, vehicle revenue hours per capita, passenger miles traveled per capita, and passengers per capita.

The data for these categories for the purpose of FY 2011 apportionments comes from the NTD reports for the 2009 reporting year. This data is used to determine a UZA's eligibility under the STIC formula, and is also used in the STIC apportionment calculations. Because these performance data change with each year's NTD reports, the UZAs eligible for STIC funds and the amount each receives may vary each year. In FY 2011, FTA apportioned $55,976 for each performance factor/category for which the urbanized area exceeded the national average for UZAs with a population of at least 200,000 but not more than 999,999.

In addition to the funds apportioned to UZAs, according to the Section 5307 formula factors contained in 49 U.S.C. 5336, FTA also apportions funds to urbanized areas under Section 5340 Growing States and High Density States formula factors. In FY 2011, FTA apportions $67,464,168 to UZAs in growing States and $98,537,318 to UZAs in High Density States. Half of the funds appropriated for Section 5340 are available to Growing States and half to High Density States. FTA apportions Growing States funds by a formula based on State population forecasts for 15 years beyond the most recent Census. FTA distributes the amounts apportioned for each State between UZAs and nonurbanized areas based on the ratio of urbanized/nonurbanized population within each State in the 2000 census, and to UZAs proportionately based on UZA population in the 2000 census (because population estimates are not available at the UZA level). FTA apportions the High Density States funds to States with population densities in excess of 370 persons per square mile. These funds are apportioned only to UZAs within those States. FTA pro-rates each UZA's share of the High Density funds based on the population of the UZAs in the State in the 2000 census.

FTA cannot provide unit values for the Growing States or High Density formulas because the allocations to individual States and urbanized areas are based on their relative population data, rather than on a national per capita basis.

Based on language in the conference report accompanying SAFETEA–LU, FTA is to show a single apportionment amount for Section 5307, STIC and Section 5340. FTA shows a single Section 5307 apportionment amount for each UZA in Table 3, the Urbanized Area Formula apportionments. The amount includes funds apportioned based on the Section 5307 formula factors, any STIC funds, and any Growing States and High Density States funding allocated to the area. FTA uses separate formulas to calculate and generate the respective apportionment amounts for the Section 5307, STIC and Section 5340. For technical assistance purposes, the UZAs that received STIC funds are listed in Table 6. FTA will make available breakouts of the funding allocated to each UZA under these

formulas, upon request to the regional office.

3. Program Requirements

Program guidance for the Urbanized Area Formula Program is currently found in FTA Circular 9030.1D, Urbanized Area Formula Program: Grant Application Instructions, dated May 1, 2010, and supplemented by additional information or changes provided in this document.

a. Urbanized Area Formula Apportionments to Governors

For small UZAs, those with a population of less than 200,000, FTA apportions funds to the Governor of each State for distribution. A single total Governor's apportionment amount for the Urbanized Area Formula, STIC, and Growing States and High Density States is shown in the Urbanized Area Formula Apportionment Table 3. The table also shows the apportionment amount attributable by formula to each small UZA within the State for information purposes only unless the small UZA is located within the planning boundaries of a Transportation Management Area (TMA). The Governor is not bound by the small UZA amounts published in this notice and shall determine the sub-allocation of funds among the small UZAs. The Governor's sub-allocation should be sent to the appropriate FTA Regional Office before grants are awarded. In the case of a small UZA that is located within the planning boundaries of TMA, the Governor must allocate to that small UZA, as discussed in subsection f below.

b. Transit Enhancements

Section 5307(d)(1)(K) requires that one percent of Section 5307 funds apportioned to UZAs with populations of 200,000 or more be spent on eligible transit enhancement activities or projects. This requirement is now treated as a certification, rather than as a set-aside as was the case under the Transportation Equity Act for the 21st Century (TEA–21). Designated recipients in UZAs with populations of 200,000 or more certify they are spending no less than one percent of Section 5307 funds for transit enhancements. In addition, Designated Recipients must submit an annual report on how they spent the money with the Federal fiscal year's final quarterly progress report in TEAM–Web. The report should include the following elements: (1) Grantee name; (2) UZA name and number; (3) FTA project number; (4) transit enhancement category; (5) brief description of enhancement and progress towards project implementation; (6) activity line item code from the approved budget; and (7) amount awarded by FTA for the enhancement. The list of transit enhancement categories and Activity Line Item (ALI) codes may be found in the table of Scope and ALI codes on TEAM–Web, which can be accessed at *http://FTATEAMWeb.fta.dot.gov*.

The term "transit enhancement" includes projects or project elements that are designed to enhance public transportation service or use and are physically or functionally related to transit facilities. Eligible enhancements include the following: (1) Historic preservation, rehabilitation, and operation of historic mass transportation buildings, structures, and facilities (including historic bus and railroad facilities); (2) bus shelters; (3) landscaping and other scenic beautification, including tables, benches, trash receptacles, and street lights; (4) public art; (5) pedestrian access and walkways; (6) bicycle access, including bicycle storage facilities and installing equipment for transporting bicycles on mass transportation vehicles; (7) transit connections to parks within the recipient's transit service area; (8) signage; and (9) enhanced access for persons with disabilities to mass transportation.

It is the responsibility of the MPO to determine how the one-percent for transit enhancements will be allotted to transit projects. The one percent minimum requirement does not preclude more than one percent from being expended in a UZA for transit enhancements. However, activities that are only eligible as enhancements—in particular, operating costs for historic facilities—may be assisted only within the one-percent funding level.

c. Transit Security Projects

Consistent with section 5307(d)(1)(J), each recipient of Urbanized Area Formula funds must certify that of the amount received each fiscal year, it will expend at least one percent on "public transportation security projects" or must certify that it has decided the expenditure is not necessary. For applicants not eligible to receive Section 5307 funds for operating assistance, only capital security projects may be funded with the one percent. SAFETEA–LU, however, expanded the definition of eligible "capital" projects to include specific crime prevention and security activities, including: (1) Projects to refine and develop security and emergency response plans; (2) projects aimed at detecting chemical and biological agents in public transportation; (3) the conduct of emergency response drills with public transportation agencies and local first response agencies; and (4) security training for public transportation employees, but excluding all expenses related to operations, other than such expenses incurred in conducting emergency drills and training. Activity Line Item (ALI) codes have been established for these four new capital activities and will be used to track the use of this provision. The one percent may also include security expenditures included within other capital activities, and, where the recipient is eligible, operating assistance.

FTA is often called upon to report to Congress and others on how grantees are expending Federal funds for security enhancements. To facilitate tracking of grantees' security expenditures, which are not always evident when included within larger capital or operating ALI items in the grant budget, we have established a non-additive ("non-add") scope code for security expenditures—Scope 991. The non-add scope is to be used to aggregate activities included in other scopes, and it does not increase the budget total. Section 5307 grantees should include this non-add scope in the project budget for each new Section 5307 grant application or amendment. Under this non-add scope, the applicant should repeat the full amount of any of the line items in the budget that are exclusively for security and include the portion of any other line item in the project budget that is attributable to security, using under the non-add scope the same line item used in the project budget. The grantee can modify the ALI description or use the extended text feature, if necessary, to describe the security expenditures.

The grantee must provide information regarding its use of the one percent for security as part of each Section 5307 grant application, using a special screen in TEAM–Web. If the grantee has certified that it is not necessary to expend one percent for security, the Section 5307 grant application must include information to support that certification. FTA will not process an application for a Section 5307 grant until the security information is complete.

d. FY 2011 Operating Assistance

UZAs under 200,000 in population may use Section 5307 funds for operating assistance. In addition, Section 5307, as amended, allows some UZAs with a population of 200,000 or more to use Urbanized Area Formula funds for operating assistance under certain conditions. CR, 2011 extends

that eligibility until March 4, 2011. The specific provisions allowing the limited use of operating assistance in large UZAs follow:

(1) Section 5307(b)(1)(E) provides for grants for the operating costs of equipment and facilities for use in public transportation in the Evansville, IN–KY urbanized area, for a portion or portions of the UZA if "the portion" of the UZA includes only one State, the population of "the portion" is less than 30,000, and the grants will not be used to provide public transportation outside of "the portion" of the UZA.

(2) Section 5307(b)(1)(F) provides operating costs of equipment and facilities for use in public transportation for local governmental authorities in areas which adopted transit operating and financing plans that became a part of the Houston, Texas, UZA as a result of the 2000 decennial census of population, but lie outside the service area of the principal public transportation agency that serves the Houston UZA.

(3) Section 5336(a)(2) prescribes the formula to be used to apportion Section 5307 funds to UZAs with population of 200,000 or more. SAFETEA–LU amended 5336(a)(2) to add language that stated, " * * * except that the amount apportioned to the Anchorage urbanized area under subsection (b) shall be available to the Alaska Railroad for any costs related to its passenger operations." This language has the effect of directing that funds apportioned to the Anchorage urbanized area, under the fixed guideway tiers of the Section 5307 apportionment formula, be made available to the Alaska Railroad, and that these funds may be used for any capital or operating costs related to its passenger operations.

(4) Section 3027(c)(3) of TEA–21, as amended (49 U.S.C. 5307 note), provides an exception to the restriction on the use of operating assistance in a UZA with a population of 200,000 or more, by allowing transit providers/grantees that provide service exclusively to elderly persons and persons with disabilities and that operate 20 or fewer vehicles to use Section 5307 funds apportioned to the UZA for operating assistance. The total amount of funding made available for this purpose under Section 3027(c)(3) is $1.4 million. Transit providers/grantees eligible under this provision have already been identified and notified.

(5) Consistent with the SAFETEA–LU Technical Corrections Act, 2008, in FY 2009, section 5307(b)(2) allowed: (1) UZAs that grew in population from under 200,000 to over 200,000 or that were under 200,000 but merged into another urbanized area and the population is over 200,000, as a result of the 2000 Census to use Section 5307 funds for operating assistance in an amount up to 50 percent of the grandfathered amount for FY 2002 funds; (2) Areas that were nonurbanized under the 1990 Census and became urbanized, as a result of the 2000 Census, to use no more than 50 percent of the amount apportioned to the area for FY 2003 for operating assistance; and (3) nonurbanized areas under the 1990 Census that merged into urbanized areas over 200,000, as a result of the 2000 Census, to use 50 percent of the amount the area received in FY 2002 Section 5311 funding for operating assistance. CR 2011 continued these special rules for the period October 1, 2009 through March 4, 2011.

e. Sources of Local Match

Consistent with Section 5307(e), the Federal share of an urbanized area formula grant is 80 percent of net project cost for a capital project and 50 percent of net project cost for operating assistance unless the recipient indicates a greater local share. The remainder of the net project cost (*i.e.,* 20 percent and 50 percent, respectively) shall be provided from the following sources:

(1) From non-Government sources other than revenues from providing public transportation services;

(2) From revenues derived from the sale of advertising and concessions;

(3) From an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital;

(4) From amounts received under a service agreement with a State or local social service agency or private social service organization; and

(5) Proceeds from the issuance of revenue bonds.

(6) Funds from Section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) can be used to match Urbanized Area Formula funds.

f. Designated Transportation Management Areas (TMA)

Guidance for setting the boundaries of TMAs is in the joint transportation planning regulations codified at 23 CFR Part 450 as referenced in 49 CFR Part 613. In some cases, the TMA planning boundaries established by the MPO for the designated TMA includes one or more small UZAs. In addition, one small UZA (Santa Barbara, CA) has been designated as a TMA. In either of these situations, the Governor cannot allocate "Governor's Apportionment" funds attributed to the small UZAs to other areas; that is, the Governor only has discretion to allocate Governor's Apportionment funds attributable to areas that are outside of designated TMA planning boundaries.

The list of small UZAs included within the planning boundaries of designated TMAs is provided in the table below:

Designated TMA	Small urbanized area included in TMA planning boundary
Albany, NY	Saratoga Springs, NY.
Houston, TX	Galveston, TX; Lake Jackson-Angleton, TX; Texas City, TX; The Woodlands, TX.
Jacksonville, FL	St. Augustine, FL.
Orlando, FL	Kissimmee, FL.
Palm Bay-Melbourne, FL	Titusville, FL.
Philadelphia, PA–NJ–DE–MD.	Pottstown, PA.
Pittsburg, PA	Monessen, PA; Weirton, WV–Steubenville, OH–PA (PA portion); Uniontown-Connellsville, PA.
Seattle, WA	Bremerton, WA.
Washington, DC–VA–MD	Frederick, MD.

The MPO must notify the Associate Administrator for Program Management, Federal Transit Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590, in writing, no later than July 1 of each year of the identity of any small UZA within the planning boundaries of a TMA.

g. Urbanized Area Formula Funds Used for Highway Purposes

Funds apportioned to a TMA are eligible for transfer to FHWA for highway projects, if the Designated Recipient has allocated a portion of the

area's Section 5307 funding for such use. However, before funds can be transferred, the following conditions must be met: (1) Approval by the MPO in writing, after appropriate notice and opportunity for comment and appeal are provided to affected transit providers; (2) a determination of the Secretary that funds are not needed for investments required by the Americans with Disabilities Act of 1990 (ADA); and (3) the MPO determines that local transit needs are being addressed.

The MPO should notify the appropriate FTA Regional Administrator of its intent to use FTA funds for highway purposes. Urbanized Area Formula funds that are designated by the MPO for highway projects and meet the conditions cited in the previous paragraph will be transferred to and administered by FHWA.

4. Period of Availability

The Urbanized Area Formula Program funds apportioned in this notice are available for obligation during the year of appropriation plus three additional years. Accordingly, these funds must be obligated in grants by September 30, 2014. Any apportioned funds that remain unobligated at the close of business on September 30, 2014, will revert to FTA for reapportionment under the Urbanized Area Formula Program.

5. Other Program or Apportionment Related Information and Highlights

In each UZA with a population of 200,000 or more, the Governor, in consultation with responsible local officials and publicly owned operators of public transportation, has designated one or more entities to be the Designated Recipient for Section 5307 funds apportioned to the UZA. The same entity(s) may or may not be the Designated Recipient for the Job Access and Reverse Commute (JARC) and New Freedom program funds apportioned to the UZA. In UZAs under 200,000 in population, the State is the Designated Recipient for Section 5307 as well as JARC and New Freedom programs. The Designated Recipient for Section 5307 may authorize other entities to apply directly to FTA for Section 5307 grants pursuant to a supplemental agreement. While the requirement that projects selected for funding be included in a locally developed coordinated public transit/human service transportation plan is not included in Section 5307 as it is in Sections 5310, 5316 (JARC) and 5317 (New Freedom), FTA expects that in their role as public transit providers, recipients of Section 5307 funds will be participants in the local planning process for these programs.

D. Capital Investment Program (49 U.S.C. 5309)—Fixed Guideway Modernization

This program provides capital assistance for the maintenance, recapitalization, and modernization of existing fixed guideway systems. Funds are apportioned by a statutory formula to UZAs with fixed guideway systems that have been in operation for at least seven years. A "fixed guideway" refers to any transit service that uses exclusive or controlled rights-of-way or rails, entirely or in part. The term includes heavy rail, commuter rail, light rail, monorail, trolleybus, aerial tramway, inclined plane, cable car, automated guideway transit, ferryboats, that portion of motor bus service operated on exclusive or controlled rights-of-way, and high-occupancy-vehicle (HOV) lanes. Eligible applicants are the public transit authorities in those urbanized areas to which the funds are apportioned. For more information about Fixed Guideway Modernization contact Kimberly Sledge, Office of Transit Programs, at (202) 366–2053.

1. FY 2011 Funding Availability

CR 2011 provides $706,290,063 to the Fixed Guideway Modernization Program. The total amount apportioned for the Fixed Guideway Modernization Program is $699,227,162, after the deduction for oversight, as shown in the table below.

FIXED GUIDEWAY MODERNIZATION PROGRAM

Total Appropriation	$706,290,063
Oversight Deduction	−7,062,901
Total Apportioned	699,227,162

The FY 2011 Fixed Guideway Modernization Program apportionments to eligible areas are displayed in Table 8.

2. Basis for Formula Apportionment

The formula for allocating the Fixed Guideway Modernization funds includes seven tiers. The apportionment of funding under the first four tiers is based on amounts specified in law and NTD data used to apportion funds in FY 1997. Funding under the last three tiers is apportioned based on the latest available data on route miles and revenue vehicle miles on segments at least seven years old, as reported to the NTD. Section 5337(f) of title 49, U.S.C. provides for the inclusion of Morgantown, West Virginia (population 55,997) as an eligible UZA for purposes of apportioning Fixed Guideway Modernization funds. Also, consistent to 49 U.S.C. 5336(b), FTA uses 60 percent of the directional route miles attributable to the Alaska Railroad passenger operations system to calculate the apportionment for the Anchorage, Alaska UZA under the Section 5309 Fixed Guideway Modernization formula.

FY 2011 Formula apportionments are based on data grantees provided to the NTD for the 2009 report year. Table 9 provides additional information and details on the formula. Dollar unit values for the formula factors used in the Fixed Guideway Modernization Program are displayed in Table 5. To replicate an area's apportionment, multiply the dollar unit value by the appropriate formula factor, *i.e.,* route miles and revenue vehicle miles.

3. Program Requirements

Fixed Guideway Modernization funds must be used for capital projects to maintain, modernize, or improve fixed guideway systems. Eligible UZAs (those with a population of 200,000 or more) with fixed guideway systems that are at least seven years old are entitled to receive Fixed Guideway Modernization funds. A threshold level of more than one mile of fixed guideway is required in order to receive Fixed Guideway Modernization funds. Therefore, UZAs reporting one mile or less of fixed guideway mileage to the NTD are not included. However, funds apportioned to an urbanized area may be used on any fixed guideway segment in the UZA. Program guidance for Fixed Guideway Modernization is presently found in FTA Circular C9300.1B, Capital Facilities and Formula Grant Programs, dated November 1, 2008.

4. Period of Availability

The funds apportioned in this notice under the Fixed Guideway Modernization Program remain available to recipients to be obligated in a grant during the year of appropriation plus three additional years. FY 2011 Fixed Guideway Modernization funds that remain unobligated at the close of business on September 30, 2014, will revert to FTA for reapportionment under the Fixed Guideway Modernization Program.

E. Special Needs of Elderly Individuals and Individuals With Disabilities Program (49 U.S.C. 5310)

This program provides formula funding to States for capital projects to assist private nonprofit groups in meeting the transportation needs of the

elderly and individuals with disabilities when the public transportation service provided in the area is unavailable, insufficient, or inappropriate to meet these needs. A State agency designated by the Governor administers the Section 5310 program. The State's responsibilities include: notifying eligible local entities of funding availability; developing project selection criteria; determining applicant eligibility; selecting projects for funding; and ensuring that all subrecipients comply with Federal requirements. Eligible nonprofit organizations or public bodies must apply directly to the designated State agency for assistance under this program. For more information about the Elderly and Individuals with Disabilities Program contact Gil Williams, Office of Transit Programs, at (202) 366–2053.

1. FY 2011 Funding Availability

CR 2011 provides $56,579,492 to the Elderly and Individuals with Disabilities Program (49 U.S.C. 5310). After deduction of 0.5 percent for oversight, and the addition of reapportioned prior year funds, $56,296,595 remains available for allocation to the States.

ELDERLY AND INDIVIDUALS WITH DISABILITIES PROGRAM

Total Appropriation	$56,579,492
Oversight Deduction	−282,897
Total Apportioned	56,296,595

The FY 2011 Elderly and Individuals with Disabilities Program apportionments to the States are displayed in Table 12.

2. Basis for Apportionment

FTA allocates funds to States by an administrative formula consisting of a $125,000 floor for each State ($50,000 for smaller territories) with the balance allocated based on 2000 Census population data for persons aged 65 and over and for persons with disabilities.

3. Requirements

Funds are available to support the capital costs of transportation services for older adults and people with disabilities. Uniquely under this program, eligible capital costs include the acquisition of service. Seven specified States (Alaska, Louisiana, Minnesota, North Carolina, Oregon, South Carolina, and Wisconsin) may use up to 33 percent of their apportionment for operating assistance under the terms of the SAFETEA–LU Section 3012(b) pilot program.

Capital assistance is provided on an 80 percent Federal, 20 percent local matching basis except that Section 5310(c) allows States eligible for a higher match under the sliding scale for FHWA programs to use that match ratio for Section 5310 capital projects. Operating assistance is 50 percent Federal, 50 percent local. Funds provided under other Federal programs (other than those of the U.S. DOT, with the exception of the Federal Lands Highway Program established by 23 U.S.C. 204) may be used as match. Revenue from service contracts may also be used as local match.

While the assistance is intended primarily for private non-profit organizations, public bodies approved by the State to coordinate services for the elderly and individuals with disabilities, or any public body that certifies to the State that there are no non-profit organizations in the area that are readily available to carry out the service, may receive these funds.

States may use up to ten percent of their annual apportionment to administer, plan, and provide technical assistance for a funded project. No local share is required for these program administrative funds. Funds used under this program for planning must be shown in the United Planning Work Program (UPWP) for MPO(s) with responsibility for that area.

The State recipient must certify that: the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and, the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public. The locally developed, coordinated public transit-human services transportation planning process must be coordinated and consistent with the metropolitan and statewide planning processes and funding for the program must be included in the metropolitan and statewide Transportation Improvement Program (TIP and STIP) at a level of specificity or aggregation consistent with State and local policies and procedures. Finally, the State must certify that allocations to subrecipients are made on a fair and equitable basis.

The coordinated planning requirement is a requirement in two additional programs. Projects selected for funding under the Job Access Reverse Commute program and the New Freedom program also are required to be derived from a locally developed coordinated public transit/human service transportation plan. FTA anticipates that most areas will develop one consolidated plan for all the programs, which may include separate elements and other human service transportation programs.

The Section 5310 program is subject to the requirements of Section 5307 formula program to the extent the Secretary determines appropriate. Program guidance is found in FTA Circular 9070.1F, dated May 1, 2007. The circular is posted on the FTA Web site at *http://www.fta.dot.gov*.

4. Period of Availability

FTA has administratively established a three-year period of availability for Section 5310 funds. Funds allocated to States under the Elderly and Individuals with Disabilities Program in this notice must be obligated by September 30, 2013. Any funding that remains unobligated as of that date will revert to FTA for reapportionment among the States under the Elderly and Individuals with Disabilities Program.

5. Other Program or Apportionment Related Information and Highlights

States may transfer Section 5310 funds to Section 5307 or Section 5311, but only for projects selected under the Section 5310 program, not as a general supplement for those programs. FTA anticipates that the States would use this flexibility primarily for projects to be implemented by a Section 5307 recipient in a small urbanized area, or for Federally recognized Indian Tribes that elect to receive funds as a direct recipient from FTA under Section 5311. A State that transfers Section 5310 funds to Section 5307 must certify that each project for which the funds are transferred has been coordinated with private nonprofit providers of services. FTA has established a scope code (641) in the TEAM grant system to track Section 5310 projects included within a Section 5307 or 5311 grant. Transfer to Section 5307 or 5311 is permitted, but not required. FTA expects primarily to award stand-alone Section 5310 grants to the State for any and all subrecipients.

6. Performance Measure

To support the evaluation of the program, FTA has established performance measures for the Section 5310 program, which should be submitted with the State's annual program of projects status report on October 31, 2011. States should submit performance measures on behalf of their subrecipients. Information on the Section 5310 performance measures can be found at *http://www.fta.dot.gov/laws/circulars/leg_reg_6622.html.*

F. Nonurbanized Area Formula Program (49 U.S.C. 5311)

This program provides formula funding to States and Indian Tribes for the purpose of supporting public transportation in areas with a population of less than 50,000. Funding may be used for capital, operating, State administration, and project administration expenses. Eligible subrecipients include State and local governmental authority, Indian Tribes, private non-profit organizations, and private operators of public transportation services, including intercity bus companies. Indian Tribes are also eligible direct recipients under Section 5311, both for funds apportioned to the States and for projects selected to be funded with funds set aside for a separate Tribal Transit Program.

For more information about the Nonurbanized Area Formula Program contact Lorna Wilson, Office of Transit Programs, at (202) 366–2053.

1. FY 2011 Funding Availability

CR 2011 provides $197,074,635 to the Nonurbanized Area Formula Program (49 U.S.C. 5311). The total amount apportioned for the Nonurbanized Area Formula Program is $216,863,673 after take-downs of two percent for the Rural Transportation Assistance Program (RTAP), 0.5 percent for oversight, and $6,357,246 for the Tribal Transit Program, and the addition of Section 5340 funding for Growing States, as shown in the table below:

NONURBANIZED AREA FORMULA PROGRAM

Total appropriation	$197,074,635
Oversight deduction	−985,373
Tribal takedown	−6,357,246
RTAP takedown	−3,941,493
Section 5340 funds added	31,073,150
Total apportioned	216,863,673

The FY 2011 Nonurbanized Area Formula apportionments to the States are displayed in Table 13.

2. Basis for Apportionments

FTA apportions the funds after take-down for oversight, the Tribal Transit Program, and RTAP according to a statutory formula. FTA apportions the first twenty percent to the States based on land area in nonurbanized areas with no state receiving more than 5 percent of the amount apportioned. FTA apportions the remaining eighty percent based on nonurbanized population of each State relative to the national nonurbanized population. FTA does not apportion Section 5311 funds to the Virgin Islands, which by a statutory exception are treated as an urbanized area for purposes of the Section 5307 formula program.

FTA is allocating $31,073,150 to the States and territories for nonurbanized areas from the Growing States portion of Section 5340. FTA apportions Growing States funds by a formula based on State population forecasts for 15 years beyond the most recent census. FTA distributes the amounts apportioned for each State between UZAs and nonurbanized areas based on the ratio of urbanized/nonurbanized population within each State in the 2000 census.

3. Program Requirements

The Nonurbanized Area Formula Program provides capital, operating and administrative assistance for public transit service in nonurbanized areas under 50,000 in population.

The Federal share for capital assistance is 80 percent and for operating assistance is 50 percent, except that States eligible for the sliding scale match under FHWA programs may use that match ratio for Section 5311 capital projects and 62.5 percent of the sliding scale capital match ratio for operating projects.

Each State must spend no less than 15 percent of its FY 2011 Nonurbanized Area Formula apportionment for the development and support of intercity bus transportation, unless the State certifies, after consultation with affected intercity bus service providers, that the intercity bus service needs of the State are being adequately met. FTA also encourages consultation with other stakeholders, such as communities affected by loss of intercity service.

Each State prepares an annual program of projects, which must provide for fair and equitable distribution of funds within the States, including Indian reservations, and must provide for maximum feasible coordination with transportation services assisted by other Federal sources.

To retain eligibility for funding, recipients of Section 5311 funding must report data annually to the NTD. Additional information on NTD reporting is contained in paragraph 5 of this section, below.

Program guidance for the Nonurbanized Area Formula Program is found in FTA Circular 9040.1F, "Nonurbanized Area Formula Program Guidance and Grant Application Instructions," dated April 1, 2007. The circular is posted at *http://www.fta.dot.gov.*

4. Period of Availability

It was administratively determined that funds apportioned to nonurbanized areas under the Nonurbanized Area Formula Program during FY 2011 will remain available for obligation for two additional fiscal years after the year of apportionment. Any funds that remain unobligated at the close of business on September 30, 2013, will revert to FTA for reapportionment among the States under the Nonurbanized Area Formula Program.

5. Other Program or Apportionment Related Information and Highlights

a. NTD Reporting. By law, FTA requires that each recipient under the Section 5311 program submit an annual report to the NTD containing information on capital investments, operations, and service provided with funds received under the Section 5311 program. Section 5311(b)(4), as amended by SAFETEA–LU, specifies that the report shall include information on total annual revenue, sources of revenue, total annual operating costs, total annual capital costs, fleet size and type, and related facilities, revenue vehicle miles, and ridership. State or Territorial DOT 5311 grant recipients must complete a one-page form of basic data for each 5311 subrecipient, unless the subrecipient is already providing a full report to the NTD as a Tribal Transit direct recipient or as an urbanized area reporter (without receiving a Nine or Fewer Vehicles Waiver). For the 2010 Report Year, State or Territorial DOTs must report on behalf of any subrecipient receiving Section 5311 grants in 2010, or that continued to benefit in 2010 from capital assets purchased using Section 5311 grants. Tribal Transit direct recipients must report if they received an obligation or an outlay for a Section 5311 grant in 2010, or if they continued to benefit in 2010 from capital assets using Section 5311 Grants, unless the Tribe is already filing a full NTD Report as an urbanized area reporter or unless the Tribe only received $50,000 or less in planning grants. The NTD Rural Reporting Manual contains detailed reporting instructions and is posted on the NTD Web site, *http://www.ntdprogram.gov.*

b. Extension of Intercity Bus Pilot of In-Kind Match. Beginning in FY 2007, FTA implemented a two year pilot program of in-kind match for intercity bus service. The initial program was set to expire after FY 2008; however, FTA decided to extend the program through FY 2010. Through this notice FTA extends the In-Kind Match program through FY 2011. FTA published

guidance on the in-kind match pilot in the **Federal Register** on February 28, 2007, as Appendix 1 of the Notice announcing the final revised circular 9040.1F, which is available at *http://www.fta.dot.gov.*

G. Rural Transportation Assistance Program (49 U.S.C. 5311(b)(3))

This program provides funding to assist in the design and implementation of training and technical assistance projects, research, and other support services tailored to meet the needs of transit operators in nonurbanized areas. For more information about Rural Transportation Assistance Program (RTAP) contact Lorna Wilson, Office of Transit Programs, at (202) 366–2053.

1. FY 2011 Funding Availability

CR 2011 provides $3,941,493 to RTAP (49 U.S.C. 5311(b)(2)), as a two percent takedown from the funds appropriated for Section 5311. FTA has reserved 15 percent for the National RTAP program. A total of $3,350,269 is available for allocation to the States, as shown in the table below.

RURAL TRANSIT ASSISTANCE PROGRAM

Total Appropriation	$3,941,493
National RTAP Takedown	−591,224
Total Apportioned	3,350,269

Table 13 shows the FY 2011 RTAP allocations to the States.

2. Basis for Allocation

FTA allocates funds to the States by an administrative formula. First FTA allocates $65,000 to each State ($10,000 to territories), and then allocates the balance based on nonurbanized population in the 2000 census.

3. Program Requirements

States may use the funds to undertake research, training, technical assistance, and other support services to meet the needs of transit operators in nonurbanized areas. These funds are to be used in conjunction with a State's administration of the Nonurbanized Area Formula Program, but also may support the rural components of the Section 5310, JARC, and New Freedom programs.

4. Period of Availability

FTA administratively established that funds apportioned to States under RTAP remain available for obligation two fiscal years following FY 2011. Any funds that remain unobligated at the close of business on September 30, 2013, will revert to FTA for allocation among the States under the RTAP.

5. Other Program or Apportionment Related Information and Highlights

The National RTAP project is administered by cooperative agreement and re-competed at five-year intervals. In FY 2008, FTA awarded the cooperative agreement to the Neponset Valley Transportation Management Association (NVTMA) located in Waltham, Massachusetts through a competitive process. The National RTAP projects are guided by a project review board that consists of managers of rural transit systems and State DOT RTAP programs. National RTAP resources also support the biennial TRB National Conference on Rural Public and Intercity Bus Transportation and other research and technical assistance projects of a national scope.

H. Job Access and Reverse Commute Program (49 U.S.C. 5316)

The Job Access and Reverse Commute (JARC) program provides formula funding to States and Designated Recipients to support the development and maintenance of job access projects designed to transport welfare recipients and low-income individuals to and from jobs and activities related to their employment, and for reverse commute projects designed to transport residents of UZAs and other than urbanized areas to suburban employment opportunities. For more information about the JARC program contact Gil Williams, Office of Transit Programs, at (202) 366–2053.

1. Funding Availability in FY 2011

CR 2011 provides $69,717,801 for the JARC Program. The total amount apportioned by formula is shown in the table below.

JOB ACCESS AND REVERSE COMMUTE PROGRAM

Total apportioned	$69,717,801

Table 15 shows the FY 2011 JARC apportionments.

2. Basis for Formula Apportionment

By law, FTA allocates 60 percent of funds available to UZAs with populations of 200,000 or more persons (large UZAs); 20 percent to the States for urbanized areas with populations ranging from 50,000 to 199,999 persons (small UZAs), and 20 percent to the States for rural and small urban areas with populations of less than 50,000 persons. FTA apportions funds based upon the number of low income individuals residing in a State or large urbanized area, using data from the 2000 Census for individuals with incomes below 150 percent of the poverty level. FTA publishes apportionments to each State for small UZAs and for rural and small urban areas and a single apportionment for each large UZA.

The Designated Recipient, either for the State or for a large UZA, is responsible for further allocating the funds to specific projects and subrecipients through a competitive selection process. If the Governor has designated more than one recipient of JARC funds in a large UZA, the Designated Recipients may agree to conduct a single competitive selection process or sub-allocate funds to each Designated Recipient, based upon a percentage split agreed upon locally, and conduct separate competitions.

States may transfer funds between the small UZA and the nonurbanized apportionments, if all of the objectives of JARC are met in the size area the funds are taken from. States may also use funds apportioned to the small UZA and nonurbanized area apportionments for projects anywhere in the State (including large UZAs) if the State has established a statewide program for meeting the objectives of JARC. A State that is planning to transfer funds under either of these provisions should submit a request to the FTA regional office. FTA will assign new accounting codes to the funds before obligating them in a grant.

3. Requirements

States and Designated Recipients must solicit grant applications and select projects competitively, based on application procedures and requirements established by the Designated Recipient, consistent with the Federal JARC program objectives. In the case of large UZAs, the area-wide solicitation shall be conducted in cooperation with the appropriate MPO(s).

Funds are available to support the planning, capital, and operating costs of transportation services that are eligible for funding under the program. Assistance may be provided for a variety of transportation services and strategies directed at assisting welfare recipients and eligible low-income individuals to address unmet transportation needs, and to provide reverse commute services. The transportation services may be provided by public, non-profit, or private-for-profit operators. The Federal share is 80 percent of capital and planning expenses and 50 percent of operating expenses. Funds provided under other Federal programs (other

than those of the DOT, with the exception of the Federal Lands Highway Program established by 23 U.S.C. 204) may be used for local/State match for funds provided under Section 5316, and revenue from service contracts may be used as local match.

States and Designated Recipients may use up to ten percent of their annual apportionment for administration, planning, and to provide technical assistance. No local share is required for these program administrative funds. Funds used under this program for planning in urbanized areas must be shown in the UPWP for MPO(s) with responsibility for that area.

The Designated Recipient must certify that: the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and, the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public, including those representing the needs of welfare recipients and eligible low-income individuals. The locally developed, coordinated public transit-human services transportation planning process must be coordinated and consistent with the metropolitan and statewide planning processes and funding for the program must be included in the metropolitan and statewide Transportation Improvement Program (TIP and STIP) at a level of specificity or aggregation consistent with State and local policies and procedures. Finally, the State must certify that allocations of the grant to subrecipients are made on a fair and equitable basis.

The coordinated planning requirement is also a requirement in two additional programs. Projects selected for funding under the Elderly and Individuals with Disabilities Program (Section 5310) and the New Freedom program (Section 5317) also are required to be derived from a locally developed coordinated public transit-human service transportation plan. FTA anticipates that most areas will develop one consolidated plan for all the programs, which may include separate elements and other human service transportation programs. The goal of the coordinated planning process is not to be an exhaustive document, but to serve as a tool for planning and implementing beneficial projects. The level of effort required to develop the plan will vary among communities based on factors such as the availability of resources. FTA does not approve coordinated plans.

The JARC program is subject to the relevant requirements of Section 5307, including the requirement for certification of labor protections. JARC program requirements are published in FTA Circular 9050.1, dated April 1, 2007. The circular and other guidance including frequently asked questions are posted on the FTA Web site at *http://www.fta.dot.gov.*

4. Period of Availability

FTA has established a consistent three-year period of availability for JARC, New Freedom, and the Section 5310 program, which includes the year of apportionment plus two additional years. FY 2011 funding is available for obligation through FY 2013. Any funding that remains unobligated on September 30, 2013 will revert to FTA for reapportionment among the States and large UZAs under the JARC program.

5. Other Program or Apportionment Related Information and Highlights

a. Carryover Earmarks. In the FTA 2010 Apportionments, Allocations and Program Information notice, which was published on February 16, 2010, FTA notified recipients of 2002–2005 earmarks that any remaining JARC discretionary funds should be obligated in a grant before September 30, 2010. At this time, JARC discretionary funds are no longer available for obligation.

b. Designated Recipient. FTA must have received formal notification from the Governor or Governor's designee of the Designated Recipient for JARC funds apportioned to a State or large UZA before awarding a grant to that area for JARC projects.

c. Transfers to Section 5307 or Section 5311. States may transfer JARC funds to Section 5307 or Section 5311, but only for projects competitively selected under the JARC program, not as a general supplement for those programs. FTA anticipates that the States would use this flexibility primarily for projects to be implemented by a Section 5307 recipient in a small urbanized area or for Federally recognized Indian Tribes that elect to receive funds as a direct recipient from FTA under Section 5311. FTA has established a scope code (646) to track JARC projects included within a Section 5307 or 5311 grant. All activities within a Section 5307 or Section 5311 grant application that are funded with JARC resources should be listed under the 646–00 scope code. Transfer to Section 5307 or 5311 is permitted but not required. FTA also will award stand-alone JARC grants to the State for any and all subrecipients. To track disbursements accurately against the appropriate program, FTA will not combine JARC funds with Section 5307 funds in a single Section 5307 grant, nor will FTA combine JARC with New Freedom funds in a single Section 5307 grant.

I. New Freedom Program (49 U.S.C. 5317)

SAFETEA–LU established the New Freedom Program under 49 U.S.C. 5317. The program purpose is to provide new public transportation services and public transportation alternatives beyond those currently required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*) that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services. For more information about the New Freedom program contact Gil Williams, Office of Transit Programs, at (202) 366–2053.

1. Funding Availability in FY 2011

CR 2011 provides $39,203,019 for the New Freedom Program. The entire amount is apportioned by formula, as shown in the table below:

NEW FREEDOM PROGRAM

Total Apportioned	$39,203,019

Table 16 shows the FY 2011 New Freedom apportionments.

2. Basis for Formula Apportionment

By law, FTA allocates 60 percent of funds available to UZAs with populations of 200,000 or more persons (large UZAs); 20 percent to the States for urbanized areas with populations ranging from 50,000 to 199,999 persons (small UZAs), and 20 percent to the States for rural and small urban areas with populations of less than 50,000 persons. FTA apportions funds based upon the number of persons with disabilities over the age of five residing in a State or large urbanized area, using data from the 2000 Census. FTA publishes apportionments to each State for small UZAs and for rural and small urban areas and a single apportionment for each large UZA.

The Designated Recipient, either for the State or for a large UZA, is responsible for further allocating the funds to specific projects and subrecipients through a competitive selection process. If the Governor has designated more than one recipient of New Freedom funds in a large UZA, the Designated Recipients may agree to conduct a single competitive selection process or sub-allocate funds to each Designated Recipient, based upon a

percentage split agreed on locally and conduct separate competitions.

3. Requirements

States and Designated Recipients must solicit grant applications and select projects competitively, based on application procedures and requirements established by the Designated Recipient, consistent with the Federal New Freedom program objectives. In the case of large UZAs, the area-wide solicitation shall be conducted in cooperation with the appropriate MPO(s).

Funds are available to support the capital and operating costs of new public transportation services and public transportation alternatives that are beyond those required by the Americans with Disabilities Act (ADA). Funds provided under other Federal programs (other than those of the DOT, with the exception of the Federal Lands Highway Program established by 23 U.S.C. 204) may be used as match for capital funds provided under Section 5317, and revenue from contract services may be used as local match.

Funding is available for transportation services provided by public, non-profit, or private-for-profit operators. Assistance may be provided for a variety of transportation services and strategies directed at assisting persons with disabilities to address unmet transportation needs. Eligible public transportation services and public transportation alternatives funded under the New Freedom program must be both new and beyond the ADA. In a notice of policy change published on April 29, 2009, (Federal Register Volume 74 Number 81, April 29, 2009) FTA expanded the type of projects it considers to be "beyond the ADA" and thus increase the types of projects eligible for funding under the New Freedom program. Under interpretation published in the Federal Register, new and expanded fixed route and demand responsive transit service planned for and designed to meet the needs of individuals with disabilities are eligible projects.

The Federal share is 80 percent of capital expenses and 50 percent of operating expenses. Funds provided under other Federal programs (other than those of the DOT) may be used for local/state match for funds provided under Section 5317, and revenue from service contracts may be used as local match.

States and Designated Recipients may use up to ten percent of their annual apportionment to administer, plan, and provide technical assistance for a funded project. No local share is required for these program administrative funds. Funds used under this program for planning must be shown in the UPWP for MPO(s) with responsibility for that area.

The Designated Recipient must certify that: the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and, the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public, including those representing the needs of welfare recipients and eligible low-income individuals. The locally developed, coordinated public transit-human services transportation planning process must be coordinated and consistent with the metropolitan and statewide planning processes and funding for the program must included in the metropolitan and statewide Transportation Improvement Program (TIP and STIP) at a level of specificity or aggregation consistent with State and local policies and procedures. Finally, the State must certify that allocations of the grant to subrecipients are made on a fair and equitable basis.

The coordinated planning requirement is also a requirement in two additional programs. Projects selected for funding under the Section 5310 program and the JARC program are also required to be derived from a locally developed coordinated public transit-human service transportation plan. FTA anticipates that most areas will develop one consolidated plan for all the programs, which may include separate elements and other human service transportation programs.

The New Freedom program is subject to the relevant requirements of Section 5307, but certification of labor protections is not required. New Freedom Program requirements are published in FTA Circular 9045.1, which was effective May 1, 2007. The circular and other guidance including frequently asked questions are posted on the FTA Web site at *http://www.fta.dot.gov*.

4. Period of Availability

FTA has established a consistent three-year period of availability for New Freedom, JARC, and the Section 5310 program funds, which includes the year of apportionment plus two additional years. FY 2011 funding is available for obligation through FY 2013. Any funding that remains unobligated on September 30, 2013 will revert to FTA for reapportionment among the States and large UZAs to be used for New Freedom program purposes.

5. Other Program or Apportionment Related Information and Highlights

a. Designated Recipient. FTA must have received formal notification from the Governor or Governor's designee of the Designated Recipient for New Freedom funds apportioned to a State or large UZA before awarding a grant to that area for New Freedom projects.

b. Transfers to Section 5307 or 5311. States may transfer New Freedom funds to Section 5307 or Section 5311, but only for projects competitively selected under the New Freedom program, not as a general supplement for those programs. FTA anticipates that the States would use this flexibility for projects to be implemented by a Section 5307 recipient in a small urbanized area or for Federally recognized Indian Tribes that elect to receive funds as a direct recipient from FTA under Section 5311. FTA has established a scope code (647) to track New Freedom projects included within a Section 5307 or 5311 grant. All activities within a Section 5307 or Section 5311 grant application that are funded with New Freedom resources should be listed under the 647–00 scope code. Transfer to Section 5307 or 5311 is permitted but not required. FTA also will award stand-alone New Freedom Program grants to the State for any and all subrecipients. In order to track disbursements accurately against the appropriate program, FTA will not combine New Freedom funds with Section 5307 funds in a single Section 5307 grant, nor will FTA combine New Freedom with JARC funds in a single Section 5307 grant.

J. Growing States and High Density States Formula Factors (49 U.S.C. 5340)

CR 2011 makes $197,074,635 available for apportionment in accordance with the formula factors prescribed for Growing States and High Density States set forth in 49 U.S.C. 5340. Fifty percent of this amount is apportioned to eligible States and urbanized areas using the Growing State formula factors. The other 50 percent is apportioned to eligible States and urbanized areas using the High Density States formula factors.

The term "State" is defined only to mean the 50 States. For the Growing State portion of the program, funds are allocated based on the population forecasts for fifteen years after the date of that census. Forecasts are based on the trend between the most recent decennial census and Census Bureau population estimates for the most current year. Census population

estimates as of July 1, 2009 were used in the FY 2011 apportionments. Funds allocated to the States are then sub-allocated to urbanized and non-urbanized areas based on forecast population, where available. If forecasted population data at the urbanized level is not available, as is currently the case, funds are allocated to current urbanized and non-urbanized areas on the basis of current population in the 2000 Census. Funds allocated to urbanized areas are included in their Section 5307 apportionment. Funds allocated for non-urbanized areas are included in the states' Section 5311 apportionments.

IV. FTA Policy and Procedures for FY 2011 Grants

A. Automatic Pre-Award Authority To Incur Project Costs

1. Caution to New Grantees and Grantees Using Innovative Financing

While we provide pre-award authority to incur expenses before grant award for many projects, we recommend that first-time grant recipients NOT utilize this automatic pre-award authority and wait until the grant is actually awarded by FTA before incurring costs. As a new grantee, it is easy to misunderstand pre-award authority conditions and be unaware of all of the applicable FTA requirements that must be met in order to be reimbursed for project expenditures incurred in advance of grant award. FTA programs have specific statutory requirements that are often different from those for other Federal grant programs with which new grantees may be familiar. If funds are expended for an ineligible project or activity, FTA will be unable to reimburse the project sponsor and, in certain cases, the entire project may be rendered ineligible for FTA assistance.

Grantees proposing to use innovative financing techniques or capital leasing are required to consult with the applicable FTA Regional Office (*see* Appendix A) before entering into the financial agreement—especially where the grantee expects to use Federal funds for debt service or capital lease payments. Consulting with FTA before entering into the agreement allows FTA to advise the project sponsor of any applicable Federal regulations, such as the Capital Leasing Regulation, and will minimize the risk of the costs being ineligible for reimbursement at a later date.

2. Policy

FTA provides pre-award authority to incur expenses before grant award for certain program areas described below. This pre-award authority allows grantees to incur certain project costs before grant approval and retain the eligibility of those costs for subsequent reimbursement after grant approval. The grantee assumes all risk and is responsible for ensuring that all conditions are met to retain eligibility. This pre-award spending authority permits a grantee to incur costs on an eligible transit capital, operating, planning, or administrative project without prejudice to possible future Federal participation in the cost of the project. In the Federal Register Notice of November 30, 2006, FTA extended pre-award authority for capital assistance under all formula programs through FY 2009, the duration of SAFETEA–LU. In this notice, FTA extends pre-award authority through FY 2012 for capital assistance under all formula programs. FTA provides pre-award authority for planning and operating assistance under the formula programs without regard to the period of the authorization. In addition, we extend pre-award authority for certain discretionary programs based on the annual Appropriations Act each year. All pre-award authority is subject to conditions and triggers stated below:

a. FTA does not impose additional conditions on pre-award authority for operating, planning, or administrative assistance under the formula grant programs. Grantees may be reimbursed for expenses incurred before grant award so long as funds have been expended in accordance with all Federal requirements. In addition to cross-cutting Federal grant requirements, program specific requirements must be met. For example, a planning project must have been included in a Unified Planning Work Program (UPWP); a New Freedom operating assistance project or a JARC planning or operating project must have been derived from a coordinated public transit-human services transportation plan (coordinated plan) and competitively selected by the Designated Recipient before incurring expenses; expenditure on State Administration expenses under State Administered programs must be consistent with the State Management Plan. Designated Recipients for JARC and New Freedom have pre-award authority for the ten percent of the apportionment they may use for program administration, if the use is consistent with their Program Management Plan.

b. Pre-Award authority for Alternatives Analysis planning projects under 49 U.S.C. 5339 is triggered by the publication of the allocation in FTA's Federal Register Notice of Apportionments and Allocations following the annual Appropriations Act, or announcement of additional discretionary allocations. The projects must be included in the UPWP of the MPO for that metropolitan area.

c. Pre-award authority for design and environmental work on a capital project is triggered by the authorization of formula funds, or the appropriation or allocation of funds for a discretionary project.

d. Following authorization of formula funds or appropriation and publication of discretionary projects, pre-award authority for capital project implementation activities, such as property acquisition, demolition, construction, and acquisition of vehicles, equipment, or construction materials, may be exercised only after FTA concurs that all applicable environmental requirements have been satisfied, including those for actions classified as normally requiring preparation of environmental impact statements, environmental assessments, and categorical exclusions found in 23 CFR 771.117(d). Other conditions and requirements set forth in paragraph 3, below, must also be satisfied. Before exercising pre-award authority, grantees must comply with the conditions and Federal requirements outlined in paragraph 3 below. Failure to do so will render an otherwise eligible project ineligible for FTA financial assistance. Capital projects under the Section 5310, JARC, and New Freedom programs must comply with specific program requirements, including coordinated planning and competitive selection. In addition, before incurring costs, grantees are strongly encouraged to consult with the appropriate FTA regional office regarding the eligibility of the project for future FTA funds and the applicability of the conditions and Federal requirements.

e. As a general rule, pre-award authority applies to the Section 5309 Capital Investment Bus and Bus-Related Facilities, the Clean Fuels Bus program, high priority project designations, and any other transit discretionary projects only AFTER funds have been appropriated or allocated to the project. For Section 5309 Capital Investment Bus and Bus-Related Facilities, Clean Fuels Program, or other transit capital discretionary projects such as those designated in an annual Appropriations Act, the date that costs may be incurred is: (1) For design and environmental review, the appropriations bill which funds the project was enacted or the announcement of the discretionary allocation of funds for the project; and (2) for property acquisition, demolition,

construction, and acquisition of vehicles, equipment, or construction materials, the date that FTA approves the document (ROD, FONSI, or CE determination) that completes the environmental review process required by the National Environmental Policy Act (NEPA) and its implementing regulations. FTA introduced this new trigger for pre-award authority in FY 2006 in recognition of the growing prevalence of new grantees unfamiliar with Federal and FTA requirements to ensure FTA's continued ability to comply with NEPA and related environmental laws. Because FTA does not sign a final NEPA document until MPO and statewide planning requirements (including air quality conformity requirements, if applicable) have been satisfied, this new trigger for pre-award will ensure compliance with both planning and environmental requirements before irreversible action by the grantee.

f. In previous notices, FTA extended pre-award authority to Section 330 projects referenced in the DOT Appropriation Act, 2002, and the Consolidated Appropriations Resolution, 2003 and to those surface transportation projects commonly referred to as Section 115 projects administered by FTA, for which amounts were provided in the Consolidated Appropriations Act, 2004, Section 117 projects in the 2005 Appropriations Act, and Section 112 of the 2006 Appropriations Act that are to be administered by FTA. FTA, in the FY 2008 Apportionment Notice, extended pre-award authority to high priority projects in SAFETEA–LU, as of the date they were transferred or allotted to FTA for administration. The same conditions described for bus projects apply to these projects. We strongly encourage any prospective applicant that does not have a previous relationship with FTA to review Federal grant requirements with the FTA regional office before incurring costs.

g. Blanket pre-award authority does not apply to Section 5309 Capital Investment New and Small Starts funds. Specific instances of pre-award authority for Capital Investment New and Small Starts projects are described in paragraph 4 below. Pre-award authority does not apply to Capital Investment Bus and Bus-Related Facilities or Clean Fuels projects authorized for funding beyond this fiscal year. Before an applicant may incur costs for Capital Investment New and Small Starts projects, Bus and Bus-Related Facilities projects, or any other projects not yet published in a notice of apportionments and allocations, it must first obtain a written Letter of No Prejudice (LONP) from FTA. To obtain an LONP, a grantee must submit a written request accompanied by adequate information and justification to the appropriate FTA regional office, as described below.

h. Blanket pre-award authority does not apply to Section 5314 National Research Programs. Before an applicant may incur costs for National Research Programs, it must first obtain a written Letter of No Prejudice (LONP) from FTA. To obtain an LONP, a grantee must submit a written request accompanied by adequate information and justification to the appropriate FTA headquarters office. Information about LONP procedures may be obtained from the appropriate headquarters office.

3. Conditions

The conditions under which pre-award authority may be utilized are specified below:

a. Pre-award authority is not a legal or implied commitment that the subject project will be approved for FTA assistance or that FTA will obligate Federal funds to support the project. Furthermore, it is not a legal or implied commitment that all items undertaken by the applicant will be eligible for inclusion in the project.

b. All FTA statutory, procedural, and contractual requirements must be met.

c. No action will be taken by the grantee that prejudices the legal and administrative findings that the Federal Transit Administrator must make in order to approve a project.

d. Local funds expended by the grantee pursuant to and after the date of the pre-award authority will be eligible for credit toward local match or reimbursement if FTA later makes a grant or grant amendment for the project. Local funds expended by the grantee before the date of the pre-award authority will not be eligible for credit toward local match or reimbursement. Furthermore, the expenditure of local funds or undertaking of project implementation activities such as land acquisition, demolition, or construction before the date of pre-award authority for those activities (*i.e.,* the completion of the NEPA process) would compromise FTA's ability to comply with Federal environmental laws and may render the project ineligible for FTA funding.

e. The Federal amount of any future FTA assistance awarded to the grantee for the project will be determined on the basis of the overall scope of activities and the prevailing statutory provisions with respect to the Federal/local match ratio at the time the funds are obligated.

f. For funds to which the pre-award authority applies, the authority expires with the lapsing of the fiscal year funds.

g. When a grant for the project is subsequently awarded, the Financial Status Report, in TEAM–Web, must indicate the use of pre-award authority.

h. Environmental, Planning, and Other Federal Requirements. All Federal grant requirements must be met at the appropriate time for the project to remain eligible for Federal funding. The growth of the Federal transit program has resulted in a growing number of inexperienced grantees who make compliance with Federal planning and environmental laws increasingly challenging. FTA has therefore modified its approach to pre-award authority to use the completion of the NEPA process, which has as a prerequisite the completion of planning and air quality requirements, as the trigger for pre-award authority for all activities except design and environmental review.

i. The requirement that a project be included in a locally adopted metropolitan transportation plan, the metropolitan transportation improvement program and Federally-approved statewide transportation improvement program (23 CFR Part 450) must be satisfied before the grantee may advance the project beyond planning and preliminary design with non-Federal funds under pre-award authority. If the project is located within an EPA-designated non-attainment area for air quality, the conformity requirements of the Clean Air Act, 40 CFR Part 93, must also be met before the project may be advanced into implementation-related activities under pre-award authority. Compliance with NEPA and other environmental laws and executive orders (*e.g.,* protection of parklands, wetlands, historic properties, and assurance of tribal consultation) must be completed before State or local funds are spent on implementation activities, such as site preparation, construction, and acquisition, for a project that is expected to be subsequently funded with FTA funds. The grantee may not advance the project beyond planning and preliminary design/engineering before FTA has determined the project to be a categorical exclusion, or has issued a Finding of No Significant Impact (FONSI) or an environmental Record of Decision (ROD), in accordance with FTA environmental regulations, 23 CFR Part 771. For planning projects, the project must be included in a locally-approved Unified Planning Work Program (UPWP) that has been coordinated with the State.

j. In addition, Federal procurement procedures, as well as the whole range of applicable Federal requirements (*e.g.,* Buy America, Davis-Bacon Act, Disadvantaged Business Enterprise) must be followed for projects in which Federal funding will be sought in the future. Failure to follow any such requirements could make the project ineligible for Federal funding. In short, this increased administrative flexibility requires a grantee to make certain that no Federal requirements are circumvented through the use of pre-award authority. If a grantee has questions or concerns regarding the environmental requirements, or any other Federal requirements that must be met before incurring costs, it should contact the appropriate regional office.

4. Pre-Award Authority for New and Small Starts Projects

a. Preliminary Engineering (PE), Final Design (FD), and Project Development (PD). Projects proposed for Section 5309 capital investment funds (New and Small Starts) are required to follow a federally defined project development process. For New Starts projects, this process includes, among other things, FTA approval of the entry of the project into PE and FD. For Small Starts projects, this process includes, among other things, approval of the entry of the project into PD. In accordance with Sections 5309(d) and (e), FTA considers the merits of the project, the strength of its financial plan, and its readiness to enter the next phase in deciding whether or not to approve entry into PE, FD, or PD. For New Starts projects, upon FTA approval to enter PE, FTA extends pre-award authority to incur costs for PE activities. Upon completion of NEPA, FTA extends pre-award authority to incur costs for utility relocation, as well as real property acquisition and vehicle purchases, which are further addressed below. Upon FTA approval to enter FD, FTA extends pre-award authority to incur costs for FD activities, demolition, and non-construction activities such as procurement of long-lead time items or items for which market conditions play a significant role in the acquisition price. This includes, but is not limited to procurement of rails, ties, and other specialized equipment, and commodities. Please contact the FTA Regional Office for a determination of activities not listed here, but which meet the intent described above. For Small Starts projects, upon FTA approval to enter PD, FTA extends pre-award authority to incur costs for the design and engineering activities necessary to complete the NEPA process. Upon completion of NEPA, FTA extends pre-award authority to incur costs for utility relocation, as well as real property acquisition and vehicle purchases, which are further addressed below. Because Small Starts projects are not subject to approval into FD, they are not granted pre-award authority for procurement of rails, ties, and other specialized equipment; the procurement of commodities; and demolition. The pre-award authority for each phase is automatic upon FTA's signing of a letter to the project sponsor approving entry into that phase.

b. Real Property Acquisition Activities and Vehicle Purchases. FTA extends automatic pre-award authority for the acquisition of real property, real property rights and acquisition of vehicles for a New or Small Starts project upon completion of the NEPA process for that project. The NEPA process is completed when FTA signs an environmental Record of Decision (ROD) or Finding of No Significant Impact (FONSI), or makes a Categorical Exclusion (CE) determination. With the limitations and caveats described below, real estate acquisition and vehicle purchases for a New or Small Starts project may commence, at the project sponsor's risk, upon completion of the NEPA process.

For FTA-assisted projects, any acquisition of real property or real property rights must be conducted in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) and its implementing regulations, 49 CFR Part 24. This pre-award authority is strictly limited to costs incurred: (i) To acquire real property and real property rights in accordance with the URA regulation, and (ii) to provide relocation assistance in accordance with the URA regulation. This pre-award authority is limited to the acquisition of real property and real property rights that are explicitly identified in the final environmental impact statement (FEIS), environmental assessment (EA), or CE document, as needed for the selected alternative that is the subject of the FTA-signed ROD or FONSI, or CE determination. This pre-award authority regarding property acquisition that is granted at the completion of NEPA does not cover site preparation, demolition, or any other activity that is not strictly necessary to comply with the URA, with one exception. That exception is when a building that has been acquired, has been emptied of its occupants, and awaits demolition poses a potential fire-safety hazard or other hazard to the community in which it is located, or is susceptible to reoccupation by vagrants. Demolition of the building is also covered by this pre-award authority upon FTA's written agreement that the adverse condition exists.

Pre-award authority for property acquisition is also provided when FTA makes a CE determination for a protective buy or hardship acquisition in accordance with 23 CFR 771.117(d)(12), and when FTA makes a CE determination for the acquisition of a pre-existing railroad right-of-way in accordance with 49 U.S.C. 5324(c). When a tiered environmental review in accordance with 23 CFR 771.111(g) is being used, pre-award authority is NOT provided upon completion of the first-tier environmental document except when the Tier-1 ROD or FONSI signed by FTA explicitly provides such pre-award authority for a particular identified acquisition.

Project sponsors should use pre-award authority for real property acquisition relocation assistance, and vehicle purchases very carefully, with a clear understanding that it does not constitute a funding commitment by FTA. FTA provides pre-award authority upon completion of the NEPA process for real property acquisition and relocation assistance to maximize the time available to project sponsors to move people out of their homes and places of business, in accordance with the requirements of the Uniform Relocation Act, but also with maximum sensitivity to the plight of the people so affected. FTA provides pre-award authority upon the completion of the NEPA process for vehicles purchases in recognition of the long-lead time and complexity of this activity as well as its relationship to the "critical path" project schedule. FTA cautions grantees that do not currently operate the type of vehicle proposed in the New or Small Starts project about exercising this pre-award authority and encourages these sponsors to wait until later in the project development process when project plans are more fully developed and Federal support for the project is more certain. FTA reminds project sponsors that the procurement of vehicles must comply with all Federal requirements including, but not limited to, competitive procurement practices, the Americans with Disabilities Act, and Buy America. FTA encourages project sponsors to discuss the procurement of vehicles with FTA in regards to Federal requirements before exercising pre-award authority.

Although FTA provides pre-award authority for property acquisition and vehicle purchases upon completion of the NEPA process, FTA will not make a grant to reimburse the sponsor for real estate activities conducted under pre-

award authority until the New Starts project has been approved into FD or the Small Starts project has received its construction grant. FTA will only reimburse the sponsor for vehicle purchases through an executed Full Funding Grant Agreement (New Starts) or a Project Construction Grant Agreement or single year capital grant (Small Starts). This is to ensure that Federal funds are not risked on a project whose advancement into construction is still not yet assured.

c. National Environmental Policy Act (NEPA) Activities. NEPA requires that major projects proposed for FTA funding assistance be subjected to a public and interagency review of the need for the project, its environmental and community impacts, and alternatives to avoid and reduce adverse impacts. Projects of more limited scope also need a level of environmental review, either to support an FTA finding of no significant impact (FONSI) or to demonstrate that the action is categorically excluded from the more rigorous level of NEPA review.

FTA's regulation titled "Environmental Impact and Related Procedures," at 23 CFR Part 771 states that the costs incurred by a grant applicant for the preparation of environmental documents requested by FTA are eligible for FTA financial assistance (23 CFR 771.105(e)). Accordingly, FTA extends pre-award authority for costs incurred to comply with NEPA regulations and to conduct NEPA-related activities for a proposed New Starts or Small Starts project, effective as of the date of the Federal approval of the relevant STIP or STIP amendment that includes the project or any phase of the project. NEPA-related activities include, but are not limited to, public involvement activities, historic preservation reviews, section 4(f) evaluations, wetlands evaluations, endangered species consultations, and biological assessments. This pre-award authority is strictly limited to costs incurred to conduct the NEPA process, and to prepare environmental, historic preservation and related documents. It does not cover PE activities beyond those necessary for NEPA compliance.

For many FTA programs, costs incurred by a grant applicant exercising pre-award authority in the preparation of environmental documents required by FTA are eligible for FTA reimbursement (*See* also 23 CFR 771.105(e)). When any transit project (including New Starts and Small Starts) is adopted into the STIP or STIP amendment and pre-award authority is granted, reimbursement for NEPA activities may be sought at any time through Section 5339 (Alternatives Analysis program), Section 5307 (Urbanized Area Formula Program), and some flexible highway funds. FTA assistance for environmental documents for New Starts and Small Starts projects is subject to certain restrictions. Under SAFETEA–LU, Section 5309 capital investment funds (New and Small Starts) funds cannot be used to reimburse any activity, including a NEPA-related activity that occurs before the approval of a New Starts project into PE or a Small Starts project into PD. Only when a project has PE approval (for New Starts) or PD approval (for Small Starts) may it seek reimbursement for NEPA work conducted after the approval through Section 5309 New Starts funds. Prior to PE approval, any NEPA related work for New Starts or Small Starts can only be reimbursed through the use of Section 5339 (Alternatives Analysis Program), Section 5307 (Urbanized Area Formula Program) and some flexible highway funds. NEPA-related activities include, but are not limited to, public involvement activities, historic preservation reviews, section 4(f) evaluations, wetlands evaluations, endangered species consultations, tribal consultation, and biological assessments. As with any pre-award authority, FTA reimbursement for costs incurred is not guaranteed.

d. Other New and Small Starts Activities Requiring Letter of No Prejudice (LONP). Except as discussed in paragraphs a through c above, a grant applicant must obtain a written LONP from FTA before incurring costs for any activity expected to be funded by New or Small Starts funds not yet awarded. To obtain an LONP, an applicant must submit a written request accompanied by adequate information and justification to the appropriate FTA regional office, as described in B below.

B. Letter of No Prejudice (LONP) Policy

1. Policy

LONP authority allows an applicant to incur costs on a project utilizing non-Federal resources, with the understanding that the costs incurred subsequent to the issuance of the LONP may be reimbursable as eligible expenses or eligible for credit toward the local match should FTA approve the project at a later date. LONPs are applicable to projects and project activities not covered by automatic pre-award authority. The majority of LONPs will be for Section 5309 New Starts or Small Starts projects undertaking activities not covered under automatic pre-award authority, an FFGA or a PCGA, or for Section 5309 Bus and Bus-Related projects authorized but not yet appropriated by Congress. LONPs may be issued for formula and discretionary funds beyond the life of the current authorization or FTA's extension of automatic pre-award authority; however, the LONP is limited to a five-year period, unless otherwise authorized.

2. Conditions and Federal Requirements

The conditions for pre-award authority specified in section IV.A.2 above apply to all LONPs. The Environmental, Planning and Other Federal Requirements described in section IV.A.3 also apply to all LONPs. Because project implementation activities may not be initiated before NEPA completion, FTA will not issue an LONP for such activities until the NEPA process has been completed with a ROD, FONSI, or CE.

3. Request for LONP

Before incurring costs for a project not covered by automatic pre-award authority, the project sponsor must first submit a written request for an LONP, accompanied by adequate information and justification, to the appropriate regional office and obtain written approval from FTA. FTA approval of an LONP for a New Starts or Small Starts project is determined on a case-by-case basis. Federal funding for a New or Small Starts project is not implied or guaranteed by an LONP. Specifically, when requesting an LONP, the applicant shall provide sufficient information to allow FTA to consider the following items:

a. Description of the activities to be covered by the LONP.

b. Justification for advancing the identified activities. The justification should include an accurate assessment of the consequences to the project scope, schedule, and budget should the LONP not be approved.

c. Allocated level of risk and contingency for the activity requested.

d. Status of procurement progress, including, if appropriate, submittal of bids for the activities covered by the LONP.

e. Strength of the capital and operating financial plan for the New or Small Starts project and the future transit system.

f. Adequacy of the Project Management Plan.

g. Resolution of any readiness issues that would affect the project, such as land acquisition and technical capacity to carry out the project.

FTA will, following the completion of the requirements under NEPA, expedite the issuance of LONPs for New and

Small Starts projects, when appropriate, by no longer performing a detailed review of the cost and scope of the request in every instance. Rather, a limited review will be performed in those cases that are of a more routine nature, especially those involving an experienced sponsor.

C. FTA FY 2011 Annual List of Certifications and Assurances

The full text of the FY 2011 Certifications and Assurances was published in the **Federal Register** on November 2, 2010, and is available on the FTA Web site and in TEAM–Web. The FY 2011 Certifications and Assurances must be used for all grants made in FY 2011, including obligation of carryover funds. All grantees with active grants are required to have signed the FY 2011 Certifications and Assurances within 90 days after publication. Any questions regarding this document may be addressed to the appropriate Regional Office or to Nydia Picayo, in the FTA Office of Program Management, at (202) 366–1662.

D. FHWA Funds Used for Transit Purposes

SAFETEA–LU continues provisions in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and TEA–21 that expanded modal choice in transportation funding by including substantial flexibility to transfer funds between FTA and FHWA formula program funding categories. The provisions also allow for transfer of certain discretionary program funds for administration of highway projects by FHWA and transit projects by FTA. FTA and FHWA execute Flex Funding Transfers between the Formula and Bus Grants programs and the Federal Aid Highway programs. This also includes the transfer of Metropolitan and Statewide planning set-aside funds between FHWA and FTA to be combined with metropolitan and statewide planning resources as Consolidated Planning Grants (CPG). These transfers are based on a State's requests to transfer funding from the Highway and/or Transit programs to fund States and local project priorities, and joint planning needs. This practice can result in transfers to the Federal Transit Program from the Federal Aid Highway Program or vice versa.

SAFETEA–LU was signed into law on August 10, 2005. With the enactment of SAFETEA–LU, beginning in FY 2006, with few exceptions, Federal transit programs were funded solely from general funds or trust funds. The transit Formula and Bus Grant programs are now funded entirely from Mass Transit Account of the Highway Trust Fund. The Formula and Bus Grant Programs can also receive flex funding transfers from the Federal Aid Highway Program.

As a result of the changes to program funding mechanisms, there is no longer a requirement to transfer budget authority and liquidating cash resources simultaneously upon the execution of a flex funding transfer request by a State. Since the transfers are between trust fund accounts, the only requirement is to transfer contract authority (obligation limitation) between the Federal Aid Program trust fund account and the Formula and Bus Grant Program account. At the point that the obligation resulting from the transfer of budgetary authority is expended, a transfer of liquidating cash will be required.

Beginning in FY 2007, the accounting process was changed for transfers of flex funds and other specific programs to allow contract authority to be transferred and the liquidating cash to be transferred separately. FTA requires that flexed fund transfers to FTA be in separate and identifiable grants in order to ensure that the draw-down of flexed funds liquidating cash can be tracked, thus securing the internal controls for monitoring these resources from the Federal Highway Administration to avoid deficiencies in FTA's Formula and Bus Grants account.

FTA monitors the expenditures of flexed funded grants and requests the transfer of liquidating cash from FHWA to ensure sufficient funds are available to meet expenditures. To facilitate tracking of grantees' flex funding expenditures, FTA developed codes to provide distinct identification of "flex funds."

The process for transferring flexible funds between FTA and FHWA programs is described below. Note that the new transfer process for "flex funds" that began in FY 2007 does not apply to the transfer of State planning set-aside funds from FHWA to FTA to be combined with metropolitan and statewide planning resources as Consolidated Planning Grants (CPG). These transfers are based on States requests to transfer funding from the Highway and/or Transit programs to fund States and local project priorities, and joint planning needs. Planning funds transferred will be allowed to be merged in a single grant with FTA planning resources using the same process implemented in FY 2006. For information on the process for the transfer of funds between FTA and FHWA planning programs refer to section III.A and B. Note also that certain prior year appropriations earmarks (Sections 330, 115, 117, and 112) are allotted annually for administration rather than being transferred. For information regarding these procedures, please contact Erin McCartney, FTA Budget Office, at (202) 366–5189 or Nancy Grubb, FTA Budget Office, at (202) 366–1635; or FHWA Budget Division, at (202) 366–2845.

1. Transfer From FHWA to FTA

FHWA funds transferred to FTA are used primarily for transit capital projects and eligible operating activities that have been designated as part of the metropolitan and statewide planning and programming process. The project must be included in an approved STIP before the funds can be transferred. By letter, the State DOT requests the FHWA Division Office to transfer highway funds for a transit project. The letter should specify the project, amount to be transferred, apportionment year, State, urbanized area, Federal aid apportionment category (*i.e.,* Surface Transportation Program (STP), Congestion Mitigation and Air Quality (CMAQ) or identification of the earmark and indication of the intended FTA formula program (*i.e.,* Section 5307, 5311 or 5310) and should include a description of the project as contained in the STIP. Note that FTA may also administer certain transfers of statutory earmarks under the Section 5309 bus program, for tracking purposes.

The FHWA Division Office confirms that the apportionment amount is available for transfer and concurs in the transfer, by letter to the State DOT and FTA. The FHWA Office of Budget and Finance then transfers obligation authority. All FHWA CMAQ and STP funds transferred to FTA will be transferred to one of the three FTA formula programs (*i.e.* Urbanized Area Formula (Section 5307), Nonurbanized Area Formula (Section 5311) or Elderly and Persons with Disabilities (Section 5310). High Priority projects in Section 1702 of SAFETEA–LU or Transportation Improvement projects in Section 1934 of SAFETEA–LU and other Congressional earmarks that are transferred to FTA will be aligned with and administered through FTA's discretionary Bus and Bus Related Facilities Program (Section 5309). The most recent guidance on transfers of FHWA funds as allowed under SAFETEA–LU is FHWA Memorandum, dated July 19, 2007, "Information Fund Transfers to Other Agencies and Among Title 23 Programs."

The FTA grantee's application for the project must specify which program the funds will be used for, and the application must be prepared in accordance with the requirements and

procedures governing that program. Upon review and approval of the grantee's application, FTA obligates funds for the project.

Transferred funds are treated as FTA formula or discretionary funds, except for local match purposes as described in c below, but are assigned a distinct identifying code for tracking purposes. The funds may be transferred for any capital purpose eligible under the FTA formula program to which they are transferred and, in the case of CMAQ, for certain operating costs. FHWA issued revised interim guidance on project eligibility under the CMAQ program in a Notice at 71 FR 76038 *et seq.* (December 19, 2006) incorporating changes made by SAFETEA–LU. In accordance with 23 U.S.C. 104(k), all FTA requirements except local share, which remains the same as required under the FHWA program, are applicable to transferred funds except in certain cases when CMAQ funds are authorized for operating expenses. Earmarks that are transferred to the Section 5309 Bus Program for administration, however, can be used for the congressionally designated transit purposes, and in some cases where the law provides, are not limited to eligibility under the Bus Program.

Earmarked funds, however, can only be used for the congressionally designated purposes.

2. Transfers From FTA to FHWA

The MPO submits a written request to the FTA regional office for a transfer of FTA Section 5307 formula funds (apportioned to a UZA 200,000 and over in population) to FHWA based on approved use of the funds for highway purposes, as determined by the designated recipient under Section 5307 and contained in the Governor's approved State Transportation Improvement Program. The MPO must certify that: (1) Notice and opportunity for comment and appeal has been provided to affected transit providers; (2) the funds are not needed for capital investments required by the Americans with Disabilities Act, and (3) local transit needs are being addressed. The FTA Regional Administrator reviews and, if he or she concurs in the request, then forwards the approval in written format to FTA Headquarters, where a reduction equal to the dollar amount being transferred to FHWA is made to the grantee's Urbanized Area Formula Program apportionment.

Transfers of discretionary earmarks for administration by FHWA are handled on a case by case basis, by the FTA regional office, in consultation with the FTA Office of Program Management, Office of Chief Counsel, and Office of Budget and Policy.

3. Matching Share for FHWA Transfers

Section 104(k) of title 23 U.S.C., regarding the non-Federal share, applies to Title 23 funds used for transit projects. Thus, FHWA funds transferred to FTA retain the same matching share that the funds would have if used for highway purposes and administered by FHWA.

There are four instances in which a Federal share higher than 80 percent would be permitted. First, in States with large areas of Indian and certain public domain lands and national forests, parks and monuments, the local share for highway projects is determined by a sliding scale rate, calculated based on the percentage of public lands within that State. This sliding scale, which permits a greater Federal share, but not to exceed 95 percent, is applicable to transfers used to fund transit projects in these public land States. FHWA develops the sliding scale matching ratios for the increased Federal share.

Second, commuter carpooling and vanpooling projects and transit safety projects using FHWA transfers administered by FTA may retain the same 100 percent Federal share that would be allowed for ride-sharing or safety projects administered by FHWA.

The third instance is the 100 percent Federally-funded safety projects; however, these are subject to a nationwide 10 percent program limitation.

The fourth instance occurs with CMAQ funds. Section 1131 of, The Energy Independence and Security Act, 2007 (Pub. L. 11–140) amended 23 U.S.C. 120 increased the Federal share of CMAQ projects to 100% at the State's discretion. FTA will honor this increased match for CMAQ funds transferred to FTA for implementation if the state chooses to fund the project at a higher Federal share than 80 percent. The Federal share for CMAQ projects cannot be lower than 80 percent.

E. Technical Assistance

FTA headquarters and regional staff will be pleased to answer your questions and provide any technical assistance you may need to apply for FTA program funds and manage the grants you receive. This notice and the program guidance circulars previously identified in this document may be accessed via the FTA Web site at *http://www.fta.dot.gov.*

In addition, copies of the following circulars and other useful information are available on the FTA Web site and may be obtained from FTA regional offices; Circular 4220.1F, "Third Party Contracting Guidance," and Circular 5010.1D, "Grant Management Guidelines." Both circulars were recently revised and can be found at *http://www.fta.dot.gov/laws/leg_reg_circulars_guidance.html.* The FY 2011 Annual List of Certifications and Assurances and Master Agreement are also posted on the FTA Web site.

The DOT final rule on "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," which was effective July 16, 2003, can be found at *http://www.access.gpo.gov/nara/cfr/waisidx_04/49cfr26_04.html/.*

Issued in Washington, DC, this 1st day of February, 2011.

Peter Rogoff,

Administrator.

Appendix A

FTA Regional Offices

Mary Beth Mello, Regional Administrator, Region 1—Boston, Kendall Square, 55 Broadway, Suite 920, Cambridge, MA 02142–1093, Tel. 617–494–2055	Robert C. Patrick, Regional Administrator, Region 6—Ft. Worth, 819 Taylor Street, Room 8A36, Ft. Worth, TX 76102, Tel. 817–978–0550
States served: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont	States served: Arkansas, Louisiana, Oklahoma, New Mexico, and Texas
Brigid Hynes-Cherin, Regional Administrator, Region 2—New York, One Bowling Green, Room 429, New York, NY 10004–1415, Tel. 212–668–2170	Mokhtee Ahmad, Regional Administrator, Region 7—Kansas City, MO, 901 Locust Street, Room 404, Kansas City, MO 64106, Tel. 816–329–3920

FTA REGIONAL OFFICES—Continued

States served: New Jersey, New York New York Metropolitan Office, Region 2—New York, One Bowling Green, Room 428, New York, NY 10004–1415, Tel. 212–668–2202	States served: Iowa, Kansas, Missouri, and Nebraska
Letitia Thompson, Regional Administrator, Region 3—Philadelphia, 1760 Market Street, Suite 500, Philadelphia, PA 19103–4124, Tel. 215–656–7100 States served: Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and District of Columbia Philadelphia Metropolitan Office, Region 3—Philadelphia, 1760 Market Street, Suite 500, Philadelphia, PA 19103–4124, Tel. 215–656–7070 Washington, DC Metropolitan Office, 1990 K Street, NW., Room 510, Washington, DC 20006, Tel. 202–219–3562	Terry Rosapep, Regional Administrator, Region 8—Denver, 12300 West Dakota Ave., Suite 310, Lakewood, CO 80228–2583, Tel. 720–963–3300 States served: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. Leslie T. Rogers, Regional Administrator, Region 9—San Francisco, 201 Mission Street, Room 1650, San Francisco, CA 94105–1926, Tel. 415–744–3133 States served: American Samoa, Arizona, California, Guam, Hawaii, Nevada, and the Northern Mariana Islands
Yvette Taylor, Regional Administrator, Region 4—Atlanta, 230 Peachtreet Street, NW., Suite 800, Atlanta, GA 30303, Tel. 404–865–5600 States served: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and Virgin Islands	Los Angeles Metropolitan Office, Region 9—Los Angeles, 888 S. Figueroa Street, Suite 1850, Los Angeles, CA 90017–1850, Tel. 213–202–3952 Rick Krochalis, Regional Administrator, Region 10—Seattle, Jackson Federal Building, 915 Second Avenue, Suite 3142, Seattle, WA 98174–1002, Tel. 206–220–7954
Marisol Simon, Regional Administrator, Region 5—Chicago, 200 West Adams Street, Suite 320, Chicago, IL 60606, Tel. 312–353–2789, States served: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin Chicago Metropolitan Office, Region 5–Chicago, 200 West Adams Street, Suite 320, Chicago, IL 60606, Tel. 312–353–2789	States served: Alaska, Idaho, Oregon, and Washington

BILLING CODE 4910–57–P

FEDERAL TRANSIT ADMINISTRATION

TABLE 1

FY 2011 APPROPRIATIONS AND APPORTIONMENTS FOR GRANT PROGRAMS

(Apportionment amount is based on funding made available under Public Law - 111-322)

FORMULA GRANTS	
Section 5303 Metropolitan Transportation Planning Program	
Total Available	$39,790,936
Less Oversight (one-half percent)	(198,955)
Reapportioned Funds	
Total Apportioned	$39,591,981
Section 5304 Statewide Transportation Planning Program	
Total Available	$8,312,227
Less Oversight (one-half percent)	(41,561)
Reapportioned Funds	
Total Apportioned	$8,270,666
Section 5307 Urbanized Area Formula Program	
Total Available	$1,763,230,999
Less Oversight (three-fourths percent)	(13,224,232)
Reapportioned Funds	
Total Apportioned	$1,750,006,767
Section 5309 Fixed Guideway Modernization	
Total Available	$706,290,063
Less Oversight (one percent)	(7,062,901)
Reapportioned Funds	
Total Apportioned	$699,227,162
Individuals with Disabilities Program	
Total Available	$56,579,492
Less Oversight (one-half percent)	(282,897)
Reapportioned Funds	
Total Apportioned	$56,296,595
Section 5311 Nonurbanized Area Formula Program	
Total Available	$186,775,896
Less Oversight (one-half percent)	(985,373)
Reapportioned Funds	
Total Apportioned	$185,790,523
Section 5311(b)(3) Rural Transit Assistance Program (RTAP)	
Total Available	$3,941,493
Less Amount Reserved for National RTAP	(591,224)
Reapportioned Funds	
Total Apportioned	$3,350,269
Section 5311(c) Public Transportation on Indian Reservations	$6,357,246

FEDERAL TRANSIT ADMINISTRATION

TABLE 1

FY 2011 APPROPRIATIONS AND APPORTIONMENTS FOR GRANT PROGRAMS

(Apportionment amount is based on funding made available under Public Law - 111-322)

Section 5316 Job Access and Reverse Commute Program	
Total Available	$69,717,801
Reapportioned Funds	
Total Apportioned	$69,717,801
Section 5317 New Freedom Program	
Total Available	$39,203,019
Reapportioned Funds	
Total Apportioned	$39,203,019
Section 5340 Growing States and High Density States Formula	
Total Available	$197,074,635
Total Apportioned	$197,074,635 1/
TOTAL APPROPRIATION (Above Grant Programs)	**$3,077,273,807**
TOTAL APPORTIONMENT/ALLOCATION (Above Grant Programs)	**$3,054,886,664**

1/ Apportionments derived from the Section 5340 formula are combined with the Section 5307 or Section 5311 apportionments, as appropriate, in accordance with language in the SAFETEA-LU conference report.

FEDERAL TRANSIT ADMINISTRATION

TABLE 2

FY 2011 SECTION 5303 METROPOLITAN TRANSPORTATION PLANNING PROGRAM AND SECTION 5304 STATEWIDE TRANSPORTATION PLANNING PROGRAM APPORTIONMENTS

(Apportionment amount is based on funding made available under Public Law - 111-322)

STATE	SECTION 5303 APPORTIONMENT	SECTION 5304 APPORTIONMENT
Alabama	$299,695	$78,257
Alaska	158,368	41,353
Arizona	791,799	157,552
Arkansas	158,368	41,353
California	6,228,514	1,210,204
Colorado	593,354	129,526
Connecticut	439,792	114,833
Delaware	158,368	41,353
District/Col	158,368	41,353
Florida	2,587,355	543,028
Georgia	1,020,498	201,976
Hawaii	158,368	41,353
Idaho	158,368	41,353
Illinois	2,195,635	392,552
Indiana	596,479	137,507
Iowa	172,108	44,941
Kansas	201,236	48,692
Kentucky	251,159	63,162
Louisiana	392,381	102,220
Maine	158,368	41,353
Maryland	887,473	173,246
Massachusetts	1,166,032	227,172
Michigan	1,302,520	265,206
Minnesota	555,862	109,320
Mississippi	158,368	41,353
Missouri	586,298	124,595
Montana	158,368	41,353
Nebraska	158,368	41,353
Nevada	289,860	67,578
New Hampshire	158,368	41,353
New Jersey	1,836,667	312,583
New Mexico	158,368	41,353
New York	3,500,744	625,047
North Carolina	580,626	151,614
North Dakota	158,368	41,353
Ohio	1,259,953	294,744
Oklahoma	229,053	59,811
Oregon	352,353	79,665
Pennsylvania	1,626,610	331,015
Puerto Rico	656,965	140,158
Rhode Island	163,639	41,353
South Carolina	289,292	75,540
South Dakota	158,368	41,353
Tennessee	457,712	119,519
Texas	2,906,347	596,474
Utah	269,879	70,471
Vermont	158,368	41,353
Virginia	898,491	190,010
Washington	843,980	173,502
West Virginia	158,368	41,353
Wisconsin	469,365	114,591
Wyoming	158,367	41,354
TOTAL	**$39,591,981**	**$8,270,666**

FEDERAL TRANSIT ADMINISTRATION
TABLE 3

FY 2011 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

(Apportionment amount is based on funding made available under Public Law - 111-322)

(Note: In accordance with language in the SAFETEA-LU conference report, an urbanized area apportionments for Section 5307 and Section 5340 were combined to show a single amount. An area's apportionment amount includes regular Section 5307 funds, Small Transit Intensive Cities funds, and Growing States and High Density States formula funds, as appropriate.)

URBANIZED AREA/STATE	APPORTIONMENT
Lakeland, FL	1,059,489
Leesburg--Eustis, FL	536,965
North Port--Punta Gorda, FL	603,455
Ocala, FL	500,550
Panama City, FL	640,634
St. Augustine, FL	276,474
Titusville, FL	450,777
Vero Beach--Sebastian, FL	614,960
Winter Haven, FL	781,088
Zephyrhills, FL	261,655
GEORGIA	$4,423,622
Albany, GA	594,567
Athens-Clarke County, GA	802,388
Brunswick, GA	243,951
Dalton, GA	261,420
Gainesville, GA	392,602
Hinesville, GA	282,046
Macon, GA	725,237
Rome, GA	404,940
Valdosta, GA	296,978
Warner Robins, GA	419,493
HAWAII	$1,041,316
Kailua (Honolulu County)--Kaneohe, HI	1,041,316
IDAHO	$1,923,520
Coeur d'Alene, ID	410,753
Idaho Falls, ID	402,609
Lewiston, ID--WA	174,163
Nampa, ID	566,504
Pocatello, ID	369,491
ILLINOIS	$5,278,835
Alton, IL	444,435
Beloit, WI--IL	69,278
Bloomington--Normal, IL	909,131
Champaign, IL	1,214,081
Danville, IL	284,212
Decatur, IL	597,230
DeKalb, IL	403,011
Dubuque, IA--IL	14,061
Kankakee, IL	515,158
Springfield, IL	828,238
INDIANA	$4,924,327
Anderson, IN	494,361
Bloomington, IN	659,769
Columbus, IN	283,562
Elkhart, IN--MI	688,365
Kokomo, IN	403,398
Lafayette, IN	938,129
Michigan City, IN--MI	375,719
Muncie, IN	644,208
Terre Haute, IN	436,816

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

FY 2011 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

(Apportionment amount is based on funding made available under Public Law - 111-322)

(Note: In accordance with language in the SAFETEA-LU conference report, an urbanized area apportionments for Section 5307 and Section 5340 were combined to show a single amount. An area's apportionment amount includes regular Section 5307 funds, Small Transit Intensive Cities funds, and Growing States and High Density States formula funds, as appropriate.)

URBANIZED AREA/STATE	APPORTIONMENT
La Crosse, WI--MN	617,701
Oshkosh, WI	583,130
Racine, WI	884,974
Sheboygan, WI	509,672
Wausau, WI	374,531
WYOMING	$741,226
Casper, WY	347,996
Cheyenne, WY	393,230
Total	**$199,359,994**

1/ Language in section 5307(l) of SAFETEA-LU directs that the Virgin Islands be treated as an urbanized area.

FEDERAL TRANSIT ADMINISTRATION

TABLE 3A

URBANIZED AREAS 200,000 OR MORE IN POPULATION ELIGIBLE TO USE SECTION 5307 FUNDS FOR OPERATING ASSISTANCE

State	2000 Census Urbanized Area Description	Population	FY 2002 Apportionment	FY 2011 Apportionment Operating Limitation a/
AL	Huntsville, AL	213,253	$1,677,473	$838,737
CA	Antioch, CA	217,591	$1,914,688	$957,344
CA	Indio--Cathedral City--Palm Springs, CA	254,856	$1,849,608	$924,804
	(Indio-Coachella, CA -- $621,797)			
	(Palm Springs, CA -- $1,227,811)			
CA	Lancaster--Palmdale, CA	263,532	$2,206,544	$1,103,272
CA	Santa Rosa, CA	285,408	$2,636,339	$1,318,170
CA	Victorville--Hesperia--Apple Valley, CA	200,436	$1,311,837	$655,919
CA	Temecula--Murrieta, CA	229,810	----------	$623,817
CO	Fort Collins, CO	206,757	$1,156,197	$578,099
CT	Bridgeport--Stamford, CT--NY	888,890	$9,676,425	$4,838,213
	(Stamford, CT-NY -- $5,332,860)			
	(Norwalk, CT -- $4,343,565)			
CT	Hartford, CT	851,535	$2,824,453	$1,412,227
	(Bristol, CT -- $983,277)			
	(New Britain, CT -- $1,841,176)			
FL	Port St. Lucie, FL	270,774	$1,982,206	$991,103
	(Fort Pierce, FL -- $1,142,501)			
	(Stuart, FL -- $839,705)			
FL	Bonita Springs--Naples, FL	221,251	$954,953	$477,477
FL	Tallahassee, FL	204,260	$1,617,975	$808,988
GA	Savannah, GA	208,886	$1,824,225	$912,113
ID	Boise City, ID	272,625	$2,021,464	$1,010,732
IL	Round Lake Beach--McHenry--Grayslake, IL--WI	226,848	$1,088,609	$544,305
IL	Chicago, IL--IN	8,307,904	$6,599,240	$3,299,620
	(Aurora, IL -- $2,290,318)			
	(Crystal Lake, IL -- $746,464)			
	(Elgin, IL -- $1,652,124)			
	(Joliet, IL -- $1,910,334)			
IN	Evansville, IN--KY	211,989	$2,251,898	$1,125,949
MA	Barnstable Town, MA	243,667	$538,120	$269,060
MA	Boston, MA--NH--RI	4,032,484	$4,760,673	$2,380,337
	(Brockton, MA -- $1,906,558)			
	(Lowell, MA-NH -- $2,366,926)			
	(Taunton, MA -- $487,189)			
MD	Baltimore, MD	2,076,354	$858,335	$429,168
	(Annapolis, MD -- $858,335)			
MO	Springfield, MO	215,004	$1,748,930	$874,465
MS	Gulfport--Biloxi, MS	205,754	$1,687,127	$843,564
NC	Winston-Salem, NC	299,290	$1,811,413	$905,707
NC	Asheville, NC	221,570	$968,044	$484,022
NC	Greensboro, NC	267,884	$2,211,540	$1,105,770
NE	Lincoln, NE	226,582	$2,658,761	$1,329,381
NJ	Atlantic City, NJ	227,180	$1,842,968	$921,484
NY	Poughkeepsie--Newburgh, NY	351,982	$2,225,147	$1,112,574
	(Poughkeepsie, NY -- $1,507,504)			
	(Newburgh, NY -- $717,643)			

FEDERAL TRANSIT ADMINISTRATION

TABLE 3A

URBANIZED AREAS 200,000 OR MORE IN POPULATION ELIGIBLE TO USE SECTION 5307 FUNDS FOR OPERATING ASSISTANCE

State	2000 Census Urbanized Area Description	Population	FY 2002 Apportionment	FY 2011 Apportionment Operating Limitation a/
OH	Youngstown, OH--PA	417,437	$465,043	$232,522
	(Sharon, PA-OH -- $465,043)			
OH	Cincinnati, OH--KY--IN	1,503,262	$1,384,842	$692,421
	(Hamilton, OH -- $1,384,842)			
OR	Eugene, OR	224,049	$2,559,936	$1,279,968
OR	Salem, OR	207,229	$2,070,221	$1,035,111
PA	Reading, PA	240,264	$2,636,837	$1,318,419
PA	Lancaster, PA	323,554	$2,258,871	$1,129,436
PR	Aguadilla--Isabela--San Sebastian, PR	299,086	$1,148,984	$574,492
PR	San Juan, PR	2,216,616	$5,925,223	$2,962,612
	(Caguas, PR -- $2,811,557)			
	(Cayey, PR -- $831,273)			
	(Humacao, PR -- $719,451)			
	(Vega Baja-Manati, PR -- $1,562,942)			
RI	Providence, RI--MA	1,174,548	$2,695,482	$1,347,741
	(Newport, RI -- $644,329)			
	(Fall River, MA-RI -- $2,051,153)			
TX	Lubbock, TX	202,225	$1,939,424	$969,712
TX	Denton--Lewisville, TX	299,823	$1,291,722	$645,861
	(Denton, TX -- $599,570)			
	(Lewisville, TX -- $692,152)			
VA	Richmond, VA	818,836	$1,016,957	$508,479
	(Petersburg, VA -- $1,016,957)			

a/ The amount shown represents the amount allowable based on funding provided in the Continuing Appropriations and Surface Transportation Extension Act, 2011 - P.L. 111-322. In cases where an urbanized area's FY 2011 available apportionment is less than the allowable amount, FTA will set the operating assistance budget, in TEAM-Web, at an amount not to exceed the FY 2011 available apportionment.

Note: For informational purposes, the affected 1990 census small urbanized areas (less than 200,000 population) that were merged into an existing urbanized area of at least 200,000 population are shown in parentheses immediately below the eligible 2000 census urbanized area. FTA is unable to identify the urbanized areas which now incorporate rural areas that received Section 5311 in FY 2002 and they are not included in this table.

FEDERAL TRANSIT ADMINISTRATION

TABLE 4

FY 2011 SECTION 5307 APPORTIONMENT FORMULA

Distribution of Available Funds

Of the funds made available to the Section 5307 program, a one percent takedown is authorized for Small Transit Intensive Cities. This amount is apportioned to the Governors based on a separate formula that uses criteria related to specific service performance categories.

The remaining funds are apportioned to small, medium, and large sized urbanized areas (UZAs). 9.32% is made available for UZAs 50,000-199,999 in population, and 90.68% to UZAs 200,000 or more in population.

UZA Population and Weighting Factors

50,000-199,999 in population : (Apportioned to Governors) — 9.32% of available Section 5307 funds

- *50% apportioned based on population*
- *50% apportioned based on population x population density*

200,000 and greater in population: (Apportioned to UZAs) — 90.68% of available Section 5307 funds

- 33.29% (Fixed Guideway Tier*)
  - 95.61% (Non-incentive Portion of Tier)
    - --- at least 0.75% to each UZA with commuter rail and pop. 750,000 or greater
    - 60% - fixed guideway revenue vehicle miles
    - 40% - fixed guideway route miles
  - 4.39% ("Incentive" Portion of Tier)
    - -- at least 0.75% to each UZA with commuter rail and pop. 750,000 or greater
    - -- fixed guideway passenger miles x fixed guideway passenger miles/operating cost
- 66.71% ("Bus" Tier)
  - 90.8% (Non-incentive Portion of Tier)
    - 73.39% for UZAs with population 1,000,000 or greater
      - 50% - bus revenue vehicle miles
      - 25% - population
      - 25% - population x population density
    - 26.61% for UZAs pop. < 1,000,000
      - 50% - bus revenue vehicle miles
      - 25% - population
      - 25% - population x density
  - 9.2% ("Incentive" Portion of Tier)
    - -- bus passenger miles x bus passenger miles/operating cost

* Includes all fixed guideway modes, such as heavy rail, commuter rail, light rail, trolleybus, aerial tramway, inclined plane, cable car, automated guideway transit, ferryboats, exclusive busways, and HOV lanes.

FEDERAL TRANSIT ADMINISTRATION

TABLE 5

FISCAL YEAR 2011 FORMULA PROGRAMS APPORTIONMENT DATA UNIT VALUES

(Apportionment amount is based on funding made available under Public Law - 111-322)

	APPORTIONMENT DATA UNIT VALUE
Section 5307 Urbanized Area Formula Program - Bus Tier	
Urbanized Areas Over 1,000,000:	
Population	$1.46590492
Population x Density	$0.00037195
Bus Revenue Vehicle Mile	$0.17644878
Urbanized Areas Under 1,000,000:	
Population	$1.34344416
Population x Density	$0.00058781
Bus Revenue Vehicle Mile	$0.22681604
Bus Incentive (PM denotes Passenger Mile):	
Bus PM x Bus PM / Operating Cost	$0.00401656
Section 5307 Urbanized Area Formula Program - Fixed Guideway Tier	
Fixed Guideway Revenue Vehicle Mile	$0.25663615
Fixed Guideway Route Mile	$13,462
Commuter Rail Floor	$3,750,003
Fixed Guideway Incentive:	
Fixed Guideway PM x Fixed Guideway PM / Operating Cost	$0.00029020
Commuter Rail Incentive Floor	$172,184
Section 5307 Urbanized Area Formula Program - Areas Under 200,000	
Population	$2.70205024
Population x Density	$0.00134412
Section 5307 Small Transit Intensive Cities	
For Each Qualifying Performance Category	$55,976
Section 5311 Urbanized Area Formula Program - Areas Under 50,000	
Population	$2.07523141

Section 5309 Capital Program - Fixed Guideway Modernization

	Tier 2	Tier 3	Tier 4	Tier 5	Tier 6	Tier 7
Legislatively Specified Areas:						
Revenue Vehicle Mile	$0.03043443	-------	$0.13671435	$0.00000000	$0.00000000	$0.00000000
Route Mile	$2,122.43	-------	$7,825.39	$0.00	$0.00	$0.00
Other Urbanized Areas:						
Revenue Vehicle Mile	$0.16288440	$0.00576164	$0.13671435	$0.00000000	$0.00000000	$0.00000000
Route Mile	$4,758.70	$168.33	$7,825.39	$0.00	$0.00	$0.00

Notes:

1. Unit values for Section 5307 do not take into account Section 5340 funding added to the program.

2. The unit value for Section 5311 is based on the total nonurbanized/rural population for the States and territories. It does not take into account Section 5311 funds allocated based on land area in nonurbanized areas, or Section 5340 funding added to the program.

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Alabama	Anniston, AL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Alabama	Auburn, AL	1.000	14.286	4.836	0.339	4.836	0.916	0	0
Alabama	Decatur, AL	0.954	11.935	9.117	0.729	8.699	2.973	0	0
Alabama	Dothan, AL	0.996	18.712	14.461	0.770	14.407	1.090	1	55,976
Alabama	Florence, AL	2.035	23.636	7.524	0.648	15.312	4.989	0	0
Alabama	Gadsden, AL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Alabama	Montgomery, AL	4.334	68.246	8.318	0.528	36.046	6.790	0	0
Alabama	Tuscaloosa, AL	3.352	39.894	2.786	0.234	9.338	1.784	0	0
Alaska	Fairbanks, AK	4.947	81.729	11.405	0.690	56.423	7.652	0	0
Arizona	Avondale, AZ	1.102	18.422	6.923	0.414	7.631	1.728	0	0
Arizona	Flagstaff, AZ	3.669	49.560	12.762	0.945	46.821	18.444	3	167,927
Arizona	Prescott, AZ	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arizona	Yuma, AZ--CA	1.276	28.071	12.824	0.583	16.364	3.804	1	55,976
Arkansas	Fayetteville--Springdale, AR	3.726	43.905	4.562	0.387	16.999	8.837	0	0
Arkansas	Fort Smith, AR--OK	2.274	30.356	4.264	0.319	9.698	2.110	0	0
Arkansas	Hot Springs, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arkansas	Jonesboro, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arkansas	Pine Bluff, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Atascadero--El Paso de Robles (Paso Robles), CA	10.429	280.642	5.000	0.186	52.144	1.805	2	111,951
California	Camarillo, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Chico, CA	5.696	83.982	14.213	0.964	80.956	14.933	2	111,951
California	Davis, CA	9.358	117.848	17.361	1.379	162.465	56.523	6	335,853
California	El Centro, CA	12.772	245.026	13.554	0.707	173.111	9.520	4	223,902
California	Fairfield, CA	4.613	92.027	13.016	0.653	60.048	6.792	1	55,976
California	Gilroy--Morgan Hill, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Hanford, CA	5.232	177.199	76.899	2.271	402.363	21.878	5	279,878
California	Hemet, CA	2.147	41.743	6.344	0.326	13.622	1.500	0	0
California	Livermore, CA	3.914	54.524	5.225	0.375	20.454	4.175	0	0
California	Lodi, CA	1.658	17.602	6.077	0.572	10.075	3.523	0	0
California	Lompoc, CA	10.073	139.170	8.540	0.618	86.029	5.304	2	111,951
California	Madera, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Manteca, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
California	Merced, CA	1.856	36.763	7.263	0.367	13.484	2.240	0	0
California	Napa, CA	2.370	29.145	8.217	0.668	19.471	5.157	0	0
California	Petaluma, CA	3.875	50.613	7.433	0.569	28.802	4.964	0	0
California	Porterville, CA	5.513	84.564	7.586	0.495	41.822	9.557	0	0
California	Redding, CA	4.502	72.411	10.435	0.649	46.978	8.557	0	0
California	Salinas, CA	6.949	114.338	8.887	0.540	61.761	9.252	2	111,951
California	San Luis Obispo, CA	6.032	91.945	13.215	0.867	79.710	22.014	3	167,927
California	Santa Barbara, CA	12.700	175.191	16.670	1.208	211.717	43.047	6	335,853
California	Santa Clarita, CA	11.642	202.302	16.000	0.921	186.278	17.929	6	335,853
California	Santa Cruz, CA	9.850	139.422	22.336	1.578	220.017	36.161	6	335,853
California	Santa Maria, CA	9.861	168.151	10.193	0.598	100.512	11.087	3	167,927
California	Seaside--Monterey--Marina, CA	6.003	97.695	19.123	1.175	114.795	17.310	4	223,902
California	Simi Valley, CA	3.678	51.714	5.757	0.409	21.176	4.250	0	0
California	Tracy, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Turlock, CA	1.837	29.548	20.053	1.247	36.843	17.070	3	167,927
California	Vacaville, CA	8.383	157.729	0.641	0.034	5.372	0.551	2	111,951
California	Vallejo, CA	5.482	81.997	7.839	0.524	42.975	5.727	0	0
California	Visalia, CA	4.298	59.795	12.710	0.914	54.627	13.199	2	111,951
California	Watsonville, CA	8.530	127.490	9.482	0.634	80.880	12.782	2	111,951
California	Yuba City, CA	6.213	94.617	11.696	0.768	72.673	10.740	0	0
Colorado	Boulder, CO	9.035	124.344	25.814	1.876	233.237	45.979	6	335,853
Colorado	Grand Junction, CO	4.696	74.522	8.884	0.560	41.720	9.405	0	0
Colorado	Greeley, CO	3.874	46.962	5.663	0.467	21.938	5.922	0	0
Colorado	Lafayette--Louisville, CO	8.788	122.484	6.783	0.487	59.608	11.883	2	111,951
Colorado	Longmont, CO	8.546	116.284	15.124	1.111	129.244	25.071	6	335,853
Colorado	Pueblo, CO	3.638	56.583	6.671	0.429	24.273	7.735	0	0
Connecticut	Danbury, CT--NY	29.205	791.504	35.247	1.301	1029.388	42.032	6	335,853
Connecticut	Norwich--New London, CT	6.150	115.480	9.421	0.502	57.944	7.170	1	55,976
Connecticut	Waterbury, CT	28.325	672.900	29.844	1.256	845.338	42.940	6	335,853
Delaware	Dover, DE	3.151	54.532	31.655	1.829	99.758	13.450	3	167,927
Florida	Brooksville, FL	1.904	36.391	5.392	0.282	10.269	1.603	0	0
Florida	Deltona, FL	3.262	49.465	7.476	0.493	24.386	4.703	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Florida	Fort Walton Beach, FL	1.353	18.763	6.857	0.495	9.279	1.645	0	0
Florida	Gainesville, FL	8.042	92.668	19.772	1.716	159.007	56.299	5	279,878
Florida	Kissimmee, FL	5.035	75.806	13.767	0.914	69.321	11.220	2	111,951
Florida	Lady Lake, FL	2.583	45.575	11.361	0.644	29.342	2.013	0	0
Florida	Lakeland, FL	4.548	68.513	9.097	0.604	41.371	7.866	0	0
Florida	Leesburg--Eustis, FL	2.720	49.263	12.612	0.696	34.307	2.288	1	55,976
Florida	North Port--Punta Gorda, FL	1.091	18.606	4.016	0.236	4.382	0.566	0	0
Florida	Ocala, FL	1.160	18.800	0.001	0.000	0.001	0.000	0	0
Florida	Panama City, FL	3.146	56.848	9.483	0.525	29.832	6.458	0	0
Florida	St. Augustine, FL	2.688	48.517	7.515	0.416	20.199	2.764	0	0
Florida	Titusville, FL	6.194	197.307	21.148	0.664	131.000	5.403	3	167,927
Florida	Vero Beach--Sebastian, FL	3.771	45.816	6.853	0.564	25.845	5.331	0	0
Florida	Winter Haven, FL	2.163	35.644	11.105	0.674	24.024	3.512	0	0
Florida	Zephyrhills, FL	4.069	70.135	6.737	0.391	27.414	4.222	0	0
Georgia	Albany, GA	7.184	116.990	6.735	0.414	48.381	10.083	2	111,951
Georgia	Athens-Clarke County, GA	6.769	56.893	14.648	1.743	99.148	105.901	5	279,878
Georgia	Brunswick, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Dalton, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Gainesville, GA	0.752	10.176	3.181	0.235	2.390	1.628	0	0
Georgia	Hinesville, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Macon, GA	3.459	47.963	8.334	0.601	28.828	6.732	0	0
Georgia	Rome, GA	8.156	93.311	9.694	0.847	79.071	12.322	2	111,951
Georgia	Valdosta, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Warner Robins, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Hawaii	Kailua (Honolulu County)--Kaneohe, HI	12.124	167.053	2.157	0.157	26.146	4.781	2	111,951
Idaho	Coeur d'Alene, ID	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Idaho	Idaho Falls, ID	1.715	22.424	8.142	0.623	13.961	1.940	0	0
Idaho	Lewiston, ID--WA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Idaho	Nampa, ID	4.797	106.453	5.939	0.268	28.491	2.154	0	0
Idaho	Pocatello, ID	4.679	65.095	7.830	0.563	36.638	7.486	0	0
Illinois	Alton, IL	5.329	94.453	4.037	0.228	21.517	2.613	0	0
Illinois	Bloomington--Normal, IL	3.124	45.130	13.151	0.910	41.076	14.617	2	111,951

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Illinois	Champaign, IL	10.106	114.839	24.952	2.196	252.170	81.691	6	335,853
Illinois	Danville, IL	4.987	93.323	9.684	0.518	48.297	9.736	0	0
Illinois	Decatur, IL	3.437	47.572	11.611	0.839	39.906	13.388	1	55,976
Illinois	DeKalb, IL	1.574	23.465	11.215	0.752	17.650	2.147	0	0
Illinois	Kankakee, IL	5.110	74.425	13.897	0.954	71.014	9.738	2	111,951
Illinois	Springfield, IL	3.004	37.531	10.211	0.817	30.676	11.046	0	0
Indiana	Anderson, IN	2.032	26.911	4.203	0.317	8.540	1.846	0	0
Indiana	Bloomington, IN	6.058	64.657	12.244	1.147	74.179	33.062	2	111,951
Indiana	Columbus, IN	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Indiana	Elkhart, IN--MI	2.596	39.952	5.563	0.361	14.438	2.416	0	0
Indiana	Kokomo, IN	1.235	11.876	9.430	0.981	11.650	2.524	1	55,976
Indiana	Lafayette, IN	6.032	68.558	12.658	1.114	76.359	37.711	3	167,927
Indiana	Michigan City, IN--MI	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Indiana	Muncie, IN	5.543	72.347	11.685	0.895	64.771	21.323	2	111,951
Indiana	Terre Haute, IN	1.451	12.385	4.883	0.572	7.084	3.983	0	0
Iowa	Ames, IA	6.857	72.329	22.166	2.101	151.992	98.611	5	279,878
Iowa	Cedar Rapids, IA	4.779	60.927	8.453	0.663	40.401	8.064	0	0
Iowa	Dubuque, IA--IL	2.059	24.198	8.284	0.705	17.057	5.423	0	0
Iowa	Iowa City, IA	5.539	62.388	23.821	2.115	131.958	77.497	4	223,902
Iowa	Sioux City, IA--NE--SD	8.385	106.001	6.905	0.546	57.898	11.246	1	55,976
Iowa	Waterloo, IA	1.062	16.734	9.514	0.604	10.108	5.083	0	0
Kansas	Lawrence, KS	2.892	34.153	11.608	0.983	33.572	12.316	1	55,976
Kansas	Topeka, KS	4.175	65.029	10.832	0.695	45.222	11.648	0	0
Kentucky	Bowling Green, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Kentucky	Owensboro, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Kentucky	Radcliff--Elizabethtown, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Alexandria, LA	5.018	80.419	8.270	0.516	41.499	10.646	0	0
Louisiana	Houma, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Lafayette, LA	9.119	121.277	4.789	0.360	43.674	8.358	2	111,951
Louisiana	Lake Charles, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Mandeville--Covington, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Monroe, LA	4.585	69.822	7.382	0.485	33.848	10.575	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Louisiana	Slidell, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Maine	Bangor, ME	6.049	80.878	10.327	0.772	62.464	14.958	0	0
Maine	Lewiston, ME	3.043	39.016	4.747	0.370	14.445	4.645	0	0
Maine	Portland, ME	6.137	69.703	8.400	0.740	51.550	12.854	0	0
Maryland	Aberdeen--Havre de Grace--Bel Air, MD	3.344	60.890	4.305	0.236	14.397	1.737	0	0
Maryland	Cumberland, MD--WV--PA	3.495	53.302	8.883	0.582	31.043	3.398	0	0
Maryland	Frederick, MD	3.241	45.419	9.771	0.697	31.665	6.647	0	0
Maryland	Hagerstown, MD--WV--PA	3.017	45.423	4.000	0.266	12.068	3.204	0	0
Maryland	Salisbury, MD--DE	0.000	0.000	32.947	1.582	0.000	8.610	2	111,951
Maryland	St. Charles, MD	3.884	63.606	8.304	0.507	32.249	3.836	0	0
Maryland	Westminster, MD	1.416	18.396	11.878	0.915	16.825	2.048	1	55,976
Massachusetts	Leominster--Fitchburg, MA	2.560	42.924	24.469	1.459	62.631	7.678	2	111,951
Massachusetts	New Bedford, MA	4.891	61.641	5.145	0.408	25.162	5.457	0	0
Massachusetts	Pittsfield, MA	3.828	52.778	16.353	1.186	62.595	7.967	2	111,951
Michigan	Battle Creek, MI	3.960	52.370	6.545	0.495	25.917	6.945	0	0
Michigan	Bay City, MI	2.731	50.742	19.021	1.024	51.952	8.250	2	111,951
Michigan	Benton Harbor--St. Joseph, MI	1.898	21.336	7.137	0.635	13.546	2.797	0	0
Michigan	Holland, MI	1.108	13.897	8.664	0.691	9.600	3.413	0	0
Michigan	Jackson, MI	2.404	35.533	8.602	0.582	20.682	6.341	0	0
Michigan	Kalamazoo, MI	3.859	45.441	10.893	0.925	42.037	13.934	1	55,976
Michigan	Monroe, MI	2.742	34.833	9.090	0.716	24.929	5.569	0	0
Michigan	Muskegon, MI	3.889	48.438	5.127	0.412	19.939	4.633	0	0
Michigan	Port Huron, MI	1.528	23.896	21.161	1.353	32.343	11.412	2	111,951
Michigan	Saginaw, MI	4.611	75.934	5.728	0.348	26.411	7.480	0	0
Michigan	South Lyon--Howell--Brighton, MI	2.391	47.311	5.058	0.256	12.094	0.864	0	0
Minnesota	Duluth, MN--WI	6.992	91.508	16.485	1.260	115.268	27.047	5	279,878
Minnesota	Rochester, MN	5.232	81.424	12.731	0.818	66.608	17.797	2	111,951
Minnesota	St. Cloud, MN	5.446	72.968	17.707	1.321	96.423	26.082	3	167,927
Mississippi	Hattiesburg, MS	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Mississippi	Pascagoula, MS	7.223	381.146	4.422	0.084	31.939	0.716	2	111,951
Missouri	Columbia, MO	4.931	48.836	7.771	0.785	38.321	23.263	1	55,976
Missouri	Jefferson City, MO	1.979	30.049	10.051	0.662	19.887	7.118	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Missouri	Joplin, MO	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Missouri	Lee's Summit, MO	1.856	28.036	0.398	0.026	0.738	0.114	0	0
Missouri	St. Joseph, MO--KS	2.341	28.018	10.754	0.899	25.179	5.015	1	55,976
Montana	Billings, MT	3.941	51.514	7.166	0.548	28.243	7.330	0	0
Montana	Great Falls, MT	1.543	19.917	8.508	0.659	13.129	6.155	0	0
Montana	Missoula, MT	3.428	50.628	12.318	0.834	42.224	17.085	2	111,951
N. Mariana Islands	Saipan, MP	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Nevada	Carson City, NV	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New Hampshire	Dover--Rochester, NH--ME	8.349	128.003	7.236	0.472	60.412	11.960	2	111,951
New Hampshire	Manchester, NH	2.553	27.315	3.742	0.350	9.554	3.787	0	0
New Hampshire	Nashua, NH--MA	4.914	65.242	2.453	0.185	12.056	2.367	0	0
New Hampshire	Portsmouth, NH--ME	8.359	128.218	5.477	0.357	45.782	9.147	2	111,951
New Jersey	Hightstown, NJ	4.006	57.597	0.481	0.033	1.928	0.448	0	0
New Jersey	Vineland, NJ	1.335	20.495	5.621	0.366	7.505	1.085	0	0
New Jersey	Wildwood--North Wildwood--Cape May, NJ	1.335	20.495	17.653	1.150	23.572	3.407	2	111,951
New Mexico	Farmington, NM	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New Mexico	Las Cruces, NM	3.281	37.349	6.696	0.588	21.966	6.861	0	0
New Mexico	Santa Fe, NM	3.180	39.960	16.206	1.290	51.539	11.577	2	111,951
New York	Binghamton, NY--PA	4.943	71.385	16.923	1.172	83.655	20.049	3	167,928
New York	Elmira, NY	3.157	55.935	14.230	0.803	44.922	10.351	1	55,976
New York	Glens Falls, NY	3.456	56.081	5.765	0.355	19.923	5.544	0	0
New York	Ithaca, NY	4.262	66.552	39.592	2.536	168.747	63.776	4	223,902
New York	Kingston, NY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New York	Middletown, NY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New York	Saratoga Springs, NY	0.894	8.953	6.237	0.623	5.576	2.653	0	0
New York	Utica, NY	3.340	39.244	9.111	0.775	30.433	10.471	0	0
North Carolina	Burlington, NC	0.000	0.000	1.939	0.044	0.000	0.492	0	0
North Carolina	Concord, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Gastonia, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Goldsboro, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Greenville, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Hickory, NC	3.137	54.463	4.244	0.244	13.315	1.290	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
North Carolina	High Point, NC	1.664	29.883	11.550	0.643	19.217	8.013	0	0
North Carolina	Jacksonville, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Rocky Mount, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Wilmington, NC	1.812	27.385	11.971	0.792	21.693	9.216	0	0
North Dakota	Bismarck, ND	1.190	17.240	12.721	0.878	15.141	4.025	2	111,951
North Dakota	Fargo, ND--MN	4.771	61.629	8.958	0.694	42.741	13.582	0	0
North Dakota	Grand Forks, ND--MN	2.085	20.370	11.350	1.162	23.667	5.892	1	55,976
Ohio	Lima, OH	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Ohio	Lorain--Elyria, OH	3.094	54.397	5.628	0.320	17.416	2.881	0	0
Ohio	Mansfield, OH	2.792	32.974	3.994	0.338	11.153	3.600	0	0
Ohio	Middletown, OH	3.983	56.908	2.646	0.185	10.541	2.102	0	0
Ohio	Newark, OH	0.885	14.789	14.140	0.846	12.517	2.063	2	111,951
Ohio	Sandusky, OH	1.482	14.713	4.982	0.502	7.384	1.646	0	0
Ohio	Springfield, OH	2.519	28.633	3.042	0.268	7.661	4.203	0	0
Ohio	Weirton, WV--Steubenville, OH--PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Oklahoma	Lawton, OK	2.769	40.886	7.671	0.520	21.245	4.795	0	0
Oklahoma	Norman, OK	5.294	60.834	6.549	0.570	34.671	15.264	0	0
Oregon	Bend, OR	0.610	5.592	5.526	0.603	3.371	5.661	0	0
Oregon	Corvallis, OR	8.295	117.864	6.801	0.479	56.413	11.811	2	111,951
Oregon	Medford, OR	5.964	101.819	7.482	0.438	44.628	8.606	0	0
Pennsylvania	Altoona, PA	4.093	51.535	6.217	0.494	25.443	7.359	0	0
Pennsylvania	Erie, PA	3.688	44.564	15.632	1.294	57.647	16.819	3	167,927
Pennsylvania	Hazleton, PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Pennsylvania	Johnstown, PA	6.647	72.208	9.495	0.874	63.110	15.828	2	111,951
Pennsylvania	Lebanon, PA	3.489	59.031	12.638	0.747	44.093	5.802	1	55,976
Pennsylvania	Monessen, PA	13.956	189.769	4.836	0.356	67.491	2.863	2	111,951
Pennsylvania	Pottstown, PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Pennsylvania	State College, PA	10.680	150.260	24.859	1.767	265.493	99.558	6	335,853
Pennsylvania	Uniontown--Connellsville, PA	1.516	26.520	23.450	1.341	35.552	4.233	2	111,951
Pennsylvania	Williamsport, PA	7.472	112.841	14.307	0.947	106.906	22.104	6	335,853
Pennsylvania	York, PA	3.148	43.826	13.379	0.961	42.120	7.846	2	111,951
Puerto Rico	Arecibo, PR	3.160	36.365	13.204	1.147	41.728	9.413	2	111,951

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Puerto Rico	Fajardo, PR	3.533	41.489	24.297	2.069	85.840	18.507	3	167,927
Puerto Rico	Florida--Barceloneta--Bajadero, PR	3.558	39.479	4.045	0.365	14.394	3.206	0	0
Puerto Rico	Guayama, PR	4.427	44.348	13.130	1.311	58.127	14.079	2	111,951
Puerto Rico	Juana Diaz, PR	3.851	39.866	14.311	1.382	55.110	13.762	2	111,951
Puerto Rico	Mayaguez, PR	3.146	27.913	21.686	2.444	68.224	19.496	3	167,927
Puerto Rico	Ponce, PR	3.767	32.405	7.482	0.870	28.187	9.114	1	55,976
Puerto Rico	San German--Cabo Rojo--Sabana Grande, PR	3.399	39.932	10.104	0.860	34.342	7.285	1	55,976
Puerto Rico	Yauco, PR	3.345	36.870	17.738	1.609	59.337	12.253	2	111,951
South Carolina	Anderson, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Florence, SC	2.576	60.301	39.269	1.677	101.144	4.809	3	167,927
South Carolina	Mauldin--Simpsonville, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Myrtle Beach, SC	2.277	32.732	5.172	0.360	11.776	2.173	0	0
South Carolina	Rock Hill, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Spartanburg, SC	2.706	38.062	6.690	0.476	18.104	3.770	0	0
South Carolina	Sumter, SC	3.327	62.784	26.953	1.428	89.665	5.869	2	111,951
South Dakota	Rapid City, SD	2.424	26.356	7.094	0.652	17.193	4.536	0	0
South Dakota	Sioux Falls, SD	5.044	64.131	10.654	0.838	53.735	8.484	1	55,976
Tennessee	Bristol, TN--Bristol, VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Clarksville, TN--KY	3.182	49.586	10.710	0.687	34.073	6.128	0	0
Tennessee	Cleveland, TN	0.654	6.395	4.477	0.458	2.929	1.001	0	0
Tennessee	Jackson, TN	3.304	44.145	11.925	0.892	39.399	8.853	1	55,976
Tennessee	Johnson City, TN	3.621	41.649	5.910	0.514	21.397	5.703	0	0
Tennessee	Kingsport, TN--VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Morristown, TN	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Murfreesboro, TN	1.804	17.660	4.104	0.419	7.403	2.025	0	0
Texas	Abilene, TX	2.467	32.444	9.651	0.734	23.806	5.432	0	0
Texas	Amarillo, TX	1.742	26.239	4.794	0.318	8.349	1.991	0	0
Texas	Beaumont, TX	3.516	48.525	6.232	0.452	21.913	4.678	0	0
Texas	Brownsville, TX	14.240	168.529	5.961	0.504	84.883	9.950	2	111,951
Texas	College Station--Bryan, TX	1.290	21.963	4.845	0.285	6.248	2.767	0	0
Texas	Galveston, TX	3.678	39.935	7.737	0.712	28.453	9.128	0	0
Texas	Harlingen, TX	0.505	5.943	0.579	0.049	0.292	0.058	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Texas	Killeen, TX	2.823	47.247	5.393	0.322	15.224	1.860	0	0
Texas	Lake Jackson--Angleton, TX	1.947	32.631	1.636	0.098	3.185	0.190	0	0
Texas	Laredo, TX	7.097	76.229	10.796	1.005	76.616	22.987	3	167,927
Texas	Longview, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	McKinney, TX	1.236	19.476	7.786	0.494	9.625	1.292	0	0
Texas	Midland, TX	0.918	14.002	3.818	0.250	3.506	1.937	0	0
Texas	Odessa, TX	0.919	14.010	4.112	0.270	3.778	2.075	0	0
Texas	Port Arthur, TX	3.471	54.362	3.051	0.195	10.591	1.297	0	0
Texas	San Angelo, TX	1.393	21.442	13.106	0.851	18.255	3.560	2	111,951
Texas	Sherman, TX	2.274	37.095	9.432	0.578	21.447	1.712	0	0
Texas	Temple, TX	1.519	21.528	7.682	0.542	11.668	1.978	0	0
Texas	Texarkana, TX--Texarkana, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Texas City, TX	1.499	27.934	3.237	0.174	4.852	0.366	0	0
Texas	The Woodlands, TX	33.409	893.664	4.378	0.164	146.251	4.067	3	167,927
Texas	Tyler, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Victoria, TX	1.024	14.161	10.461	0.756	10.707	4.613	0	0
Texas	Waco, TX	3.681	57.430	6.330	0.406	23.297	4.350	0	0
Texas	Wichita Falls, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Utah	Logan, UT	5.995	88.075	10.918	0.743	65.457	21.315	1	55,976
Utah	St. George, UT	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Vermont	Burlington, VT	6.077	84.982	15.599	1.115	94.791	24.220	3	167,927
Virgin Islands	Virgin Islands	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Virginia	Blacksburg, VA	7.574	81.380	19.442	1.809	147.248	62.029	5	279,878
Virginia	Charlottesville, VA	3.233	40.420	27.023	2.162	87.368	27.689	3	167,927
Virginia	Danville, VA	3.863	61.296	6.708	0.423	25.914	5.012	0	0
Virginia	Fredericksburg, VA	4.219	78.838	11.578	0.620	48.843	5.478	0	0
Virginia	Harrisonburg, VA	8.399	82.943	10.497	1.063	88.165	32.472	3	167,927
Virginia	Lynchburg, VA	3.200	41.552	13.483	1.038	43.139	30.163	3	167,927
Virginia	Roanoke, VA	5.269	70.769	9.177	0.683	48.352	10.178	0	0
Virginia	Winchester, VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Washington	Bellingham, WA	5.939	92.286	38.391	2.471	228.016	70.072	4	223,902
Washington	Bremerton, WA	5.557	106.762	21.636	1.126	120.223	20.914	4	223,902

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Washington	Kennewick--Richland, WA	7.058	169.159	65.952	2.752	465.492	35.730	6	335,853
Washington	Longview, WA--OR	5.394	60.244	6.233	0.558	33.624	8.179	0	0
Washington	Marysville, WA	5.761	93.885	10.262	0.630	59.124	8.750	0	0
Washington	Mount Vernon, WA	4.921	96.172	30.412	1.556	149.649	12.425	3	167,927
Washington	Olympia--Lacey, WA	6.667	128.671	46.012	2.380	306.741	35.649	6	335,854
Washington	Wenatchee, WA	7.045	87.017	13.462	1.090	94.833	10.304	3	167,927
Washington	Yakima, WA	5.017	75.843	14.733	0.975	73.918	13.571	2	111,951
West Virginia	Charleston, WV	5.578	90.868	14.991	0.920	83.618	13.622	2	111,951
West Virginia	Huntington, WV--KY--OH	2.680	39.710	7.130	0.481	19.107	4.671	0	0
West Virginia	Morgantown, WV	1.175	18.818	16.483	1.029	19.371	17.373	3	167,927
West Virginia	Parkersburg, WV--OH	0.000	0.000	0.000	0.000	0.000	0.000	0	0
West Virginia	Wheeling, WV--OH	1.707	20.672	8.021	0.662	13.688	4.922	0	0
Wisconsin	Appleton, WI	2.000	29.208	10.528	0.721	21.056	6.015	0	0
Wisconsin	Beloit, WI--IL	2.908	44.549	7.810	0.510	22.710	5.439	0	0
Wisconsin	Eau Claire, WI	2.932	40.108	12.144	0.888	35.610	11.159	1	55,976
Wisconsin	Fond du Lac, WI	0.985	12.501	7.846	0.618	7.725	3.774	0	0
Wisconsin	Green Bay, WI	3.025	43.134	8.412	0.590	25.450	7.598	0	0
Wisconsin	Janesville, WI	3.601	55.140	7.606	0.497	27.394	7.031	0	0
Wisconsin	Kenosha, WI	4.299	61.503	10.697	0.748	45.985	15.181	0	0
Wisconsin	La Crosse, WI--MN	3.093	40.538	14.226	1.086	44.005	14.173	2	111,951
Wisconsin	Oshkosh, WI	3.224	45.794	13.198	0.929	42.544	14.223	2	111,951
Wisconsin	Racine, WI	3.864	49.378	10.169	0.796	39.290	11.027	0	0
Wisconsin	Sheboygan, WI	1.771	23.622	11.374	0.853	20.143	7.556	1	55,976
Wisconsin	Wausau, WI	3.902	56.880	11.603	0.796	45.279	12.053	0	0
Wyoming	Casper, WY	1.000	11.020	7.499	0.680	7.499	2.984	0	0
Wyoming	Cheyenne, WY	2.659	39.452	7.146	0.482	18.998	4.007	0	0
						Total		315	$17,632,310

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Alabama	Anniston, AL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Alabama	Auburn, AL	1.000	14.286	4.836	0.339	4.836	0.916	0	0
Alabama	Decatur, AL	0.954	11.935	9.117	0.729	8.699	2.973	0	0
Alabama	Dothan, AL	0.996	18.712	14.461	0.770	14.407	1.090	1	55,976
Alabama	Florence, AL	2.035	23.636	7.524	0.648	15.312	4.989	0	0
Alabama	Gadsden, AL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Alabama	Montgomery, AL	4.334	68.246	8.318	0.528	36.046	6.790	0	0
Alabama	Tuscaloosa, AL	3.352	39.894	2.786	0.234	9.338	1.784	0	0
Alaska	Fairbanks, AK	4.947	81.729	11.405	0.690	56.423	7.652	0	0
Arizona	Avondale, AZ	1.102	18.422	6.923	0.414	7.631	1.728	0	0
Arizona	Flagstaff, AZ	3.669	49.560	12.762	0.945	46.821	18.444	3	167,927
Arizona	Prescott, AZ	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arizona	Yuma, AZ--CA	1.276	28.071	12.824	0.583	16.364	3.804	1	55,976
Arkansas	Fayetteville--Springdale, AR	3.726	43.905	4.562	0.387	16.999	8.837	0	0
Arkansas	Fort Smith, AR--OK	2.274	30.356	4.264	0.319	9.698	2.110	0	0
Arkansas	Hot Springs, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arkansas	Jonesboro, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arkansas	Pine Bluff, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Atascadero--El Paso de Robles (Paso Robles), CA	10.429	280.642	5.000	0.186	52.144	1.805	2	111,951
California	Camarillo, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Chico, CA	5.696	83.982	14.213	0.964	80.956	14.933	2	111,951
California	Davis, CA	9.358	117.848	17.361	1.379	162.465	56.523	6	335,853
California	El Centro, CA	12.772	245.026	13.554	0.707	173.111	9.520	4	223,902
California	Fairfield, CA	4.613	92.027	13.016	0.653	60.048	6.792	1	55,976
California	Gilroy--Morgan Hill, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Hanford, CA	5.232	177.199	76.899	2.271	402.363	21.878	5	279,878
California	Hemet, CA	2.147	41.743	6.344	0.326	13.622	1.500	0	0
California	Livermore, CA	3.914	54.524	5.225	0.375	20.454	4.175	0	0
California	Lodi, CA	1.658	17.602	6.077	0.572	10.075	3.523	0	0
California	Lompoc, CA	10.073	139.170	8.540	0.618	86.029	5.304	2	111,951
California	Madera, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Manteca, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
California	Merced, CA	1.856	36.763	7.263	0.367	13.484	2.240	0	0
California	Napa, CA	2.370	29.145	8.217	0.668	19.471	5.157	0	0
California	Petaluma, CA	3.875	50.613	7.433	0.569	28.802	4.964	0	0
California	Porterville, CA	5.513	84.564	7.586	0.495	41.822	9.557	0	0
California	Redding, CA	4.502	72.411	10.435	0.649	46.978	8.557	0	0
California	Salinas, CA	6.949	114.338	8.887	0.540	61.761	9.252	2	111,951
California	San Luis Obispo, CA	6.032	91.945	13.215	0.867	79.710	22.014	3	167,927
California	Santa Barbara, CA	12.700	175.191	16.670	1.208	211.717	43.047	6	335,853
California	Santa Clarita, CA	11.642	202.302	16.000	0.921	186.278	17.929	6	335,853
California	Santa Cruz, CA	9.850	139.422	22.336	1.578	220.017	36.161	6	335,853
California	Santa Maria, CA	9.861	168.151	10.193	0.598	100.512	11.087	3	167,927
California	Seaside--Monterey--Marina, CA	6.003	97.695	19.123	1.175	114.795	17.310	4	223,902
California	Simi Valley, CA	3.678	51.714	5.757	0.409	21.176	4.250	0	0
California	Tracy, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Turlock, CA	1.837	29.548	20.053	1.247	36.843	17.070	3	167,927
California	Vacaville, CA	8.383	157.729	0.641	0.034	5.372	0.551	2	111,951
California	Vallejo, CA	5.482	81.997	7.839	0.524	42.975	5.727	0	0
California	Visalia, CA	4.298	59.795	12.710	0.914	54.627	13.199	2	111,951
California	Watsonville, CA	8.530	127.490	9.482	0.634	80.880	12.782	2	111,951
California	Yuba City, CA	6.213	94.617	11.696	0.768	72.673	10.740	0	0
Colorado	Boulder, CO	9.035	124.344	25.814	1.876	233.237	45.979	6	335,853
Colorado	Grand Junction, CO	4.696	74.522	8.884	0.560	41.720	9.405	0	0
Colorado	Greeley, CO	3.874	46.962	5.663	0.467	21.938	5.922	0	0
Colorado	Lafayette--Louisville, CO	8.788	122.484	6.783	0.487	59.608	11.883	2	111,951
Colorado	Longmont, CO	8.546	116.284	15.124	1.111	129.244	25.071	6	335,853
Colorado	Pueblo, CO	3.638	56.583	6.671	0.429	24.273	7.735	0	0
Connecticut	Danbury, CT--NY	29.205	791.504	35.247	1.301	1029.388	42.032	6	335,853
Connecticut	Norwich--New London, CT	6.150	115.480	9.421	0.502	57.944	7.170	1	55,976
Connecticut	Waterbury, CT	28.325	672.900	29.844	1.256	845.338	42.940	6	335,853
Delaware	Dover, DE	3.151	54.532	31.655	1.829	99.758	13.450	3	167,927
Florida	Brooksville, FL	1.904	36.391	5.392	0.282	10.269	1.603	0	0
Florida	Deltona, FL	3.262	49.465	7.476	0.493	24.386	4.703	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Florida	Fort Walton Beach, FL	1.353	18.763	6.857	0.495	9.279	1.645	0	0
Florida	Gainesville, FL	8.042	92.668	19.772	1.716	159.007	56.299	5	279,878
Florida	Kissimmee, FL	5.035	75.806	13.767	0.914	69.321	11.220	2	111,951
Florida	Lady Lake, FL	2.583	45.575	11.361	0.644	29.342	2.013	0	0
Florida	Lakeland, FL	4.548	68.513	9.097	0.604	41.371	7.866	0	0
Florida	Leesburg--Eustis, FL	2.720	49.263	12.612	0.696	34.307	2.288	1	55,976
Florida	North Port--Punta Gorda, FL	1.091	18.606	4.016	0.236	4.382	0.566	0	0
Florida	Ocala, FL	1.160	18.800	0.001	0.000	0.001	0.000	0	0
Florida	Panama City, FL	3.146	56.848	9.483	0.525	29.832	6.458	0	0
Florida	St. Augustine, FL	2.688	48.517	7.515	0.416	20.199	2.764	0	0
Florida	Titusville, FL	6.194	197.307	21.148	0.664	131.000	5.403	3	167,927
Florida	Vero Beach--Sebastian, FL	3.771	45.816	6.853	0.564	25.845	5.331	0	0
Florida	Winter Haven, FL	2.163	35.644	11.105	0.674	24.024	3.512	0	0
Florida	Zephyrhills, FL	4.069	70.135	6.737	0.391	27.414	4.222	0	0
Georgia	Albany, GA	7.184	116.990	6.735	0.414	48.381	10.083	2	111,951
Georgia	Athens-Clarke County, GA	6.769	56.893	14.648	1.743	99.148	105.901	5	279,878
Georgia	Brunswick, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Dalton, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Gainesville, GA	0.752	10.176	3.181	0.235	2.390	1.628	0	0
Georgia	Hinesville, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Macon, GA	3.459	47.963	8.334	0.601	28.828	6.732	0	0
Georgia	Rome, GA	8.156	93.311	9.694	0.847	79.071	12.322	2	111,951
Georgia	Valdosta, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Warner Robins, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Hawaii	Kailua (Honolulu County)--Kaneohe, HI	12.124	167.053	2.157	0.157	26.146	4.781	2	111,951
Idaho	Coeur d'Alene, ID	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Idaho	Idaho Falls, ID	1.715	22.424	8.142	0.623	13.961	1.940	0	0
Idaho	Lewiston, ID--WA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Idaho	Nampa, ID	4.797	106.453	5.939	0.268	28.491	2.154	0	0
Idaho	Pocatello, ID	4.679	65.095	7.830	0.563	36.638	7.486	0	0
Illinois	Alton, IL	5.329	94.453	4.037	0.228	21.517	2.813	0	0
Illinois	Bloomington--Normal, IL	3.124	45.130	13.151	0.910	41.076	14.617	2	111,951

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Illinois	Champaign, IL	10.106	114.839	24.952	2.196	252.170	81.691	6	335,853
Illinois	Danville, IL	4.987	93.323	9.684	0.518	48.297	9.736	0	0
Illinois	Decatur, IL	3.437	47.572	11.611	0.839	39.906	13.388	1	55,976
Illinois	DeKalb, IL	1.574	23.465	11.215	0.752	17.650	2.147	0	0
Illinois	Kankakee, IL	5.110	74.425	13.897	0.954	71.014	9.738	2	111,951
Illinois	Springfield, IL	3.004	37.531	10.211	0.817	30.676	11.046	0	0
Indiana	Anderson, IN	2.032	26.911	4.203	0.317	8.540	1.846	0	0
Indiana	Bloomington, IN	6.058	64.657	12.244	1.147	74.179	33.062	2	111,951
Indiana	Columbus, IN	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Indiana	Elkhart, IN--MI	2.596	39.952	5.563	0.361	14.438	2.416	0	0
Indiana	Kokomo, IN	1.235	11.876	9.430	0.981	11.650	2.524	1	55,976
Indiana	Lafayette, IN	6.032	68.558	12.658	1.114	76.359	37.711	3	167,927
Indiana	Michigan City, IN--MI	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Indiana	Muncie, IN	5.543	72.347	11.685	0.895	64.771	21.323	2	111,951
Indiana	Terre Haute, IN	1.451	12.385	4.883	0.572	7.084	3.983	0	0
Iowa	Ames, IA	6.857	72.329	22.166	2.101	151.992	98.611	5	279,878
Iowa	Cedar Rapids, IA	4.779	60.927	8.453	0.663	40.401	8.064	0	0
Iowa	Dubuque, IA--IL	2.059	24.198	8.284	0.705	17.057	5.423	0	0
Iowa	Iowa City, IA	5.539	62.388	23.821	2.115	131.958	77.497	4	223,902
Iowa	Sioux City, IA--NE--SD	8.385	106.001	6.905	0.546	57.898	11.246	1	55,976
Iowa	Waterloo, IA	1.062	16.734	9.514	0.604	10.108	5.083	0	0
Kansas	Lawrence, KS	2.892	34.153	11.608	0.983	33.572	12.316	1	55,976
Kansas	Topeka, KS	4.175	65.029	10.832	0.695	45.222	11.648	0	0
Kentucky	Bowling Green, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Kentucky	Owensboro, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Kentucky	Radcliff--Elizabethtown, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Alexandria, LA	5.018	80.419	8.270	0.516	41.499	10.646	0	0
Louisiana	Houma, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Lafayette, LA	9.119	121.277	4.789	0.360	43.674	8.358	2	111,951
Louisiana	Lake Charles, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Mandeville--Covington, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Monroe, LA	4.585	69.822	7.382	0.485	33.848	10.575	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Louisiana	Slidell, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Maine	Bangor, ME	6.049	80.878	10.327	0.772	62.464	14.958	0	0
Maine	Lewiston, ME	3.043	39.016	4.747	0.370	14.445	4.645	0	0
Maine	Portland, ME	6.137	69.703	8.400	0.740	51.550	12.854	0	0
Maryland	Aberdeen--Havre de Grace--Bel Air, MD	3.344	60.890	4.305	0.236	14.397	1.737	0	0
Maryland	Cumberland, MD--WV--PA	3.495	53.302	8.883	0.582	31.043	3.398	0	0
Maryland	Frederick, MD	3.241	45.419	9.771	0.697	31.665	6.647	0	0
Maryland	Hagerstown, MD--WV--PA	3.017	45.423	4.000	0.266	12.068	3.204	0	0
Maryland	Salisbury, MD--DE	0.000	0.000	32.947	1.582	0.000	8.610	2	111,951
Maryland	St. Charles, MD	3.884	63.606	8.304	0.507	32.249	3.836	0	0
Maryland	Westminster, MD	1.416	18.396	11.878	0.915	16.825	2.048	1	55,976
Massachusetts	Leominster--Fitchburg, MA	2.560	42.924	24.469	1.459	62.631	7.678	2	111,951
Massachusetts	New Bedford, MA	4.891	61.641	5.145	0.408	25.162	5.457	0	0
Massachusetts	Pittsfield, MA	3.828	52.778	16.353	1.186	62.595	7.967	2	111,951
Michigan	Battle Creek, MI	3.960	52.370	6.545	0.495	25.917	6.945	0	0
Michigan	Bay City, MI	2.731	50.742	19.021	1.024	51.952	8.250	2	111,951
Michigan	Benton Harbor--St. Joseph, MI	1.898	21.336	7.137	0.635	13.546	2.797	0	0
Michigan	Holland, MI	1.108	13.897	8.664	0.691	9.600	3.413	0	0
Michigan	Jackson, MI	2.404	35.533	8.602	0.582	20.682	6.341	0	0
Michigan	Kalamazoo, MI	3.859	45.441	10.893	0.925	42.037	13.934	1	55,976
Michigan	Monroe, MI	2.742	34.833	9.090	0.716	24.929	5.569	0	0
Michigan	Muskegon, MI	3.889	48.438	5.127	0.412	19.939	4.833	0	0
Michigan	Port Huron, MI	1.528	23.896	21.161	1.353	32.343	11.412	2	111,951
Michigan	Saginaw, MI	4.611	75.934	5.728	0.348	26.411	7.480	0	0
Michigan	South Lyon--Howell--Brighton, MI	2.391	47.311	5.058	0.256	12.094	0.864	0	0
Minnesota	Duluth, MN--WI	6.992	91.508	16.485	1.260	115.268	27.047	5	279,878
Minnesota	Rochester, MN	5.232	81.424	12.731	0.818	66.608	17.797	2	111,951
Minnesota	St. Cloud, MN	5.446	72.968	17.707	1.321	96.423	26.082	3	167,927
Mississippi	Hattiesburg, MS	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Mississippi	Pascagoula, MS	7.223	381.146	4.422	0.084	31.939	0.716	2	111,951
Missouri	Columbia, MO	4.931	48.836	7.771	0.785	38.321	23.263	1	55,976
Missouri	Jefferson City, MO	1.979	30.049	10.051	0.662	19.887	7.118	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Missouri	Joplin, MO	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Missouri	Lee's Summit, MO	1.856	28.036	0.398	0.026	0.738	0.114	0	0
Missouri	St. Joseph, MO--KS	2.341	28.018	10.754	0.899	25.179	5.015	1	55,976
Montana	Billings, MT	3.941	51.514	7.166	0.548	28.243	7.330	0	0
Montana	Great Falls, MT	1.543	19.917	8.508	0.659	13.129	6.155	0	0
Montana	Missoula, MT	3.428	50.628	12.318	0.834	42.224	17.085	2	111,951
N. Mariana Islands	Saipan, MP	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Nevada	Carson City, NV	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New Hampshire	Dover--Rochester, NH--ME	8.349	128.003	7.236	0.472	60.412	11.960	2	111,951
New Hampshire	Manchester, NH	2.553	27.315	3.742	0.350	9.554	3.787	0	0
New Hampshire	Nashua, NH--MA	4.914	65.242	2.453	0.185	12.056	2.367	0	0
New Hampshire	Portsmouth, NH--ME	8.359	128.218	5.477	0.357	45.782	9.147	2	111,951
New Jersey	Hightstown, NJ	4.006	57.597	0.481	0.033	1.928	0.448	0	0
New Jersey	Vineland, NJ	1.335	20.495	5.621	0.366	7.505	1.085	0	0
New Jersey	Wildwood--North Wildwood--Cape May, NJ	1.335	20.495	17.653	1.150	23.572	3.407	2	111,951
New Mexico	Farmington, NM	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New Mexico	Las Cruces, NM	3.281	37.349	6.696	0.588	21.966	6.861	0	0
New Mexico	Santa Fe, NM	3.180	39.960	16.206	1.290	51.539	11.577	2	111,951
New York	Binghamton, NY--PA	4.943	71.385	16.923	1.172	83.655	20.049	3	167,928
New York	Elmira, NY	3.157	55.935	14.230	0.803	44.922	10.351	1	55,976
New York	Glens Falls, NY	3.456	56.081	5.765	0.355	19.923	5.544	0	0
New York	Ithaca, NY	4.262	66.552	39.592	2.536	168.747	63.776	4	223,902
New York	Kingston, NY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New York	Middletown, NY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New York	Saratoga Springs, NY	0.894	8.953	6.237	0.623	5.576	2.653	0	0
New York	Utica, NY	3.340	39.244	9.111	0.775	30.433	10.471	0	0
North Carolina	Burlington, NC	0.000	0.000	1.939	0.044	0.000	0.492	0	0
North Carolina	Concord, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Gastonia, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Goldsboro, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Greenville, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Hickory, NC	3.137	54.463	4.244	0.244	13.315	1.290	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
North Carolina	High Point, NC	1.664	29.883	11.550	0.643	19.217	8.013	0	0
North Carolina	Jacksonville, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Rocky Mount, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Wilmington, NC	1.812	27.385	11.971	0.792	21.693	9.216	0	0
North Dakota	Bismarck, ND	1.190	17.240	12.721	0.878	15.141	4.025	2	111,951
North Dakota	Fargo, ND--MN	4.771	61.629	8.958	0.694	42.741	13.582	0	0
North Dakota	Grand Forks, ND--MN	2.085	20.370	11.350	1.162	23.667	5.892	1	55,976
Ohio	Lima, OH	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Ohio	Lorain--Elyria, OH	3.094	54.397	5.628	0.320	17.416	2.881	0	0
Ohio	Mansfield, OH	2.792	32.974	3.994	0.338	11.153	3.600	0	0
Ohio	Middletown, OH	3.983	56.908	2.646	0.185	10.541	2.102	0	0
Ohio	Newark, OH	0.885	14.789	14.140	0.846	12.517	2.063	2	111,951
Ohio	Sandusky, OH	1.482	14.713	4.982	0.502	7.384	1.646	0	0
Ohio	Springfield, OH	2.519	28.633	3.042	0.268	7.661	4.203	0	0
Ohio	Weirton, WV--Steubenville, OH--PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Oklahoma	Lawton, OK	2.769	40.886	7.671	0.520	21.245	4.795	0	0
Oklahoma	Norman, OK	5.294	60.834	6.549	0.570	34.671	15.264	0	0
Oregon	Bend, OR	0.610	5.592	5.526	0.603	3.371	5.661	0	0
Oregon	Corvallis, OR	8.295	117.864	6.801	0.479	56.413	11.811	2	111,951
Oregon	Medford, OR	5.964	101.819	7.482	0.438	44.628	8.606	0	0
Pennsylvania	Altoona, PA	4.093	51.535	6.217	0.494	25.443	7.359	0	0
Pennsylvania	Erie, PA	3.688	44.564	15.632	1.294	57.647	16.819	3	167,927
Pennsylvania	Hazleton, PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Pennsylvania	Johnstown, PA	6.647	72.208	9.495	0.874	63.110	15.828	2	111,951
Pennsylvania	Lebanon, PA	3.489	59.031	12.638	0.747	44.093	5.802	1	55,976
Pennsylvania	Monessen, PA	13.956	189.769	4.836	0.356	67.491	2.863	2	111,951
Pennsylvania	Pottstown, PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Pennsylvania	State College, PA	10.680	150.260	24.859	1.767	265.493	99.558	6	335,853
Pennsylvania	Uniontown--Connellsville, PA	1.516	26.520	23.450	1.341	35.552	4.233	2	111,951
Pennsylvania	Williamsport, PA	7.472	112.841	14.307	0.947	106.906	22.104	6	335,853
Pennsylvania	York, PA	3.148	43.826	13.379	0.961	42.120	7.846	2	111,951
Puerto Rico	Arecibo, PR	3.160	36.365	13.204	1.147	41.728	9.413	2	111,951

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Puerto Rico	Fajardo, PR	3.533	41.489	24.297	2.069	85.840	18.507	3	167,927
Puerto Rico	Florida--Barceloneta--Bajadero, PR	3.558	39.479	4.045	0.365	14.394	3.206	0	0
Puerto Rico	Guayama, PR	4.427	44.348	13.130	1.311	58.127	14.079	2	111,951
Puerto Rico	Juana Diaz, PR	3.851	39.866	14.311	1.382	55.110	13.762	2	111,951
Puerto Rico	Mayaguez, PR	3.146	27.913	21.686	2.444	68.224	19.496	3	167,927
Puerto Rico	Ponce, PR	3.767	32.405	7.482	0.870	28.187	9.114	1	55,976
Puerto Rico	San German--Cabo Rojo--Sabana Grande, PR	3.399	39.932	10.104	0.860	34.342	7.285	1	55,976
Puerto Rico	Yauco, PR	3.345	36.870	17.738	1.609	59.337	12.253	2	111,951
South Carolina	Anderson, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Florence, SC	2.576	60.301	39.269	1.677	101.144	4.809	3	167,927
South Carolina	Mauldin--Simpsonville, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Myrtle Beach, SC	2.277	32.732	5.172	0.360	11.776	2.173	0	0
South Carolina	Rock Hill, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Spartanburg, SC	2.706	38.062	6.690	0.476	18.104	3.770	0	0
South Carolina	Sumter, SC	3.327	62.784	26.953	1.428	89.665	5.869	2	111,951
South Dakota	Rapid City, SD	2.424	26.356	7.094	0.652	17.193	4.536	0	0
South Dakota	Sioux Falls, SD	5.044	64.131	10.654	0.838	53.735	8.484	1	55,976
Tennessee	Bristol, TN--Bristol, VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Clarksville, TN--KY	3.182	49.586	10.710	0.687	34.073	6.128	0	0
Tennessee	Cleveland, TN	0.654	6.395	4.477	0.458	2.929	1.001	0	0
Tennessee	Jackson, TN	3.304	44.145	11.925	0.892	39.399	8.853	1	55,976
Tennessee	Johnson City, TN	3.621	41.649	5.910	0.514	21.397	5.703	0	0
Tennessee	Kingsport, TN--VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Morristown, TN	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Murfreesboro, TN	1.804	17.660	4.104	0.419	7.403	2.025	0	0
Texas	Abilene, TX	2.467	32.444	9.651	0.734	23.806	5.432	0	0
Texas	Amarillo, TX	1.742	26.239	4.794	0.318	8.349	1.991	0	0
Texas	Beaumont, TX	3.516	48.525	6.232	0.452	21.913	4.678	0	0
Texas	Brownsville, TX	14.240	168.529	5.961	0.504	84.883	9.950	2	111,951
Texas	College Station--Bryan, TX	1.290	21.963	4.845	0.285	6.248	2.767	0	0
Texas	Galveston, TX	3.678	39.935	7.737	0.712	28.453	9.128	0	0
Texas	Harlingen, TX	0.505	5.943	0.579	0.049	0.292	0.058	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Texas	Killeen, TX	2.823	47.247	5.393	0.322	15.224	1.860	0	0
Texas	Lake Jackson--Angleton, TX	1.947	32.631	1.636	0.098	3.185	0.190	0	0
Texas	Laredo, TX	7.097	76.229	10.796	1.005	76.616	22.987	3	167,927
Texas	Longview, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	McKinney, TX	1.236	19.476	7.786	0.494	9.625	1.292	0	0
Texas	Midland, TX	0.918	14.002	3.818	0.250	3.506	1.937	0	0
Texas	Odessa, TX	0.919	14.010	4.112	0.270	3.778	2.075	0	0
Texas	Port Arthur, TX	3.471	54.362	3.051	0.195	10.591	1.297	0	0
Texas	San Angelo, TX	1.393	21.442	13.106	0.851	18.255	3.560	2	111,951
Texas	Sherman, TX	2.274	37.095	9.432	0.578	21.447	1.712	0	0
Texas	Temple, TX	1.519	21.528	7.682	0.542	11.668	1.978	0	0
Texas	Texarkana, TX--Texarkana, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Texas City, TX	1.499	27.934	3.237	0.174	4.852	0.366	0	0
Texas	The Woodlands, TX	33.409	893.664	4.378	0.164	146.251	4.067	3	167,927
Texas	Tyler, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Victoria, TX	1.024	14.161	10.461	0.756	10.707	4.613	0	0
Texas	Waco, TX	3.681	57.430	6.330	0.406	23.297	4.350	0	0
Texas	Wichita Falls, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Utah	Logan, UT	5.995	88.075	10.918	0.743	65.457	21.315	1	55,976
Utah	St. George, UT	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Vermont	Burlington, VT	6.077	84.982	15.599	1.115	94.791	24.220	3	167,927
Virgin Islands	Virgin Islands	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Virginia	Blacksburg, VA	7.574	81.380	19.442	1.809	147.248	62.029	5	279,878
Virginia	Charlottesville, VA	3.233	40.420	27.023	2.162	87.368	27.689	3	167,927
Virginia	Danville, VA	3.863	61.296	6.708	0.423	25.914	5.012	0	0
Virginia	Fredericksburg, VA	4.219	78.838	11.578	0.620	48.843	5.478	0	0
Virginia	Harrisonburg, VA	8.399	82.943	10.497	1.063	88.165	32.472	3	167,927
Virginia	Lynchburg, VA	3.200	41.552	13.483	1.038	43.139	30.163	3	167,927
Virginia	Roanoke, VA	5.269	70.769	9.177	0.683	48.352	10.178	0	0
Virginia	Winchester, VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Washington	Bellingham, WA	5.939	92.286	38.391	2.471	228.016	70.072	4	223,902
Washington	Bremerton, WA	5.557	106.762	21.636	1.126	120.223	20.914	4	223,902

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Washington	Kennewick--Richland, WA	7.058	169.159	65.952	2.752	465.492	35.730	6	335,853
Washington	Longview, WA--OR	5.394	60.244	6.233	0.558	33.624	8.179	0	0
Washington	Marysville, WA	5.761	93.885	10.262	0.630	59.124	8.750	0	0
Washington	Mount Vernon, WA	4.921	96.172	30.412	1.556	149.649	12.425	3	167,927
Washington	Olympia--Lacey, WA	6.667	128.871	46.012	2.380	306.741	35.649	6	335,854
Washington	Wenatchee, WA	7.045	87.017	13.462	1.090	94.833	10.304	3	167,927
Washington	Yakima, WA	5.017	75.843	14.733	0.975	73.918	13.571	2	111,951
West Virginia	Charleston, WV	5.578	90.868	14.991	0.920	83.618	13.622	2	111,951
West Virginia	Huntington, WV--KY--OH	2.680	39.710	7.130	0.481	19.107	4.671	0	0
West Virginia	Morgantown, WV	1.175	18.818	16.483	1.029	19.371	17.373	3	167,927
West Virginia	Parkersburg, WV--OH	0.000	0.000	0.000	0.000	0.000	0.000	0	0
West Virginia	Wheeling, WV--OH	1.707	20.672	8.021	0.662	13.688	4.922	0	0
Wisconsin	Appleton, WI	2.000	29.208	10.528	0.721	21.056	6.015	0	0
Wisconsin	Beloit, WI--IL	2.908	44.549	7.810	0.510	22.710	5.439	0	0
Wisconsin	Eau Claire, WI	2.932	40.108	12.144	0.888	35.610	11.159	1	55,976
Wisconsin	Fond du Lac, WI	0.985	12.501	7.846	0.618	7.725	3.774	0	0
Wisconsin	Green Bay, WI	3.025	43.134	8.412	0.590	25.450	7.598	0	0
Wisconsin	Janesville, WI	3.601	55.140	7.606	0.497	27.394	7.031	0	0
Wisconsin	Kenosha, WI	4.299	61.503	10.697	0.748	45.985	15.181	0	0
Wisconsin	La Crosse, WI--MN	3.093	40.538	14.226	1.086	44.005	14.173	2	111,951
Wisconsin	Oshkosh, WI	3.224	45.794	13.198	0.929	42.544	14.223	2	111,951
Wisconsin	Racine, WI	3.864	49.378	10.169	0.796	39.290	11.027	0	0
Wisconsin	Sheboygan, WI	1.771	23.622	11.374	0.853	20.143	7.556	1	55,976
Wisconsin	Wausau, WI	3.902	56.880	11.603	0.796	45.279	12.053	0	0
Wyoming	Casper, WY	1.000	11.020	7.499	0.680	7.499	2.984	0	0
Wyoming	Cheyenne, WY	2.659	39.452	7.146	0.482	18.998	4.007	0	0
					Total			315	$17,632,310

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Alabama	Anniston, AL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Alabama	Auburn, AL	1.000	14.286	4.836	0.339	4.836	0.916	0	0
Alabama	Decatur, AL	0.954	11.935	9.117	0.729	8.699	2.973	0	0
Alabama	Dothan, AL	0.996	18.712	14.461	0.770	14.407	1.090	1	55,976
Alabama	Florence, AL	2.035	23.636	7.524	0.648	15.312	4.989	0	0
Alabama	Gadsden, AL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Alabama	Montgomery, AL	4.334	68.246	8.318	0.528	36.046	6.790	0	0
Alabama	Tuscaloosa, AL	3.352	39.894	2.786	0.234	9.338	1.784	0	0
Alaska	Fairbanks, AK	4.947	81.729	11.405	0.690	56.423	7.652	0	0
Arizona	Avondale, AZ	1.102	18.422	6.923	0.414	7.631	1.728	0	0
Arizona	Flagstaff, AZ	3.669	49.560	12.762	0.945	46.821	18.444	3	167,927
Arizona	Prescott, AZ	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arizona	Yuma, AZ--CA	1.276	28.071	12.824	0.583	16.364	3.804	1	55,976
Arkansas	Fayetteville--Springdale, AR	3.726	43.905	4.562	0.387	16.999	8.837	0	0
Arkansas	Fort Smith, AR--OK	2.274	30.356	4.264	0.319	9.698	2.110	0	0
Arkansas	Hot Springs, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arkansas	Jonesboro, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arkansas	Pine Bluff, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Atascadero--El Paso de Robles (Paso Robles), CA	10.429	280.642	5.000	0.186	52.144	1.805	2	111,951
California	Camarillo, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Chico, CA	5.696	83.982	14.213	0.964	80.956	14.933	2	111,951
California	Davis, CA	9.358	117.848	17.361	1.379	162.465	56.523	6	335,853
California	El Centro, CA	12.772	245.026	13.554	0.707	173.111	9.520	4	223,902
California	Fairfield, CA	4.613	92.027	13.016	0.653	60.048	6.792	1	55,976
California	Gilroy--Morgan Hill, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Hanford, CA	5.232	177.199	76.899	2.271	402.363	21.878	5	279,878
California	Hemet, CA	2.147	41.743	6.344	0.326	13.622	1.500	0	0
California	Livermore, CA	3.914	54.524	5.225	0.375	20.454	4.175	0	0
California	Lodi, CA	1.658	17.602	6.077	0.572	10.075	3.523	0	0
California	Lompoc, CA	10.073	139.170	8.540	0.618	86.029	5.304	2	111,951
California	Madera, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Manteca, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
California	Merced, CA	1.856	36.763	7.263	0.367	13.484	2.240	0	0
California	Napa, CA	2.370	29.145	8.217	0.668	19.471	5.157	0	0
California	Petaluma, CA	3.875	50.613	7.433	0.569	28.802	4.964	0	0
California	Porterville, CA	5.513	84.564	7.586	0.495	41.822	9.557	0	0
California	Redding, CA	4.502	72.411	10.435	0.649	46.978	8.557	0	0
California	Salinas, CA	6.949	114.338	8.887	0.540	61.761	9.252	2	111,951
California	San Luis Obispo, CA	6.032	91.945	13.215	0.867	79.710	22.014	3	167,927
California	Santa Barbara, CA	12.700	175.191	16.670	1.208	211.717	43.047	6	335,853
California	Santa Clarita, CA	11.642	202.302	16.000	0.921	186.278	17.929	6	335,853
California	Santa Cruz, CA	9.850	139.422	22.336	1.578	220.017	36.161	6	335,853
California	Santa Maria, CA	9.861	168.151	10.193	0.598	100.512	11.087	3	167,927
California	Seaside--Monterey--Marina, CA	6.003	97.695	19.123	1.175	114.795	17.310	4	223,902
California	Simi Valley, CA	3.678	51.714	5.757	0.409	21.176	4.250	0	0
California	Tracy, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Turlock, CA	1.837	29.548	20.053	1.247	36.843	17.070	3	167,927
California	Vacaville, CA	8.383	157.729	0.641	0.034	5.372	0.551	2	111,951
California	Vallejo, CA	5.482	81.997	7.839	0.524	42.975	5.727	0	0
California	Visalia, CA	4.298	59.795	12.710	0.914	54.627	13.199	2	111,951
California	Watsonville, CA	8.530	127.490	9.482	0.634	80.880	12.782	2	111,951
California	Yuba City, CA	6.213	94.617	11.696	0.768	72.673	10.740	0	0
Colorado	Boulder, CO	9.035	124.344	25.814	1.876	233.237	45.979	6	335,853
Colorado	Grand Junction, CO	4.696	74.522	8.884	0.560	41.720	9.405	0	0
Colorado	Greeley, CO	3.674	46.962	5.663	0.467	21.938	5.922	0	0
Colorado	Lafayette--Louisville, CO	8.788	122.484	6.783	0.487	59.608	11.883	2	111,951
Colorado	Longmont, CO	8.546	116.284	15.124	1.111	129.244	25.071	6	335,853
Colorado	Pueblo, CO	3.638	56.583	6.671	0.429	24.273	7.735	0	0
Connecticut	Danbury, CT--NY	29.205	791.504	35.247	1.301	1029.388	42.032	6	335,853
Connecticut	Norwich--New London, CT	6.150	115.480	9.421	0.502	57.944	7.170	1	55,976
Connecticut	Waterbury, CT	28.325	672.900	29.844	1.256	845.338	42.940	6	335,853
Delaware	Dover, DE	3.151	54.532	31.655	1.829	99.758	13.460	3	167,927
Florida	Brooksville, FL	1.904	36.391	5.392	0.282	10.269	1.603	0	0
Florida	Deltona, FL	3.262	49.465	7.476	0.493	24.386	4.703	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Florida	Fort Walton Beach, FL	1.353	18.763	6.857	0.495	9.279	1.645	0	0
Florida	Gainesville, FL	8.042	92.668	19.772	1.716	159.007	56.299	5	279,878
Florida	Kissimmee, FL	5.035	75.806	13.767	0.914	69.321	11.220	2	111,951
Florida	Lady Lake, FL	2.583	45.575	11.361	0.644	29.342	2.013	0	0
Florida	Lakeland, FL	4.548	68.513	9.097	0.604	41.371	7.866	0	0
Florida	Leesburg--Eustis, FL	2.720	49.263	12.612	0.696	34.307	2.288	1	55,976
Florida	North Port--Punta Gorda, FL	1.091	18.606	4.016	0.236	4.382	0.566	0	0
Florida	Ocala, FL	1.160	18.800	0.001	0.000	0.001	0.000	0	0
Florida	Panama City, FL	3.146	56.848	9.483	0.525	29.832	6.458	0	0
Florida	St. Augustine, FL	2.688	48.517	7.515	0.416	20.199	2.764	0	0
Florida	Titusville, FL	6.194	197.307	21.148	0.664	131.000	5.403	3	167,927
Florida	Vero Beach--Sebastian, FL	3.771	45.816	6.853	0.564	25.845	5.331	0	0
Florida	Winter Haven, FL	2.163	35.644	11.105	0.674	24.024	3.512	0	0
Florida	Zephyrhills, FL	4.069	70.135	6.737	0.391	27.414	4.222	0	0
Georgia	Albany, GA	7.184	116.990	6.735	0.414	48.381	10.083	2	111,951
Georgia	Athens-Clarke County, GA	6.769	56.893	14.648	1.743	99.148	105.901	5	279,878
Georgia	Brunswick, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Dalton, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Gainesville, GA	0.752	10.176	3.181	0.235	2.390	1.628	0	0
Georgia	Hinesville, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Macon, GA	3.459	47.963	8.334	0.601	28.828	6.732	0	0
Georgia	Rome, GA	8.156	93.311	9.694	0.847	79.071	12.322	2	111,951
Georgia	Valdosta, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Warner Robins, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Hawaii	Kailua (Honolulu County)--Kaneohe, HI	12.124	167.053	2.157	0.157	26.146	4.781	2	111,951
Idaho	Coeur d'Alene, ID	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Idaho	Idaho Falls, ID	1.715	22.424	8.142	0.623	13.961	1.940	0	0
Idaho	Lewiston, ID--WA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Idaho	Nampa, ID	4.797	106.453	5.939	0.268	28.491	2.154	0	0
Idaho	Pocatello, ID	4.679	65.095	7.830	0.563	36.638	7.486	0	0
Illinois	Alton, IL	5.329	94.453	4.037	0.228	21.517	2.813	0	0
Illinois	Bloomington--Normal, IL	3.124	45.130	13.151	0.910	41.076	14.617	2	111,951

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Illinois	Champaign, IL	10.106	114.839	24.952	2.196	252.170	81.691	6	335,853
Illinois	Danville, IL	4.987	93.323	9.684	0.518	48.297	9.736	0	0
Illinois	Decatur, IL	3.437	47.572	11.611	0.839	39.906	13.388	1	55,976
Illinois	DeKalb, IL	1.574	23.465	11.215	0.752	17.650	2.147	0	0
Illinois	Kankakee, IL	5.110	74.425	13.897	0.954	71.014	9.738	2	111,951
Illinois	Springfield, IL	3.004	37.531	10.211	0.817	30.676	11.046	0	0
Indiana	Anderson, IN	2.032	26.911	4.203	0.317	8.540	1.846	0	0
Indiana	Bloomington, IN	6.058	64.657	12.244	1.147	74.179	33.062	2	111,951
Indiana	Columbus, IN	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Indiana	Elkhart, IN--MI	2.596	39.952	5.563	0.361	14.438	2.416	0	0
Indiana	Kokomo, IN	1.235	11.876	9.430	0.981	11.650	2.524	1	55,976
Indiana	Lafayette, IN	6.032	68.558	12.658	1.114	76.359	37.711	3	167,927
Indiana	Michigan City, IN--MI	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Indiana	Muncie, IN	5.543	72.347	11.685	0.895	64.771	21.323	2	111,951
Indiana	Terre Haute, IN	1.451	12.385	4.883	0.572	7.084	3.983	0	0
Iowa	Ames, IA	6.857	72.329	22.166	2.101	151.992	98.611	5	279,878
Iowa	Cedar Rapids, IA	4.779	60.927	8.453	0.663	40.401	8.064	0	0
Iowa	Dubuque, IA--IL	2.059	24.198	8.284	0.705	17.057	5.423	0	0
Iowa	Iowa City, IA	5.539	62.388	23.821	2.115	131.958	77.497	4	223,902
Iowa	Sioux City, IA--NE--SD	8.385	106.001	6.905	0.546	57.898	11.246	1	55,976
Iowa	Waterloo, IA	1.062	16.734	9.514	0.604	10.108	5.083	0	0
Kansas	Lawrence, KS	2.892	34.153	11.608	0.983	33.572	12.316	1	55,976
Kansas	Topeka, KS	4.175	65.029	10.832	0.695	45.222	11.648	0	0
Kentucky	Bowling Green, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Kentucky	Owensboro, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Kentucky	Radcliff--Elizabethtown, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Alexandria, LA	5.018	80.419	8.270	0.516	41.499	10.646	0	0
Louisiana	Houma, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Lafayette, LA	9.119	121.277	4.789	0.360	43.674	8.358	2	111,951
Louisiana	Lake Charles, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Mandeville--Covington, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Monroe, LA	4.585	69.822	7.382	0.485	33.848	10.575	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Louisiana	Slidell, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Maine	Bangor, ME	6.049	80.878	10.327	0.772	62.464	14.958	0	0
Maine	Lewiston, ME	3.043	39.016	4.747	0.370	14.445	4.645	0	0
Maine	Portland, ME	6.137	69.703	8.400	0.740	51.550	12.854	0	0
Maryland	Aberdeen--Havre de Grace--Bel Air, MD	3.344	60.890	4.305	0.236	14.397	1.737	0	0
Maryland	Cumberland, MD--WV--PA	3.495	53.302	8.883	0.582	31.043	3.398	0	0
Maryland	Frederick, MD	3.241	45.419	9.771	0.697	31.665	6.647	0	0
Maryland	Hagerstown, MD--WV--PA	3.017	45.423	4.000	0.266	12.068	3.204	0	0
Maryland	Salisbury, MD--DE	0.000	0.000	32.947	1.582	0.000	8.610	2	111,951
Maryland	St. Charles, MD	3.884	63.606	8.304	0.507	32.249	3.836	0	0
Maryland	Westminster, MD	1.416	18.396	11.878	0.915	16.825	2.048	1	55,976
Massachusetts	Leominster--Fitchburg, MA	2.560	42.924	24.469	1.459	62.631	7.678	2	111,951
Massachusetts	New Bedford, MA	4.891	61.641	5.145	0.408	25.162	5.457	0	0
Massachusetts	Pittsfield, MA	3.828	52.778	16.353	1.186	62.595	7.967	2	111,951
Michigan	Battle Creek, MI	3.960	52.370	6.545	0.495	25.917	6.945	0	0
Michigan	Bay City, MI	2.731	50.742	19.021	1.024	51.952	8.250	2	111,951
Michigan	Benton Harbor--St. Joseph, MI	1.898	21.336	7.137	0.635	13.546	2.797	0	0
Michigan	Holland, MI	1.108	13.897	8.664	0.691	9.600	3.413	0	0
Michigan	Jackson, MI	2.404	35.533	8.602	0.582	20.682	6.341	0	0
Michigan	Kalamazoo, MI	3.859	45.441	10.893	0.925	42.037	13.934	1	55,976
Michigan	Monroe, MI	2.742	34.833	9.090	0.716	24.929	5.569	0	0
Michigan	Muskegon, MI	3.889	48.438	5.127	0.412	19.939	4.833	0	0
Michigan	Port Huron, MI	1.526	23.896	21.161	1.353	32.343	11.412	2	111,951
Michigan	Saginaw, MI	4.611	75.934	5.728	0.348	26.411	7.480	0	0
Michigan	South Lyon--Howell--Brighton, MI	2.391	47.311	5.058	0.256	12.094	0.864	0	0
Minnesota	Duluth, MN--WI	6.992	91.508	16.485	1.260	115.268	27.047	5	279,878
Minnesota	Rochester, MN	5.232	81.424	12.731	0.818	66.608	17.797	2	111,951
Minnesota	St. Cloud, MN	5.446	72.968	17.707	1.321	96.423	26.082	3	167,927
Mississippi	Hattiesburg, MS	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Mississippi	Pascagoula, MS	7.223	381.146	4.422	0.084	31.939	0.716	2	111,951
Missouri	Columbia, MO	4.931	48.836	7.771	0.785	38.321	23.263	1	55,976
Missouri	Jefferson City, MO	1.979	30.049	10.051	0.662	19.887	7.118	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Missouri	Joplin, MO	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Missouri	Lee's Summit, MO	1.856	28.036	0.398	0.026	0.738	0.114	0	0
Missouri	St. Joseph, MO--KS	2.341	28.018	10.754	0.899	25.179	5.015	1	55,976
Montana	Billings, MT	3.941	51.514	7.166	0.548	28.243	7.330	0	0
Montana	Great Falls, MT	1.543	19.917	8.508	0.659	13.129	6.155	0	0
Montana	Missoula, MT	3.428	50.628	12.318	0.834	42.224	17.085	2	111,951
N. Mariana Islands	Saipan, MP	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Nevada	Carson City, NV	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New Hampshire	Dover--Rochester, NH--ME	8.349	128.003	7.236	0.472	60.412	11.960	2	111,951
New Hampshire	Manchester, NH	2.553	27.315	3.742	0.350	9.554	3.787	0	0
New Hampshire	Nashua, NH--MA	4.914	65.242	2.453	0.185	12.056	2.367	0	0
New Hampshire	Portsmouth, NH--ME	8.359	128.218	5.477	0.357	45.782	9.147	2	111,951
New Jersey	Hightstown, NJ	4.006	57.597	0.481	0.033	1.928	0.448	0	0
New Jersey	Vineland, NJ	1.335	20.495	5.621	0.366	7.505	1.085	0	0
New Jersey	Wildwood--North Wildwood--Cape May, NJ	1.335	20.495	17.653	1.150	23.572	3.407	2	111,951
New Mexico	Farmington, NM	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New Mexico	Las Cruces, NM	3.281	37.349	6.696	0.588	21.966	6.861	0	0
New Mexico	Santa Fe, NM	3.180	39.960	16.206	1.290	51.539	11.577	2	111,951
New York	Binghamton, NY--PA	4.943	71.385	16.923	1.172	83.655	20.049	3	167,928
New York	Elmira, NY	3.157	55.935	14.230	0.803	44.922	10.351	1	55,976
New York	Glens Falls, NY	3.456	56.081	5.765	0.355	19.923	5.544	0	0
New York	Ithaca, NY	4.262	66.552	39.592	2.536	168.747	63.776	4	223,902
New York	Kingston, NY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New York	Middletown, NY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New York	Saratoga Springs, NY	0.894	8.953	6.237	0.623	5.576	2.653	0	0
New York	Utica, NY	3.340	39.244	9.111	0.775	30.433	10.471	0	0
North Carolina	Burlington, NC	0.000	0.000	1.939	0.044	0.000	0.492	0	0
North Carolina	Concord, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Gastonia, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Goldsboro, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Greenville, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Hickory, NC	3.137	54.463	4.244	0.244	13.315	1.290	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
North Carolina	High Point, NC	1.664	29.883	11.550	0.643	19.217	8.013	0	0
North Carolina	Jacksonville, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Rocky Mount, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Wilmington, NC	1.812	27.385	11.971	0.792	21.693	9.216	0	0
North Dakota	Bismarck, ND	1.190	17.240	12.721	0.878	15.141	4.025	2	111,951
North Dakota	Fargo, ND--MN	4.771	61.629	8.958	0.694	42.741	13.582	0	0
North Dakota	Grand Forks, ND--MN	2.085	20.370	11.350	1.162	23.667	5.892	1	55,976
Ohio	Lima, OH	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Ohio	Lorain--Elyria, OH	3.094	54.397	5.628	0.320	17.416	2.881	0	0
Ohio	Mansfield, OH	2.792	32.974	3.994	0.338	11.153	3.600	0	0
Ohio	Middletown, OH	3.983	56.908	2.646	0.185	10.541	2.102	0	0
Ohio	Newark, OH	0.885	14.789	14.140	0.846	12.517	2.063	2	111,951
Ohio	Sandusky, OH	1.482	14.713	4.982	0.502	7.384	1.646	0	0
Ohio	Springfield, OH	2.519	28.633	3.042	0.268	7.661	4.203	0	0
Ohio	Weirton, WV--Steubenville, OH--PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Oklahoma	Lawton, OK	2.769	40.886	7.671	0.520	21.245	4.795	0	0
Oklahoma	Norman, OK	5.294	60.834	6.549	0.570	34.671	15.264	0	0
Oregon	Bend, OR	0.610	5.592	5.526	0.603	3.371	5.661	0	0
Oregon	Corvallis, OR	8.295	117.864	6.801	0.479	56.413	11.811	2	111,951
Oregon	Medford, OR	5.964	101.819	7.482	0.438	44.628	8.606	0	0
Pennsylvania	Altoona, PA	4.093	51.535	6.217	0.494	25.443	7.359	0	0
Pennsylvania	Erie, PA	3.688	44.564	15.632	1.294	57.647	16.819	3	167,927
Pennsylvania	Hazleton, PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Pennsylvania	Johnstown, PA	6.647	72.208	9.495	0.874	63.110	15.828	2	111,951
Pennsylvania	Lebanon, PA	3.489	59.031	12.638	0.747	44.093	5.802	1	55,976
Pennsylvania	Monessen, PA	13.956	189.769	4.836	0.356	67.491	2.863	2	111,951
Pennsylvania	Pottstown, PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Pennsylvania	State College, PA	10.680	150.260	24.859	1.767	265.493	99.558	6	335,853
Pennsylvania	Uniontown--Connellsville, PA	1.516	26.520	23.450	1.341	35.552	4.233	2	111,951
Pennsylvania	Williamsport, PA	7.472	112.841	14.307	0.947	106.906	22.104	6	335,853
Pennsylvania	York, PA	3.148	43.826	13.379	0.961	42.120	7.846	2	111,951
Puerto Rico	Arecibo, PR	3.160	36.365	13.204	1.147	41.728	9.413	2	111,951

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Puerto Rico	Fajardo, PR	3.533	41.489	24.297	2.069	85.840	18.507	3	167,927
Puerto Rico	Florida--Barceloneta--Bajadero, PR	3.558	39.479	4.045	0.365	14.394	3.206	0	0
Puerto Rico	Guayama, PR	4.427	44.348	13.130	1.311	58.127	14.079	2	111,951
Puerto Rico	Juana Diaz, PR	3.851	39.866	14.311	1.382	55.110	13.762	2	111,951
Puerto Rico	Mayaguez, PR	3.146	27.913	21.686	2.444	68.224	19.496	3	167,927
Puerto Rico	Ponce, PR	3.767	32.405	7.482	0.870	28.187	9.114	1	55,976
Puerto Rico	San German--Cabo Rojo--Sabana Grande, PR	3.399	39.932	10.104	0.860	34.342	7.285	1	55,976
Puerto Rico	Yauco, PR	3.345	36.870	17.738	1.609	59.337	12.253	2	111,951
South Carolina	Anderson, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Florence, SC	2.576	60.301	39.269	1.677	101.144	4.809	3	167,927
South Carolina	Mauldin--Simpsonville, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Myrtle Beach, SC	2.277	32.732	5.172	0.360	11.776	2.173	0	0
South Carolina	Rock Hill, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Spartanburg, SC	2.706	38.062	6.690	0.476	18.104	3.770	0	0
South Carolina	Sumter, SC	3.327	62.784	26.953	1.428	89.665	5.869	2	111,951
South Dakota	Rapid City, SD	2.424	26.356	7.094	0.652	17.193	4.536	0	0
South Dakota	Sioux Falls, SD	5.044	64.131	10.654	0.838	53.735	8.484	1	55,976
Tennessee	Bristol, TN--Bristol, VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Clarksville, TN--KY	3.182	49.586	10.710	0.687	34.073	6.128	0	0
Tennessee	Cleveland, TN	0.654	6.395	4.477	0.458	2.929	1.001	0	0
Tennessee	Jackson, TN	3.304	44.145	11.925	0.892	39.399	8.853	1	55,976
Tennessee	Johnson City, TN	3.621	41.649	5.910	0.514	21.397	5.703	0	0
Tennessee	Kingsport, TN--VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Morristown, TN	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Murfreesboro, TN	1.804	17.660	4.104	0.419	7.403	2.025	0	0
Texas	Abilene, TX	2.467	32.444	9.651	0.734	23.806	5.432	0	0
Texas	Amarillo, TX	1.742	26.239	4.794	0.318	8.349	1.991	0	0
Texas	Beaumont, TX	3.516	48.525	6.232	0.452	21.913	4.678	0	0
Texas	Brownsville, TX	14.240	168.529	5.961	0.504	84.883	9.950	2	111,951
Texas	College Station--Bryan, TX	1.290	21.963	4.845	0.285	6.248	2.767	0	0
Texas	Galveston, TX	3.678	39.935	7.737	0.712	28.453	9.128	0	0
Texas	Harlingen, TX	0.505	5.943	0.579	0.049	0.292	0.058	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Texas	Killeen, TX	2.823	47.247	5.393	0.322	15.224	1.860	0	0
Texas	Lake Jackson--Angleton, TX	1.947	32.631	1.636	0.098	3.185	0.190	0	0
Texas	Laredo, TX	7.097	76.229	10.796	1.005	76.616	22.987	3	167,927
Texas	Longview, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	McKinney, TX	1.236	19.476	7.786	0.494	9.625	1.292	0	0
Texas	Midland, TX	0.918	14.002	3.818	0.250	3.506	1.937	0	0
Texas	Odessa, TX	0.919	14.010	4.112	0.270	3.778	2.075	0	0
Texas	Port Arthur, TX	3.471	54.362	3.051	0.195	10.591	1.297	0	0
Texas	San Angelo, TX	1.393	21.442	13.106	0.851	18.255	3.560	2	111,951
Texas	Sherman, TX	2.274	37.095	9.432	0.578	21.447	1.712	0	0
Texas	Temple, TX	1.519	21.528	7.682	0.542	11.668	1.978	0	0
Texas	Texarkana, TX--Texarkana, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Texas City, TX	1.499	27.934	3.237	0.174	4.852	0.366	0	0
Texas	The Woodlands, TX	33.409	893.664	4.378	0.164	146.251	4.067	3	167,927
Texas	Tyler, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Victoria, TX	1.024	14.161	10.461	0.756	10.707	4.613	0	0
Texas	Waco, TX	3.681	57.430	6.330	0.406	23.297	4.350	0	0
Texas	Wichita Falls, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Utah	Logan, UT	5.995	88.075	10.918	0.743	65.457	21.315	1	55,976
Utah	St. George, UT	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Vermont	Burlington, VT	6.077	84.982	15.599	1.115	94.791	24.220	3	167,927
Virgin Islands	Virgin Islands	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Virginia	Blacksburg, VA	7.574	81.380	19.442	1.809	147.248	62.029	5	279,878
Virginia	Charlottesville, VA	3.233	40.420	27.023	2.162	87.368	27.689	3	167,927
Virginia	Danville, VA	3.863	61.296	6.708	0.423	25.914	5.012	0	0
Virginia	Fredericksburg, VA	4.219	78.838	11.578	0.620	48.843	5.478	0	0
Virginia	Harrisonburg, VA	8.399	82.943	10.497	1.063	88.165	32.472	3	167,927
Virginia	Lynchburg, VA	3.200	41.552	13.483	1.038	43.139	30.163	3	167,927
Virginia	Roanoke, VA	5.269	70.769	9.177	0.683	48.352	10.178	0	0
Virginia	Winchester, VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Washington	Bellingham, WA	5.939	92.286	38.391	2.471	228.016	70.072	4	223,902
Washington	Bremerton, WA	5.557	106.762	21.636	1.126	120.223	20.914	4	223,902

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Washington	Kennewick--Richland, WA	7.058	169.159	65.952	2.752	465.492	35.730	6	335,853
Washington	Longview, WA--OR	5.394	60.244	6.233	0.558	33.624	8.179	0	0
Washington	Marysville, WA	5.761	93.885	10.262	0.630	59.124	8.750	0	0
Washington	Mount Vernon, WA	4.921	96.172	30.412	1.556	149.649	12.425	3	167,927
Washington	Olympia--Lacey, WA	6.667	128.871	46.012	2.380	306.741	35.649	6	335,854
Washington	Wenatchee, WA	7.045	87.017	13.462	1.090	94.833	10.304	3	167,927
Washington	Yakima, WA	5.017	75.843	14.733	0.975	73.918	13.571	2	111,951
West Virginia	Charleston, WV	5.578	90.868	14.991	0.920	83.618	13.622	2	111,951
West Virginia	Huntington, WV--KY--OH	2.680	39.710	7.130	0.481	19.107	4.671	0	0
West Virginia	Morgantown, WV	1.175	18.818	16.483	1.029	19.371	17.373	3	167,927
West Virginia	Parkersburg, WV--OH	0.000	0.000	0.000	0.000	0.000	0.000	0	0
West Virginia	Wheeling, WV--OH	1.707	20.672	8.021	0.662	13.688	4.922	0	0
Wisconsin	Appleton, WI	2.000	29.208	10.528	0.721	21.056	6.015	0	0
Wisconsin	Beloit, WI--IL	2.908	44.549	7.810	0.510	22.710	5.439	0	0
Wisconsin	Eau Claire, WI	2.932	40.108	12.144	0.888	35.610	11.159	1	55,976
Wisconsin	Fond du Lac, WI	0.985	12.501	7.846	0.618	7.725	3.774	0	0
Wisconsin	Green Bay, WI	3.025	43.134	8.412	0.590	25.450	7.598	0	0
Wisconsin	Janesville, WI	3.601	55.140	7.606	0.497	27.394	7.031	0	0
Wisconsin	Kenosha, WI	4.299	61.503	10.697	0.748	45.985	15.181	0	0
Wisconsin	La Crosse, WI--MN	3.093	40.538	14.226	1.086	44.005	14.173	2	111,951
Wisconsin	Oshkosh, WI	3.224	45.794	13.198	0.929	42.544	14.223	2	111,951
Wisconsin	Racine, WI	3.864	49.378	10.169	0.796	39.290	11.027	0	0
Wisconsin	Sheboygan, WI	1.771	23.622	11.374	0.853	20.143	7.556	1	55,976
Wisconsin	Wausau, WI	3.902	56.880	11.603	0.796	45.279	12.053	0	0
Wyoming	Casper, WY	1.000	11.020	7.499	0.680	7.499	2.984	0	0
Wyoming	Cheyenne, WY	2.659	39.452	7.146	0.482	18.998	4.007	0	0
					Total			315	$17,632,310

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Alabama	Anniston, AL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Alabama	Auburn, AL	1.000	14.286	4.836	0.339	4.836	0.916	0	0
Alabama	Decatur, AL	0.954	11.935	9.117	0.729	8.699	2.973	0	0
Alabama	Dothan, AL	0.996	18.712	14.461	0.770	14.407	1.090	1	55,976
Alabama	Florence, AL	2.035	23.636	7.524	0.648	15.312	4.989	0	0
Alabama	Gadsden, AL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Alabama	Montgomery, AL	4.334	68.246	8.318	0.528	36.046	6.790	0	0
Alabama	Tuscaloosa, AL	3.352	39.894	2.786	0.234	9.338	1.784	0	0
Alaska	Fairbanks, AK	4.947	81.729	11.405	0.690	56.423	7.652	0	0
Arizona	Avondale, AZ	1.102	18.422	6.923	0.414	7.631	1.728	0	0
Arizona	Flagstaff, AZ	3.669	49.560	12.762	0.945	46.821	18.444	3	167,927
Arizona	Prescott, AZ	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arizona	Yuma, AZ--CA	1.276	28.071	12.624	0.583	16.364	3.804	1	55,976
Arkansas	Fayetteville--Springdale, AR	3.726	43.905	4.562	0.387	16.999	8.837	0	0
Arkansas	Fort Smith, AR--OK	2.274	30.356	4.264	0.319	9.698	2.110	0	0
Arkansas	Hot Springs, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arkansas	Jonesboro, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arkansas	Pine Bluff, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Atascadero--El Paso de Robles (Paso Robles), CA	10.429	280.642	5.000	0.186	52.144	1.805	2	111,951
California	Camarillo, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Chico, CA	5.696	83.982	14.213	0.964	80.956	14.933	2	111,951
California	Davis, CA	9.358	117.848	17.361	1.379	162.465	56.523	6	335,853
California	El Centro, CA	12.772	245.026	13.554	0.707	173.111	9.520	4	223,902
California	Fairfield, CA	4.613	92.027	13.016	0.653	60.048	6.792	1	55,976
California	Gilroy--Morgan Hill, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Hanford, CA	5.232	177.199	76.899	2.271	402.363	21.878	5	279,878
California	Hemet, CA	2.147	41.743	6.344	0.326	13.622	1.500	0	0
California	Livermore, CA	3.914	54.524	5.225	0.375	20.454	4.175	0	0
California	Lodi, CA	1.658	17.602	6.077	0.572	10.075	3.523	0	0
California	Lompoc, CA	10.073	139.170	8.540	0.618	86.029	5.304	2	111,951
California	Madera, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Manteca, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
California	Merced, CA	1.856	36.763	7.263	0.367	13.484	2.240	0	0
California	Napa, CA	2.370	29.145	8.217	0.668	19.471	5.157	0	0
California	Petaluma, CA	3.875	50.613	7.433	0.569	28.802	4.964	0	0
California	Porterville, CA	5.513	84.564	7.586	0.495	41.822	9.557	0	0
California	Redding, CA	4.502	72.411	10.435	0.649	46.978	8.557	0	0
California	Salinas, CA	6.949	114.338	8.887	0.540	61.761	9.252	2	111,951
California	San Luis Obispo, CA	6.032	91.945	13.215	0.867	79.710	22.014	3	167,927
California	Santa Barbara, CA	12.700	175.191	16.670	1.208	211.717	43.047	6	335,853
California	Santa Clarita, CA	11.642	202.302	16.000	0.921	186.278	17.929	6	335,853
California	Santa Cruz, CA	9.850	139.422	22.336	1.578	220.017	36.161	6	335,853
California	Santa Maria, CA	9.861	168.151	10.193	0.598	100.512	11.087	3	167,927
California	Seaside--Monterey--Marina, CA	6.003	97.695	19.123	1.175	114.795	17.310	4	223,902
California	Simi Valley, CA	3.678	51.714	5.757	0.409	21.176	4.250	0	0
California	Tracy, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Turlock, CA	1.837	29.548	20.053	1.247	36.843	17.070	3	167,927
California	Vacaville, CA	8.383	157.729	0.641	0.034	5.372	0.551	2	111,951
California	Vallejo, CA	5.482	81.997	7.839	0.524	42.975	5.727	0	0
California	Visalia, CA	4.298	59.795	12.710	0.914	54.627	13.199	2	111,951
California	Watsonville, CA	8.530	127.490	9.482	0.634	80.880	12.782	2	111,951
California	Yuba City, CA	6.213	94.617	11.696	0.768	72.673	10.740	0	0
Colorado	Boulder, CO	9.035	124.344	25.814	1.876	233.237	45.979	6	335,853
Colorado	Grand Junction, CO	4.696	74.522	8.884	0.560	41.720	9.405	0	0
Colorado	Greeley, CO	3.874	46.962	5.663	0.467	21.938	5.922	0	0
Colorado	Lafayette--Louisville, CO	8.788	122.484	6.783	0.487	59.608	11.883	2	111,951
Colorado	Longmont, CO	8.546	116.284	15.124	1.111	129.244	25.071	6	335,853
Colorado	Pueblo, CO	3.638	56.583	6.671	0.429	24.273	7.735	0	0
Connecticut	Danbury, CT--NY	29.205	791.504	35.247	1.301	1029.388	42.032	6	335,853
Connecticut	Norwich--New London, CT	6.150	115.480	9.421	0.502	57.944	7.170	1	55,976
Connecticut	Waterbury, CT	28.325	672.900	29.844	1.256	845.338	42.940	6	335,853
Delaware	Dover, DE	3.151	54.532	31.655	1.829	99.758	13.450	3	167,927
Florida	Brooksville, FL	1.904	36.391	5.392	0.282	10.269	1.603	0	0
Florida	Deltona, FL	3.262	49.465	7.476	0.493	24.386	4.703	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Florida	Fort Walton Beach, FL	1.353	18.763	6.857	0.495	9.279	1.645	0	0
Florida	Gainesville, FL	8.042	92.668	19.772	1.716	159.007	56.299	5	279,878
Florida	Kissimmee, FL	5.035	75.806	13.767	0.914	69.321	11.220	2	111,951
Florida	Lady Lake, FL	2.583	45.575	11.361	0.644	29.342	2.013	0	0
Florida	Lakeland, FL	4.548	68.513	9.097	0.604	41.371	7.866	0	0
Florida	Leesburg--Eustis, FL	2.720	49.263	12.612	0.696	34.307	2.288	1	55,976
Florida	North Port--Punta Gorda, FL	1.091	18.606	4.016	0.236	4.382	0.566	0	0
Florida	Ocala, FL	1.160	18.800	0.001	0.000	0.001	0.000	0	0
Florida	Panama City, FL	3.146	56.848	9.483	0.525	29.832	6.458	0	0
Florida	St. Augustine, FL	2.688	48.517	7.515	0.416	20.199	2.764	0	0
Florida	Titusville, FL	6.194	197.307	21.148	0.664	131.000	5.403	3	167,927
Florida	Vero Beach--Sebastian, FL	3.771	45.816	6.853	0.564	25.845	5.331	0	0
Florida	Winter Haven, FL	2.163	35.644	11.105	0.674	24.024	3.512	0	0
Florida	Zephyrhills, FL	4.069	70.135	6.737	0.391	27.414	4.222	0	0
Georgia	Albany, GA	7.184	116.990	6.735	0.414	48.381	10.083	2	111,951
Georgia	Athens-Clarke County, GA	6.769	56.893	14.648	1.743	99.148	105.901	5	279,878
Georgia	Brunswick, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Dalton, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Gainesville, GA	0.752	10.176	3.181	0.235	2.390	1.628	0	0
Georgia	Hinesville, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Macon, GA	3.459	47.963	8.334	0.601	28.828	6.732	0	0
Georgia	Rome, GA	8.156	93.311	9.694	0.847	79.071	12.322	2	111,951
Georgia	Valdosta, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Warner Robins, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Hawaii	Kailua (Honolulu County)--Kaneohe, HI	12.124	167.053	2.157	0.157	26.146	4.781	2	111,951
Idaho	Coeur d'Alene, ID	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Idaho	Idaho Falls, ID	1.715	22.424	8.142	0.623	13.961	1.940	0	0
Idaho	Lewiston, ID--WA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Idaho	Nampa, ID	4.797	106.453	5.939	0.268	28.491	2.154	0	0
Idaho	Pocatello, ID	4.679	65.095	7.830	0.563	36.638	7.486	0	0
Illinois	Alton, IL	5.329	94.453	4.037	0.228	21.517	2.813	0	0
Illinois	Bloomington--Normal, IL	3.124	45.130	13.151	0.910	41.076	14.617	2	111,951

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Illinois	Champaign, IL	10.106	114.839	24.952	2.196	252.170	81.691	6	335,853
Illinois	Danville, IL	4.987	93.323	9.684	0.518	48.297	9.736	0	0
Illinois	Decatur, IL	3.437	47.572	11.611	0.839	39.906	13.388	1	55,976
Illinois	DeKalb, IL	1.574	23.465	11.215	0.752	17.650	2.147	0	0
Illinois	Kankakee, IL	5.110	74.425	13.897	0.954	71.014	9.738	2	111,951
Illinois	Springfield, IL	3.004	37.531	10.211	0.817	30.676	11.046	0	0
Indiana	Anderson, IN	2.032	26.911	4.203	0.317	8.540	1.846	0	0
Indiana	Bloomington, IN	6.058	64.657	12.244	1.147	74.179	33.062	2	111,951
Indiana	Columbus, IN	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Indiana	Elkhart, IN--MI	2.596	39.952	5.563	0.361	14.438	2.416	0	0
Indiana	Kokomo, IN	1.235	11.876	9.430	0.981	11.650	2.524	1	55,976
Indiana	Lafayette, IN	6.032	68.558	12.658	1.114	76.359	37.711	3	167,927
Indiana	Michigan City, IN--MI	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Indiana	Muncie, IN	5.543	72.347	11.685	0.895	64.771	21.323	2	111,951
Indiana	Terre Haute, IN	1.451	12.385	4.883	0.572	7.084	3.983	0	0
Iowa	Ames, IA	6.857	72.329	22.166	2.101	151.992	98.611	5	279,878
Iowa	Cedar Rapids, IA	4.779	60.927	8.453	0.663	40.401	8.064	0	0
Iowa	Dubuque, IA--IL	2.059	24.198	8.284	0.705	17.057	5.423	0	0
Iowa	Iowa City, IA	5.539	62.388	23.821	2.115	131.958	77.497	4	223,902
Iowa	Sioux City, IA--NE--SD	8.385	106.001	6.905	0.546	57.898	11.246	1	55,976
Iowa	Waterloo, IA	1.062	16.734	9.514	0.604	10.108	5.083	0	0
Kansas	Lawrence, KS	2.892	34.153	11.608	0.983	33.572	12.316	1	55,976
Kansas	Topeka, KS	4.175	65.029	10.832	0.695	45.222	11.648	0	0
Kentucky	Bowling Green, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Kentucky	Owensboro, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Kentucky	Radcliff--Elizabethtown, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Alexandria, LA	5.018	80.419	8.270	0.516	41.499	10.646	0	0
Louisiana	Houma, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Lafayette, LA	9.119	121.277	4.789	0.360	43.674	8.358	2	111,951
Louisiana	Lake Charles, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Mandeville--Covington, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Monroe, LA	4.585	69.822	7.382	0.485	33.848	10.575	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Louisiana	Slidell, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Maine	Bangor, ME	6.049	80.878	10.327	0.772	62.464	14.958	0	0
Maine	Lewiston, ME	3.043	39.016	4.747	0.370	14.445	4.645	0	0
Maine	Portland, ME	6.137	69.703	8.400	0.740	51.550	12.854	0	0
Maryland	Aberdeen--Havre de Grace--Bel Air, MD	3.344	60.890	4.305	0.236	14.397	1.737	0	0
Maryland	Cumberland, MD--WV--PA	3.495	53.302	8.883	0.582	31.043	3.398	0	0
Maryland	Frederick, MD	3.241	45.419	9.771	0.697	31.665	6.647	0	0
Maryland	Hagerstown, MD--WV--PA	3.017	45.423	4.000	0.266	12.068	3.204	0	0
Maryland	Salisbury, MD--DE	0.000	0.000	32.947	1.582	0.000	8.610	2	111,951
Maryland	St. Charles, MD	3.884	63.606	8.304	0.507	32.249	3.836	0	0
Maryland	Westminster, MD	1.416	18.396	11.878	0.915	16.825	2.048	1	55,976
Massachusetts	Leominster--Fitchburg, MA	2.560	42.924	24.469	1.459	62.631	7.678	2	111,951
Massachusetts	New Bedford, MA	4.891	61.641	5.145	0.408	25.162	5.457	0	0
Massachusetts	Pittsfield, MA	3.828	52.778	16.353	1.186	62.595	7.967	2	111,951
Michigan	Battle Creek, MI	3.960	52.370	6.545	0.495	25.917	6.945	0	0
Michigan	Bay City, MI	2.731	50.742	19.021	1.024	51.952	8.250	2	111,951
Michigan	Benton Harbor--St. Joseph, MI	1.898	21.336	7.137	0.635	13.546	2.797	0	0
Michigan	Holland, MI	1.108	13.897	8.664	0.691	9.600	3.413	0	0
Michigan	Jackson, MI	2.404	35.533	8.602	0.582	20.682	6.341	0	0
Michigan	Kalamazoo, MI	3.859	45.441	10.893	0.925	42.037	13.934	1	55,976
Michigan	Monroe, MI	2.742	34.833	9.090	0.716	24.929	5.569	0	0
Michigan	Muskegon, MI	3.889	48.438	5.127	0.412	19.939	4.833	0	0
Michigan	Port Huron, MI	1.528	23.896	21.161	1.353	32.343	11.412	2	111,951
Michigan	Saginaw, MI	4.611	75.934	5.728	0.348	26.411	7.480	0	0
Michigan	South Lyon--Howell--Brighton, MI	2.391	47.311	5.058	0.256	12.094	0.864	0	0
Minnesota	Duluth, MN--WI	6.992	91.508	16.485	1.260	115.268	27.047	5	279,878
Minnesota	Rochester, MN	5.232	81.424	12.731	0.818	66.608	17.797	2	111,951
Minnesota	St. Cloud, MN	5.446	72.968	17.707	1.321	96.423	26.082	3	167,927
Mississippi	Hattiesburg, MS	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Mississippi	Pascagoula, MS	7.223	381.146	4.422	0.084	31.939	0.716	2	111,951
Missouri	Columbia, MO	4.931	48.836	7.771	0.785	38.321	23.263	1	55,976
Missouri	Jefferson City, MO	1.979	30.049	10.051	0.662	19.887	7.118	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Missouri	Joplin, MO	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Missouri	Lee's Summit, MO	1.856	28.036	0.398	0.026	0.738	0.114	0	0
Missouri	St. Joseph, MO--KS	2.341	28.018	10.754	0.899	25.179	5.015	1	55,976
Montana	Billings, MT	3.941	51.514	7.166	0.548	28.243	7.330	0	0
Montana	Great Falls, MT	1.543	19.917	8.508	0.659	13.129	6.155	0	0
Montana	Missoula, MT	3.428	50.628	12.318	0.834	42.224	17.085	2	111,951
N. Mariana Islands	Saipan, MP	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Nevada	Carson City, NV	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New Hampshire	Dover--Rochester, NH--ME	8.349	128.003	7.236	0.472	60.412	11.960	2	111,951
New Hampshire	Manchester, NH	2.553	27.315	3.742	0.350	9.554	3.787	0	0
New Hampshire	Nashua, NH--MA	4.914	65.242	2.453	0.185	12.056	2.367	0	0
New Hampshire	Portsmouth, NH--ME	8.359	128.218	5.477	0.357	45.782	9.147	2	111,951
New Jersey	Hightstown, NJ	4.006	57.597	0.481	0.033	1.928	0.448	0	0
New Jersey	Vineland, NJ	1.335	20.495	5.621	0.366	7.505	1.085	0	0
New Jersey	Wildwood--North Wildwood--Cape May, NJ	1.335	20.495	17.653	1.150	23.572	3.407	2	111,951
New Mexico	Farmington, NM	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New Mexico	Las Cruces, NM	3.281	37.349	6.696	0.588	21.966	6.861	0	0
New Mexico	Santa Fe, NM	3.180	39.960	16.206	1.290	51.539	11.577	2	111,951
New York	Binghamton, NY--PA	4.943	71.385	16.923	1.172	83.655	20.049	3	167,928
New York	Elmira, NY	3.157	55.935	14.230	0.803	44.922	10.351	1	55,976
New York	Glens Falls, NY	3.456	56.081	5.765	0.355	19.923	5.544	0	0
New York	Ithaca, NY	4.262	66.552	39.592	2.536	168.747	63.776	4	223,902
New York	Kingston, NY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New York	Middletown, NY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New York	Saratoga Springs, NY	0.894	8.953	6.237	0.623	5.576	2.653	0	0
New York	Utica, NY	3.340	39.244	9.111	0.775	30.433	10.471	0	0
North Carolina	Burlington, NC	0.000	0.000	1.939	0.044	0.000	0.492	0	0
North Carolina	Concord, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Gastonia, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Goldsboro, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Greenville, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Hickory, NC	3.137	54.463	4.244	0.244	13.315	1.290	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
North Carolina	High Point, NC	1.664	29.883	11.550	0.643	19.217	8.013	0	0
North Carolina	Jacksonville, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Rocky Mount, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Wilmington, NC	1.812	27.385	11.971	0.792	21.693	9.216	0	0
North Dakota	Bismarck, ND	1.190	17.240	12.721	0.878	15.141	4.025	2	111,951
North Dakota	Fargo, ND--MN	4.771	61.629	8.958	0.694	42.741	13.582	0	0
North Dakota	Grand Forks, ND--MN	2.085	20.370	11.350	1.162	23.667	5.892	1	55,976
Ohio	Lima, OH	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Ohio	Lorain--Elyria, OH	3.094	54.397	5.628	0.320	17.416	2.881	0	0
Ohio	Mansfield, OH	2.792	32.974	3.994	0.338	11.153	3.600	0	0
Ohio	Middletown, OH	3.983	56.908	2.646	0.185	10.541	2.102	0	0
Ohio	Newark, OH	0.885	14.789	14.140	0.846	12.517	2.063	2	111,951
Ohio	Sandusky, OH	1.482	14.713	4.982	0.502	7.384	1.646	0	0
Ohio	Springfield, OH	2.519	28.633	3.042	0.268	7.661	4.203	0	0
Ohio	Weirton, WV--Steubenville, OH--PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Oklahoma	Lawton, OK	2.769	40.886	7.671	0.520	21.245	4.795	0	0
Oklahoma	Norman, OK	5.294	60.834	6.549	0.570	34.671	15.264	0	0
Oregon	Bend, OR	0.610	5.592	5.526	0.603	3.371	5.661	0	0
Oregon	Corvallis, OR	8.295	117.864	6.801	0.479	56.413	11.811	2	111,951
Oregon	Medford, OR	5.964	101.819	7.482	0.438	44.628	8.606	0	0
Pennsylvania	Altoona, PA	4.093	51.535	6.217	0.494	25.443	7.359	0	0
Pennsylvania	Erie, PA	3.688	44.564	15.632	1.294	57.647	16.819	3	167,927
Pennsylvania	Hazleton, PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Pennsylvania	Johnstown, PA	6.647	72.208	9.495	0.874	63.110	15.828	2	111,951
Pennsylvania	Lebanon, PA	3.489	59.031	12.638	0.747	44.093	5.802	1	55,976
Pennsylvania	Monessen, PA	13.956	189.769	4.836	0.356	67.491	2.863	2	111,951
Pennsylvania	Pottstown, PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Pennsylvania	State College, PA	10.680	150.260	24.859	1.767	265.493	99.558	6	335,853
Pennsylvania	Uniontown--Connellsville, PA	1.516	26.520	23.450	1.341	35.552	4.233	2	111,951
Pennsylvania	Williamsport, PA	7.472	112.841	14.307	0.947	106.906	22.104	6	335,853
Pennsylvania	York, PA	3.148	43.826	13.379	0.961	42.120	7.846	2	111,951
Puerto Rico	Arecibo, PR	3.160	36.365	13.204	1.147	41.728	9.413	2	111,951

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Puerto Rico	Fajardo, PR	3.533	41.489	24.297	2.069	85.840	18.507	3	167,927
Puerto Rico	Florida--Barceloneta--Bajadero, PR	3.558	39.479	4.045	0.365	14.394	3.206	0	0
Puerto Rico	Guayama, PR	4.427	44.348	13.130	1.311	58.127	14.079	2	111,951
Puerto Rico	Juana Diaz, PR	3.851	39.866	14.311	1.382	55.110	13.762	2	111,951
Puerto Rico	Mayaguez, PR	3.146	27.913	21.686	2.444	68.224	19.496	3	167,927
Puerto Rico	Ponce, PR	3.767	32.405	7.482	0.870	28.187	9.114	1	55,976
Puerto Rico	San German--Cabo Rojo--Sabana Grande, PR	3.399	39.932	10.104	0.860	34.342	7.285	1	55,976
Puerto Rico	Yauco, PR	3.345	36.870	17.738	1.609	59.337	12.253	2	111,951
South Carolina	Anderson, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Florence, SC	2.576	60.301	39.269	1.677	101.144	4.809	3	167,927
South Carolina	Mauldin--Simpsonville, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Myrtle Beach, SC	2.277	32.732	5.172	0.360	11.776	2.173	0	0
South Carolina	Rock Hill, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Spartanburg, SC	2.706	38.062	6.690	0.476	18.104	3.770	0	0
South Carolina	Sumter, SC	3.327	62.784	26.953	1.428	89.665	5.869	2	111,951
South Dakota	Rapid City, SD	2.424	26.356	7.094	0.652	17.193	4.536	0	0
South Dakota	Sioux Falls, SD	5.044	64.131	10.654	0.838	53.735	8.484	1	55,976
Tennessee	Bristol, TN--Bristol, VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Clarksville, TN--KY	3.182	49.586	10.710	0.687	34.073	6.128	0	0
Tennessee	Cleveland, TN	0.654	6.395	4.477	0.458	2.929	1.001	0	0
Tennessee	Jackson, TN	3.304	44.145	11.925	0.892	39.399	8.853	1	55,976
Tennessee	Johnson City, TN	3.621	41.649	5.910	0.514	21.397	5.703	0	0
Tennessee	Kingsport, TN--VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Morristown, TN	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Murfreesboro, TN	1.804	17.660	4.104	0.419	7.403	2.025	0	0
Texas	Abilene, TX	2.467	32.444	9.651	0.734	23.806	5.432	0	0
Texas	Amarillo, TX	1.742	26.239	4.794	0.318	8.349	1.991	0	0
Texas	Beaumont, TX	3.516	48.525	6.232	0.452	21.913	4.678	0	0
Texas	Brownsville, TX	14.240	168.529	5.961	0.504	84.883	9.950	2	111,951
Texas	College Station--Bryan, TX	1.290	21.963	4.845	0.285	6.248	2.767	0	0
Texas	Galveston, TX	3.678	39.935	7.737	0.712	28.453	9.128	0	0
Texas	Harlingen, TX	0.505	5.943	0.579	0.049	0.292	0.058	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Texas	Killeen, TX	2.823	47.247	5.393	0.322	15.224	1.860	0	0
Texas	Lake Jackson--Angleton, TX	1.947	32.631	1.636	0.098	3.185	0.190	0	0
Texas	Laredo, TX	7.097	76.229	10.796	1.005	76.616	22.987	3	167,927
Texas	Longview, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	McKinney, TX	1.236	19.476	7.786	0.494	9.625	1.292	0	0
Texas	Midland, TX	0.918	14.002	3.818	0.250	3.506	1.937	0	0
Texas	Odessa, TX	0.919	14.010	4.112	0.270	3.778	2.075	0	0
Texas	Port Arthur, TX	3.471	54.362	3.051	0.195	10.591	1.297	0	0
Texas	San Angelo, TX	1.393	21.442	13.106	0.851	18.255	3.560	2	111,951
Texas	Sherman, TX	2.274	37.095	9.432	0.578	21.447	1.712	0	0
Texas	Temple, TX	1.519	21.528	7.682	0.542	11.668	1.978	0	0
Texas	Texarkana, TX--Texarkana, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Texas City, TX	1.499	27.934	3.237	0.174	4.852	0.366	0	0
Texas	The Woodlands, TX	33.409	893.664	4.378	0.164	146.251	4.067	3	167,927
Texas	Tyler, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Victoria, TX	1.024	14.161	10.461	0.756	10.707	4.613	0	0
Texas	Waco, TX	3.681	57.430	6.330	0.406	23.297	4.350	0	0
Texas	Wichita Falls, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Utah	Logan, UT	5.995	88.075	10.918	0.743	65.457	21.315	1	55,976
Utah	St. George, UT	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Vermont	Burlington, VT	6.077	84.982	15.599	1.115	94.791	24.220	3	167,927
Virgin Islands	Virgin Islands	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Virginia	Blacksburg, VA	7.574	81.380	19.442	1.809	147.248	62.029	5	279,878
Virginia	Charlottesville, VA	3.233	40.420	27.023	2.162	87.368	27.689	3	167,927
Virginia	Danville, VA	3.863	61.296	6.708	0.423	25.914	5.012	0	0
Virginia	Fredericksburg, VA	4.219	78.838	11.578	0.620	48.843	5.478	0	0
Virginia	Harrisonburg, VA	8.399	82.943	10.497	1.063	88.165	32.472	3	167,927
Virginia	Lynchburg, VA	3.200	41.552	13.483	1.038	43.139	30.163	3	167,927
Virginia	Roanoke, VA	5.269	70.769	9.177	0.683	48.352	10.178	0	0
Virginia	Winchester, VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Washington	Bellingham, WA	5.939	92.286	38.391	2.471	228.016	70.072	4	223,902
Washington	Bremerton, WA	5.557	106.762	21.636	1.126	120.223	20.914	4	223,902

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Washington	Kennewick--Richland, WA	7.058	169.159	65.952	2.752	465.492	35.730	6	335,853
Washington	Longview, WA--OR	5.394	60.244	6.233	0.558	33.624	8.179	0	0
Washington	Marysville, WA	5.761	93.885	10.262	0.630	59.124	8.750	0	0
Washington	Mount Vernon, WA	4.921	96.172	30.412	1.556	149.649	12.425	3	167,927
Washington	Olympia--Lacey, WA	6.667	128.871	46.012	2.380	306.741	35.649	6	335,854
Washington	Wenatchee, WA	7.045	87.017	13.462	1.090	94.833	10.304	3	167,927
Washington	Yakima, WA	5.017	75.843	14.733	0.975	73.918	13.571	2	111,951
West Virginia	Charleston, WV	5.578	90.868	14.991	0.920	83.618	13.622	2	111,951
West Virginia	Huntington, WV--KY--OH	2.680	39.710	7.130	0.481	19.107	4.671	0	0
West Virginia	Morgantown, WV	1.175	18.818	16.483	1.029	19.371	17.373	3	167,927
West Virginia	Parkersburg, WV--OH	0.000	0.000	0.000	0.000	0.000	0.000	0	0
West Virginia	Wheeling, WV--OH	1.707	20.672	8.021	0.662	13.688	4.922	0	0
Wisconsin	Appleton, WI	2.000	29.208	10.528	0.721	21.056	6.015	0	0
Wisconsin	Beloit, WI--IL	2.908	44.549	7.810	0.510	22.710	5.439	0	0
Wisconsin	Eau Claire, WI	2.932	40.108	12.144	0.888	35.610	11.159	1	55,976
Wisconsin	Fond du Lac, WI	0.985	12.501	7.846	0.618	7.725	3.774	0	0
Wisconsin	Green Bay, WI	3.025	43.134	8.412	0.590	25.450	7.598	0	0
Wisconsin	Janesville, WI	3.601	55.140	7.606	0.497	27.394	7.031	0	0
Wisconsin	Kenosha, WI	4.299	61.503	10.697	0.748	45.985	15.181	0	0
Wisconsin	La Crosse, WI--MN	3.093	40.538	14.226	1.086	44.005	14.173	2	111,951
Wisconsin	Oshkosh, WI	3.224	45.794	13.198	0.929	42.544	14.223	2	111,951
Wisconsin	Racine, WI	3.864	49.378	10.169	0.796	39.290	11.027	0	0
Wisconsin	Sheboygan, WI	1.771	23.622	11.374	0.853	20.143	7.556	1	55,976
Wisconsin	Wausau, WI	3.902	56.880	11.603	0.796	45.279	12.053	0	0
Wyoming	Casper, WY	1.000	11.020	7.499	0.680	7.499	2.984	0	0
Wyoming	Cheyenne, WY	2.659	39.452	7.146	0.482	18.998	4.007	0	0
					Total			315	$17,632,310

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Alabama	Anniston, AL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Alabama	Auburn, AL	1.000	14.286	4.836	0.339	4.836	0.916	0	0
Alabama	Decatur, AL	0.954	11.935	9.117	0.729	8.699	2.973	0	0
Alabama	Dothan, AL	0.996	18.712	14.461	0.770	14.407	1.090	1	55,976
Alabama	Florence, AL	2.035	23.636	7.524	0.648	15.312	4.989	0	0
Alabama	Gadsden, AL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Alabama	Montgomery, AL	4.334	68.246	8.318	0.528	36.046	6.790	0	0
Alabama	Tuscaloosa, AL	3.352	39.894	2.786	0.234	9.338	1.784	0	0
Alaska	Fairbanks, AK	4.947	81.729	11.405	0.690	56.423	7.652	0	0
Arizona	Avondale, AZ	1.102	18.422	6.923	0.414	7.631	1.728	0	0
Arizona	Flagstaff, AZ	3.669	49.560	12.762	0.945	46.821	18.444	3	167,927
Arizona	Prescott, AZ	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arizona	Yuma, AZ--CA	1.276	28.071	12.824	0.583	16.364	3.804	1	55,976
Arkansas	Fayetteville--Springdale, AR	3.726	43.905	4.562	0.387	16.999	8.837	0	0
Arkansas	Fort Smith, AR--OK	2.274	30.356	4.264	0.319	9.698	2.110	0	0
Arkansas	Hot Springs, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arkansas	Jonesboro, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arkansas	Pine Bluff, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Atascadero--El Paso de Robles (Paso Robles), CA	10.429	280.642	5.000	0.186	52.144	1.805	2	111,951
California	Camarillo, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Chico, CA	5.696	83.982	14.213	0.964	80.956	14.933	2	111,951
California	Davis, CA	9.358	117.848	17.361	1.379	162.465	56.523	6	335,853
California	El Centro, CA	12.772	245.026	13.554	0.707	173.111	9.520	4	223,902
California	Fairfield, CA	4.613	92.027	13.016	0.653	60.048	6.792	1	55,976
California	Gilroy--Morgan Hill, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Hanford, CA	5.232	177.199	76.899	2.271	402.363	21.878	5	279,878
California	Hemet, CA	2.147	41.743	6.344	0.326	13.622	1.500	0	0
California	Livermore, CA	3.914	54.524	5.225	0.375	20.454	4.175	0	0
California	Lodi, CA	1.658	17.602	6.077	0.572	10.075	3.523	0	0
California	Lompoc, CA	10.073	139.170	8.540	0.618	86.029	5.304	2	111,951
California	Madera, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Manteca, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
California	Merced, CA	1.856	36.763	7.263	0.367	13.484	2.240	0	0
California	Napa, CA	2.370	29.145	8.217	0.668	19.471	5.157	0	0
California	Petaluma, CA	3.875	50.613	7.433	0.569	28.802	4.964	0	0
California	Porterville, CA	5.513	84.564	7.586	0.495	41.822	9.557	0	0
California	Redding, CA	4.502	72.411	10.435	0.649	46.978	8.557	0	0
California	Salinas, CA	6.949	114.338	8.887	0.540	61.761	9.252	2	111,951
California	San Luis Obispo, CA	6.032	91.945	13.215	0.867	79.710	22.014	3	167,927
California	Santa Barbara, CA	12.700	175.191	16.670	1.208	211.717	43.047	6	335,853
California	Santa Clarita, CA	11.642	202.302	16.000	0.921	186.278	17.929	6	335,853
California	Santa Cruz, CA	9.850	139.422	22.336	1.578	220.017	36.161	6	335,853
California	Santa Maria, CA	9.861	168.151	10.193	0.598	100.512	11.087	3	167,927
California	Seaside--Monterey--Marina, CA	6.003	97.695	19.123	1.175	114.795	17.310	4	223,902
California	Simi Valley, CA	3.678	51.714	5.757	0.409	21.176	4.250	0	0
California	Tracy, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Turlock, CA	1.837	29.548	20.053	1.247	36.843	17.070	3	167,927
California	Vacaville, CA	8.383	157.729	0.641	0.034	5.372	0.551	2	111,951
California	Vallejo, CA	5.482	81.997	7.839	0.524	42.975	5.727	0	0
California	Visalia, CA	4.298	59.795	12.710	0.914	54.627	13.199	2	111,951
California	Watsonville, CA	8.530	127.490	9.482	0.634	80.880	12.782	2	111,951
California	Yuba City, CA	6.213	94.617	11.696	0.768	72.673	10.740	0	0
Colorado	Boulder, CO	9.035	124.344	25.814	1.876	233.237	45.979	6	335,853
Colorado	Grand Junction, CO	4.696	74.522	8.884	0.560	41.720	9.405	0	0
Colorado	Greeley, CO	3.874	46.962	5.663	0.467	21.938	5.922	0	0
Colorado	Lafayette--Louisville, CO	8.788	122.484	6.783	0.487	59.608	11.883	2	111,951
Colorado	Longmont, CO	8.546	116.284	15.124	1.111	129.244	25.071	6	335,853
Colorado	Pueblo, CO	3.638	56.583	6.671	0.429	24.273	7.735	0	0
Connecticut	Danbury, CT--NY	29.205	791.504	35.247	1.301	1029.388	42.032	6	335,853
Connecticut	Norwich--New London, CT	6.150	115.480	9.421	0.502	57.944	7.170	1	55,976
Connecticut	Waterbury, CT	28.325	672.900	29.844	1.256	845.338	42.940	6	335,853
Delaware	Dover, DE	3.151	54.532	31.655	1.829	99.758	13.450	3	167,927
Florida	Brooksville, FL	1.904	36.391	5.392	0.282	10.269	1.603	0	0
Florida	Deltona, FL	3.262	49.465	7.476	0.493	24.386	4.703	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Florida	Fort Walton Beach, FL	1.353	18.763	6.857	0.495	9.279	1.645	0	0
Florida	Gainesville, FL	8.042	92.668	19.772	1.716	159.007	56.299	5	279,878
Florida	Kissimmee, FL	5.035	75.806	13.767	0.914	69.321	11.220	2	111,951
Florida	Lady Lake, FL	2.583	45.575	11.361	0.644	29.342	2.013	0	0
Florida	Lakeland, FL	4.548	68.513	9.097	0.604	41.371	7.866	0	0
Florida	Leesburg--Eustis, FL	2.720	49.263	12.612	0.696	34.307	2.288	1	55,976
Florida	North Port--Punta Gorda, FL	1.091	18.606	4.016	0.236	4.382	0.566	0	0
Florida	Ocala, FL	1.160	18.800	0.001	0.000	0.001	0.000	0	0
Florida	Panama City, FL	3.146	56.848	9.483	0.525	29.832	6.458	0	0
Florida	St. Augustine, FL	2.688	48.517	7.515	0.416	20.199	2.764	0	0
Florida	Titusville, FL	6.194	197.307	21.148	0.664	131.000	5.403	3	167,927
Florida	Vero Beach--Sebastian, FL	3.771	45.816	6.853	0.564	25.845	5.331	0	0
Florida	Winter Haven, FL	2.163	35.644	11.105	0.674	24.024	3.512	0	0
Florida	Zephyrhills, FL	4.069	70.135	6.737	0.391	27.414	4.222	0	0
Georgia	Albany, GA	7.184	116.990	6.735	0.414	48.381	10.083	2	111,951
Georgia	Athens-Clarke County, GA	6.769	56.893	14.648	1.743	99.148	105.901	5	279,878
Georgia	Brunswick, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Dalton, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Gainesville, GA	0.752	10.176	3.181	0.235	2.390	1.628	0	0
Georgia	Hinesville, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Macon, GA	3.459	47.963	8.334	0.601	28.828	6.732	0	0
Georgia	Rome, GA	8.156	93.311	9.694	0.847	79.071	12.322	2	111,951
Georgia	Valdosta, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Warner Robins, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Hawaii	Kailua (Honolulu County)--Kaneohe, HI	12.124	167.053	2.157	0.157	26.146	4.781	2	111,951
Idaho	Coeur d'Alene, ID	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Idaho	Idaho Falls, ID	1.715	22.424	8.142	0.623	13.961	1.940	0	0
Idaho	Lewiston, ID--WA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Idaho	Nampa, ID	4.797	106.453	5.939	0.268	28.491	2.154	0	0
Idaho	Pocatello, ID	4.679	65.095	7.830	0.563	36.638	7.486	0	0
Illinois	Alton, IL	5.329	94.453	4.037	0.228	21.517	2.813	0	0
Illinois	Bloomington--Normal, IL	3.124	45.130	13.151	0.910	41.076	14.617	2	111,951

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Illinois	Champaign, IL	10.106	114.839	24.952	2.196	252.170	81.691	6	335,853
Illinois	Danville, IL	4.987	93.323	9.684	0.518	48.297	9.736	0	0
Illinois	Decatur, IL	3.437	47.572	11.611	0.839	39.906	13.388	1	55,976
Illinois	DeKalb, IL	1.574	23.465	11.215	0.752	17.650	2.147	0	0
Illinois	Kankakee, IL	5.110	74.425	13.897	0.954	71.014	9.738	2	111,951
Illinois	Springfield, IL	3.004	37.531	10.211	0.817	30.676	11.046	0	0
Indiana	Anderson, IN	2.032	26.911	4.203	0.317	8.540	1.846	0	0
Indiana	Bloomington, IN	6.058	64.657	12.244	1.147	74.179	33.062	2	111,951
Indiana	Columbus, IN	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Indiana	Elkhart, IN--MI	2.596	39.952	5.563	0.361	14.438	2.416	0	0
Indiana	Kokomo, IN	1.235	11.876	9.430	0.981	11.650	2.524	1	55,976
Indiana	Lafayette, IN	6.032	68.558	12.658	1.114	76.359	37.711	3	167,927
Indiana	Michigan City, IN--MI	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Indiana	Muncie, IN	5.543	72.347	11.685	0.895	64.771	21.323	2	111,951
Indiana	Terre Haute, IN	1.451	12.385	4.883	0.572	7.084	3.983	0	0
Iowa	Ames, IA	6.857	72.329	22.166	2.101	151.992	98.611	5	279,878
Iowa	Cedar Rapids, IA	4.779	60.927	8.453	0.663	40.401	8.064	0	0
Iowa	Dubuque, IA--IL	2.059	24.198	8.284	0.705	17.057	5.423	0	0
Iowa	Iowa City, IA	5.539	62.388	23.821	2.115	131.958	77.497	4	223,902
Iowa	Sioux City, IA--NE--SD	8.385	106.001	6.905	0.546	57.898	11.246	1	55,976
Iowa	Waterloo, IA	1.062	16.734	9.514	0.604	10.108	5.083	0	0
Kansas	Lawrence, KS	2.892	34.153	11.608	0.983	33.572	12.316	1	55,976
Kansas	Topeka, KS	4.175	65.029	10.832	0.695	45.222	11.648	0	0
Kentucky	Bowling Green, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Kentucky	Owensboro, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Kentucky	Radcliff--Elizabethtown, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Alexandria, LA	5.018	80.419	8.270	0.516	41.499	10.646	0	0
Louisiana	Houma, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Lafayette, LA	9.119	121.277	4.789	0.360	43.674	8.358	2	111,951
Louisiana	Lake Charles, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Mandeville--Covington, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Monroe, LA	4.585	69.822	7.382	0.485	33.848	10.575	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Louisiana	Slidell, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Maine	Bangor, ME	6.049	80.878	10.327	0.772	62.464	14.958	0	0
Maine	Lewiston, ME	3.043	39.016	4.747	0.370	14.445	4.645	0	0
Maine	Portland, ME	6.137	69.703	8.400	0.740	51.550	12.854	0	0
Maryland	Aberdeen--Havre de Grace--Bel Air, MD	3.344	60.890	4.305	0.236	14.397	1.737	0	0
Maryland	Cumberland, MD--WV--PA	3.495	53.302	8.883	0.582	31.043	3.398	0	0
Maryland	Frederick, MD	3.241	45.419	9.771	0.697	31.665	6.647	0	0
Maryland	Hagerstown, MD--WV--PA	3.017	45.423	4.000	0.266	12.068	3.204	0	0
Maryland	Salisbury, MD--DE	0.000	0.000	32.947	1.582	0.000	8.610	2	111,951
Maryland	St. Charles, MD	3.884	63.606	8.304	0.507	32.249	3.836	0	0
Maryland	Westminster, MD	1.416	18.396	11.878	0.915	16.825	2.048	1	55,976
Massachusetts	Leominster--Fitchburg, MA	2.560	42.924	24.469	1.459	62.631	7.678	2	111,951
Massachusetts	New Bedford, MA	4.891	61.641	5.145	0.408	25.162	5.457	0	0
Massachusetts	Pittsfield, MA	3.828	52.778	16.353	1.186	62.595	7.967	2	111,951
Michigan	Battle Creek, MI	3.960	52.370	6.545	0.495	25.917	6.945	0	0
Michigan	Bay City, MI	2.731	50.742	19.021	1.024	51.952	8.250	2	111,951
Michigan	Benton Harbor--St. Joseph, MI	1.898	21.336	7.137	0.635	13.546	2.797	0	0
Michigan	Holland, MI	1.108	13.897	8.664	0.691	9.600	3.413	0	0
Michigan	Jackson, MI	2.404	35.533	8.602	0.582	20.682	6.341	0	0
Michigan	Kalamazoo, MI	3.859	45.441	10.893	0.925	42.037	13.934	1	55,976
Michigan	Monroe, MI	2.742	34.833	9.090	0.716	24.929	5.569	0	0
Michigan	Muskegon, MI	3.889	48.438	5.127	0.412	19.939	4.833	0	0
Michigan	Port Huron, MI	1.528	23.896	21.161	1.353	32.343	11.412	2	111,951
Michigan	Saginaw, MI	4.611	75.934	5.728	0.348	26.411	7.480	0	0
Michigan	South Lyon--Howell--Brighton, MI	2.391	47.311	5.058	0.256	12.094	0.864	0	0
Minnesota	Duluth, MN--WI	6.992	91.508	16.485	1.260	115.268	27.047	5	279,878
Minnesota	Rochester, MN	5.232	81.424	12.731	0.818	66.608	17.797	2	111,951
Minnesota	St. Cloud, MN	5.446	72.968	17.707	1.321	96.423	26.082	3	167,927
Mississippi	Hattiesburg, MS	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Mississippi	Pascagoula, MS	7.223	381.146	4.422	0.084	31.939	0.716	2	111,951
Missouri	Columbia, MO	4.931	48.836	7.771	0.785	38.321	23.263	1	55,976
Missouri	Jefferson City, MO	1.979	30.049	10.051	0.662	19.887	7.118	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.596**		
Missouri	Joplin, MO	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Missouri	Lee's Summit, MO	1.856	28.036	0.398	0.026	0.738	0.114	0	0
Missouri	St. Joseph, MO--KS	2.341	28.018	10.754	0.899	25.179	5.015	1	55,976
Montana	Billings, MT	3.941	51.514	7.166	0.548	28.243	7.330	0	0
Montana	Great Falls, MT	1.543	19.917	8.508	0.659	13.129	6.155	0	0
Montana	Missoula, MT	3.428	50.628	12.318	0.834	42.224	17.085	2	111,951
N. Mariana Islands	Saipan, MP	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Nevada	Carson City, NV	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New Hampshire	Dover--Rochester, NH--ME	8.349	128.003	7.236	0.472	60.412	11.960	2	111,951
New Hampshire	Manchester, NH	2.553	27.315	3.742	0.350	9.554	3.787	0	0
New Hampshire	Nashua, NH--MA	4.914	65.242	2.453	0.185	12.056	2.367	0	0
New Hampshire	Portsmouth, NH--ME	8.359	128.218	5.477	0.357	45.782	9.147	2	111,951
New Jersey	Hightstown, NJ	4.006	57.597	0.481	0.033	1.928	0.448	0	0
New Jersey	Vineland, NJ	1.335	20.495	5.621	0.366	7.505	1.085	0	0
New Jersey	Wildwood--North Wildwood--Cape May, NJ	1.335	20.495	17.653	1.150	23.572	3.407	2	111,951
New Mexico	Farmington, NM	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New Mexico	Las Cruces, NM	3.281	37.349	6.696	0.588	21.966	6.861	0	0
New Mexico	Santa Fe, NM	3.180	39.960	16.206	1.290	51.539	11.577	2	111,951
New York	Binghamton, NY--PA	4.943	71.385	16.923	1.172	83.655	20.049	3	167,928
New York	Elmira, NY	3.157	55.935	14.230	0.803	44.922	10.351	1	55,976
New York	Glens Falls, NY	3.456	56.081	5.765	0.355	19.923	5.544	0	0
New York	Ithaca, NY	4.262	66.552	39.592	2.536	168.747	63.776	4	223,902
New York	Kingston, NY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New York	Middletown, NY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New York	Saratoga Springs, NY	0.894	8.953	6.237	0.623	5.576	2.653	0	0
New York	Utica, NY	3.340	39.244	9.111	0.775	30.433	10.471	0	0
North Carolina	Burlington, NC	0.000	0.000	1.939	0.044	0.000	0.492	0	0
North Carolina	Concord, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Gastonia, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Goldsboro, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Greenville, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Hickory, NC	3.137	54.463	4.244	0.244	13.315	1.290	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
North Carolina	High Point, NC	1.664	29.883	11.550	0.643	19.217	8.013	0	0
North Carolina	Jacksonville, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Rocky Mount, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Wilmington, NC	1.812	27.385	11.971	0.792	21.693	9.216	0	0
North Dakota	Bismarck, ND	1.190	17.240	12.721	0.878	15.141	4.025	2	111,951
North Dakota	Fargo, ND--MN	4.771	61.629	8.958	0.694	42.741	13.582	0	0
North Dakota	Grand Forks, ND--MN	2.085	20.370	11.350	1.162	23.667	5.892	1	55,976
Ohio	Lima, OH	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Ohio	Lorain--Elyria, OH	3.094	54.397	5.628	0.320	17.416	2.881	0	0
Ohio	Mansfield, OH	2.792	32.974	3.994	0.338	11.153	3.600	0	0
Ohio	Middletown, OH	3.983	56.908	2.646	0.185	10.541	2.102	0	0
Ohio	Newark, OH	0.885	14.789	14.140	0.846	12.517	2.063	2	111,951
Ohio	Sandusky, OH	1.482	14.713	4.982	0.502	7.384	1.646	0	0
Ohio	Springfield, OH	2.519	28.633	3.042	0.268	7.661	4.203	0	0
Ohio	Weirton, WV--Steubenville, OH--PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Oklahoma	Lawton, OK	2.769	40.886	7.671	0.520	21.245	4.795	0	0
Oklahoma	Norman, OK	5.294	60.834	6.549	0.570	34.671	15.264	0	0
Oregon	Bend, OR	0.610	5.592	5.526	0.603	3.371	5.661	0	0
Oregon	Corvallis, OR	8.295	117.864	6.801	0.479	56.413	11.811	2	111,951
Oregon	Medford, OR	5.964	101.819	7.482	0.438	44.628	8.606	0	0
Pennsylvania	Altoona, PA	4.093	51.535	6.217	0.494	25.443	7.359	0	0
Pennsylvania	Erie, PA	3.688	44.564	15.632	1.294	57.647	16.819	3	167,927
Pennsylvania	Hazleton, PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Pennsylvania	Johnstown, PA	6.647	72.208	9.495	0.874	63.110	15.828	2	111,951
Pennsylvania	Lebanon, PA	3.489	59.031	12.638	0.747	44.093	5.802	1	55,976
Pennsylvania	Monessen, PA	13.956	189.769	4.836	0.356	67.491	2.863	2	111,951
Pennsylvania	Pottstown, PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Pennsylvania	State College, PA	10.680	150.260	24.859	1.767	265.493	99.558	6	335,853
Pennsylvania	Uniontown--Connellsville, PA	1.516	26.520	23.450	1.341	35.552	4.233	2	111,951
Pennsylvania	Williamsport, PA	7.472	112.841	14.307	0.947	106.906	22.104	6	335,853
Pennsylvania	York, PA	3.148	43.826	13.379	0.961	42.120	7.846	2	111,951
Puerto Rico	Arecibo, PR	3.160	36.365	13.204	1.147	41.728	9.413	2	111,951

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Puerto Rico	Fajardo, PR	3.533	41.489	24.297	2.069	85.840	18.507	3	167,927
Puerto Rico	Florida--Barceloneta--Bajadero, PR	3.558	39.479	4.045	0.365	14.394	3.206	0	0
Puerto Rico	Guayama, PR	4.427	44.348	13.130	1.311	58.127	14.079	2	111,951
Puerto Rico	Juana Diaz, PR	3.851	39.866	14.311	1.382	55.110	13.762	2	111,951
Puerto Rico	Mayaguez, PR	3.146	27.913	21.686	2.444	68.224	19.496	3	167,927
Puerto Rico	Ponce, PR	3.767	32.405	7.482	0.870	28.187	9.114	1	55,976
Puerto Rico	San German--Cabo Rojo--Sabana Grande, PR	3.399	39.932	10.104	0.860	34.342	7.285	1	55,976
Puerto Rico	Yauco, PR	3.345	36.870	17.738	1.609	59.337	12.253	2	111,951
South Carolina	Anderson, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Florence, SC	2.576	60.301	39.269	1.677	101.144	4.809	3	167,927
South Carolina	Mauldin--Simpsonville, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Myrtle Beach, SC	2.277	32.732	5.172	0.360	11.776	2.173	0	0
South Carolina	Rock Hill, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Spartanburg, SC	2.706	38.062	6.690	0.476	18.104	3.770	0	0
South Carolina	Sumter, SC	3.327	62.784	26.953	1.428	89.665	5.869	2	111,951
South Dakota	Rapid City, SD	2.424	26.356	7.094	0.652	17.193	4.536	0	0
South Dakota	Sioux Falls, SD	5.044	64.131	10.654	0.838	53.735	8.484	1	55,976
Tennessee	Bristol, TN--Bristol, VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Clarksville, TN--KY	3.182	49.586	10.710	0.687	34.073	6.128	0	0
Tennessee	Cleveland, TN	0.654	6.395	4.477	0.458	2.929	1.001	0	0
Tennessee	Jackson, TN	3.304	44.145	11.925	0.892	39.399	8.853	1	55,976
Tennessee	Johnson City, TN	3.621	41.649	5.910	0.514	21.397	5.703	0	0
Tennessee	Kingsport, TN--VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Morristown, TN	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Murfreesboro, TN	1.804	17.660	4.104	0.419	7.403	2.025	0	0
Texas	Abilene, TX	2.467	32.444	9.651	0.734	23.806	5.432	0	0
Texas	Amarillo, TX	1.742	26.239	4.794	0.318	8.349	1.991	0	0
Texas	Beaumont, TX	3.516	48.525	6.232	0.452	21.913	4.678	0	0
Texas	Brownsville, TX	14.240	168.529	5.961	0.504	84.883	9.950	2	111,951
Texas	College Station--Bryan, TX	1.290	21.963	4.845	0.285	6.248	2.767	0	0
Texas	Galveston, TX	3.678	39.935	7.737	0.712	28.453	9.128	0	0
Texas	Harlingen, TX	0.505	5.943	0.579	0.049	0.292	0.058	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Texas	Killeen, TX	2.823	47.247	5.393	0.322	15.224	1.860	0	0
Texas	Lake Jackson--Angleton, TX	1.947	32.631	1.636	0.098	3.185	0.190	0	0
Texas	Laredo, TX	7.097	76.229	10.796	1.005	76.616	22.987	3	167,927
Texas	Longview, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	McKinney, TX	1.236	19.476	7.786	0.494	9.625	1.292	0	0
Texas	Midland, TX	0.918	14.002	3.818	0.250	3.506	1.937	0	0
Texas	Odessa, TX	0.919	14.010	4.112	0.270	3.778	2.075	0	0
Texas	Port Arthur, TX	3.471	54.362	3.051	0.195	10.591	1.297	0	0
Texas	San Angelo, TX	1.393	21.442	13.106	0.851	18.255	3.560	2	111,951
Texas	Sherman, TX	2.274	37.095	9.432	0.578	21.447	1.712	0	0
Texas	Temple, TX	1.519	21.528	7.682	0.542	11.668	1.978	0	0
Texas	Texarkana, TX--Texarkana, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Texas City, TX	1.499	27.934	3.237	0.174	4.852	0.366	0	0
Texas	The Woodlands, TX	33.409	893.664	4.378	0.164	146.251	4.067	3	167,927
Texas	Tyler, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Victoria, TX	1.024	14.161	10.461	0.756	10.707	4.613	0	0
Texas	Waco, TX	3.681	57.430	6.330	0.406	23.297	4.350	0	0
Texas	Wichita Falls, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Utah	Logan, UT	5.995	88.075	10.918	0.743	65.457	21.315	1	55,976
Utah	St. George, UT	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Vermont	Burlington, VT	6.077	84.982	15.599	1.115	94.791	24.220	3	167,927
Virgin Islands	Virgin Islands	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Virginia	Blacksburg, VA	7.574	81.380	19.442	1.809	147.248	62.029	5	279,878
Virginia	Charlottesville, VA	3.233	40.420	27.023	2.162	87.368	27.689	3	167,927
Virginia	Danville, VA	3.863	61.296	6.708	0.423	25.914	5.012	0	0
Virginia	Fredericksburg, VA	4.219	78.838	11.578	0.620	48.843	5.478	0	0
Virginia	Harrisonburg, VA	8.399	82.943	10.497	1.063	88.165	32.472	3	167,927
Virginia	Lynchburg, VA	3.200	41.552	13.483	1.038	43.139	30.163	3	167,927
Virginia	Roanoke, VA	5.269	70.769	9.177	0.683	48.352	10.178	0	0
Virginia	Winchester, VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Washington	Bellingham, WA	5.939	92.286	38.391	2.471	228.016	70.072	4	223,902
Washington	Bremerton, WA	5.557	106.762	21.636	1.126	120.223	20.914	4	223,902

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Washington	Kennewick--Richland, WA	7.058	169.159	65.952	2.752	465.492	35.730	6	335,853
Washington	Longview, WA--OR	5.394	60.244	6.233	0.558	33.624	8.179	0	0
Washington	Marysville, WA	5.761	93.885	10.262	0.630	59.124	8.750	0	0
Washington	Mount Vernon, WA	4.921	96.172	30.412	1.556	149.649	12.425	3	167,927
Washington	Olympia--Lacey, WA	6.667	128.871	46.012	2.380	306.741	35.649	6	335,854
Washington	Wenatchee, WA	7.045	87.017	13.462	1.090	94.833	10.304	3	167,927
Washington	Yakima, WA	5.017	75.843	14.733	0.975	73.918	13.571	2	111,951
West Virginia	Charleston, WV	5.578	90.868	14.991	0.920	83.618	13.622	2	111,951
West Virginia	Huntington, WV--KY--OH	2.680	39.710	7.130	0.481	19.107	4.671	0	0
West Virginia	Morgantown, WV	1.175	18.818	16.483	1.029	19.371	17.373	3	167,927
West Virginia	Parkersburg, WV--OH	0.000	0.000	0.000	0.000	0.000	0.000	0	0
West Virginia	Wheeling, WV--OH	1.707	20.672	8.021	0.662	13.688	4.922	0	0
Wisconsin	Appleton, WI	2.000	29.208	10.528	0.721	21.056	6.015	0	0
Wisconsin	Beloit, WI--IL	2.908	44.549	7.810	0.510	22.710	5.439	0	0
Wisconsin	Eau Claire, WI	2.932	40.108	12.144	0.888	35.610	11.159	1	55,976
Wisconsin	Fond du Lac, WI	0.985	12.501	7.846	0.618	7.725	3.774	0	0
Wisconsin	Green Bay, WI	3.025	43.134	8.412	0.590	25.450	7.598	0	0
Wisconsin	Janesville, WI	3.601	55.140	7.606	0.497	27.394	7.031	0	0
Wisconsin	Kenosha, WI	4.299	61.503	10.697	0.748	45.985	15.181	0	0
Wisconsin	La Crosse, WI--MN	3.093	40.538	14.226	1.086	44.005	14.173	2	111,951
Wisconsin	Oshkosh, WI	3.224	45.794	13.198	0.929	42.544	14.223	2	111,951
Wisconsin	Racine, WI	3.864	49.378	10.169	0.796	39.290	11.027	0	0
Wisconsin	Sheboygan, WI	1.771	23.622	11.374	0.853	20.143	7.556	1	55,976
Wisconsin	Wausau, WI	3.902	56.880	11.603	0.796	45.279	12.053	0	0
Wyoming	Casper, WY	1.000	11.020	7.499	0.680	7.499	2.984	0	0
Wyoming	Cheyenne, WY	2.659	39.452	7.146	0.482	18.998	4.007	0	0
					Total			315	$17,632,310

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Alabama	Anniston, AL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Alabama	Auburn, AL	1.000	14.286	4.836	0.339	4.836	0.916	0	0
Alabama	Decatur, AL	0.954	11.935	9.117	0.729	8.699	2.973	0	0
Alabama	Dothan, AL	0.996	18.712	14.461	0.770	14.407	1.090	1	55,976
Alabama	Florence, AL	2.035	23.636	7.524	0.648	15.312	4.989	0	0
Alabama	Gadsden, AL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Alabama	Montgomery, AL	4.334	68.246	8.318	0.528	36.046	6.790	0	0
Alabama	Tuscaloosa, AL	3.352	39.894	2.786	0.234	9.338	1.784	0	0
Alaska	Fairbanks, AK	4.947	81.729	11.405	0.690	56.423	7.652	0	0
Arizona	Avondale, AZ	1.102	18.422	6.923	0.414	7.631	1.728	0	0
Arizona	Flagstaff, AZ	3.669	49.560	12.762	0.945	46.821	18.444	3	167,927
Arizona	Prescott, AZ	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arizona	Yuma, AZ--CA	1.276	28.071	12.824	0.583	16.364	3.804	1	55,976
Arkansas	Fayetteville--Springdale, AR	3.726	43.905	4.562	0.387	16.999	8.837	0	0
Arkansas	Fort Smith, AR--OK	2.274	30.356	4.264	0.319	9.698	2.110	0	0
Arkansas	Hot Springs, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arkansas	Jonesboro, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arkansas	Pine Bluff, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Atascadero--El Paso de Robles (Paso Robles), CA	10.429	280.642	5.000	0.186	52.144	1.805	2	111,951
California	Camarillo, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Chico, CA	5.696	83.982	14.213	0.964	80.956	14.933	2	111,951
California	Davis, CA	9.358	117.848	17.361	1.379	162.465	56.523	6	335,853
California	El Centro, CA	12.772	245.026	13.554	0.707	173.111	9.520	4	223,902
California	Fairfield, CA	4.613	92.027	13.016	0.653	60.048	6.792	1	55,976
California	Gilroy--Morgan Hill, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Hanford, CA	5.232	177.199	76.899	2.271	402.363	21.878	5	279,878
California	Hemet, CA	2.147	41.743	6.344	0.326	13.622	1.500	0	0
California	Livermore, CA	3.914	54.524	5.225	0.375	20.454	4.175	0	0
California	Lodi, CA	1.658	17.602	6.077	0.572	10.075	3.523	0	0
California	Lompoc, CA	10.073	139.170	8.540	0.618	86.029	5.304	2	111,951
California	Madera, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Manteca, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding; @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
California	Merced, CA	1.856	36.763	7.263	0.367	13.484	2.240	0	0
California	Napa, CA	2.370	29.145	8.217	0.668	19.471	5.157	0	0
California	Petaluma, CA	3.875	50.613	7.433	0.569	28.802	4.964	0	0
California	Porterville, CA	5.513	84.564	7.586	0.495	41.822	9.557	0	0
California	Redding, CA	4.502	72.411	10.435	0.649	46.978	8.557	0	0
California	Salinas, CA	6.949	114.338	8.887	0.540	61.761	9.252	2	111,951
California	San Luis Obispo, CA	6.032	91.945	13.215	0.867	79.710	22.014	3	167,927
California	Santa Barbara, CA	12.700	175.191	16.670	1.208	211.717	43.047	6	335,853
California	Santa Clarita, CA	11.642	202.302	16.000	0.921	186.278	17.929	6	335,853
California	Santa Cruz, CA	9.850	139.422	22.336	1.578	220.017	36.161	6	335,853
California	Santa Maria, CA	9.861	168.151	10.193	0.598	100.512	11.087	3	167,927
California	Seaside--Monterey--Marina, CA	6.003	97.695	19.123	1.175	114.795	17.310	4	223,902
California	Simi Valley, CA	3.678	51.714	5.757	0.409	21.176	4.250	0	0
California	Tracy, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Turlock, CA	1.837	29.548	20.053	1.247	36.843	17.070	3	167,927
California	Vacaville, CA	8.383	157.729	0.641	0.034	5.372	0.551	2	111,951
California	Vallejo, CA	5.482	81.997	7.839	0.524	42.975	5.727	0	0
California	Visalia, CA	4.298	59.795	12.710	0.914	54.627	13.199	2	111,951
California	Watsonville, CA	8.530	127.490	9.482	0.634	80.880	12.782	2	111,951
California	Yuba City, CA	6.213	94.617	11.696	0.768	72.673	10.740	0	0
Colorado	Boulder, CO	9.035	124.344	25.814	1.876	233.237	45.979	6	335,853
Colorado	Grand Junction, CO	4.696	74.522	8.884	0.560	41.720	9.405	0	0
Colorado	Greeley, CO	3.874	46.962	5.663	0.467	21.938	5.922	0	0
Colorado	Lafayette--Louisville, CO	8.788	122.484	6.783	0.487	59.608	11.883	2	111,951
Colorado	Longmont, CO	8.546	116.284	15.124	1.111	129.244	25.071	6	335,853
Colorado	Pueblo, CO	3.638	56.583	6.671	0.429	24.273	7.735	0	0
Connecticut	Danbury, CT--NY	29.205	791.504	35.247	1.301	1029.388	42.032	6	335,853
Connecticut	Norwich--New London, CT	6.150	115.480	9.421	0.502	57.944	7.170	1	55,976
Connecticut	Waterbury, CT	28.325	672.900	29.844	1.256	845.338	42.940	6	335,853
Delaware	Dover, DE	3.151	54.532	31.655	1.829	99.758	13.450	3	167,927
Florida	Brooksville, FL	1.904	36.391	5.392	0.282	10.269	1.603	0	0
Florida	Deltona, FL	3.262	49.465	7.476	0.493	24.386	4.703	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Florida	Fort Walton Beach, FL	1.353	18.763	6.857	0.495	9.279	1.645	0	0
Florida	Gainesville, FL	8.042	92.668	19.772	1.716	159.007	56.299	5	279,878
Florida	Kissimmee, FL	5.035	75.806	13.767	0.914	69.321	11.220	2	111,951
Florida	Lady Lake, FL	2.583	45.575	11.361	0.644	29.342	2.013	0	0
Florida	Lakeland, FL	4.548	68.513	9.097	0.604	41.371	7.866	0	0
Florida	Leesburg--Eustis, FL	2.720	49.263	12.612	0.696	34.307	2.288	1	55,976
Florida	North Port--Punta Gorda, FL	1.091	18.606	4.016	0.236	4.382	0.566	0	0
Florida	Ocala, FL	1.160	18.800	0.001	0.000	0.001	0.000	0	0
Florida	Panama City, FL	3.146	56.848	9.483	0.525	29.832	6.458	0	0
Florida	St. Augustine, FL	2.688	48.517	7.515	0.416	20.199	2.764	0	0
Florida	Titusville, FL	6.194	197.307	21.148	0.664	131.000	5.403	3	167,927
Florida	Vero Beach--Sebastian, FL	3.771	45.816	6.853	0.564	25.845	5.331	0	0
Florida	Winter Haven, FL	2.163	35.644	11.105	0.674	24.024	3.512	0	0
Florida	Zephyrhills, FL	4.069	70.135	6.737	0.391	27.414	4.222	0	0
Georgia	Albany, GA	7.184	116.990	6.735	0.414	48.381	10.083	2	111,951
Georgia	Athens-Clarke County, GA	6.769	56.893	14.648	1.743	99.148	105.901	5	279,878
Georgia	Brunswick, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Dalton, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Gainesville, GA	0.752	10.176	3.181	0.235	2.390	1.628	0	0
Georgia	Hinesville, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Macon, GA	3.459	47.963	8.334	0.601	28.828	6.732	0	0
Georgia	Rome, GA	8.156	93.311	9.694	0.847	79.071	12.322	2	111,951
Georgia	Valdosta, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Warner Robins, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Hawaii	Kailua (Honolulu County)--Kaneohe, HI	12.124	167.053	2.157	0.157	26.146	4.781	2	111,951
Idaho	Coeur d'Alene, ID	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Idaho	Idaho Falls, ID	1.715	22.424	8.142	0.623	13.961	1.940	0	0
Idaho	Lewiston, ID--WA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Idaho	Nampa, ID	4.797	106.453	5.939	0.268	28.491	2.154	0	0
Idaho	Pocatello, ID	4.679	65.095	7.830	0.563	36.638	7.486	0	0
Illinois	Alton, IL	5.329	94.453	4.037	0.228	21.517	2.813	0	0
Illinois	Bloomington--Normal, IL	3.124	45.130	13.151	0.910	41.076	14.617	2	111,951

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Illinois	Champaign, IL	10.106	114.839	24.952	2.196	252.170	81.691	6	335,853
Illinois	Danville, IL	4.987	93.323	9.684	0.518	48.297	9.736	0	0
Illinois	Decatur, IL	3.437	47.572	11.611	0.839	39.906	13.388	1	55,976
Illinois	DeKalb, IL	1.574	23.465	11.215	0.752	17.650	2.147	0	0
Illinois	Kankakee, IL	5.110	74.425	13.897	0.954	71.014	9.738	2	111,951
Illinois	Springfield, IL	3.004	37.531	10.211	0.817	30.676	11.046	0	0
Indiana	Anderson, IN	2.032	26.911	4.203	0.317	8.540	1.846	0	0
Indiana	Bloomington, IN	6.058	64.657	12.244	1.147	74.179	33.062	2	111,951
Indiana	Columbus, IN	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Indiana	Elkhart, IN--MI	2.596	39.952	5.563	0.361	14.438	2.416	0	0
Indiana	Kokomo, IN	1.235	11.876	9.430	0.981	11.650	2.524	1	55,976
Indiana	Lafayette, IN	6.032	68.558	12.658	1.114	76.359	37.711	3	167,927
Indiana	Michigan City, IN--MI	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Indiana	Muncie, IN	5.543	72.347	11.685	0.895	64.771	21.323	2	111,951
Indiana	Terre Haute, IN	1.451	12.385	4.883	0.572	7.084	3.983	0	0
Iowa	Ames, IA	6.857	72.329	22.166	2.101	151.992	98.611	5	279,878
Iowa	Cedar Rapids, IA	4.779	60.927	8.453	0.663	40.401	8.064	0	0
Iowa	Dubuque, IA--IL	2.059	24.198	8.284	0.705	17.057	5.423	0	0
Iowa	Iowa City, IA	5.539	62.388	23.821	2.115	131.958	77.497	4	223,902
Iowa	Sioux City, IA--NE--SD	8.385	106.001	6.905	0.546	57.898	11.246	1	55,976
Iowa	Waterloo, IA	1.062	16.734	9.514	0.604	10.108	5.083	0	0
Kansas	Lawrence, KS	2.892	34.153	11.608	0.983	33.572	12.316	1	55,976
Kansas	Topeka, KS	4.175	65.029	10.832	0.695	45.222	11.648	0	0
Kentucky	Bowling Green, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Kentucky	Owensboro, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Kentucky	Radcliff--Elizabethtown, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Alexandria, LA	5.018	80.419	8.270	0.516	41.499	10.646	0	0
Louisiana	Houma, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Lafayette, LA	9.119	121.277	4.789	0.360	43.674	8.358	2	111,951
Louisiana	Lake Charles, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Mandeville--Covington, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Monroe, LA	4.585	69.822	7.382	0.485	33.848	10.575	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Louisiana	Slidell, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Maine	Bangor, ME	6.049	80.878	10.327	0.772	62.464	14.958	0	0
Maine	Lewiston, ME	3.043	39.016	4.747	0.370	14.445	4.645	0	0
Maine	Portland, ME	6.137	69.703	8.400	0.740	51.550	12.854	0	0
Maryland	Aberdeen--Havre de Grace--Bel Air, MD	3.344	60.890	4.305	0.236	14.397	1.737	0	0
Maryland	Cumberland, MD--WV--PA	3.495	53.302	8.883	0.582	31.043	3.398	0	0
Maryland	Frederick, MD	3.241	45.419	9.771	0.697	31.665	6.647	0	0
Maryland	Hagerstown, MD--WV--PA	3.017	45.423	4.000	0.266	12.068	3.204	0	0
Maryland	Salisbury, MD--DE	0.000	0.000	32.947	1.582	0.000	8.610	2	111,951
Maryland	St. Charles, MD	3.884	63.606	8.304	0.507	32.249	3.836	0	0
Maryland	Westminster, MD	1.416	18.396	11.878	0.915	16.825	2.048	1	55,976
Massachusetts	Leominster--Fitchburg, MA	2.560	42.924	24.469	1.459	62.631	7.678	2	111,951
Massachusetts	New Bedford, MA	4.891	61.641	5.145	0.408	25.162	5.457	0	0
Massachusetts	Pittsfield, MA	3.828	52.778	16.353	1.186	62.595	7.967	2	111,951
Michigan	Battle Creek, MI	3.960	52.370	6.545	0.495	25.917	6.945	0	0
Michigan	Bay City, MI	2.731	50.742	19.021	1.024	51.952	8.250	2	111,951
Michigan	Benton Harbor--St. Joseph, MI	1.898	21.336	7.137	0.635	13.546	2.797	0	0
Michigan	Holland, MI	1.108	13.897	8.664	0.691	9.600	3.413	0	0
Michigan	Jackson, MI	2.404	35.533	8.602	0.582	20.682	6.341	0	0
Michigan	Kalamazoo, MI	3.859	45.441	10.893	0.925	42.037	13.934	1	55,976
Michigan	Monroe, MI	2.742	34.833	9.090	0.716	24.929	5.569	0	0
Michigan	Muskegon, MI	3.889	48.438	5.127	0.412	19.939	4.833	0	0
Michigan	Port Huron, MI	1.528	23.896	21.161	1.353	32.343	11.412	2	111,951
Michigan	Saginaw, MI	4.611	75.934	5.728	0.348	26.411	7.480	0	0
Michigan	South Lyon--Howell--Brighton, MI	2.391	47.311	5.058	0.256	12.094	0.864	0	0
Minnesota	Duluth, MN--WI	6.992	91.508	16.485	1.260	115.268	27.047	5	279,878
Minnesota	Rochester, MN	5.232	81.424	12.731	0.818	66.608	17.797	2	111,951
Minnesota	St. Cloud, MN	5.446	72.968	17.707	1.321	96.423	26.082	3	167,927
Mississippi	Hattiesburg, MS	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Mississippi	Pascagoula, MS	7.223	381.146	4.422	0.084	31.939	0.716	2	111,951
Missouri	Columbia, MO	4.931	48.836	7.771	0.785	38.321	23.263	1	55,976
Missouri	Jefferson City, MO	1.979	30.049	10.051	0.662	19.887	7.118	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Missouri	Joplin, MO	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Missouri	Lee's Summit, MO	1.856	28.036	0.398	0.026	0.738	0.114	0	0
Missouri	St. Joseph, MO--KS	2.341	28.018	10.754	0.899	25.179	5.015	1	55,976
Montana	Billings, MT	3.941	51.514	7.166	0.548	28.243	7.330	0	0
Montana	Great Falls, MT	1.543	19.917	8.508	0.659	13.129	6.155	0	0
Montana	Missoula, MT	3.428	50.628	12.318	0.834	42.224	17.085	2	111,951
N. Mariana Islands	Saipan, MP	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Nevada	Carson City, NV	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New Hampshire	Dover--Rochester, NH--ME	8.349	128.003	7.236	0.472	60.412	11.960	2	111,951
New Hampshire	Manchester, NH	2.553	27.315	3.742	0.350	9.554	3.787	0	0
New Hampshire	Nashua, NH--MA	4.914	65.242	2.453	0.185	12.056	2.367	0	0
New Hampshire	Portsmouth, NH--ME	8.359	126.218	5.477	0.357	45.782	9.147	2	111,951
New Jersey	Hightstown, NJ	4.006	57.597	0.461	0.033	1.928	0.448	0	0
New Jersey	Vineland, NJ	1.335	20.495	5.621	0.366	7.505	1.085	0	0
New Jersey	Wildwood--North Wildwood--Cape May, NJ	1.335	20.495	17.653	1.150	23.572	3.407	2	111,951
New Mexico	Farmington, NM	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New Mexico	Las Cruces, NM	3.281	37.349	6.696	0.588	21.966	6.861	0	0
New Mexico	Santa Fe, NM	3.180	39.960	16.206	1.290	51.539	11.577	2	111,951
New York	Binghamton, NY--PA	4.943	71.385	16.923	1.172	83.655	20.049	3	167,928
New York	Elmira, NY	3.157	55.935	14.230	0.803	44.922	10.351	1	55,976
New York	Glens Falls, NY	3.456	56.081	5.765	0.355	19.923	5.544	0	0
New York	Ithaca, NY	4.262	66.552	39.592	2.536	168.747	63.776	4	223,902
New York	Kingston, NY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New York	Middletown, NY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New York	Saratoga Springs, NY	0.894	8.953	6.237	0.623	5.576	2.653	0	0
New York	Utica, NY	3.340	39.244	9.111	0.775	30.433	10.471	0	0
North Carolina	Burlington, NC	0.000	0.000	1.939	0.044	0.000	0.492	0	0
North Carolina	Concord, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Gastonia, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Goldsboro, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Greenville, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Hickory, NC	3.137	54.463	4.244	0.244	13.315	1.290	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
North Carolina	High Point, NC	1.664	29.883	11.550	0.643	19.217	8.013	0	0
North Carolina	Jacksonville, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Rocky Mount, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Wilmington, NC	1.812	27.385	11.971	0.792	21.693	9.216	0	0
North Dakota	Bismarck, ND	1.190	17.240	12.721	0.878	15.141	4.025	2	111,951
North Dakota	Fargo, ND--MN	4.771	61.629	8.958	0.694	42.741	13.582	0	0
North Dakota	Grand Forks, ND--MN	2.085	20.370	11.350	1.162	23.667	5.892	1	55,976
Ohio	Lima, OH	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Ohio	Lorain--Elyria, OH	3.094	54.397	5.628	0.320	17.416	2.881	0	0
Ohio	Mansfield, OH	2.792	32.974	3.994	0.338	11.153	3.600	0	0
Ohio	Middletown, OH	3.983	56.908	2.646	0.185	10.541	2.102	0	0
Ohio	Newark, OH	0.885	14.789	14.140	0.846	12.517	2.063	2	111,951
Ohio	Sandusky, OH	1.462	14.713	4.982	0.502	7.384	1.646	0	0
Ohio	Springfield, OH	2.519	28.633	3.042	0.268	7.661	4.203	0	0
Ohio	Weirton, WV--Steubenville, OH--PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Oklahoma	Lawton, OK	2.769	40.886	7.671	0.520	21.245	4.795	0	0
Oklahoma	Norman, OK	5.294	60.834	6.549	0.570	34.671	15.264	0	0
Oregon	Bend, OR	0.610	5.592	5.526	0.603	3.371	5.661	0	0
Oregon	Corvallis, OR	8.295	117.864	6.801	0.479	56.413	11.811	2	111,951
Oregon	Medford, OR	5.964	101.819	7.482	0.438	44.628	8.606	0	0
Pennsylvania	Altoona, PA	4.093	51.535	6.217	0.494	25.443	7.359	0	0
Pennsylvania	Erie, PA	3.688	44.564	15.632	1.294	57.647	16.819	3	167,927
Pennsylvania	Hazleton, PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Pennsylvania	Johnstown, PA	6.647	72.208	9.495	0.874	63.110	15.828	2	111,951
Pennsylvania	Lebanon, PA	3.489	59.031	12.638	0.747	44.093	5.802	1	55,976
Pennsylvania	Monessen, PA	13.956	189.769	4.836	0.356	67.491	2.863	2	111,951
Pennsylvania	Pottstown, PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Pennsylvania	State College, PA	10.680	150.260	24.859	1.767	265.493	99.558	6	335,853
Pennsylvania	Uniontown--Connellsville, PA	1.516	26.520	23.450	1.341	35.552	4.233	2	111,951
Pennsylvania	Williamsport, PA	7.472	112.841	14.307	0.947	106.906	22.104	6	335,853
Pennsylvania	York, PA	3.148	43.826	13.379	0.961	42.120	7.846	2	111,951
Puerto Rico	Arecibo, PR	3.160	36.365	13.204	1.147	41.728	9.413	2	111,951

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Puerto Rico	Fajardo, PR	3.533	41.489	24.297	2.069	85.840	18.507	3	167,927
Puerto Rico	Florida--Barceloneta--Bajadero, PR	3.558	39.479	4.045	0.365	14.394	3.206	0	0
Puerto Rico	Guayama, PR	4.427	44.348	13.130	1.311	58.127	14.079	2	111,951
Puerto Rico	Juana Diaz, PR	3.851	39.866	14.311	1.382	55.110	13.762	2	111,951
Puerto Rico	Mayaguez, PR	3.146	27.913	21.686	2.444	68.224	19.496	3	167,927
Puerto Rico	Ponce, PR	3.767	32.405	7.482	0.870	28.187	9.114	1	55,976
Puerto Rico	San German--Cabo Rojo--Sabana Grande, PR	3.399	39.932	10.104	0.860	34.342	7.285	1	55,976
Puerto Rico	Yauco, PR	3.345	36.870	17.738	1.609	59.337	12.253	2	111,951
South Carolina	Anderson, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Florence, SC	2.576	60.301	39.269	1.677	101.144	4.809	3	167,927
South Carolina	Mauldin--Simpsonville, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Myrtle Beach, SC	2.277	32.732	5.172	0.360	11.776	2.173	0	0
South Carolina	Rock Hill, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Spartanburg, SC	2.706	38.062	6.690	0.476	18.104	3.770	0	0
South Carolina	Sumter, SC	3.327	62.784	26.953	1.428	89.665	5.869	2	111,951
South Dakota	Rapid City, SD	2.424	26.356	7.094	0.652	17.193	4.536	0	0
South Dakota	Sioux Falls, SD	5.044	64.131	10.654	0.838	53.735	8.484	1	55,976
Tennessee	Bristol, TN--Bristol, VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Clarksville, TN--KY	3.182	49.586	10.710	0.687	34.073	6.128	0	0
Tennessee	Cleveland, TN	0.654	6.395	4.477	0.458	2.929	1.001	0	0
Tennessee	Jackson, TN	3.304	44.145	11.925	0.892	39.399	8.853	1	55,976
Tennessee	Johnson City, TN	3.621	41.649	5.910	0.514	21.397	5.703	0	0
Tennessee	Kingsport, TN--VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Morristown, TN	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Murfreesboro, TN	1.804	17.660	4.104	0.419	7.403	2.025	0	0
Texas	Abilene, TX	2.467	32.444	9.651	0.734	23.806	5.432	0	0
Texas	Amarillo, TX	1.742	26.239	4.794	0.318	8.349	1.991	0	0
Texas	Beaumont, TX	3.516	48.525	6.232	0.452	21.913	4.678	0	0
Texas	Brownsville, TX	14.240	168.529	5.961	0.504	84.883	9.950	2	111,951
Texas	College Station--Bryan, TX	1.290	21.963	4.845	0.285	6.248	2.767	0	0
Texas	Galveston, TX	3.678	39.935	7.737	0.712	28.453	9.128	0	0
Texas	Harlingen, TX	0.505	5.943	0.579	0.049	0.292	0.058	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Texas	Killeen, TX	2.823	47.247	5.393	0.322	15.224	1.860	0	0
Texas	Lake Jackson--Angleton, TX	1.947	32.631	1.636	0.098	3.185	0.190	0	0
Texas	Laredo, TX	7.097	76.229	10.796	1.005	76.616	22.987	3	167,927
Texas	Longview, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	McKinney, TX	1.236	19.476	7.786	0.494	9.625	1.292	0	0
Texas	Midland, TX	0.918	14.002	3.818	0.250	3.506	1.937	0	0
Texas	Odessa, TX	0.919	14.010	4.112	0.270	3.778	2.075	0	0
Texas	Port Arthur, TX	3.471	54.362	3.051	0.195	10.591	1.297	0	0
Texas	San Angelo, TX	1.393	21.442	13.106	0.851	18.255	3.560	2	111,951
Texas	Sherman, TX	2.274	37.095	9.432	0.578	21.447	1.712	0	0
Texas	Temple, TX	1.519	21.528	7.682	0.542	11.668	1.978	0	0
Texas	Texarkana, TX--Texarkana, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Texas City, TX	1.499	27.934	3.237	0.174	4.852	0.366	0	0
Texas	The Woodlands, TX	33.409	893.664	4.378	0.164	146.251	4.067	3	167,927
Texas	Tyler, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Victoria, TX	1.024	14.161	10.461	0.756	10.707	4.613	0	0
Texas	Waco, TX	3.681	57.430	6.330	0.406	23.297	4.350	0	0
Texas	Wichita Falls, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Utah	Logan, UT	5.995	88.075	10.918	0.743	65.457	21.315	1	55,976
Utah	St. George, UT	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Vermont	Burlington, VT	6.077	84.982	15.599	1.115	94.791	24.220	3	167,927
Virgin Islands	Virgin Islands	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Virginia	Blacksburg, VA	7.574	81.380	19.442	1.809	147.248	62.029	5	279,878
Virginia	Charlottesville, VA	3.233	40.420	27.023	2.162	87.368	27.689	3	167,927
Virginia	Danville, VA	3.863	61.296	6.708	0.423	25.914	5.012	0	0
Virginia	Fredericksburg, VA	4.219	78.838	11.578	0.620	48.843	5.478	0	0
Virginia	Harrisonburg, VA	8.399	82.943	10.497	1.063	88.165	32.472	3	167,927
Virginia	Lynchburg, VA	3.200	41.552	13.483	1.038	43.139	30.163	3	167,927
Virginia	Roanoke, VA	5.269	70.769	9.177	0.683	48.352	10.178	0	0
Virginia	Winchester, VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Washington	Bellingham, WA	5.939	92.286	38.391	2.471	228.016	70.072	4	223,902
Washington	Bremerton, WA	5.557	106.762	21.636	1.126	120.223	20.914	4	223,902

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Washington	Kennewick--Richland, WA	7.058	169.159	65.952	2.752	465.492	35.730	6	335,853
Washington	Longview, WA--OR	5.394	60.244	6.233	0.558	33.624	8.179	0	0
Washington	Marysville, WA	5.761	93.885	10.262	0.630	59.124	8.750	0	0
Washington	Mount Vernon, WA	4.921	96.172	30.412	1.556	149.649	12.425	3	167,927
Washington	Olympia--Lacey, WA	6.667	128.871	46.012	2.380	306.741	35.649	6	335,854
Washington	Wenatchee, WA	7.045	87.017	13.462	1.090	94.833	10.304	3	167,927
Washington	Yakima, WA	5.017	75.843	14.733	0.975	73.918	13.571	2	111,951
West Virginia	Charleston, WV	5.578	90.868	14.991	0.920	83.618	13.622	2	111,951
West Virginia	Huntington, WV--KY--OH	2.680	39.710	7.130	0.481	19.107	4.671	0	0
West Virginia	Morgantown, WV	1.175	18.818	16.483	1.029	19.371	17.373	3	167,927
West Virginia	Parkersburg, WV--OH	0.000	0.000	0.000	0.000	0.000	0.000	0	0
West Virginia	Wheeling, WV--OH	1.707	20.672	8.021	0.662	13.688	4.922	0	0
Wisconsin	Appleton, WI	2.000	29.208	10.528	0.721	21.056	6.015	0	0
Wisconsin	Beloit, WI--IL	2.908	44.549	7.810	0.510	22.710	5.439	0	0
Wisconsin	Eau Claire, WI	2.932	40.108	12.144	0.888	35.610	11.159	1	55,976
Wisconsin	Fond du Lac, WI	0.985	12.501	7.846	0.618	7.725	3.774	0	0
Wisconsin	Green Bay, WI	3.025	43.134	8.412	0.590	25.450	7.598	0	0
Wisconsin	Janesville, WI	3.601	55.140	7.606	0.497	27.394	7.031	0	0
Wisconsin	Kenosha, WI	4.299	61.503	10.697	0.748	45.985	15.181	0	0
Wisconsin	La Crosse, WI--MN	3.093	40.538	14.226	1.086	44.005	14.173	2	111,951
Wisconsin	Oshkosh, WI	3.224	45.794	13.198	0.929	42.544	14.223	2	111,951
Wisconsin	Racine, WI	3.864	49.378	10.169	0.796	39.290	11.027	0	0
Wisconsin	Sheboygan, WI	1.771	23.622	11.374	0.853	20.143	7.556	1	55,976
Wisconsin	Wausau, WI	3.902	56.880	11.603	0.796	45.279	12.053	0	0
Wyoming	Casper, WY	1.000	11.020	7.499	0.680	7.499	2.984	0	0
Wyoming	Cheyenne, WY	2.659	39.452	7.146	0.482	18.998	4.007	0	0
					Total			315	$17,632,310

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Alabama	Anniston, AL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Alabama	Auburn, AL	1.000	14.286	4.836	0.339	4.836	0.916	0	0
Alabama	Decatur, AL	0.954	11.935	9.117	0.729	8.699	2.973	0	0
Alabama	Dothan, AL	0.996	18.712	14.461	0.770	14.407	1.090	1	55,976
Alabama	Florence, AL	2.035	23.636	7.524	0.648	15.312	4.989	0	0
Alabama	Gadsden, AL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Alabama	Montgomery, AL	4.334	68.246	8.318	0.528	36.046	6.790	0	0
Alabama	Tuscaloosa, AL	3.352	39.894	2.786	0.234	9.338	1.784	0	0
Alaska	Fairbanks, AK	4.947	81.729	11.405	0.690	56.423	7.652	0	0
Arizona	Avondale, AZ	1.102	18.422	6.923	0.414	7.631	1.728	0	0
Arizona	Flagstaff, AZ	3.669	49.560	12.762	0.945	46.821	18.444	3	167,927
Arizona	Prescott, AZ	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arizona	Yuma, AZ--CA	1.276	28.071	12.824	0.583	16.364	3.804	1	55,976
Arkansas	Fayetteville--Springdale, AR	3.726	43.905	4.562	0.387	16.999	8.837	0	0
Arkansas	Fort Smith, AR--OK	2.274	30.356	4.264	0.319	9.698	2.110	0	0
Arkansas	Hot Springs, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arkansas	Jonesboro, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arkansas	Pine Bluff, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Atascadero--El Paso de Robles (Paso Robles), CA	10.429	280.642	5.000	0.186	52.144	1.805	2	111,951
California	Camarillo, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Chico, CA	5.696	83.982	14.213	0.964	80.956	14.933	2	111,951
California	Davis, CA	9.358	117.848	17.361	1.379	162.465	56.523	6	335,853
California	El Centro, CA	12.772	245.026	13.554	0.707	173.111	9.520	4	223,902
California	Fairfield, CA	4.613	92.027	13.016	0.653	60.048	6.792	1	55,976
California	Gilroy--Morgan Hill, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Hanford, CA	5.232	177.199	76.899	2.271	402.363	21.878	5	279,878
California	Hemet, CA	2.147	41.743	6.344	0.326	13.622	1.500	0	0
California	Livermore, CA	3.914	54.524	5.225	0.375	20.454	4.175	0	0
California	Lodi, CA	1.658	17.602	6.077	0.572	10.075	3.523	0	0
California	Lompoc, CA	10.073	139.170	8.540	0.618	86.029	5.304	2	111,951
California	Madera, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Manteca, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
California	Merced, CA	1.856	36.763	7.263	0.367	13.484	2.240	0	0
California	Napa, CA	2.370	29.145	8.217	0.668	19.471	5.157	0	0
California	Petaluma, CA	3.875	50.613	7.433	0.569	28.802	4.964	0	0
California	Porterville, CA	5.513	84.564	7.586	0.495	41.822	9.557	0	0
California	Redding, CA	4.502	72.411	10.435	0.649	46.978	8.557	0	0
California	Salinas, CA	6.949	114.338	8.887	0.540	61.761	9.252	2	111,951
California	San Luis Obispo, CA	6.032	91.945	13.215	0.867	79.710	22.014	3	167,927
California	Santa Barbara, CA	12.700	175.191	16.670	1.208	211.717	43.047	6	335,853
California	Santa Clarita, CA	11.642	202.302	16.000	0.921	186.278	17.929	6	335,853
California	Santa Cruz, CA	9.850	139.422	22.336	1.578	220.017	36.161	6	335,853
California	Santa Maria, CA	9.861	168.151	10.193	0.598	100.512	11.087	3	167,927
California	Seaside--Monterey--Marina, CA	6.003	97.695	19.123	1.175	114.795	17.310	4	223,902
California	Simi Valley, CA	3.678	51.714	5.757	0.409	21.176	4.250	0	0
California	Tracy, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Turlock, CA	1.837	29.548	20.053	1.247	36.843	17.070	3	167,927
California	Vacaville, CA	8.383	157.729	0.641	0.034	5.372	0.551	2	111,951
California	Vallejo, CA	5.482	81.997	7.839	0.524	42.975	5.727	0	0
California	Visalia, CA	4.298	59.795	12.710	0.914	54.627	13.199	2	111,951
California	Watsonville, CA	8.530	127.490	9.482	0.634	80.880	12.782	2	111,951
California	Yuba City, CA	6.213	94.617	11.696	0.768	72.673	10.740	0	0
Colorado	Boulder, CO	9.035	124.344	25.814	1.876	233.237	45.979	6	335,853
Colorado	Grand Junction, CO	4.696	74.522	8.884	0.560	41.720	9.405	0	0
Colorado	Greeley, CO	3.874	46.962	5.663	0.467	21.938	5.922	0	0
Colorado	Lafayette--Louisville, CO	8.788	122.484	6.783	0.487	59.608	11.883	2	111,951
Colorado	Longmont, CO	8.546	116.284	15.124	1.111	129.244	25.071	6	335,853
Colorado	Pueblo, CO	3.638	56.583	6.671	0.429	24.273	7.735	0	0
Connecticut	Danbury, CT--NY	29.205	791.504	35.247	1.301	1029.388	42.032	6	335,853
Connecticut	Norwich--New London, CT	6.150	115.480	9.421	0.502	57.944	7.170	1	55,976
Connecticut	Waterbury, CT	28.325	672.900	29.844	1.256	845.338	42.940	6	335,853
Delaware	Dover, DE	3.151	54.532	31.655	1.829	99.758	13.450	3	167,927
Florida	Brooksville, FL	1.904	36.391	5.392	0.282	10.269	1.603	0	0
Florida	Deltona, FL	3.262	49.465	7.476	0.493	24.386	4.703	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Florida	Fort Walton Beach, FL	1.353	18.763	6.857	0.495	9.279	1.645	0	0
Florida	Gainesville, FL	8.042	92.668	19.772	1.716	159.007	56.299	5	279,878
Florida	Kissimmee, FL	5.035	75.806	13.767	0.914	69.321	11.220	2	111,951
Florida	Lady Lake, FL	2.583	45.575	11.361	0.644	29.342	2.013	0	0
Florida	Lakeland, FL	4.548	68.513	9.097	0.604	41.371	7.866	0	0
Florida	Leesburg--Eustis, FL	2.720	49.263	12.612	0.696	34.307	2.288	1	55,976
Florida	North Port--Punta Gorda, FL	1.091	18.606	4.016	0.236	4.382	0.566	0	0
Florida	Ocala, FL	1.160	18.800	0.001	0.000	0.001	0.000	0	0
Florida	Panama City, FL	3.146	56.848	9.483	0.525	29.832	6.458	0	0
Florida	St. Augustine, FL	2.688	48.517	7.515	0.416	20.199	2.764	0	0
Florida	Titusville, FL	6.194	197.307	21.148	0.664	131.000	5.403	3	167,927
Florida	Vero Beach--Sebastian, FL	3.771	45.816	6.853	0.564	25.845	5.331	0	0
Florida	Winter Haven, FL	2.163	35.644	11.105	0.674	24.024	3.512	0	0
Florida	Zephyrhills, FL	4.069	70.135	6.737	0.391	27.414	4.222	0	0
Georgia	Albany, GA	7.184	116.990	6.735	0.414	48.381	10.083	2	111,951
Georgia	Athens-Clarke County, GA	6.769	56.893	14.648	1.743	99.148	105.901	5	279,878
Georgia	Brunswick, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Dalton, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Gainesville, GA	0.752	10.176	3.181	0.235	2.390	1.628	0	0
Georgia	Hinesville, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Macon, GA	3.459	47.963	8.334	0.601	28.828	6.732	0	0
Georgia	Rome, GA	8.156	93.311	9.694	0.847	79.071	12.322	2	111,951
Georgia	Valdosta, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Warner Robins, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Hawaii	Kailua (Honolulu County)--Kaneohe, HI	12.124	167.053	2.157	0.157	26.146	4.781	2	111,951
Idaho	Coeur d'Alene, ID	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Idaho	Idaho Falls, ID	1.715	22.424	8.142	0.623	13.961	1.940	0	0
Idaho	Lewiston, ID--WA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Idaho	Nampa, ID	4.797	106.453	5.939	0.268	28.491	2.154	0	0
Idaho	Pocatello, ID	4.679	65.095	7.830	0.563	36.638	7.486	0	0
Illinois	Alton, IL	5.329	94.453	4.037	0.228	21.517	2.813	0	0
Illinois	Bloomington--Normal, IL	3.124	45.130	13.151	0.910	41.076	14.617	2	111,951

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Illinois	Champaign, IL	10.106	114.839	24.952	2.196	252.170	81.691	6	335,853
Illinois	Danville, IL	4.987	93.323	9.684	0.518	48.297	9.736	0	0
Illinois	Decatur, IL	3.437	47.572	11.611	0.839	39.906	13.388	1	55,976
Illinois	DeKalb, IL	1.574	23.465	11.215	0.752	17.650	2.147	0	0
Illinois	Kankakee, IL	5.110	74.425	13.897	0.954	71.014	9.738	2	111,951
Illinois	Springfield, IL	3.004	37.531	10.211	0.817	30.676	11.046	0	0
Indiana	Anderson, IN	2.032	26.911	4.203	0.317	8.540	1.846	0	0
Indiana	Bloomington, IN	6.058	64.657	12.244	1.147	74.179	33.062	2	111,951
Indiana	Columbus, IN	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Indiana	Elkhart, IN--MI	2.596	39.952	5.563	0.361	14.438	2.416	0	0
Indiana	Kokomo, IN	1.235	11.876	9.430	0.981	11.650	2.524	1	55,976
Indiana	Lafayette, IN	6.032	68.558	12.658	1.114	76.359	37.711	3	167,927
Indiana	Michigan City, IN--MI	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Indiana	Muncie, IN	5.543	72.347	11.685	0.895	64.771	21.323	2	111,951
Indiana	Terre Haute, IN	1.451	12.385	4.883	0.572	7.084	3.983	0	0
Iowa	Ames, IA	6.857	72.329	22.166	2.101	151.992	98.611	5	279,878
Iowa	Cedar Rapids, IA	4.779	60.927	8.453	0.663	40.401	8.064	0	0
Iowa	Dubuque, IA--IL	2.059	24.198	8.284	0.705	17.057	5.423	0	0
Iowa	Iowa City, IA	5.539	62.388	23.821	2.115	131.958	77.497	4	223,902
Iowa	Sioux City, IA--NE--SD	8.385	106.001	6.905	0.546	57.898	11.246	1	55,976
Iowa	Waterloo, IA	1.062	16.734	9.514	0.604	10.108	5.083	0	0
Kansas	Lawrence, KS	2.892	34.153	11.608	0.983	33.572	12.316	1	55,976
Kansas	Topeka, KS	4.175	65.029	10.832	0.695	45.222	11.648	0	0
Kentucky	Bowling Green, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Kentucky	Owensboro, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Kentucky	Radcliff--Elizabethtown, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Alexandria, LA	5.018	80.419	8.270	0.516	41.499	10.646	0	0
Louisiana	Houma, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Lafayette, LA	9.119	121.277	4.789	0.360	43.674	8.358	2	111,951
Louisiana	Lake Charles, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Mandeville--Covington, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Monroe, LA	4.585	69.822	7.382	0.485	33.848	10.575	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Louisiana	Slidell, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Maine	Bangor, ME	6.049	80.878	10.327	0.772	62.464	14.958	0	0
Maine	Lewiston, ME	3.043	39.016	4.747	0.370	14.445	4.645	0	0
Maine	Portland, ME	6.137	69.703	8.400	0.740	51.550	12.854	0	0
Maryland	Aberdeen--Havre de Grace--Bel Air, MD	3.344	60.890	4.305	0.236	14.397	1.737	0	0
Maryland	Cumberland, MD--WV--PA	3.495	53.302	8.883	0.582	31.043	3.398	0	0
Maryland	Frederick, MD	3.241	45.419	9.771	0.697	31.665	6.647	0	0
Maryland	Hagerstown, MD--WV--PA	3.017	45.423	4.000	0.266	12.068	3.204	0	0
Maryland	Salisbury, MD--DE	0.000	0.000	32.947	1.582	0.000	8.610	2	111,951
Maryland	St. Charles, MD	3.884	63.606	8.304	0.507	32.249	3.836	0	0
Maryland	Westminster, MD	1.416	18.396	11.878	0.915	16.825	2.048	1	55,976
Massachusetts	Leominster--Fitchburg, MA	2.560	42.924	24.469	1.459	62.631	7.678	2	111,951
Massachusetts	New Bedford, MA	4.891	61.641	5.145	0.408	25.162	5.457	0	0
Massachusetts	Pittsfield, MA	3.828	52.778	16.353	1.186	62.595	7.967	2	111,951
Michigan	Battle Creek, MI	3.960	52.370	6.545	0.495	25.917	6.945	0	0
Michigan	Bay City, MI	2.731	50.742	19.021	1.024	51.952	8.250	2	111,951
Michigan	Benton Harbor--St. Joseph, MI	1.898	21.336	7.137	0.635	13.546	2.797	0	0
Michigan	Holland, MI	1.108	13.897	8.664	0.691	9.600	3.413	0	0
Michigan	Jackson, MI	2.404	35.533	8.602	0.582	20.682	6.341	0	0
Michigan	Kalamazoo, MI	3.859	45.441	10.893	0.925	42.037	13.934	1	55,976
Michigan	Monroe, MI	2.742	34.833	9.090	0.716	24.929	5.569	0	0
Michigan	Muskegon, MI	3.889	48.438	5.127	0.412	19.939	4.833	0	0
Michigan	Port Huron, MI	1.528	23.896	21.161	1.353	32.343	11.412	2	111,951
Michigan	Saginaw, MI	4.611	75.934	5.728	0.348	26.411	7.480	0	0
Michigan	South Lyon--Howell--Brighton, MI	2.391	47.311	5.058	0.256	12.094	0.864	0	0
Minnesota	Duluth, MN--WI	6.992	91.508	16.485	1.260	115.268	27.047	5	279,878
Minnesota	Rochester, MN	5.232	81.424	12.731	0.818	66.608	17.797	2	111,951
Minnesota	St. Cloud, MN	5.446	72.968	17.707	1.321	96.423	26.082	3	167,927
Mississippi	Hattiesburg, MS	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Mississippi	Pascagoula, MS	7.223	381.146	4.422	0.084	31.939	0.716	2	111,951
Missouri	Columbia, MO	4.931	48.836	7.771	0.785	38.321	23.263	1	55,976
Missouri	Jefferson City, MO	1.979	30.049	10.051	0.662	19.887	7.118	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Missouri	Joplin, MO	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Missouri	Lee's Summit, MO	1.856	28.036	0.398	0.026	0.738	0.114	0	0
Missouri	St. Joseph, MO--KS	2.341	28.018	10.754	0.899	25.179	5.015	1	55,976
Montana	Billings, MT	3.941	51.514	7.166	0.548	28.243	7.330	0	0
Montana	Great Falls, MT	1.543	19.917	8.508	0.659	13.129	6.155	0	0
Montana	Missoula, MT	3.428	50.628	12.318	0.834	42.224	17.085	2	111,951
N. Mariana Islands	Saipan, MP	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Nevada	Carson City, NV	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New Hampshire	Dover--Rochester, NH--ME	8.349	128.003	7.236	0.472	60.412	11.960	2	111,951
New Hampshire	Manchester, NH	2.553	27.315	3.742	0.350	9.554	3.787	0	0
New Hampshire	Nashua, NH--MA	4.914	65.242	2.453	0.185	12.056	2.367	0	0
New Hampshire	Portsmouth, NH--ME	8.359	128.218	5.477	0.357	45.782	9.147	2	111,951
New Jersey	Hightstown, NJ	4.006	57.597	0.481	0.033	1.928	0.448	0	0
New Jersey	Vineland, NJ	1.335	20.495	5.621	0.366	7.505	1.085	0	0
New Jersey	Wildwood--North Wildwood--Cape May, NJ	1.335	20.495	17.653	1.150	23.572	3.407	2	111,951
New Mexico	Farmington, NM	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New Mexico	Las Cruces, NM	3.281	37.349	6.696	0.588	21.966	6.861	0	0
New Mexico	Santa Fe, NM	3.180	39.960	16.206	1.290	51.539	11.577	2	111,951
New York	Binghamton, NY--PA	4.943	71.385	16.923	1.172	83.655	20.049	3	167,928
New York	Elmira, NY	3.157	55.935	14.230	0.803	44.922	10.351	1	55,976
New York	Glens Falls, NY	3.456	56.081	5.765	0.355	19.923	5.544	0	0
New York	Ithaca, NY	4.262	66.552	39.592	2.536	168.747	63.776	4	223,902
New York	Kingston, NY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New York	Middletown, NY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New York	Saratoga Springs, NY	0.894	8.953	6.237	0.623	5.576	2.653	0	0
New York	Utica, NY	3.340	39.244	9.111	0.775	30.433	10.471	0	0
North Carolina	Burlington, NC	0.000	0.000	1.939	0.044	0.000	0.492	0	0
North Carolina	Concord, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Gastonia, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Goldsboro, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Greenville, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Hickory, NC	3.137	54.463	4.244	0.244	13.315	1.290	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
North Carolina	High Point, NC	1.664	29.883	11.550	0.643	19.217	8.013	0	0
North Carolina	Jacksonville, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Rocky Mount, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Wilmington, NC	1.812	27.385	11.971	0.792	21.693	9.216	0	0
North Dakota	Bismarck, ND	1.190	17.240	12.721	0.878	15.141	4.025	2	111,951
North Dakota	Fargo, ND--MN	4.771	61.629	8.958	0.694	42.741	13.582	0	0
North Dakota	Grand Forks, ND--MN	2.085	20.370	11.350	1.162	23.667	5.892	1	55,976
Ohio	Lima, OH	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Ohio	Lorain--Elyria, OH	3.094	54.397	5.628	0.320	17.416	2.881	0	0
Ohio	Mansfield, OH	2.792	32.974	3.994	0.338	11.153	3.600	0	0
Ohio	Middletown, OH	3.983	56.908	2.646	0.185	10.541	2.102	0	0
Ohio	Newark, OH	0.885	14.789	14.140	0.846	12.517	2.063	2	111,951
Ohio	Sandusky, OH	1.482	14.713	4.982	0.502	7.384	1.646	0	0
Ohio	Springfield, OH	2.519	28.633	3.042	0.268	7.661	4.203	0	0
Ohio	Weirton, WV--Steubenville, OH--PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Oklahoma	Lawton, OK	2.769	40.886	7.671	0.520	21.245	4.795	0	0
Oklahoma	Norman, OK	5.294	60.834	6.549	0.570	34.671	15.264	0	0
Oregon	Bend, OR	0.610	5.592	5.526	0.603	3.371	5.661	0	0
Oregon	Corvallis, OR	8.295	117.864	6.801	0.479	56.413	11.811	2	111,951
Oregon	Medford, OR	5.964	101.819	7.482	0.438	44.628	8.606	0	0
Pennsylvania	Altoona, PA	4.093	51.535	6.217	0.494	25.443	7.359	0	0
Pennsylvania	Erie, PA	3.688	44.564	15.632	1.294	57.647	16.819	3	167,927
Pennsylvania	Hazleton, PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Pennsylvania	Johnstown, PA	6.647	72.208	9.495	0.874	63.110	15.828	2	111,951
Pennsylvania	Lebanon, PA	3.489	59.031	12.638	0.747	44.093	5.802	1	55,976
Pennsylvania	Monessen, PA	13.956	189.769	4.836	0.356	67.491	2.863	2	111,951
Pennsylvania	Pottstown, PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Pennsylvania	State College, PA	10.680	150.260	24.859	1.767	265.493	99.558	6	335,853
Pennsylvania	Uniontown--Connellsville, PA	1.516	26.520	23.450	1.341	35.552	4.233	2	111,951
Pennsylvania	Williamsport, PA	7.472	112.841	14.307	0.947	106.906	22.104	6	335,853
Pennsylvania	York, PA	3.148	43.826	13.379	0.961	42.120	7.846	2	111,951
Puerto Rico	Arecibo, PR	3.160	36.365	13.204	1.147	41.728	9.413	2	111,951

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Puerto Rico	Fajardo, PR	3.533	41.489	24.297	2.069	85.840	18.507	3	167,927
Puerto Rico	Florida--Barceloneta--Bajadero, PR	3.558	39.479	4.045	0.365	14.394	3.206	0	0
Puerto Rico	Guayama, PR	4.427	44.348	13.130	1.311	58.127	14.079	2	111,951
Puerto Rico	Juana Diaz, PR	3.851	39.866	14.311	1.382	55.110	13.762	2	111,951
Puerto Rico	Mayaguez, PR	3.146	27.913	21.686	2.444	68.224	19.496	3	167,927
Puerto Rico	Ponce, PR	3.767	32.405	7.482	0.870	28.187	9.114	1	55,976
Puerto Rico	San German--Cabo Rojo--Sabana Grande, PR	3.399	39.932	10.104	0.860	34.342	7.285	1	55,976
Puerto Rico	Yauco, PR	3.345	36.870	17.738	1.609	59.337	12.253	2	111,951
South Carolina	Anderson, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Florence, SC	2.576	60.301	39.269	1.677	101.144	4.809	3	167,927
South Carolina	Mauldin--Simpsonville, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Myrtle Beach, SC	2.277	32.732	5.172	0.360	11.776	2.173	0	0
South Carolina	Rock Hill, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Spartanburg, SC	2.706	38.062	6.690	0.476	18.104	3.770	0	0
South Carolina	Sumter, SC	3.327	62.784	26.953	1.428	89.665	5.869	2	111,951
South Dakota	Rapid City, SD	2.424	26.356	7.094	0.652	17.193	4.536	0	0
South Dakota	Sioux Falls, SD	5.044	64.131	10.654	0.838	53.735	8.484	1	55,976
Tennessee	Bristol, TN--Bristol, VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Clarksville, TN--KY	3.182	49.586	10.710	0.687	34.073	6.128	0	0
Tennessee	Cleveland, TN	0.654	6.395	4.477	0.458	2.929	1.001	0	0
Tennessee	Jackson, TN	3.304	44.145	11.925	0.892	39.399	8.853	1	55,976
Tennessee	Johnson City, TN	3.621	41.649	5.910	0.514	21.397	5.703	0	0
Tennessee	Kingsport, TN--VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Morristown, TN	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Murfreesboro, TN	1.804	17.660	4.104	0.419	7.403	2.025	0	0
Texas	Abilene, TX	2.467	32.444	9.651	0.734	23.806	5.432	0	0
Texas	Amarillo, TX	1.742	26.239	4.794	0.318	8.349	1.991	0	0
Texas	Beaumont, TX	3.516	48.525	6.232	0.452	21.913	4.678	0	0
Texas	Brownsville, TX	14.240	168.529	5.961	0.504	84.883	9.950	2	111,951
Texas	College Station--Bryan, TX	1.290	21.963	4.845	0.285	6.248	2.767	0	0
Texas	Galveston, TX	3.678	39.935	7.737	0.712	28.453	9.128	0	0
Texas	Harlingen, TX	0.505	5.943	0.579	0.049	0.292	0.058	0	0

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Texas	Killeen, TX	2.623	47.247	5.393	0.322	15.224	1.860	0	0
Texas	Lake Jackson--Angleton, TX	1.947	32.631	1.636	0.098	3.185	0.190	0	0
Texas	Laredo, TX	7.097	76.229	10.796	1.005	76.616	22.987	3	167,927
Texas	Longview, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	McKinney, TX	1.236	19.476	7.786	0.494	9.625	1.292	0	0
Texas	Midland, TX	0.918	14.002	3.818	0.250	3.506	1.937	0	0
Texas	Odessa, TX	0.919	14.010	4.112	0.270	3.778	2.075	0	0
Texas	Port Arthur, TX	3.471	54.362	3.051	0.195	10.591	1.297	0	0
Texas	San Angelo, TX	1.393	21.442	13.106	0.851	18.255	3.560	2	111,951
Texas	Sherman, TX	2.274	37.095	9.432	0.578	21.447	1.712	0	0
Texas	Temple, TX	1.519	21.528	7.682	0.542	11.668	1.978	0	0
Texas	Texarkana, TX--Texarkana, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Texas City, TX	1.499	27.934	3.237	0.174	4.852	0.366	0	0
Texas	The Woodlands, TX	33.409	893.664	4.378	0.164	146.251	4.067	3	167,927
Texas	Tyler, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Victoria, TX	1.024	14.161	10.461	0.756	10.707	4.613	0	0
Texas	Waco, TX	3.681	57.430	6.330	0.406	23.297	4.350	0	0
Texas	Wichita Falls, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Utah	Logan, UT	5.995	88.075	10.918	0.743	65.457	21.315	1	55,976
Utah	St. George, UT	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Vermont	Burlington, VT	6.077	84.982	15.599	1.115	94.791	24.220	3	167,927
Virgin Islands	Virgin Islands	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Virginia	Blacksburg, VA	7.574	81.380	19.442	1.809	147.248	62.029	5	279,878
Virginia	Charlottesville, VA	3.233	40.420	27.023	2.162	87.368	27.689	3	167,927
Virginia	Danville, VA	3.863	61.296	6.708	0.423	25.914	5.012	0	0
Virginia	Fredericksburg, VA	4.219	78.838	11.578	0.620	48.843	5.478	0	0
Virginia	Harrisonburg, VA	8.399	82.943	10.497	1.063	88.165	32.472	3	167,927
Virginia	Lynchburg, VA	3.200	41.552	13.483	1.038	43.139	30.163	3	167,927
Virginia	Roanoke, VA	5.269	70.769	9.177	0.683	48.352	10.178	0	0
Virginia	Winchester, VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Washington	Bellingham, WA	5.939	92.286	38.391	2.471	228.016	70.072	4	223,902
Washington	Bremerton, WA	5.557	106.762	21.636	1.126	120.223	20.914	4	223,902

FEDERAL TRANSIT ADMINISTRATION

Table 6

FY 2011 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under Public Law - 111-322)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ ~ $55,976 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.529**	**108.538**	**12.607**	**0.823**	**97.743**	**16.586**		
Washington	Kennewick--Richland, WA	7.058	169.159	65.952	2.752	465.492	35.730	6	335,853
Washington	Longview, WA--OR	5.394	60.244	6.233	0.558	33.624	8.179	0	0
Washington	Marysville, WA	5.761	93.885	10.262	0.630	59.124	8.750	0	0
Washington	Mount Vernon, WA	4.921	96.172	30.412	1.556	149.649	12.425	3	167,927
Washington	Olympia--Lacey, WA	6.667	128.671	46.012	2.380	306.741	35.649	6	335,854
Washington	Wenatchee, WA	7.045	87.017	13.462	1.090	94.833	10.304	3	167,927
Washington	Yakima, WA	5.017	75.843	14.733	0.975	73.918	13.571	2	111,951
West Virginia	Charleston, WV	5.578	90.868	14.991	0.920	83.618	13.622	2	111,951
West Virginia	Huntington, WV--KY--OH	2.680	39.710	7.130	0.481	19.107	4.671	0	0
West Virginia	Morgantown, WV	1.175	18.818	16.483	1.029	19.371	17.373	3	167,927
West Virginia	Parkersburg, WV--OH	0.000	0.000	0.000	0.000	0.000	0.000	0	0
West Virginia	Wheeling, WV--OH	1.707	20.672	8.021	0.662	13.688	4.922	0	0
Wisconsin	Appleton, WI	2.000	29.208	10.528	0.721	21.056	6.015	0	0
Wisconsin	Beloit, WI--IL	2.908	44.549	7.810	0.510	22.710	5.439	0	0
Wisconsin	Eau Claire, WI	2.932	40.108	12.144	0.888	35.610	11.159	1	55,976
Wisconsin	Fond du Lac, WI	0.985	12.501	7.846	0.618	7.725	3.774	0	0
Wisconsin	Green Bay, WI	3.025	43.134	8.412	0.590	25.450	7.598	0	0
Wisconsin	Janesville, WI	3.601	55.140	7.606	0.497	27.394	7.031	0	0
Wisconsin	Kenosha, WI	4.299	61.503	10.697	0.748	45.985	15.181	0	0
Wisconsin	La Crosse, WI--MN	3.093	40.538	14.226	1.086	44.005	14.173	2	111,951
Wisconsin	Oshkosh, WI	3.224	45.794	13.198	0.929	42.544	14.223	2	111,951
Wisconsin	Racine, WI	3.864	49.378	10.169	0.796	39.290	11.027	0	0
Wisconsin	Sheboygan, WI	1.771	23.622	11.374	0.853	20.143	7.556	1	55,976
Wisconsin	Wausau, WI	3.902	56.880	11.603	0.796	45.279	12.053	0	0
Wyoming	Casper, WY	1.000	11.020	7.499	0.680	7.499	2.984	0	0
Wyoming	Cheyenne, WY	2.659	39.452	7.146	0.482	18.998	4.007	0	0
						Total		315	$17,632,310

FEDERAL TRANSIT ADMINISTRATION

TABLE 7

Prior Year Unobligated Section 5308 Clean Fuels Grant Program as of September 30, 2010

FY 2009 Unobligated Allocations

Earmark ID	State	Project Name	Unobligated Balance
E2009-CLNF-003	DE	Delaware Statewide Bus and Bus Replacement (with Clean Fuel (hybrid) vehicles)	$271,483
E2009-CLNF-009	NV	Lake Tahoe, NV MPO Bus Replacement	1,000,000
E2009-CLNF-010	NY	Westchester, NY, Bee Line Bus Replacement	650,000
E2009-CLNF-012	RI	Rhode Island, Statewide Bus and Van Replacement	6,400,000
		Total FY 2009 Unobligated Allocations.....	**$8,321,483**

FEDERAL TRANSIT ADMINISTRATION

TABLE 8

FY 2011 SECTION 5309 FIXED GUIDEWAY MODERNIZATION APPORTIONMENTS

(Apportionment amount is based on funding made available under Public Law - 111-322)

STATE	AREA	APPORTIONMENT
Arizona	Phoenix--Mesa, AZ	$547,858
California	Los Angeles--Long Beach--Santa Ana, CA	8,620,887
California	Sacramento, CA	825,198
California	San Diego, CA	2,494,952
California	San Francisco--Oakland, CA	45,376,044
California	San Jose, CA	3,513,592
Colorado	Denver--Aurora, CO	655,204
Connecticut	Hartford, CT	422,489
Connecticut	Southwestern Connecticut	30,775,977
District of Columbia	Washington, DC--VA--MD	15,615,089
Florida	Jacksonville, FL	31,982
Florida	Miami, FL	4,647,760
Florida	Tampa--St. Petersburg, FL	29,842
Georgia	Atlanta, GA	6,539,456
Hawaii	Honolulu, HI	216,321
Illinois	Chicago, IL--IN	97,158,020
Louisiana	New Orleans, LA	2,352,072
Maryland	Baltimore Commuter Rail	11,584,138
Maryland	Baltimore, MD	2,453,170
Massachusetts	Boston, MA	49,013,311
Michigan	Detroit, MI	117,212
Minnesota	Minneapolis--St. Paul, MN	1,601,479
Missouri	St. Louis, MO--IL	1,127,627
New Jersey	Northeastern New Jersey	61,863,335
New Jersey	Trenton, NJ	500,028
New York	Buffalo, NY	359,166
New York	New York	238,436,748
Ohio	Cleveland, OH	10,969,703
Ohio	Dayton, OH	1,363,848
Oregon	Portland, OR--WA	987,335
Pennsylvania	Philadelphia, PA-NJ-DE-MD	70,519,858
Pennsylvania	Pittsburgh, PA	18,221,644
Puerto Rico	San Juan, PR	591,831
Rhode Island	Providence, RI--MA	790,586
Tennessee	Chattanooga, TN--GA	24,028
Texas	Dallas--Fort Worth--Arlington, TX	259,209
Texas	Houston, TX	1,993,209
Virginia	Virginia Beach, VA	372,613
Washington	Seattle, WA	5,772,513
West Virginia	Morgantown, WVA	271,358
Wisconsin	Madison, WI	210,470
	TOTAL	**$699,227,162**

FEDERAL TRANSIT ADMINISTRATION

TABLE 9

FY 2011 FIXED GUIDEWAY MODERNIZATION PROGRAM APPORTIONMENT FORMULA

Tier 1 First $497,700,000 to the following areas:

Baltimore	$	8,372,000
Boston	$	38,948,000
Chicago/N.W. Indiana	$	78,169,000
Cleveland	$	9,509,500
New Orleans	$	1,730,588
New York	$	176,034,461
N. E. New Jersey	$	50,604,653
Philadelphia/So. New Jersey	$	58,924,764
Pittsburgh	$	13,662,463
San Francisco	$	33,989,571
SW Connecticut	$	27,755,000

Tier 2 Next $70,000,000 as follows: Tier 2(A): 50 percent is allocated to areas identified in Tier 1; Tier 2(B): 50 percent is allocated to other urbanized areas with fixed guideway tiers in operation at least seven years. Funds are allocated by the Urbanized Area Formula Program fixed guideway tier formula factors that were used to apportion funds for the fixed guideway modernization program in FY 1997.

Tier 3 Next $5,700,000 as follows: Pittsburgh 61.76%; Cleveland 10.73%; New Orleans 5.79%; and 21.72% is allocated to all other areas in Tier 2(B) by the same fixed guideway tier formula factors used in fiscal year 1997.

Tier 4 Next $186,600,000 as follows: All eligible areas using the same year fixed guideway tier formula factors used in fiscal year 1997.

Tier 5 Next $70,000,000 as follows: 65% to the 11 areas identified in Tier 1, and 35% to all other areas using the most current Urbanized Area Formula Program fixed guideway tier formula factors. Any segment that is less than 7 years old in the year of the apportionment will be deleted from the database.

Tier 6 Next $50,000,000 as follows: 60% to the 11 areas identified in Tier 1, and 40% to all other areas using the most current Urbanized Area Formula Program fixed guideway tier formula factors. Any segment less than 7 years old in the year of the apportionment will be deleted from the database.

Tier 7 Remaining amounts as follows: 50% to the 11 areas identified in Tier 1, and 50% to all other areas using the most current Urbanized Area Formula Program fixed guideway formula factors. Any segment that is less than 7 years old in the year of the apportionment will be deleted from the database.

FEDERAL TRANSIT ADMINISTRATION

TABLE 10

Prior Year Unobligated Section 5309 Bus and Bus Related Equipment and Facilities as of September 30, 2010

State	Earmark ID	Project Location and Description	Unobligated Allocation
FY 2009 Unobligated Allocations			
AK	E2009-BUSP-001	Alaska Native Medical Center intermodal parking facility	$1,350,000
AK	E2009-BUSP-003	Bus Acquisition, Fairbanks North Star Borough Transit	798,000
AK	E2009-BUSP-004	C Street Expanded bus facility and inter-modal parking garage, Anchorage, AK	1,350,000
AK	E2009-BUSP-011	Ketchikan, Alaska-Transit Needs	68,000
AK	E2009-BUSP-012	MASCOT Bus Bay Expansion, Mat-Su Borough	665,000
AK	E2009-BUSP-015	North Slope Borough, AK-Transit Purposes	549,000
AK	E2009-BUSP-016	North Star Borough, AK-Transit Purposes	274,000
AK	E2009-BUSP-018	Statewide Bus and Bus Facility Enhancements	570,000
AK	E2009-BUSP-019	Wrangell, AK-Ferry Infrastructure	274,000
AL	E2009-BUSP-021	Alabama Senior Transportation	950,000
AL	E2009-BUSP-024	Baldwin County Bus and Bus Facilities Project	950,000
AL	E2009-BUSP-025	Birmingham, AL Expansion of Downtown Intermodal Facility, Phase II	451,440
AL	E2009-BUSP-026	City of Birmingham, AL-Birmingham Downtown Intermodal Terminal, Phase II	1,372,000
AL	E2009-BUSP-027	City of Huntsville, AL- Cummings Park Intermodal Center	40,004
AL	E2009-BUSP-028	City of Montgomery, AL-ITS Acquisition and Implementation	1,097,000
AL	E2009-BUSP-032	Gulf Shores, AL-- Bus and Bus facilities	274,000
AL	E2009-BUSP-033	Marshall County Vehicle Replacement for Seniors and for the Mentally Disabled	285,000
AL	E2009-BUSP-034	Mobile County, AL Commission-Bus project	137,000
AL	E2009-BUSP-035	Replacement of Buses and Vans, Birmingham-Jefferson County Transit Authority	1,425,000
AL	E2009-BUSP-036	University of Alabama Bus and Bus Facility Project	475,000
AL	E2009-BUSP-038	University of Alabama in Huntsville Intermodal Facility	1,646,000
AL	E2009-BUSP-040	University of Alabama Transit System	411,000
AR	E2009-BUSP-042	Central Arkansas Transit Authority, Bus Acquisition	1,000,000
AZ	E2009-BUSP-048	Coconino County buses and bus facilities for Flagstaff, AZ	282,150
AZ	E2009-BUSP-049	Coconino County, Arizona-Bus and bus facilities for the Sedona Transit System	214,434
AZ	E2009-BUSP-050	Phoenix, AZ Construct City of Phoenix para-transit facility (Dial-A-Ride)	225,720
AZ	E2009-BUSP-051	Phoenix, AZ Construct metro bus facility in Phoenixs West Valley	1,128,600
AZ	E2009-BUSP-052	Phoenix, AZ Construct regional heavy bus maintenance facility	225,720
AZ	E2009-BUSP-053	Scottsdale, Arizona-Plan, design, and construct intermodal center	564,300
AZ	E2009-BUSP-054	South Mountain Circulator Bus, Phoenix	950,000
AZ	E2009-BUSP-055	Tempe, Arizona-Construct East Valley Metro Bus Facility	1,467,180
CA	E2009-BUSP-060	Baldwin Park, CA Construct vehicle and bicycle parking lot and pedestrian rest area at transit center	451,440
CA	E2009-BUSP-063	Burbank, CA Construction of Empire Area Transit Center near Burbank Airport	56,430
CA	E2009-BUSP-067	Calexico, CA Purchase new buses for the Calexico Transit System	67,716
CA	E2009-BUSP-072	City of Livermore, CA Construct Bus Facility for Livermore Amador Valley Transit Authority	507,870
CA	E2009-BUSP-076	Covina, El Monte, Baldwin Park, Upland, CA Parking and Electronic Signage Improvements	395,010
CA	E2009-BUSP-078	Davis, CA Davis Multi-Modal Station to improve entrance to Amtrak Depot and parking lot, provide additional parking and improve service	225,720
CA	E2009-BUSP-086	Fresno, CA-Develop program of low-emission transit vehicles	225,720
CA	E2009-BUSP-088	Glassell park Transit Pavilion, Los Angeles	190,000
CA	E2009-BUSP-089	Glendale, CA Construction of Downtown Streetcar Project	225,720
CA	E2009-BUSP-092	Hercules, CA Inter-modal Rail Station Improvements	338,580
CA	E2009-BUSP-093	Historic Filipinotown Bus Security Lights, Los Angeles	62,700
CA	E2009-BUSP-094	Intermodal Station, Vacaville	475,000
CA	E2009-BUSP-097	Long Beach, CA Park and Ride Facility	225,720
CA	E2009-BUSP-113	Martinez, CA Inter-modal Facility Restoration	338,580
CA	E2009-BUSP-114	Metro Gold Line Foothill Extension Light Rail Transit Project from Pasadena, CA to Montclair, CA	3,385,800
CA	E2009-BUSP-116	Monrovia Transit Village Improvements	237,500
CA	E2009-BUSP-117	Monrovia, California-Transit Village Project	677,160
CA	E2009-BUSP-118	Montebello, CA Bus Lines Bus Fleet Replacement Project	158,004
CA	E2009-BUSP-124	MTOC Clean Fuel Bus Purchases and Facility Enhancements	475,000
CA	E2009-BUSP-128	Norwalk/Santa Fe Springs Transportation Center Improvements, Santa Fe Springs	475,000
CA	E2009-BUSP-137	Palmdale Transportation Center Metrolink Platform Extension	380,000
CA	E2009-BUSP-140	Purchase Clean Fuel Buses for Long Beach Transit	950,000
CA	E2009-BUSP-141	Purchase CNG Buses for Foothill Transit	1,187,500
CA	E2009-BUSP-142	Redondo Beach, CA Capital Equipment procurement of 12. Compressed Natural Gas (CNG) Transit Vehicles for Coastal Shuttle Services by Beach Cities Tran	180,576
CA	E2009-BUSP-146	Sacramento, CA Bus enhancement and improvements-construct maintenance facility and purchase clean-fuel buses to improve transit service	451,440
CA	E2009-BUSP-147	Sacramento, improvements to the existing Sacramento Intermodal Facility (Sacramento Valley Station)	1,580,040
CA	E2009-BUSP-150	San Diego, CA Widen sidewalks and bus stop entrance, and provide diagonal parking, in the Skyline Paradise Hills neighborhood (Reo Drive)	67,716
CA	E2009-BUSP-151	San Fernando Valley, CA Reseda Blvd. Bus Rapid Transit Route	135,432
CA	E2009-BUSP-152	San Fernando, CA Purchase CNG buses and related equipment and construct facilities	686,189
CA	E2009-BUSP-156	San Francisco, CA Redesign and renovate intermodal facility at Glen Park Community	931,095
CA	E2009-BUSP-157	San Gabriel Valley, CA-Foothill Transit Park and Rides	2,144,340
CA	E2009-BUSP-160	Santa Ana, CA Improve Santa Ana Transit terminal	225,720

FEDERAL TRANSIT ADMINISTRATION

TABLE 10

Prior Year Unobligated Section 5309 Bus and Bus Related Equipment and Facilities as of September 30, 2010

State	Earmark ID	Project Location and Description	Unobligated Allocation
CA	E2009-BUSP-164	Santa Monica, CA Construct intermodal park-and-ride facility at Santa Monica College campus on South Bundy Drive near Airport Avenue	225,720
CA	E2009-BUSP-167	Solana Beach, CA-Construct Intermodal Facility	338,580
CA	E2009-BUSP-168	Sonoma County, CA Purchase of CNG buses	112,860
CA	E2009-BUSP-169	South Pasadena, CA Silent Night Grade Crossing Project	203,148
CA	E2009-BUSP-177	Transit Station Expansion Project (Metrolink Parking Lot), Rialto	285,000
CA	E2009-BUSP-178	Tri-Delta Transit Park and Ride Lots, Eastern Contra Costa County	641,250
CA	E2009-BUSP-948	San Francisco Water Transit Authority	2,500,000
CA	E2009-BUSP-956	Fuel Cell Bus Program (Earmark designated for MA, CA and GA)	3,000,000
CO	E2009-BUSP-185	Colorado Association of Transit Agencies/Colorado Transit Coalition-Colorado Statewide Buses and Bus Facilities	921,817
CO	E2009-BUSP-192	Grand Valley Transit, CO Bus and Bus Facilities	112,860
CT	E2009-BUSP-199	Bridgeport Intermodal Transportation Center	2,850,000
CT	E2009-BUSP-203	Downtown Middletown, CT, Transportation Infrastructure Improvement Project	2,850,000
CT	E2009-BUSP-206	Middletown, CT Construct intermodal center	338,580
CT	E2009-BUSP-208	New London, Connecticut-Intermodal Transportation Center and Streetscapes	112,860
CT	E2009-BUSP-210	Stonington and Mystic, Connecticut-Intermodal Center parking facility and Streetscape	550,757
CT	E2009-BUSP-211	Torrington, CT Construct bus-related facility (Northwestern Connecticut Central Transit District)	451,440
CT	E2009-BUSP-212	Vernon, Connecticut-Intermodal Center, Parking and Streetscapes	1,715,472
CT	E2009-BUSP-213	Waterbury, CT Bus Maintenance Facility	3,400,000
DC	E2009-BUSP-214	Union Station Intermodal Transportation Center, Washington	475,000
FL	E2009-BUSP-217	Amtrak Station Construction and Improvements, Winter Park	950,000
FL	E2009-BUSP-220	Broward County, FL - Purchase Buses and construct bus facilities	451,440
FL	E2009-BUSP-221	Broward County, FL Buses & Bus Facilities	1,467,180
FL	E2009-BUSP-222	Broward County-Bus and Bus Facilities	549,000
FL	E2009-BUSP-223	Broward, FL Purchase new articulated buses and bus stop improvements on State Road 7. (SR 7) between Golden Glades Interchange and Glades Road	112,860
FL	E2009-BUSP-224	Bus Facility, North Bay Village	475,000
FL	E2009-BUSP-226	Central Avenue BRT Corridor Station Development and Enhancements	475,000
FL	E2009-BUSP-227	Central Florida Commuter Rail Intermodal Facilities	810,000
FL	E2009-BUSP-228	Central Florida Regional Transportation Authority-LYNX Bus Fleet Expansion Program	1,372,000
FL	E2009-BUSP-230	Collier County Transit-Transit Facility	274,000
FL	E2009-BUSP-231	Construction of Bus Stations in Altamonte, Lake Mary, Longwood, and Sanford	1,425,000
FL	E2009-BUSP-233	Design, Acquisition of ROW, and Construction of the Regional Intermodal Terminal Center, Jacksonville	475,000
FL	E2009-BUSP-234	Design, engineering, right-of-way acquisition and construction intermodal transportation & parking facility, City of Winter Park	112,860
FL	E2009-BUSP-235	Design, engineering, right-of-way acquisition, and construction Central Florida Commuter Rail intermodal facilities	1,128,600
FL	E2009-BUSP-236	Doral Transit Circulator Program, City of Doral	475,000
FL	E2009-BUSP-248	Lakeland Area Mass Transit District Bus Replacement and Facility Maintenance	285,000
FL	E2009-BUSP-249	Lakeland Area Mass Transit District/Citrus Connection-Capital Funding Needs	549,000
FL	E2009-BUSP-250	Levy County, Florida-Purchase 2. wheel chair equipped passenger buses and related equipment	67,716
FL	E2009-BUSP-252	Lower Keys Shuttle Bus Facilities, Key West	950,000
FL	E2009-BUSP-253	LYNX Buses, Orange County	237,500
FL	E2009-BUSP-255	Miami Lakes Hybrid Electric Vehicles and Trolleybus Procurement	570,000
FL	E2009-BUSP-256	Miami-Dade County, Florida-buses and bus facilities	1,354,320
FL	E2009-BUSP-257	Miami-Dade County, Florida-buses and bus facilities	902,880
FL	E2009-BUSP-258	Miami-Dade County, Florida-Transit Security System	674,903
FL	E2009-BUSP-260	Miami-Dade Transit Bus Procurement Plan	475,000
FL	E2009-BUSP-261	Miami-Dade Transit Dadeland South Intermodal Center	540,000
FL	E2009-BUSP-263	Ocala and Marion County, Florida-replacement buses	677,160
FL	E2009-BUSP-264	Orlando, FL Bus Replacement	902,880
FL	E2009-BUSP-265	Orlando, Florida-LYNX Bus Fleet Expansion Program	203,148
FL	E2009-BUSP-271	Pembroke Pines Senior Center Bus Procurement	475,000
FL	E2009-BUSP-273	Polk County Transit System	285,000
FL	E2009-BUSP-274	Purchase Buses and construct bus facilities in Broward County, FL	507,870
FL	E2009-BUSP-275	Purchase Buses and construct bus facilities in Broward County, FL	451,440
FL	E2009-BUSP-279	St. Augustine, Florida-Intermodal Transportation Center and related pedestrian and landscape improvements	225,720
FL	E2009-BUSP-285	LYNX Buses, Orlando	2,850,000
GA	E2009-BUSP-288	Athens, GA Buses and Bus Facilities	320,522
GA	E2009-BUSP-289	Athens-Clarke County Transit, Bus Procurement	1,330,000
GA	E2009-BUSP-290	Atlanta, GA Inter-modal Passenger Facility Improvements	451,440
GA	E2009-BUSP-293	Augusta, GA Buses and Bus Facilities	90,288
GA	E2009-BUSP-294	Bus and Related Facilities Replacement, Albany	475,000
GA	E2009-BUSP-297	Columbus, GA Bus replacement	67,716
GA	E2009-BUSP-299	Columbus, Georgia-Buses & Bus Facilities	218,723
GA	E2009-BUSP-300	Georgia Department of Transportation-Georgia Statewide Bus and Bus Facilities	2,156,232
GA	E2009-BUSP-301	Georgia Statewide Bus Program	45,144
GA	E2009-BUSP-302	GRTA Park and Ride Facility, Rockdale County	190,000

FEDERAL TRANSIT ADMINISTRATION

TABLE 10

Prior Year Unobligated Section 5309 Bus and Bus Related Equipment and Facilities as of September 30, 2010

State	Earmark ID	Project Location and Description	Unobligated Allocation
GA	E2009-BUSP-310	Savannah, Georgia-Water Ferry River walk intermodal facilities	451,440
GA	E2009-BUSP-956	Fuel Cell Bus Program (Earmark designated for MA, CA and GA)	1,929,887
GU	E2009-BUSP-313	Guam Mass Transit Bus Maintenance Facility	237,500
HI	E2009-BUSP-316	Honolulu, HI, Bus Facilities	1,300,000
IA	E2009-BUSP-318	Ames, Iowa-Expansion of CyRide Bus Maintenance Facility	451,440
IA	E2009-BUSP-319	Black Hawk County, IA UNI Multimodal Project	335,155
IA	E2009-BUSP-321	Dubuque Downtown Transportation Center Intermodal Facility, Dubuque	237,500
IA	E2009-BUSP-324	Transit Maintenance Facility, Davenport	380,000
ID	E2009-BUSP-327	Idaho Transit Coalition Buses and Bus Facilities	1,462,934
ID	E2009-BUSP-328	Treasure Valley Transit Facilities	475,000
IL	E2009-BUSP-330	Centralia, Illinois-South Central Mass Transit District Improvements	90,288
IL	E2009-BUSP-331	Champaign, IL-Construct park and ride lot with attached daycare facility	338,580
IL	E2009-BUSP-349	Replacement of Paratransit Vehicles, Greater Peoria Mass Transit District, Peoria	380,000
IL	E2009-BUSP-352	Springfield, IL, Multimodal Transit Terminal	1,800,000
IL	E2009-BUSP-355	Toyota Park Pace Transit Center	475,000
IN	E2009-BUSP-363	Indianapolis, IN IndySMART program to relieve congestion, improve safety and air quality	451,440
IN	E2009-BUSP-369	Park and Ride Facility, Indiana University	475,000
KS	E2009-BUSP-378	Unified Government Transit, Bus Replacements, Bus Expansions and Bus Facilities	475,000
KY	E2009-BUSP-381	Frankfort Transit	950,000
KY	E2009-BUSP-382	Intermodal Transit Facility for LKLP Community Action Council, Hazard	237,500
KY	E2009-BUSP-385	Richmond, KY Purchase buses, bus equipment and facilities	162,518
KY	E2009-BUSP-386	Route System Project, Murray Calloway Transit Authority, Murray	1,496,250
LA	E2009-BUSP-390	Capital Area Transit System-Baton Rouge BRT	823,000
LA	E2009-BUSP-396	Louisiana Department of Transportation and Development-Statewide Vehicles and Equipment	274,000
LA	E2009-BUSP-397	Louisiana Statewide Bus and Bus Facility	88,349
LA	E2009-BUSP-398	Louisiana-Construct pedestrian walkways between Caddo St. and Milam St. along Edwards St. in Shreveport, LA	228,720
LA	E2009-BUSP-399	New Orleans, LA Inter-modal Riverfront Center	112,860
LA	E2009-BUSP-401	New Orleans, LA Regional Planning Commission, bus and bus facilities	112,860
LA	E2009-BUSP-404	Shreveport, LA-intermodal Transit Facility	756,162
LA	E2009-BUSP-406	Southern University Intermodal Transit Facility System	475,000
MA	E2009-BUSP-408	Attleboro, MA Construction, engineering and site improvements at the Attleboro Intermodal Center	451,440
MA	E2009-BUSP-412	Brockton, MA Bus replacement for the Brockton Area Transit Authority	338,580
MA	E2009-BUSP-413	Bus Terminal, Fall River	950,000
MA	E2009-BUSP-414	Chelsea Intermodal Parking Garage, Chelsea	855,000
MA	E2009-BUSP-416	FRTA and FRCOD Transit Center, Greenfield	1,900,000
MA	E2009-BUSP-420	Intermodal Station Improvements, Cities of Salem and Beverly	391,875
MA	E2009-BUSP-423	Lowell, MA Implementation of LRTA bus replacement plan	225,720
MA	E2009-BUSP-424	Lowell, MA, Lowell Regional Transit	1,150,000
MA	E2009-BUSP-425	Medford, MA Downtown revitalization featuring construction of a 200 space Park and Ride Facility	451,440
MA	E2009-BUSP-426	Newburyport, MA Design and Construct Intermodal Facility	451,440
MA	E2009-BUSP-428	Quincy, MA MBTA Purchase high speed catamaran ferry for Quincy Harbor Express Service	451,440
MA	E2009-BUSP-429	Rapid Transit Handicap Accessibility, Newton	380,000
MA	E2009-BUSP-430	Revere, MA Inter-modal transit improvements in the Wonderland station (MBTA) area	406,296
MA	E2009-BUSP-432	Salem, MA Design and Construct Salem Intermodal Transportation Center	451,440
MA	E2009-BUSP-433	Salem, Saugus, Topsfield Vans	212,800
MA	E2009-BUSP-434	Southeastern Regional Transit Authority (SRTA) Bus Fleet Replacement	665,000
MA	E2009-BUSP-436	Wonderland Station Intermodal Transit Improvements, City of Revere	950,000
MA	E2009-BUSP-949	Massachusetts Bay Transportation Authority Ferry System	2,200,000
MA	E2009-BUSP-956	Fuel Cell Bus Program (Earmark designated for MA, CA and GA)	1,000,000
MD	E2009-BUSP-439	Howard County Hybrid Electric Buses	475,000
MD	E2009-BUSP-443	Maryland Statewide Bus Facilities and Buses	6,079,734
MD	E2009-BUSP-445	Mount Rainier, MD Intermodal and Pedestrian Project	101,574
MD	E2009-BUSP-449	Statewide Locally Operated Transit Systems (LOTS), Bus and Facility Improvements	1,900,000
MI	E2009-BUSP-457	Boysville of Michigan Transportation System	758,419
MI	E2009-BUSP-464	Caro Transit Authority Bus Replacement, Caro	72,574
MI	E2009-BUSP-487	Marquette County, Michigan Transit Authority Bus passenger facility	300,000
MI	E2009-BUSP-491	Muskegon Area Transit System	427,500
MI	E2009-BUSP-492	Muskegon, Michigan-Muskegon Area Transit Terminal and related improvements	451,440
MI	E2009-BUSP-493	Niles Dial-a-Ride Bus Acquisition	228,000
MN	E2009-BUSP-499	Cedar Avenue Bus Rapid Transit	950,000
MN	E2009-BUSP-500	Duluth, MN Downtown Duluth Area Transit facility improvements	451,440
MN	E2009-BUSP-502	Greater Minnesota Transit Capital	1,100,000
MN	E2009-BUSP-504	Red Rock Corridor Intermodal Bus and Bus Facilities, Newport	475,000
MO	E2009-BUSP-514	Springdale Metrolink Station, St. Louis County	380,000
MS	E2009-BUSP-517	Coahoma County, Mississippi Purchase buses for the Aaron E. Henry Community Health Services Center, Inc./DARTS transit service	33,858
MS	E2009-BUSP-518	Harrison County Multi-Modal Facilities	2,850,000
MS	E2009-BUSP-520	JATRAN Light Rail Feasibility Study	475,000

FEDERAL TRANSIT ADMINISTRATION

TABLE 10

Prior Year Unobligated Section 5309 Bus and Bus Related Equipment and Facilities as of September 30, 2010

State	Earmark ID	Project Location and Description	Unobligated Allocation
MT	E2009-BUSP-523	Montana Department of Transportation-Statewide Bus Facilities and Buses	823,000
MT	E2009-BUSP-524	Montana Paratransit System Bus Replacement, Billings	247,000
NC	E2009-BUSP-533	City of Greenville, NC Expansion Buses and Greenville Intermodal Center	804,466
NC	E2009-BUSP-535	Goldsboro Union Depot Multimodal	855,000
NC	E2009-BUSP-541	North Carolina Department of Transportation-North Carolina Statewide Bus and Bus Facilities	5,926,155
NC	E2009-BUSP-544	Town of Chapel Hill, NC Park and Ride Lot	338,580
ND	E2009-BUSP-546	ND Statewide Transit	800,000
ND	E2009-BUSP-547	North Dakota Department of Transportation/Statewide Bus	600,000
NE	E2009-BUSP-548	City of Omaha-Creighton University Intermodal Facility	823,000
NE	E2009-BUSP-549	Kearney, Nebraska-RYDE Transit Bus Maintenance and Storage Facility	451,440
NE	E2009-BUSP-550	Nebraska Department of Roads-Bus Maintenance and Storage Facility for RYDE in Kearney, NE	549,000
NH	E2009-BUSP-554	Statewide Bus and Bus Facilities, Concord	475,000
NH	E2009-BUSP-556	Windham, New Hampshire--Construction of Park and Ride Bus facility at Exit 3	835,164
NJ	E2009-BUSP-557	Atlantic City, NJ Jitney	750,000
NJ	E2009-BUSP-558	Bloomfield Intermodal Improvements	1,900,000
NJ	E2009-BUSP-562	Intermodal Transit Improvements, Northwest	712,500
NJ	E2009-BUSP-563	Jersey City, NJ Construct West Entrance to Pavonia-Newport PATH Station	451,440
NJ	E2009-BUSP-569	Morristown/Montclair-Boonton Commuter Rail Intermodal Improvements, Northern	950,000
NJ	E2009-BUSP-570	National Park Service Design and construct 2.1-mile segment to complete Sandy Hook multiuse pathway in Sandy Hook, NJ	225,720
NJ	E2009-BUSP-575	Sandy Hook, NJ National Park Service Construct year-round ferry dock at Sandy Hook Unit of Gateway National Recreation Area	225,720
NJ	E2009-BUSP-576	Senior Citizen Transportation Vehicle, North Arlington	95,000
NJ	E2009-BUSP-579	South Brunswick Municipal Area Residential Transit	380,000
NJ	E2009-BUSP-580	South Brunswick, NJ Transit System	1,000,000
NJ	E2009-BUSP-581	The Arc of Mercer County Mobile Transportation Service Vehicle Procurement	95,000
NJ	E2009-BUSP-584	Trenton, NJ Development of Trenton Trolley System	225,720
NM	E2009-BUSP-589	City of Rio Rancho Transit Program	313,500
NM	E2009-BUSP-590	Design and Construction of an Intermodal Transportation Center for Los Lunas	950,000
NM	E2009-BUSP-593	Navajo Transit Vehicles and Facilities	237,500
NM	E2009-BUSP-595	Transit Maintenance and Operations Facility, City of Las Cruces	617,500
NV	E2009-BUSP-597	Lake Tahoe Bus Facilities	475,000
NY	E2009-BUSP-610	Alternative Fuel Bus, Village of East Rockaway	380,000
NY	E2009-BUSP-611	Arverne East Transit Plaza	712,500
NY	E2009-BUSP-616	Bronx, NY Hebrew Home for the Aged elderly and disabled transportation support	3
NY	E2009-BUSP-625	Buffalo, NY Inter-modal Center Parking Facility	225,720
NY	E2009-BUSP-626	Bus Maintenance Facility Improvements Westchester County	712,500
NY	E2009-BUSP-627	Bus to provide York-town New York internal circulator to provide transportation throughout the Town	41,758
NY	E2009-BUSP-628	Capital District Transportation Authority Saratoga Bus Facility Saratoga Springs	712,500
NY	E2009-BUSP-629	CDTA Replacement Buses	712,500
NY	E2009-BUSP-634	Cornwall, NY-Purchase Bus	19,638
NY	E2009-BUSP-635	Geneva, New York-Multimodal facility-Construct passenger rail center	112,860
NY	E2009-BUSP-636	Glen Cove Connector Multi-Modal Parking Hub Design Engineering and Construction	950,000
NY	E2009-BUSP-638	Jewish Community Council of Rockland Transit Buses	380,000
NY	E2009-BUSP-644	New York City, NY Purchase Handicapped-Accessible Livery Vehicles	225,720
NY	E2009-BUSP-645	New York City, NY rehabilitation of subway stations to include passenger access improvements including escalators or installation of infrastructure fo	50,000
NY	E2009-BUSP-649	New York Improvements to Moynihan Station	1,500,000
NY	E2009-BUSP-654	Oneonta New York-bus replacement	33,858
NY	E2009-BUSP-655	Ramapo, NY Transportation Safety Field Bus	56,430
NY	E2009-BUSP-656	Rochester Genesee Regional Transportation Authority Satellite Transit Center Construction	237,500
NY	E2009-BUSP-657	Rochester, New York-Renaissance Square transit center	1,015,740
NY	E2009-BUSP-658	Rochester, New York-Renaissance Square Transit Center	507,870
NY	E2009-BUSP-659	Rochester, NY Renaissance Square Intermodal Facility Design and Construction	2,000,000
NY	E2009-BUSP-665	Town of Warwick, NY Bus Facility Warwick Transit System	124,146
NY	E2009-BUSP-668	Utica, New York Transit Multimodal Facilities	1,350,000
NY	E2009-BUSP-671	Westchester County, NY Bus replacement program	846,450
NY	E2009-BUSP-672	Yonkers, NY Trolley Bus Acquisition	84,645
NY	E2009-BUSP-954	Staten Island Ferry	1,000,000
OH	E2009-BUSP-678	Cincinnati, Ohio-Metro Regional Transit Hub Network Eastern Neighborhoods	208,791
OH	E2009-BUSP-681	Cleveland, OH Construct passenger inter-modal center near Dock 32	194,119
OH	E2009-BUSP-691	Downtown Intermodal Facility and Associated Parking, Springfield	712,500
OH	E2009-BUSP-699	Niles OH Acquisition of bus operational and service equipment of Niles Trumbull Transit	45,144
OK	E2009-BUSP-705	Bus Replacement Central Oklahoma Transportation and Parking Authority Oklahoma City	712,500
OK	E2009-BUSP-706	Oklahoma Automated Vehicle Location System Oklahoma City	237,500
OK	E2009-BUSP-707	Oklahoma City Bus Replacement	1,330,000
OK	E2009-BUSP-708	Sect. 5309 Capital Appropriation-Tulsa Transit	712,500
OR	E2009-BUSP-709	Albany, OR North Albany Park and Ride	214,971
OR	E2009-BUSP-710	Albany, OR Rehabilitate Building At Multimodal Transit Station	343,954
OR	E2009-BUSP-714	Corvallis, OR Bus Replacement	333,206

FEDERAL TRANSIT ADMINISTRATION

TABLE 10

Prior Year Unobligated Section 5309 Bus and Bus Related Equipment and Facilities as of September 30, 2010

State	Earmark ID	Project Location and Description	Unobligated Allocation
OR	E2009-BUSP-715	Eugene, OR Lane Transit District, Vehicle Replacement	806,143
OR	E2009-BUSP-716	Grants Pass OR Purchase Vehicles For Use By Josephine Community Transit	45,950
OR	E2009-BUSP-719	Lincoln County, OR bus purchase	56,430
OR	E2009-BUSP-721	Portland, OR Renovation of Union Station including structural reinforcement and public safety upgrades	22,572
OR	E2009-BUSP-722	Salem, OR bus and bus facilities	451,440
OR	E2009-BUSP-725	Transit Bus and Bus Facilities Salem-Keizer	475,000
OR	E2009-BUSP-727	Yamhill County, OR For the construction of bus shelters park and ride facilities and a signage strategy to increase ridership	24,829
OR	E2009-BUSP-728	Hillsboro Intermodal Transit Facility	1,852,500
PA	E2009-BUSP-729	69th Street Terminal Parking Facility Upper Darby	380,000
PA	E2009-BUSP-736	Bus and Bus Facilities Westmoreland County Transit Authority	950,000
PA	E2009-BUSP-737	Bus Facilities Cambria County Transit Authority	285,000
PA	E2009-BUSP-746	Cheltenham, PA Glenside Rail Station Parking Garage project involving the construction of a 300-400 space parking lot at Easton Road and Glenside Aven	225,720
PA	E2009-BUSP-751	EMTA Consolidated Transit Facility Erie	475,000
PA	E2009-BUSP-757	Intermodal Facilities in Bucks County (Croydon and Levittown Stations)	677,160
PA	E2009-BUSP-765	Philadelphia, PA Cruise Terminal Transportation Ctr. Phila. Naval Shipyard	790,020
PA	E2009-BUSP-766	Philadelphia, PA Improvements to the existing Penns Landing Ferry Terminal	902,880
PA	E2009-BUSP-769	Philadelphia PA SEPTAs Market St. Elevated Rail project in conjunction with Philadelphia Commercial Development Corporation for improvements and assis	316,008
PA	E2009-BUSP-770	Philadelphia, Pennsylvania-SEPTA Market Street Elevated Line parking facility	902,880
PA	E2009-BUSP-773	Project provides for the engineering and construction of a transportation center in Paoli Chester County	225,720
PA	E2009-BUSP-777	Septa R7 Station Improvements Croydon and Levittown	380,000
PA	E2009-BUSP-779	Southeastern Pennsylvania Transportation Authority-Bucks County Intermodal (Croydon and Levittown)	823,000
PA	E2009-BUSP-780	Southeastern Pennsylvania Transportation Authority-Paoli Transportation Center	823,000
PA	E2009-BUSP-781	Southeastern Pennsylvania Transportation Authority-Villanova-SEPTA Intermodal	724,458
PA	E2009-BUSP-782	TMA Clean Buses Buck County	475,000
PA	E2009-BUSP-785	Van Pool Equipment Johnsonburg	285,000
PA	E2009-BUSP-955	Philadelphia Penns Landing Ferry Terminal	1,000,000
PA	E2009-BUSP-957	Bus Testing	3,000,000
PR	E2009-BUSP-794	Puerto Rico-Caribbean National Forest buses and nonprofit uses	677,160
PR	E2009-BUSP-795	San Juan, Puerto Rico Metropolitan Bus Authority	225,720
PR	E2009-BUSP-796	San Juan, Puerto Rico Metropolitan Bus Authority -- -bus security equipment	435,389
PR	E2009-BUSP-797	Trolley Purchase Las Marias	190,000
RI	E2009-BUSP-800	Rhode Island Statewide Bus Fleet	1,354,320
RI	E2009-BUSP-802	Senior Transportation	190,000
RI	E2009-BUSP-803	Statewide Bus Replacement	950,000
SC	E2009-BUSP-805	North Charleston Regional Intermodal Transportation Center	475,000
SC	E2009-BUSP-807	South Carolina Department of Transportation-Transit Facilities Construction Program	549,000
SC	E2009-BUSP-808	South Carolina Department of Transportation-Vehicle Acquisition Program	2,194,000
TN	E2009-BUSP-816	MTSU Intermodal Transportation HUB	380,000
TN	E2009-BUSP-819	Sevier County Tennessee-U.S. 441 bus rapid transit	56,430
TN	E2009-BUSP-820	Tennessee Department of Transportation-Statewide Tennessee Transit ITS and Bus Replacement Project	2,348,863
TN	E2009-BUSP-821	Townsend Great Smoky Mountain Heritage Bus Station	950,000
TN	E2009-BUSP-822	University of Memphis-Pedestrian Bridge	823,000
TX	E2009-BUSP-825	Advanced Transit Program/METRO Solutions Bus Expansion	475,000
TX	E2009-BUSP-834	Capital Metro Paratransit Vehicle Replacement	2,612,500
TX	E2009-BUSP-838	CNG Bus Replacement Fort Worth Transportation Authority	1,425,000
TX	E2009-BUSP-840	Construct West Houston and Fort Bend County, Texas-bus transit corridor	451,440
TX	E2009-BUSP-845	Design Downtown Carrollton Texas Regional Multi-Modal Transit Hub Station	451,440
TX	E2009-BUSP-846	El Paso Rural County Transit	712,500
TX	E2009-BUSP-847	Galveston, Texas-Intermodal center and parking facility, The Strand	1,015,740
TX	E2009-BUSP-849	Harris County-West Houston-Fort Bend Bus Transit Corridor: Uptown Westpark Terminal	274,000
TX	E2009-BUSP-850	Hill Country Transit Administration Facility San Saba	190,000
TX	E2009-BUSP-851	Internal Shuttle System Texas Medical Center	950,000
TX	E2009-BUSP-852	Laredo Bus Maintenance Facility and Refueling Depot	950,000
TX	E2009-BUSP-853	Laredo-North Laredo Transit Hub-Bus Maintenance Facility	823,000
TX	E2009-BUSP-854	Lufkin, VA Clinic Shuttle	285,000
TX	E2009-BUSP-855	Metro Intermodal Transit Garage Texas Medical Center	237,500
TX	E2009-BUSP-857	Paratransit Vehicle Replacement City of Abilene	456,000
TX	E2009-BUSP-858	Roma, TX Bus Facility	118,503
TX	E2009-BUSP-861	Sun Metro Fuel Facility Improvements El Paso	712,500
TX	E2009-BUSP-862	Texas Bus Acquisition City of El Paso	712,500
TX	E2009-BUSP-866	Zapata, Texas Purchase Bus vehicles	70,538
UT	E2009-BUSP-868	Cache Valley Transit District Hybrid Bus Fleet Expansion	475,000
VA	E2009-BUSP-872	Alexandria, VA Eisenhower Avenue Inter-modal Station improvements, including purchase of buses and construction of bus shelters	564,300
VA	E2009-BUSP-874	Arlington County, VA Columbia Pike Bus Improvements	790,020

FEDERAL TRANSIT ADMINISTRATION

TABLE 10

Prior Year Unobligated Section 5309 Bus and Bus Related Equipment and Facilities as of September 30, 2010

State	Earmark ID	Project Location and Description	Unobligated Allocation
VA	E2009-BUSP-875	Arlington County, VA Crystal City-Potomac Yard Busway, including construction of bus shelters	677,160
VA	E2009-BUSP-877	Bealeton Virginia-Intermodal Station Depot Refurbishment	62,073
VA	E2009-BUSP-878	Bus and Bus Facilities Danville	262,000
VA	E2009-BUSP-879	Bus and Bus Facilities Farmville	712,500
VA	E2009-BUSP-880	Bus and Bus Facilities Martinsville	712,500
VA	E2009-BUSP-881	City of Alexandria, VA-City-Wide Transit Improvements	274,000
VA	E2009-BUSP-884	City of Alexandria, VA-Valley Pedestrian & Transit	274,000
VA	E2009-BUSP-885	Commonwealth of Virginia-Statewide Bus Capital Program	1,231,764
VA	E2009-BUSP-899	Richmond, VA Renovation and construction for Main Street Station	248,292
VA	E2009-BUSP-902	Roanoke, Virginia-Intermodal Facility	45,144
VA	E2009-BUSP-903	Roanoke, Virginia-Roanoke Railway and Link Passenger facility	112,860
VT	E2009-BUSP-906	Addison County Transit Resources Facilities Buses and Equipment	2,850,000
VT	E2009-BUSP-908	State of Vermont Buses Facilities and Equipment	520,000
VT	E2009-BUSP-909	Statewide Buses Facilities and Equipment	475,000
WA	E2009-BUSP-911	Bus Rapid Transit Aurora Corridor Improvement Project (SR-99) Phase III	475,000
WA	E2009-BUSP-914	Downtown Tacoma Intermodal Center Tacoma	1,235,000
WA	E2009-BUSP-915	Enumclaw Welcome Center Intermodal Transit Facility	1,425,000
WA	E2009-BUSP-916	Everett Transit Vehicle Replacement	712,500
WA	E2009-BUSP-920	Intercity Transit Intermodal Facility Project	2,232,500
WA	E2009-BUSP-921	Island Transit WA Operations Base Facilities Project	541,728
WA	E2009-BUSP-922	King County Hybrid Bus Program	237,500
WA	E2009-BUSP-923	Mukilteo, WA Multi-Modal Terminal	1,309,176
WA	E2009-BUSP-928	Pierce Transit Peninsula Park and Ride	2,351,250
WA	E2009-BUSP-930	Seattle, WA Multimodal Terminal Redevelopment & Expansion	1,100,000
WA	E2009-BUSP-935	Washington Southworth Terminal Redevelopment	1,500,000
WA	E2009-BUSP-936	Washington King Street Transportation Center-Intercity Bus Terminal Component	70,000
WI	E2009-BUSP-942	State of Wisconsin buses and bus facilities	1,126,800
WI	E2009-BUSP-944	Wisconsin Statewide Buses and Bus Facilities	107,200
WV	E2009-BUSP-946	West Virginia Statewide Bus and Bus Facilities	2,679,294
WY	E2009-BUSP-947	Wyoming Department of Transportation-Wyoming Statewide Bus and Bus Related Facilities	823,000
		Subtotal FY 2009 Unobligated Allocations	**$251,087,787**

FEDERAL TRANSIT ADMINISTRATION
TABLE 11
Prior Year Unobligated Section 5309 New Starts Allocations as of September 30, 2010

FY 2009 Unobligated Allocations

Earmark ID	State	Project Name	Unobligated Balance
E2009-NWST-017	AK/HI	Alaska and Hawaii Ferry Projects	$7,422,397
E2009-NWST-018	AZ	Commuter Rail Study - Phoenix of Tucson	3,465,000
E2009-NWST-019	AZ	Mountain Links BRT, Flagstaff	5,558,058
E2009-NWST-025	CA	Perris Valley Line, Riverside	44,550,000
E2009-NWST-027	CA	South Sacramento Light Rail Extension	6,930,000
E2009-NWST-029	CA	Wilshire Blvd Bus-Only Lane, Los Angeles	9,758,526
E2009-NWST-032	CT	Stamford Urban Transitway	3,613,500
E2009-NWST-033	FL	Central Florida Commuter Rail	12,870,000
E2009-NWST-034	FL	Downtown Orlando East-West Circulator System	7,920,000
E2009-NWST-035	FL	JTA BRT System, Jacksonville	1,267,200
E2009-NWST-036	FL	Metrorail Orange Line Extension Project	19,800,000
E2009-NWST-038	IL	CTA Circle Line	5,940,000
E2009-NWST-039	IL	METRA (Southeast Service; Suburban Transit Access Route Line (:	23,760,000
E2009-NWST-041	KS	BRT- State Avenue Corridor, Wyandotte County	1,485,000
E2009-NWST-042	MA	Commuter Rail Improvement, Fitchburg	29,700,000
E2009-NWST-047	MS	I-69 HOV/BRT	7,573,500
E2009-NWST-014	VA	Norfolk LRT	814,244
E2009-NWST-055	VA	BRT, Potomac Yard-Crystal City, City of Alexandria and Arlington C	990,000
E2009-NWST-057	VA	Improvements to the Rosslyn Metro Station	1,980,000
		Subtotal FY 2009 Unobligated Allocations.....	**$195,397,425**

FY 2010 Unobligated Allocations

E2010-NWST-002	AK/HI	Alaska/Hawaii	$8,617,000
E2010-NWST-005	AZ	Mountain Links BRT, Flagstaff	681,942
E2010-NWST-007	CA	Livermore-Amador Route 10 BRT	79,900
E2010-NWST-008	CA	Los Angles-Wilshire Blvd Bus-Only Lane	13,558,474
E2010-NWST-010	CA	Metro Gold Line Eastside Extension, Los Angeles	9,582,551
E2010-NWST-013	CA	Perris Valley Line	5,000,000
E2010-NWST-014	CA	Sacramento South Corridor Phase II	38,000,000
E2010-NWST-015	CA	San Bernardino, E Street Corridor sbX BRT	32,370,000
E2010-NWST-017	CA	Sonoma-Marin Area Rail Transit (SMART)	2,500,000
E2010-NWST-019	CO	Mason Corridor BRT, Fort Collins	49,055,155
E2010-NWST-020	CO	Roaring Fork Valley, BRT Project	810,000
E2010-NWST-021	CO	RTD East Corridor Construction	2,500,000
E2010-NWST-022	CO	RTD Gold Corridor	2,000,000
E2010-NWST-025	CT	Stamford Urban Transitway	2,000,000
E2010-NWST-028	DE	Wilmington to Newark Commuter Rail Improvement Program	3,000,000
E2010-NWST-029	FL	Central Florida Commuter Rail Transit, Orlando	40,000,000
E2010-NWST-030	FL	Fort Lauderdale-The Downtown, Transit Corridor Program, Downto	500,000
E2010-NWST-031	FL	HART Light Rail Preliminary Engineering	1,650,000
E2010-NWST-032	FL	Miami-Dade County Metrorail Orange Line Expansion	4,000,000
E2010-NWST-033	HI	Honolulu High Capacity Transit Corridor Project	30,000,000
E2010-NWST-034	IL	Chicago Transit Hub (Circle Line-Ogden Streetcar)	1,500,000
E2010-NWST-035	IL	CTA Red Line North Station, Track, Viaduct and Station Rehabilitati	7,500,000
E2010-NWST-036	IL	Metra Commuter Rail (Union Pacific Northwest, STAR and UP-Wes	8,000,000
E2010-NWST-039	MA	Assembly Square Orange Line Station	1,000,000
E2010-NWST-040	MA	Commuter Rail Improvements, Fitchburg	37,452,000
E2010-NWST-041	MD	Baltimore Red Line	3,000,000
E2010-NWST-042	MD	Purple Line	3,000,000
E2010-NWST-043	MI	Ann Arbor-Detroit Regional Rail Project	3,500,000
E2010-NWST-046	MN	Northstar Phase II-Extension of Northstar Commuter Rail to the St.	3,000,000
E2010-NWST-048	NC	Charlotte Streetcar Project	500,000
E2010-NWST-049	NC	City of Charlotte, Charlotte Area Transit Systems Blue Line Extensic	14,700,000
E2010-NWST-050	NJ	Hudson-Bergen MOS-2, Northern NJ	11,039
E2010-NWST-051	NJ	Northern NJ Access to the Regions Core	200,000,000
E2010-NWST-052	NY	Long Island Rail Road East Side Access	202,522,853
E2010-NWST-053	NY	Second Avenue Subway Phase I	197,182,000
E2010-NWST-055	PA	Lackawanna Cut-Off Restoration Project, PA/NJ	1,000,000
E2010-NWST-057	TX	Fort Worth Transportation Authority Southwest-to-Northeast Rail Cc	4,000,000
E2010-NWST-058	TX	Galveston-Houston Commuter Rail	2,000,000
E2010-NWST-059	TX	Houston North Corridor LRT	75,000,000
E2010-NWST-060	TX	Houston Southeast Corridor LRT	75,000,000
E2010-NWST-061	TX	Metro Rapid BRT, Austin	13,370,204
E2010-NWST-063	UT	Draper Light Rail	6,800,000
E2010-NWST-066	VA	Improvements to the Rosslyn Metro Station	1,000,000
E2010-NWST-067	VA	Route 1 Bus Rapid Transit, Potomac Yard High Capacity Transit	1,000,000
E2010-NWST-068	VA	Virginia Railway Express Rolling Stock	3,000,000
E2010-NWST-069	WA	Bellevue-Redmond BRT, King County	9,368,193
		Subtotal FY 2010 Unobligated Allocations.....	**$1,120,311,311**
		Total FY 2009 and 2010 Unobligated Allocations.....	**$1,315,708,736**

FEDERAL TRANSIT ADMINISTRATION

TABLE 12

FY 2011 SECTION 5310 SPECIAL NEEDS FOR ELDERLY INDIVIDUALS

(Apportionment amount is based on funding made available under Public Law - 111-322)

STATE	APPORTIONMENT
Alabama	$985,227
Alaska	193,033
American Samoa	55,952
Arizona	1,026,483
Arkansas	658,906
California	5,650,041
Colorado	735,692
Connecticut	717,185
Delaware	259,524
District of Columbia	233,591
Florida	3,629,739
Georgia	1,405,752
Guam	144,015
Hawaii	332,189
Idaho	320,165
Illinois	2,131,860
Indiana	1,155,506
Iowa	629,989
Kansas	572,042
Kentucky	913,782
Louisiana	910,073
Maine	365,784
Maryland	963,132
Massachusetts	1,255,751
Michigan	1,785,269
Minnesota	857,237
Mississippi	660,587
Missouri	1,106,705
Montana	278,105
Northern Marianas	56,489
Nebraska	403,207
Nevada	477,216
New Hampshire	321,395
New Jersey	1,578,122
New Mexico	437,840
New York	3,645,220
North Carolina	1,563,931
North Dakota	234,584
Ohio	2,075,771
Oklahoma	764,243
Oregon	713,567
Pennsylvania	2,437,603
Puerto Rico	877,122
Rhode Island	324,434
South Carolina	867,418
South Dakota	251,448
Tennessee	1,181,062
Texas	3,381,727
Utah	400,736
Vermont	224,967
Virgin Islands	140,206
Virginia	1,241,759
Washington	1,066,655
West Virginia	514,030
Wisconsin	980,200
Wyoming	202,327
TOTAL	**$56,296,595**

FEDERAL TRANSIT ADMINISTRATION

TABLE 13

FY 2011 SECTION 5311 AND SECTION 5340 NONURBANIZED APPORTIONMENTS AND SECTION 5311(b)(3) RURAL TRANSIT ASSISTANCE PROGRAM (RTAP) APPORTIONMENTS

(Apportionment amount is based on funding made available under Public Law - 111-322)

(Note: In accordance with language in the SAFETEA-LU conference report apportionments for Section 5311 and Section 5340 were combined to show a single amount. The State's apportionment under the column heading "Section 5311 and 5340 Apportionment" includes Section 5311 and Growing States funds.)

STATE	SECTIONS 5311 AND 5340 APPORTIONMENT	SECTION 5311(b)(3) APPORTIONMENT
Alabama	$5,625,829	$65,147
Alaska	2,564,384	65,021
American Samoa	96,078	10,003
Arizona	4,005,170	65,072
Arkansas	4,289,853	65,107
California	9,604,877	65,227
Colorado	3,534,166	65,064
Connecticut	1,144,480	65,033
Delaware	534,836	65,015
Florida	5,754,561	65,148
Georgia	7,261,408	65,187
Guam	259,694	10,009
Hawaii	830,315	65,022
Idaho	2,470,451	65,041
Illinois	5,991,855	65,158
Indiana	5,755,464	65,157
Iowa	4,287,962	65,107
Kansas	3,977,000	65,087
Kentucky	5,442,527	65,146
Louisiana	4,341,636	65,114
Maine	2,293,739	65,057
Maryland	2,105,621	65,059
Massachusetts	1,482,448	65,042
Michigan	7,292,414	65,198
Minnesota	5,388,079	65,130
Mississippi	4,884,583	65,127
Missouri	5,867,792	65,147
Montana	3,184,904	65,039
N. Mariana Islands	14,791	10,000
Nebraska	2,774,991	65,053
Nevada	2,073,057	65,019
New Hampshire	1,477,356	65,040
New Jersey	1,369,950	65,039
New Mexico	3,465,179	65,056
New York	7,431,445	65,204
North Carolina	9,371,941	65,252
North Dakota	1,683,840	65,024
Ohio	8,455,388	65,238
Oklahoma	4,795,863	65,116
Oregon	4,136,241	65,085
Pennsylvania	8,576,176	65,240
Puerto Rico	594,490	65,020
Rhode Island	245,043	65,007
South Carolina	4,714,607	65,126
South Dakota	2,084,150	65,033
Tennessee	6,000,368	65,160
Texas	14,336,469	65,356
Utah	2,048,783	65,029
Vermont	1,111,203	65,030
Virginia	5,260,764	65,139
Washington	4,052,117	65,094
West Virginia	2,846,609	65,075
Wisconsin	5,697,815	65,148
Wyoming	1,972,911	65,022
TOTAL	**$216,863,673**	**$3,350,269**

FEDERAL TRANSIT ADMINISTRATION

Table 14

Prior Year Unobligated Section 5311(c) Tribal Transit Program Allocations as of September 30, 2010

State	Earmark ID	Project Location and Description	Unobligated Allocation
FY 2009 Unobligated Allocations			
AK	D2009-TRTR-005	Tlingit & Haida Central Council Planning Grant	$25,000
AZ	D2009-TRTR-013	Havasuapai Tribe Transit Enhancements	222,813
AZ	D2009-TRTR-014	Cocopah Indian Tribe Transit Enhancements	247,440
CA	D2009-TRTR-015	Reservation Transportation Authority Transit Enhancements	370,082
CA	D2009-TRTR-016	Susanville Indian Rancheria Transit Enhancements	220,554
KS	D2009-TRTR-022	Prairie Band Potawatomi Nation Transit Enhancements	360,000
ND	D2009-TRTR-028	Standing Rock Public Transportation Transit Enhancements	234,000
NM	D2009-TRTR-034	Sandoval County Transit Enhancements	439,500
NV	D2009-TRTR-035	Reno-Sparks Indian Colonys Transit Enhancements	373,985
NY	D2009-TRTR-036	Seneca Nation of Indian Planning Grant	25,000
SD	D2009-TRTR-050	Yankton Sioux Tribe Transit Enhancements	117,371
WI	D2009-TRTR-061	Lac Courte Oreilles (LCO) Transit Enhancements	200,000
		Total FY 2009 Unobligated Allocations	**$2,835,745**

FEDERAL TRANSIT ADMINISTRATION

TABLE 15

FY 2011 SECTION 5316 JOB ACCESS AND REVERSE COMMUTE APPORTIONMENTS

(Apportionment amount is based on funding made available under Public Law - 111-322)

URBANIZED AREA/STATE	APPORTIONMENT
200,000 or more in Population	$41,830,681
50,000-199,999 in Population	13,943,560
Nonurbanized	13,943,560
National Total	$69,717,801

Amounts Apportioned to Urbanized Areas 200,000 or more in Population:

Aguadilla--Isabela--San Sebastian, PR	$270,914
Akron, OH	126,993
Albany, NY	117,789
Albuquerque, NM	166,515
Allentown--Bethlehem, PA--NJ	110,440
Anchorage, AK	42,848
Ann Arbor, MI	61,875
Antioch, CA	43,243
Asheville, NC	58,202
Atlanta, GA	685,404
Atlantic City, NJ	49,561
Augusta-Richmond County, GA--SC	97,714
Austin, TX	207,244
Bakersfield, CA	162,426
Baltimore, MD	444,519
Barnstable Town, MA	38,335
Baton Rouge, LA	150,391
Birmingham, AL	181,738
Boise City, ID	49,633
Bonita Springs--Naples, FL	37,416
Boston, MA--NH--RI	701,166
Bridgeport--Stamford, CT--NY	132,948
Buffalo, NY	247,322
Canton, OH	57,614
Cape Coral, FL	75,283
Charleston--North Charleston, SC	112,128
Charlotte, NC--SC	141,854
Chattanooga, TN--GA	86,188
Chicago, IL--IN	1,805,580
Cincinnati, OH--KY--IN	295,583
Cleveland, OH	396,753
Colorado Springs, CO	86,482
Columbia, SC	97,819
Columbus, GA--AL	76,128
Columbus, OH	248,976
Concord, CA	51,353
Corpus Christi, TX	102,330
Dallas--Fort Worth--Arlington, TX	1,014,304
Davenport, IA--IL	64,254
Dayton, OH	154,902

FEDERAL TRANSIT ADMINISTRATION

TABLE 15

FY 2011 SECTION 5316 JOB ACCESS AND REVERSE COMMUTE APPORTIONMENTS

(Apportionment amount is based on funding made available under Public Law - 111-322)

URBANIZED AREA/STATE	APPORTIONMENT
Daytona Beach--Port Orange, FL	69,682
Denton--Lewisville, TX	42,512
Denver--Aurora, CO	356,465
Des Moines, IA	65,029
Detroit, MI	859,882
Durham, NC	77,804
El Paso, TX--NM	327,004
Eugene, OR	67,878
Evansville, IN--KY	50,697
Fayetteville, NC	77,613
Flint, MI	105,745
Fort Collins, CO	43,771
Fort Wayne, IN	61,345
Fresno, CA	244,848
Grand Rapids, MI	105,775
Greensboro, NC	59,062
Greenville, SC	79,004
Gulfport--Biloxi, MS	59,567
Harrisburg, PA	60,400
Hartford, CT	160,581
Honolulu, HI	151,091
Houston, TX	1,135,989
Huntsville, AL	46,494
Indianapolis, IN	236,248
Indio--Cathedral City--Palm Springs, CA	85,570
Jackson, MS	96,038
Jacksonville, FL	201,910
Kansas City, MO--KS	265,653
Knoxville, TN	107,403
Lancaster, PA	55,716
Lancaster--Palmdale, CA	83,568
Lansing, MI	76,929
Las Vegas, NV	311,854
Lexington-Fayette, KY	63,834
Lincoln, NE	47,942
Little Rock, AR	98,798
Los Angeles--Long Beach--Santa Ana, CA	4,087,300
Louisville, KY--IN	205,649
Lubbock, TX	73,052
Madison, WI	68,485
McAllen, TX	340,636
Memphis, TN--MS--AR	297,248
Miami, FL	1,428,287
Milwaukee, WI	299,244
Minneapolis--St. Paul, MN	364,304
Mission Viejo, CA	56,526
Mobile, AL	117,577
Modesto, CA	105,368
Nashville-Davidson, TN	170,162
New Haven, CT	102,218

FEDERAL TRANSIT ADMINISTRATION

TABLE 15

FY 2011 SECTION 5316 JOB ACCESS AND REVERSE COMMUTE APPORTIONMENTS

(Apportionment amount is based on funding made available under Public Law - 111-322)

URBANIZED AREA/STATE	APPORTIONMENT
New Orleans, LA	381,278
New York--Newark, NY--NJ--CT	4,619,966
Ogden--Layton, UT	71,784
Oklahoma City, OK	216,915
Omaha, NE--IA	131,683
Orlando, FL	280,368
Oxnard, CA	94,967
Palm Bay--Melbourne, FL	82,978
Pensacola, FL--AL	90,881
Peoria, IL	60,554
Philadelphia, PA--NJ--DE--MD	1,111,170
Phoenix--Mesa, AZ	733,545
Pittsburgh, PA	385,371
Port St. Lucie, FL	68,439
Portland, OR--WA	332,683
Poughkeepsie--Newburgh, NY	70,552
Providence, RI--MA	280,868
Provo--Orem, UT	84,554
Raleigh, NC	85,583
Reading, PA	55,383
Reno, NV	69,099
Richmond, VA	165,895
Riverside--San Bernardino, CA	523,377
Rochester, NY	154,300
Rockford, IL	56,866
Round Lake Beach--McHenry--Grayslake, IL--WI	23,559
Sacramento, CA	375,441
Salem, OR	104,487
Salt Lake City, UT	165,141
San Antonio, TX	439,309
San Diego, CA	715,023
San Francisco--Oakland, CA	638,192
San Jose, CA	235,594
San Juan, PR	1,620,715
Santa Rosa, CA	53,684
Sarasota--Bradenton, FL	114,415
Savannah, GA	68,666
Scranton, PA	98,406
Seattle, WA	490,822
Shreveport, LA	101,998
South Bend, IN--MI	62,263
Spokane, WA--ID	91,201
Springfield, MA--CT	140,902
Springfield, MO	60,544
St. Louis, MO--IL	435,539
Stockton, CA	134,321
Syracuse, NY	104,285
Tallahassee, FL	67,664
Tampa--St. Petersburg, FL	499,134
Temecula--Murrieta, CA	44,465

FEDERAL TRANSIT ADMINISTRATION

TABLE 15

FY 2011 SECTION 5316 JOB ACCESS AND REVERSE COMMUTE APPORTIONMENTS

(Apportionment amount is based on funding made available under Public Law - 111-322)

URBANIZED AREA/STATE	APPORTIONMENT
Thousand Oaks, CA	24,034
Toledo, OH--MI	128,705
Trenton, NJ	50,543
Tucson, AZ	225,271
Tulsa, OK	145,593
Victorville--Hesperia--Apple Valley, CA	66,745
Virginia Beach, VA	315,114
Washington, DC--VA--MD	608,351
Wichita, KS	92,835
Winston-Salem, NC	67,484
Worcester, MA--CT	91,514
Youngstown, OH--PA	111,739
TOTAL	$41,830,681

Amounts Apportioned to State Governors for Urbanized Areas 50,000 to 199,999 in Population

Alabama	$390,180
Alaska	17,582
Arizona	140,643
Arkansas	250,797
California	1,452,496
Colorado	233,860
Connecticut	142,595
Delaware	23,999
Florida	812,831
Georgia	445,293
Hawaii	26,359
Idaho	150,915
Illinois	320,628
Indiana	343,174
Iowa	206,307
Kansas	94,371
Kentucky	128,291
Louisiana	405,051
Maine	123,181
Maryland	153,188
Massachusetts	130,926
Michigan	434,445
Minnesota	117,889
Mississippi	72,683
Missouri	145,339
Montana	111,380
N. Mariana Islands	40,415
Nebraska	7,431
Nevada	19,243
New Hampshire	111,674
New Jersey	71,510
New Mexico	138,072
New York	261,961

FEDERAL TRANSIT ADMINISTRATION

TABLE 15

FY 2011 SECTION 5316 JOB ACCESS AND REVERSE COMMUTE APPORTIONMENTS

(Apportionment amount is based on funding made available under Public Law - 111-322)

URBANIZED AREA/STATE	APPORTIONMENT
North Carolina	444,945
North Dakota	84,483
Ohio	327,004
Oklahoma	88,557
Oregon	113,141
Pennsylvania	428,428
Puerto Rico	1,312,251
South Carolina	250,234
South Dakota	63,248
Tennessee	290,818
Texas	1,564,262
Utah	64,380
Vermont	33,388
Virginia	297,295
Washington	386,918
West Virginia	264,988
Wisconsin	354,748
Wyoming	49,763
TOTAL	$13,943,560

Amounts Apportioned to State Governors for Nonurbanized Areas Less than 50,000 in Population

Alabama	$466,699
Alaska	45,456
American Samoa	41,940
Arizona	250,917
Arkansas	351,897
California	710,266
Colorado	131,980
Connecticut	34,008
Delaware	30,991
Florida	402,839
Georgia	552,734
Guam	41,996
Hawaii	55,479
Idaho	120,452
Illinois	314,287
Indiana	281,228
Iowa	200,637
Kansas	199,857
Kentucky	508,581
Louisiana	435,390
Maine	134,505
Maryland	86,777
Massachusetts	54,218
Michigan	374,206
Minnesota	239,504
Mississippi	504,454
Missouri	410,366

FEDERAL TRANSIT ADMINISTRATION

TABLE 15

FY 2011 SECTION 5316 JOB ACCESS AND REVERSE COMMUTE APPORTIONMENTS

(Apportionment amount is based on funding made available under Public Law - 111-322)

URBANIZED AREA/STATE	APPORTIONMENT
Montana	121,448
N. Mariana Islands	23,860
Nebraska	124,611
Nevada	37,383
New Hampshire	58,256
New Jersey	46,304
New Mexico	235,025
New York	447,174
North Carolina	703,013
North Dakota	64,213
Ohio	478,539
Oklahoma	378,659
Oregon	191,713
Pennsylvania	508,228
Puerto Rico	180,757
Rhode Island	7,955
South Carolina	389,674
South Dakota	96,334
Tennessee	454,269
Texas	1,112,473
Utah	68,530
Vermont	61,972
Virgin Islands	42,164
Virginia	326,942
Washington	235,670
West Virginia	275,434
Wisconsin	237,800
Wyoming	53,496
TOTAL	$13,943,560

FEDERAL TRANSIT ADMINISTRATION

TABLE 16

FY 2011 SECTION 5317 NEW FREEDOM APPORTIONMENTS

(Apportionment amount is based on funding made available under Public Law - 111-322)

URBANIZED AREA/STATE	APPORTIONMENT
UZAs 200,000 or more in Population	$23,521,811
UZAs 50,000-199,999 in Population	7,840,604
Nonurbanized	7,840,604
National Total	$39,203,019

Amounts Apportioned to Urbanized Areas 200,000 or more in Population:

Aguadilla--Isabela--San Sebastian, PR	$61,031
Akron, OH	78,733
Albany, NY	75,678
Albuquerque, NM	88,439
Allentown--Bethlehem, PA--NJ	75,511
Anchorage, AK	25,233
Ann Arbor, MI	29,717
Antioch, CA	29,330
Asheville, NC	37,517
Atlanta, GA	430,251
Atlantic City, NJ	35,732
Augusta-Richmond County, GA--SC	52,347
Austin, TX	96,234
Bakersfield, CA	63,441
Baltimore, MD	307,544
Barnstable Town, MA	38,200
Baton Rouge, LA	67,912
Birmingham, AL	104,995
Boise City, ID	30,950
Bonita Springs--Naples, FL	35,423
Boston, MA--NH--RI	543,832
Bridgeport--Stamford, CT--NY	115,026
Buffalo, NY	146,188
Canton, OH	36,003
Cape Coral, FL	56,775
Charleston--North Charleston, SC	62,833
Charlotte, NC--SC	93,451
Chattanooga, TN--GA	55,398
Chicago, IL--IN	1,104,295
Cincinnati, OH--KY--IN	194,876
Cleveland, OH	249,958
Colorado Springs, CO	52,614
Columbia, SC	56,104
Columbus, GA--AL	38,589
Columbus, OH	139,106
Concord, CA	58,939
Corpus Christi, TX	44,950
Dallas--Fort Worth--Arlington, TX	548,779
Davenport, IA--IL	35,677
Dayton, OH	97,826
Daytona Beach--Port Orange, FL	46,774
Denton--Lewisville, TX	25,250
Denver--Aurora, CO	245,958

FEDERAL TRANSIT ADMINISTRATION

TABLE 16

FY 2011 SECTION 5317 NEW FREEDOM APPORTIONMENTS

(Apportionment amount is based on funding made available under Public Law - 111-322)

URBANIZED AREA/STATE	APPORTIONMENT
Des Moines, IA	44,826
Detroit, MI	576,910
Durham, NC	34,755
El Paso, TX--NM	98,046
Eugene, OR	30,583
Evansville, IN--KY	33,185
Fayetteville, NC	37,795
Flint, MI	58,699
Fort Collins, CO	20,857
Fort Wayne, IN	36,699
Fresno, CA	88,444
Grand Rapids, MI	64,933
Greensboro, NC	36,521
Greenville, SC	47,562
Gulfport--Biloxi, MS	35,412
Harrisburg, PA	44,633
Hartford, CT	119,521
Honolulu, HI	96,466
Houston, TX	512,291
Huntsville, AL	27,095
Indianapolis, IN	166,893
Indio--Cathedral City--Palm Springs, CA	43,258
Jackson, MS	42,719
Jacksonville, FL	132,174
Kansas City, MO--KS	180,471
Knoxville, TN	64,491
Lancaster, PA	40,996
Lancaster--Palmdale, CA	36,472
Lansing, MI	37,904
Las Vegas, NV	206,685
Lexington-Fayette, KY	33,541
Lincoln, NE	24,912
Little Rock, AR	56,156
Los Angeles--Long Beach--Santa Ana, CA	1,751,550
Louisville, KY--IN	130,912
Lubbock, TX	28,805
Madison, WI	33,129
McAllen, TX	79,244
Memphis, TN--MS--AR	148,153
Miami, FL	811,971
Milwaukee, WI	171,425
Minneapolis--St. Paul, MN	253,812
Mission Viejo, CA	52,402
Mobile, AL	56,403
Modesto, CA	50,887
Nashville-Davidson, TN	104,762
New Haven, CT	72,843
New Orleans, LA	167,483
New York--Newark, NY--NJ--CT	2,766,320
Ogden--Layton, UT	44,577
Oklahoma City, OK	114,211
Omaha, NE--IA	73,191
Orlando, FL	170,028

FEDERAL TRANSIT ADMINISTRATION

TABLE 16

FY 2011 SECTION 5317 NEW FREEDOM APPORTIONMENTS

(Apportionment amount is based on funding made available under Public Law - 111-322)

URBANIZED AREA/STATE	APPORTIONMENT
Oxnard, CA	49,559
Palm Bay--Melbourne, FL	64,845
Pensacola, FL--AL	50,365
Peoria, IL	33,551
Philadelphia, PA--NJ--DE--MD	726,609
Phoenix--Mesa, AZ	395,566
Pittsburgh, PA	240,932
Port St. Lucie, FL	49,577
Portland, OR--WA	204,270
Poughkeepsie--Newburgh, NY	44,123
Providence, RI--MA	184,484
Provo--Orem, UT	25,104
Raleigh, NC	52,759
Reading, PA	33,952
Reno, NV	44,228
Richmond, VA	110,510
Riverside--San Bernardino, CA	218,761
Rochester, NY	93,016
Rockford, IL	37,593
Round Lake Beach--McHenry--Grayslake, IL--WI	22,424
Sacramento, CA	204,728
Salem, OR	29,713
Salt Lake City, UT	106,227
San Antonio, TX	202,907
San Diego, CA	350,561
San Francisco--Oakland, CA	459,889
San Jose, CA	193,324
San Juan, PR	439,080
Santa Rosa, CA	38,762
Sarasota--Bradenton, FL	97,505
Savannah, GA	34,209
Scranton, PA	66,289
Seattle, WA	347,996
Shreveport, LA	43,174
South Bend, IN--MI	39,299
Spokane, WA--ID	49,435
Springfield, MA--CT	92,254
Springfield, MO	29,895
St. Louis, MO--IL	275,744
Stockton, CA	52,598
Syracuse, NY	55,643
Tallahassee, FL	20,696
Tampa--St. Petersburg, FL	363,242
Temecula--Murrieta, CA	28,659
Thousand Oaks, CA	22,248
Toledo, OH--MI	74,227
Trenton, NJ	38,614
Tucson, AZ	108,094
Tulsa, OK	81,962
Victorville--Hesperia--Apple Valley, CA	30,639
Virginia Beach, VA	181,376
Washington, DC--VA--MD	445,867
Wichita, KS	57,248

FEDERAL TRANSIT ADMINISTRATION

TABLE 16

FY 2011 SECTION 5317 NEW FREEDOM APPORTIONMENTS

(Apportionment amount is based on funding made available under Public Law - 111-322)

URBANIZED AREA/STATE	APPORTIONMENT
Winston-Salem, NC	40,541
Worcester, MA--CT	64,873
Youngstown, OH--PA	64,633
TOTAL	**$23,521,811**

Amounts Apportioned to State Governors for Urbanized Areas 50,000 to 199,999 in Population

Alabama	$206,681
Alaska	9,675
Arizona	66,972
Arkansas	138,040
California	802,639
Colorado	133,112
Connecticut	127,454
Delaware	15,835
Florida	601,960
Georgia	217,966
Hawaii	22,567
Idaho	78,432
Illinois	177,550
Indiana	201,526
Iowa	117,409
Kansas	55,334
Kentucky	75,601
Louisiana	212,609
Maine	86,417
Maryland	137,262
Massachusetts	93,397
Michigan	290,797
Minnesota	68,999
Mississippi	33,499
Missouri	81,978
Montana	57,048
N. Mariana Islands	12,290
Nebraska	3,422
Nevada	15,595
New Hampshire	107,134
New Jersey	57,087
New Mexico	61,008
New York	159,496
North Carolina	323,321
North Dakota	49,041
Ohio	221,536
Oklahoma	37,837
Oregon	57,941
Pennsylvania	260,648
Puerto Rico	351,178
South Carolina	179,008
South Dakota	43,178
Tennessee	182,695
Texas	689,487
Utah	24,542

FEDERAL TRANSIT ADMINISTRATION

TABLE 16

FY 2011 SECTION 5317 NEW FREEDOM APPORTIONMENTS

(Apportionment amount is based on funding made available under Public Law - 111-322)

URBANIZED AREA/STATE	APPORTIONMENT
Vermont	20,538
Virginia	179,516
Washington	248,582
West Virginia	156,652
Wisconsin	256,819
Wyoming	31,294
TOTAL	**$7,840,604**

Amounts Apportioned to State Governors for Nonurbanized Areas Less than 50,000 in Population

Alabama	$265,769
Alaska	21,565
American Samoa	3,783
Arizona	113,242
Arkansas	191,602
California	329,649
Colorado	74,299
Connecticut	35,513
Delaware	22,852
Florida	256,052
Georgia	302,767
Guam	11,036
Hawaii	31,312
Idaho	51,633
Illinois	202,113
Indiana	221,566
Iowa	131,559
Kansas	114,573
Kentucky	277,986
Louisiana	186,240
Maine	84,554
Maryland	74,660
Massachusetts	47,005
Michigan	265,278
Minnesota	151,593
Mississippi	225,769
Missouri	219,640
Montana	50,487
N. Mariana Islands	363
Nebraska	66,182
Nevada	27,421
New Hampshire	57,248
New Jersey	35,765
New Mexico	86,314
New York	276,199
North Carolina	432,140
North Dakota	30,472
Ohio	318,282
Oklahoma	193,236
Oregon	130,284
Pennsylvania	320,288
Puerto Rico	40,252

FEDERAL TRANSIT ADMINISTRATION

TABLE 16

FY 2011 SECTION 5317 NEW FREEDOM APPORTIONMENTS

(Apportionment amount is based on funding made available under Public Law - 111-322)

URBANIZED AREA/STATE	APPORTIONMENT
Rhode Island	8,369
South Carolina	219,576
South Dakota	40,245
Tennessee	282,887
Texas	537,980
Utah	31,448
Vermont	39,222
Virgin Islands	7,626
Virginia	221,139
Washington	132,011
West Virginia	143,630
Wisconsin	171,551
Wyoming	26,377
TOTAL	**$7,840,604**

FEDERAL TRANSIT ADMINISTRATION

TABLE 17

Prior Year Unobligated Section 5339 Alternatives Analysis Allocations as of September 30, 2010

FY 2009 Unobligated Allocations

Earmark ID	State	Project Name	Unobligated Balance
E2009-ALTA-001	AZ	Central Mesa Corridor Alternative Analysis Mesa	$237,500
E2009-ALTA-002	AZ	I-10 West Corridor Alternative Analysis	475,000
E2009-ALTA-003	AZ	Tempe South Corridor Alternatives Analysis, Tempe	237,500
E2009-ALTA-004	CA	Smart Preliminary Engineering	427,500
E2009-ALTA-010	IL	Alternative Analysis Study for the J-Route Bus Rapid Transit (BRT)	237,500
E2009-ALTA-013	IN	GYY Alternatives Analysis	237,500
E2009-ALTA-015	MA	MBTA/MART Belmont Station Consolidation and Development Stud	142,500
E2009-ALTA-019	MS	Coast Transit Alternative Analysis	1,140,000
E2009-ALTA-021	NH	Lowell-Nashua Manchester Rail Corridor	1,900,000
E2009-ALTA-026	PA	Northwest New Jersey-Northwest Pennsylvania Passenger Rail Pro	950,000
		Subtotal FY 2009 Unobligated Allocations.....	**$5,985,000**

FY 2010 Unobligated Allocations

E2010-ALTA-001	AZ	I-10 West Corridor Light Rail Extension, Phoenix	$1,000,000
E2010-ALTA-002	AZ	South Central Avenue Light Rail Feasibility Study, Phoenix	400,000
E2010-ALTA-004	CT	New Haven-Hartford-Springfield Rail Line Improvements	3,896,000
E2010-ALTA-005	CT	Route 8 Corridor Transit Oriented Development & Alternate Modes	300,000
E2010-ALTA-007	IL	Pace J-Route Bus Rapid Transit	360,000
E2010-ALTA-008	KY	Central Kentucky Mass Transit Alternatives Analysis	300,000
E2010-ALTA-009	MA	Green Line Extension	300,000
E2010-ALTA-013	NJ	Hudson-Bergen MOS-2, Northern NJ	400,000
E2010-ALTA-014	NJ/PA	Northwest New Jersey - Northeast Pennsylvania Passenger Rail Pr	974,000
E2010-ALTA-015	PA	Lehigh Valley Bus Rapid Transit Analysis	360,000
E2010-ALTA-016	TX	Transportation Study for the Texas Medical Center, Houston	1,000,000
E2010-ALTA-017	UT	South Davis Streetcar, Salt Lake City	360,000
E2010-ALTA-018	VA	Enhanced Transit Service - Route 7 Corridor	350,000
E2010-ALTA-021	WA	Puyallup Bus Rapid Transit Project - Alternatives Analysis	1,461,000
E2010-ALTA-022	WA	SE King County Commuter Rail and Transit Centers Feasibility Stuc	360,000
		Subtotal FY 2010 Unobligated Allocations.....	**$11,821,000**
		Total FY 2009 and 2010 Unobligated Allocations.....	**$17,806,000**

[FR Doc. 2011–2592 Filed 2–7–11; 8:45 am]

BILLING CODE 4910–57–C



FEDERAL REGISTER

Vol. 76 Tuesday,
No. 26 February 8, 2011

Part V

Department of the Treasury

Office of the Comptroller of the Currency

Federal Reserve Board

Federal Deposit Insurance Corporation

Department of the Treasury

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Requests; Intent to Discontinue and Request for Comment; Notice of Intent to Require Reporting Forms for Savings and Loan Holding Companies; Notices

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE BOARD

FEDERAL DEPOSIT INSURANCE CORPORATION

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), Treasury.

ACTION: Joint notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. chapter 35), the OCC, the Board, the FDIC, and the OTS (the "agencies") may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The agencies, under the auspices of the Federal Financial Institutions Examination Council, have approved the publication for public comment of a proposal to require savings associations currently filing the Thrift Financial Report (TFR) to convert to filing the Consolidated Reports of Condition and Income (Call Report) beginning with the reporting period ending on March 31, 2012.

In addition, the Board is publishing a notice of its intent to require savings and loan holding companies (SLHCs) to submit to the Board all regulatory reports that are currently required to be filed by bank holding companies (BHCs), beginning with the reporting period ending on March 31, 2012. *See* the Board's separate Notice of Intent for its plans regarding SLHC reporting in today's **Federal Register.**

The TFR and the Call Report are currently approved collections of information. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the agencies should modify the proposal for savings associations to convert to filing the Call Report prior to giving final approval. The agencies will then submit the proposal to OMB for review and approval.

DATES: Comments must be submitted on or before April 11, 2011.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number(s), will be shared among the agencies.

OCC: You should direct all written comments to: Communications Division, Office of the Comptroller of the Currency, Mailstop 2–3, Attention: 1557–0081, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–5274, or by electronic mail to *regs.comments@occ.treas.gov*. You may personally inspect and photocopy comments at the OCC, 250 E Street, SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Board: You may submit comments, which should refer to "Consolidated Reports of Condition and Income (FFIEC 031 and 041)," by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov*. Follow the instructions for submitting comments on the *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm*.
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov*. Include reporting form number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FDIC: You may submit comments, which should refer to "Consolidated Reports of Condition and Income, 3064–0052," by any of the following methods:

- *Agency Web Site: http://www.fdic.gov/regulations/laws/federal/propose.html*. Follow the instructions for submitting comments on the FDIC Web site.
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *E-mail: comments@FDIC.gov*. Include "Consolidated Reports of Condition and Income, 3064–0052" in the subject line of the message.
- *Mail:* Gary A. Kuiper, (202) 898–3877, Counsel, Attn: Comments, Room F–1072, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Public Inspection: All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/propose.html* including any personal information provided. Comments may be inspected at the FDIC Public Information Center, Room E–1002, 3501 Fairfax Drive, Arlington, VA 22226, between 9 a.m. and 5 p.m. on business days.

OTS: You may submit comments, identified by "1550–0023 (TFR: Conversion to Call Report)," by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *E-mail address: infocollection.comments@ots.treas.gov*. Please include "1550–0023 (TFR: Conversion to Call Report)" in the subject line of the message and include your name and telephone number in the message.
- *Fax:* (202) 906–6518.
- *Mail:* Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, *Attention:* "1550–0023 (TFR: Conversion to Call Report)."
- *Hand Delivery/Courier:* Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, *Attention:* Information Collection Comments, Chief Counsel's Office, Attention: "1550–0023 (TFR: Conversion to Call Report)."

Instructions: All submissions received must include the agency name and OMB Control Number for this information

collection. All comments received will be posted without change to the OTS Internet Site at *http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1*. In addition, you may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment for access, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov*, or send a facsimile transmission to (202) 906–7755. (Prior notice identifying the materials you will be requesting will assist us in serving you.) The OTS schedules appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive a request.

Additionally, commenters may send a copy of their comments to the OMB desk officer for the agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: For further information about the proposal discussed in this notice, please contact any of the agency clearance officers whose names appear below.

In addition, copies of the reporting forms and instructions for the FFIEC 031, Consolidated Reports of Condition and Income for a Bank with Domestic and Foreign Offices, can be obtained at the FFIEC's Web site (*http://www.ffiec.gov/forms031.htm*).

Copies of the reporting forms and instructions for the FFIEC 041, Consolidated Reports of Condition and Income for a Bank with Domestic Offices Only, can be obtained at the FFIEC's Web site (*http://www.ffiec.gov/forms041.htm*).

Copies of the reporting forms and instructions for the TFR can be obtained at the OTS's Web site (*http://www.ots.treas.gov/?p=ThriftFinancialReports*).

OCC: Mary Gottlieb, OCC Clearance Officer, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Cynthia Ayouch, Acting Federal Reserve Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may call (202) 263–4869.

FDIC: Gary A. Kuiper, Counsel, (202) 898–3877, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: Ira L. Mills, OTS Clearance Officer, at *Ira.Mills@ots.treas.gov,* (202) 906–6531, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The agencies are proposing to revise the reporting panel for the Call Report and to cease collection of data through all schedules of the TFR beginning with the reporting period ending on March 31, 2012. The Call Report is currently an approved collection of information for the OCC, the Board, and the FDIC. The TFR is currently an approved collection of information for the OTS.

1. *Report Title:* Consolidated Reports of Condition and Income (Call Report).

Form Number: Call Report: FFIEC 031 (for banks with domestic and foreign offices) and FFIEC 041 (for banks with domestic offices only).

Frequency of Response: Quarterly.

Affected Public: Business or other for-profit.

OCC

OMB Number: 1557–0081.

Current

Estimated Number of Respondents: 1,491 national banks.

Estimated Time per Response: 53.25 burden hours.

Estimated Total Annual Burden: 317,583 burden hours.

Proposed

Estimated Number of Respondents: 2,171 (1,491 national banks and 680 Federal savings associations).

Estimated Time per Response: National banks: 53.25 burden hours per quarter to file.

Federal savings associations: 53.25 burden hours per quarter to file and 188 burden hours for the first year to convert systems and conduct training.

Estimated Total Annual Burden: National banks: 317,583 burden hours to file.

Federal savings associations: 144,840 burden hours to file; 127,840 burden hours for the first year to convert systems and conduct training.

Total: 590,263 burden hours.

Board

OMB Number: 7100–0036.

Current

Estimated Number of Respondents: 841 State member banks.

Estimated Time per Response: 55.19 burden hours.

Estimated Total Annual Burden: 185,659 burden hours.

Proposed: No change.

FDIC

OMB Number: 3064–0052.

Current

Estimated Number of Respondents: 4,713 insured State nonmember banks.

Estimated Time per Response: 40.42 burden hours.

Estimated Total Annual Burden: 761,998 burden hours.

Proposed

Estimated Number of Respondents: 4,774 (4,713 insured State nonmember banks and 61 State savings associations).

Estimated Time per Response: State nonmember banks: 40.42 burden hours per quarter to file.

State savings associations: 40.42 burden hours per quarter to file and 188 burden hours for the first year to convert systems and conduct training.

Estimated Total Annual Burden: State nonmember banks: 761,998 burden hours to file.

State savings associations: 9,862 burden hours to file; 11,468 burden hours for the first year to convert systems and conduct training.

Total: 783,328 burden hours.

The estimated time per response for the Call Report is an average that varies by agency because of differences in the composition of the institutions under each agency's supervision (*e.g.,* size distribution of institutions, types of activities in which they are engaged, and existence of foreign offices). The average reporting burden for the Call Report is estimated to range from 17 to 665 hours per quarter, depending on an individual institution's circumstances.

2. *Report Title:* Thrift Financial Report (TFR).

Form Number: OTS 1313 (for savings associations).

Frequency of Response: Quarterly; Annually.

Affected Public: Business or other for-profit.

OTS

OMB Number: 1550–0023.

Current

Estimated Number of Respondents: 741 savings associations.

Estimated Time per Response: 37.5 burden hours.

Estimated Total Annual Burden: 111,150 burden hours.

Proposed

Estimated Number of Respondents: Not applicable.

Estimated Time per Response: Not applicable.

Estimated Total Annual Burden: Not applicable.

The burden estimates in this notice above are for the quarterly filings of the TFR and the Call Report. In addition to those filings, savings associations would incur an initial burden of converting systems and training staff to prepare and file the Call Report in place of the TFR as proposed. Accordingly, the burden estimates in this notice above for savings associations also include the time to convert to filing the Call Report, including necessary systems changes and training staff on Call Report preparation and filing, which is estimated to average 188 hours.

As a general statement, larger institutions and those with more complex operations would expend a greater number of hours than smaller institutions and those with less complex operations. An institution's use of service providers for the information and accounting support of key functions, such as credit processing, transaction processing, deposit and customer information, general ledger, and reporting should result in lower burden hours for converting to the Call Report. Institutions with staff having experience in preparing and filing the Call Report should incur lower initial burden hours for converting to the Call Report from the TFR.

A summary of the estimated initial burden hours for savings associations regarding the proposed conversion to the Call Report from the TFR is presented below.

Estimated Initial Burden of Proposal

Estimated Number of Institutions: 741 savings associations.

Estimated Time per Institution: 188 burden hours.

Estimated Total Burden: 139,308 burden hours.

General Description of Reports

These information collections are mandatory: 12 U.S.C. 161 (for national banks), 12 U.S.C. 324 (for State member banks), 12 U.S.C. 1817 (for insured State nonmember commercial and savings banks), and 12 U.S.C. 1464 (for savings associations). At present, except for selected data items, the Call Report and TFR are not given confidential treatment.

Abstract

Institutions submit Call Report and TFR data to the agencies each quarter for the agencies' use in monitoring the condition, performance, and risk profile of individual institutions and the bank and savings association industries as a whole. Call Report and TFR data provide the most current statistical data available for evaluating institutions' corporate applications, for identifying areas of focus for both on-site and off-site examinations, and for monetary and other public policy purposes. The agencies use Call Report and TFR data in evaluating interstate merger and acquisition applications to determine, as required by law, whether the resulting institution would control more than ten percent of the total amount of deposits of insured depository institutions in the United States. Call Report and TFR data also are used to calculate all institutions' deposit insurance and Financing Corporation assessments, and national banks' and savings associations' assessments.

Effect of Recent Legislation

The Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203 (the Dodd-Frank Act) was enacted into law on July 21, 2010. Title III of the Dodd-Frank Act abolishes the OTS, provides for its integration with the OCC effective as of July 21, 2011 (the "transfer date"), and transfers the OTS's functions to the OCC, the Board, and the FDIC. Under Title III of the Dodd-Frank Act, all functions of the OTS relating to Federal savings associations and rulemaking authority for all savings associations are transferred to the OCC. All functions of the OTS relating to State-chartered savings associations (other than rulemaking) are transferred to the FDIC. All functions of the OTS relating to supervision of SLHCs (including rulemaking) are transferred to the Board.

After careful review, the agencies believe that having common financial reports and reporting processes among all FDIC-insured entities would be more efficient and would lead to more uniform comparisons of financial condition, performance, and trends among regulated institutions. For these reasons, the OTS is proposing to eliminate the TFR, and the agencies are proposing to require savings associations to adopt the reporting routines and processes required of all other FDIC-insured banks and savings institutions.

Section 5(v)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(v)(1)) does not contain a specific requirement for collection of financial information from savings associations in the TFR format. Rather, the statute provides broad authority for the OTS to determine the requirements of periodic reports and information needs. Therefore, there is no statutory impediment to requiring savings associations to convert from the TFR to the Call Report.

Current Actions

I. Overview

The agencies are proposing to implement changes to savings associations' data reporting requirements beginning with the reporting period ending on March 31, 2012. These changes, which are discussed in detail in Section II of this notice, are intended to provide data needed for reasons of safety and soundness or other public purposes. The proposed changes would require savings associations to cease filing the TFR and commence filing the Call Report beginning on the March 31, 2012, report date.

II. Proposal To Require Savings Associations To File Call Report

A. Background

In making this proposal, the agencies carefully reviewed the comments received by OTS in its 2007 Advance Notice of Proposed Rulemaking (72 FR 64003, November 14, 2007) [1] regarding a possible conversion to the Call Report. In that request for information, OTS asked commenters what information they needed to make an informed decision about the feasibility of converting to the Call Report.

Though the majority of commenters supported converting to the Call Report, OTS decided in early 2008 not to require savings associations to convert to the Call Report. A key factor in that decision was the weakening economy and the resulting increases in loan delinquencies. Given that environment, a decision was made to let savings associations focus on asset quality issues rather than diverting resources and attention to converting reporting systems.

Though the U.S. economy has not yet fully recovered from the recent severe recession, it is more stable than it was in early 2008. Further, the OTS-regulated savings association (or thrift) industry also has stabilized since the onset of the recession. The thrift industry posted positive earnings in

[1] Link to November 14, 2007 proposal published at 72 FR 64003: *http://www.ots.treas.gov/_files/commenttopics/8f697712–0718–411f-a004–470f790edf80.pdf.*

each of the five most recent quarters [2] after experiencing net losses from fourth quarter 2007 through second quarter 2009. In addition, loss allowances and capital have been bolstered to record or near record levels. Moreover, the steep increases in thrifts' troubled assets—loans 90 or more days delinquent or in nonaccrual status plus repossessed assets—which occurred during the early part of the recession, have abated. For example, the industry's ratio of troubled assets-to-total assets increased from 0.70 percent at the end of 2006 to 3.65 percent at the end of third quarter 2009. The troubled asset ratio has eased slightly since that time. At the end of the third quarter of 2010, the thrift industry's troubled assets ratio stood at 3.45 percent. The agencies believe the economic environment and thrift industry financial condition are now more favorable to pursue a conversion to the Call Report.

B. Efforts To Reduce Burden

The commenters not supporting the conversion to the Call Report in the 2007 proposal typically voiced concern over burden and, more specifically the initial burden of converting to a different reporting system. The agencies recognize that there will be initial burden in converting to the Call Report and have estimated this burden as discussed above in this notice. However, the agencies believe there will be longer-term efficiencies to having a common financial report among all FDIC-insured entities. For savings associations, these efficiencies include the availability of more staff across the financial institution industry with experience in Call Report preparation than with TFR preparation, more training opportunities available to the financial institution industry for Call Report preparation, and more integrated general ledger-to-Call Report processes and software available to the institutions.

Efficiencies of the proposed report conversion also would extend to the agencies, which would have one set of financial information from which to evaluate and monitor the financial condition and operations of all FDIC-insured banks and savings associations.

To help reduce the burden with converting reports, the proposal would:

1. Curtail all proposed changes to the TFR for 2011 that would increase the differences between the TFR and the Call Report. Proposed changes to the TFR for 2011, announced on October 5, 2010 (75 FR 61563),[3] included changes that parallel proposed changes to the Call Report as well as changes unique to the TFR. Proposed changes unique to the TFR included proposed data collections for classified assets by major loan category and loan loss allowances by major loan category. All proposed TFR changes that increase differences with the Call Report would be curtailed in an effort to reduce the initial burden of converting to the Call Report. The OTS also would announce the decision to curtail these proposed changes in its response to comments received regarding the October 5, 2010 notice;

2. Require no additional savings association-only schedules for inclusion in the Call Report [4] upon initial migration to the Call Report. The 2007 proposal to convert from the TFR to the Call Report mentioned that certain savings association-only schedules may have been required in addition to the Call Report filed by all other FDIC-insured institutions. In general, these savings association-only schedules would have sought to capture information collected in the TFR but not in the Call Report. Such schedules included ones for more information on mortgage loans, consumer loans, and classified assets. It was envisioned in 2007 that savings association-only schedules would be added to the existing Call Report, filed through the Call Report filing process, but completed only by OTS-regulated savings associations. The addition of savings association-only schedules to the Call Report is no longer being sought or proposed;

3. Provide a "mapping" of TFR items to Call Report items. This mapping will be available on the OTS Web site at *http://www.ots.treas.gov/?p=ThriftFinancialReports* under Thrift Financial Report—TFR-to-Call Report Mapping on or before February 15, 2011. A link to this same mapping also will be made available on the FFIEC Web site under Call Report Forms at *http://www.ffiec.gov/ffiec_report_forms.htm.* Please note the findings from this mapping exercise may result in future changes to the Call Report. Any changes to the Call Report will be announced in a separate notice on which public comment will be requested;

4. Make the filing of TFR Schedule CMR *during 2011* optional for all OTS-regulated entities that have a "1" or "2" rating for their most recent composite rating under the Uniform Financial Institutions Rating System (UFIRS), have a "1" or "2" rating for their most recent UFIRS Sensitivity component rating, and have the means to adequately monitor and assess interest rate risk through internal processes pursuant to current regulatory guidance and expectations. Savings associations that decide to forego the filing of Schedule CMR under this provision would be required to notify their applicable regional office prior to the Schedule CMR filing deadline. The data collected on Schedule CMR currently are used as input for the OTS's Interest Rate Risk Model (IRR Model). The results of the IRR Model are used by examiners and supervisory staff as an aid in monitoring and gauging savings associations' interest rate risk. In addition, the OTS currently provides each institution with its own IRR Model results to aid the institution's own interest rate risk management; and

5. Propose to cease collection of Schedule CMR beginning with the March 2012 reporting period. In making this decision, the agencies again reviewed the comments received by the OTS regarding its 2007 proposal to convert from the TFR to the Call Report. As previously mentioned, the majority of commenters supported the conversion. And although eliminating Schedule CMR was not proposed by the OTS in its 2007 proposal, several commenters recommended Schedule CMR should be eliminated. Those commenters typically mentioned that Schedule CMR was burdensome and that requiring savings associations to continue to file Schedule CMR in addition to the Call Report would place more burden on them than on comparably sized commercial banks and State-chartered savings banks. Moreover, those commenters also mentioned they already had their own means to gauge and monitor interest rate risk, and therefore their receipt of IRR Model results could be eliminated with no disruption to their management of interest rate risk.

On the other hand, some commenters indicated the IRR Model results were useful, and they relied on the IRR Model results to help with managing their interest rate risk.

The agencies carefully weighed these comments before making the decision to propose eliminating Schedule CMR beginning with the March 2012 reporting period. The agencies believe it is more efficient, for institutions filing the required reports and the agencies as well, to have a common financial report

[2] Through the third quarter 2010.

[3] Link to October 5, 2010 proposal published at 75 FR 61563: *http://edocket.access.gpo.gov/2010/pdf/2010–24883.pdf.*

[4] The 2007 proposal kept intact the filing of Schedules CMR and HC through existing OTS filing processes. All other TFR Schedules would have been eliminated.

required of all FDIC-insured banks and savings associations. In addition, the agencies believe it is more efficient to have a common set of policies among all FDIC-insured entities regarding the management of interest rate risk. In this regard, beginning in 2012 savings associations would be expected to follow the same general supervisory policies and guidelines regarding sound practices for managing interest rate risk as required of commercial banks and State-chartered savings banks.[5] The Web links for the general interest rate risk management policies and guidelines of the agencies (other than the OTS) are as follows:

http://www.ffiec.gov/press/pr042398.htm
http://www.fdic.gov/news/news/press/2010/pr1002.pdf
http://www.fdic.gov/regulations/laws/rules/5000–4200.html
http://www.fdic.gov/regulations/safety/manual/section7–1_toc.html
http://www.federalreserve.gov/boarddocs/SRLETTERS/1996/sr9613.htm
http://www.federalreserve.gov/BoardDocs/SupManual/trading/200901/3000p2.pdf
http://www.occ.gov/news-issuances/bulletins/2010/bulletin-2010–1a.pdf
http://www.occ.gov/news-issuances/bulletins/1998/bulletin-1998–20.html
http://www.occ.gov/static/publications/handbook/irr.pdf

C. Report Preparation Training

Converting to the Call Report likely would require OTS-regulated savings associations to retrain report preparation staff. Training on the completion and preparation of these reports is offered on a regular basis by independent trade and professional organizations.

As stated above, the agencies will provide a "mapping" of TFR items to Call Report items to help reduce the initial burden of report conversion. There are some significant differences between the Call Report and TFR, examples of which are described below. Given these and other reporting differences, savings associations are encouraged to familiarize themselves with the Call Report instructions and seek training opportunities for report preparation staff as soon as possible. Web links to the Call Report forms and instructions are provided above in this notice.

[5] Other specific changes to existing savings association policies, procedures, rules, and regulations are expected to be made through separate notices—pursuant to the Paperwork Reduction Act or the Administrative Procedure Act—depending on the nature of the proposal.

Significant reporting differences between the TFR and the Call Report include the following:

1. In the TFR, data are reported for the quarter ending on the report date in Schedule SO—Consolidated Statement of Operations, the Summary of Changes in Savings Association Equity Capital in Schedule SI—Supplemental Information, Schedule VA—Consolidated Valuation Allowances and Related Data, and Schedule CF—Consolidated Cash Flow Information. In the comparable schedules of the Call Report, data are reported on a calendar year-to-date basis, regardless of an institution's fiscal year-end.

2. Previously submitted TFRs can be amended only for 135 days after the end of the quarter for which an amended report is being filed electronically. In general, amendments to previously submitted Call Reports can be filed for up to five years after the report date, including amendments required by an institution's primary Federal bank supervisory authority when a report as previously submitted contains significant or material errors.

3. In the Average Balance Sheet Data section of TFR Schedule SI—Supplemental Information, savings associations report average balance sheet data for the quarter that, at a minimum, must be computed based on balances at month-end. However, savings associations may choose to compute these data based on other than month-end balances, such as daily or weekly balances. In Call Report Schedule RC–K—Quarterly Averages, institutions must report averages on a daily or weekly basis only.

4. Savings associations can report specific valuation allowances in TFR Schedule VA–Consolidated Valuation Allowances and Related Data. Comparable reporting is not available in the Call Report. For example, for Call Report purposes, institutions take and report charge-offs on individual loans rather than creating specific valuation allowances.

D. Timing

Savings associations currently regulated by the OTS would begin filing the Call Report as of the March 31, 2012 report date. Savings associations would file the same Call Report required of commercial banks and State-chartered savings banks not currently regulated by the OTS. Web links to the Call Report forms and instructions are provided above in this notice.

Savings associations will continue to submit TFRs, including Schedules HC and CMR (except as discussed above for Schedule CMR), through the December 31, 2011 reporting period, using the processing, editing, and validating system currently in use, which is the Electronic Filing System (EFS) established by the OTS. In addition, SLHCs would continue to submit all required regulatory reports under the current SLHC reporting scheme (including the submission of the OTS Form H–(b)11 and Schedule HC HOLA 10(l)) utilizing the existing OTS reporting processes through the December 31, 2011 reporting period.

Also beginning with the first quarter 2012 reporting period, according to plans, SLHCs currently regulated by OTS would start filing the same regulatory reports required to be filed by BHCs regulated by the Board. *See* the Board's separate Notice of Intent in today's **Federal Register** for more details.

E. Filing Process

OTS-regulated savings associations use OTS-developed proprietary software to file TFRs. Call Reports for other FDIC-insured institutions are filed one of two ways, both using institution-acquired software. These two filing processes are described below:

1. An institution may use computer software to prepare its report and then submit the report directly to the FFIEC's Central Data Repository (CDR), an Internet-based system for data collection (*https://cdr.ffiec.gov/cdr/*); or

2. The institution may complete its reports in paper form and arrange with a software vendor or another party to convert its paper reports into an electronic format that can be processed by the CDR. The software vendor or another party then must electronically submit the data file containing the bank's Call Report to the CDR.

A list of vendors offering software meeting the technical specifications for producing Call Report data files that are able to be processed by the CDR can be found on the last page of the FFIEC's most recent quarterly Call Report Supplemental Instructions found at *http://www.ffiec.gov/ffiec_report_forms.htm.* In addition, individual institutions may choose to develop their own Call Report preparation software that meets these technical specifications. The agencies will provide specific information on the requirements to those institutions that are interested in pursuing this option.

Request for Comment

The agencies gave considerable thought to the timing of this proposal and reviewed the comments received by the OTS from the 2007 proposal. Commenters responding to that

proposal indicated a TFR-to-Call Report conversion would take three to six quarters. Hence, the agencies believe the proposed implementation of these reporting changes in the reports for the first quarter of 2012 would provide sufficient lead time and is therefore reasonable. Commenters who disagree with this assessment should specify why they believe they cannot meet that date and explain the time frame needed to comply with the proposed conversion.

Comments are invited on:

(a) Whether the proposed revisions to the collections of information that are the subject of this notice are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the agencies' estimates of the burden of the information collections as they are proposed to be revised, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

In addition to the above, public comment is requested on all aspects of this joint notice. Comments submitted in response to this joint notice will be shared among the agencies. All comments will become a matter of public record.

Dated: January 19, 2011.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, February 2, 2011.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC this 24th day of January, 2011.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: February 2, 2011.

Ira L. Mills,

Paperwork Clearance Officer, Office of Chief Counsel, Office of Thrift Supervision.

[FR Doc. 2011–2779 Filed 2–7–11; 8:45 am]

BILLING CODE 6720–01–P; 6714–01–P; 6210–01–P; 4810–33–P

FEDERAL DEPOSIT INSURANCE CORPORATION

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC) and Office of Thrift Supervision (OTS), Treasury.

ACTION: Joint notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. chapter 35), the FDIC and the OTS (the "agencies") may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The agencies are requesting public comment on their proposal to require savings associations currently filing data through the Branch Office Survey System (BOS) with the OTS to convert to filing data through the Summary of Deposits Survey (SOD) with the FDIC. The BOS and the SOD are currently approved collections of information. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the agencies should modify their proposal prior to giving final approval. The agencies will then submit the proposal to OMB for review and approval.

DATES: Comments must be submitted on or before April 11, 2011.

ADDRESSES: Interested parties are invited to submit written comments to either or both of the agencies. All comments, which should refer to the OMB control number(s), will be shared between the agencies.

FDIC: You may submit comments, which should refer to "Summary of Deposits Survey, 3064–0061," by any of the following methods:

- *Agency Web Site: http://www.fdic.gov/regulations/laws/federal/propose.html.* Follow the instructions for submitting comments on the FDIC Web site.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: comments@FDIC.gov.* Include "Summary of Deposits Survey, 3064–0061" in the subject line of the message.
- *Mail:* Gary A. Kuiper, (202) 898–3877, Counsel, Attn: Comments, Room F–1072, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Public Inspection: All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/propose.html* including any personal information provided. Comments may be inspected at the FDIC Public Information Center, Room E–1002, 3501 Fairfax Drive, Arlington, VA 22226, between 9 a.m. and 5 p.m. on business days.

OTS: You may submit comments, identified by "1550–0004 (Branch Office Survey System)," by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail address: infocollection.comments@ots.treas.gov.* Please include "1550–0004 (Branch Office Survey System)" in the subject line of the message and include your name and telephone number in the message.
- *Fax:* (202) 906–6518.
- *Mail:* Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, *Attention:* "1550–0004 (Branch Office Survey System)."
- *Hand Delivery/Courier:* Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, Attention: Information Collection Comments, Chief Counsel's Office, Attention: "1550–0004 (Branch Office Survey System)."

Instructions: All submissions received must include the agency name and OMB Control Number (1550–0004) for this information collection. All comments received will be posted without change to the OTS Internet Site at *http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1.* In addition, you may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment for access, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a

facsimile transmission to (202) 906–7755. (Prior notice identifying the materials you will be requesting will assist us in serving you.) We schedule appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive a request.

Additionally, commenters may send a copy of their comments to the OMB desk officer for the agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: For further information about the proposal discussed in this notice, please contact either of the agency clearance officers whose names appear below.

In addition, copies of the reporting forms and instructions for the SOD can be obtained at the FDIC Web site (*http://www2.fdic.gov/sod/*). Copies of the reporting forms and instructions for the BOS can be obtained at the OTS Web site (*http://www.ots.treas.gov/?p=BranchOfficeSurvey*).

FDIC: Gary A. Kuiper, Counsel, (202) 898–3877, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: Ira L. Mills, OTS Clearance Officer, at *Ira.Mills@ots.treas.gov,* (202) 906–6531, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The agencies are proposing to standardize the yearly collection of branch information among all FDIC-insured entities. To accomplish this goal, the agencies are proposing to cease collection of branching and deposit data from OTS-regulated savings associations through the BOS and require this data be filed through the SOD. The SOD is currently the data collection facility used by all other FDIC-insured entities. The SOD and the BOS are currently approved collections of information for each agency.

1. *Report Title:* Summary of Deposits Survey (SOD).

Form Number: 8020/05.

Frequency of Response: Annually.

Affected Public: Business or other for-profit.

FDIC:

OMB Number: 3064–0061.

Current:

Estimated Number of Respondents: 6,000 insured commercial banks and state-chartered savings banks.

Estimated Time per Response: 3 burden hours.

Estimated Total Annual Burden: 18,000 burden hours.

Proposed:

Estimated Number of Respondents: 6,543 insured commercial banks, state-chartered savings banks, and savings associations.

Estimated Time per Response: 3 burden hours.

Estimated Total Annual Burden: 19,629 burden hours.

The current annual burden for the SOD is estimated to be 18,000 hours. Approximately 6,000 institutions spend an average of three hours to prepare the SOD. It is estimated that some institutions with only two or three branches will take 15 minutes to complete the survey while larger banks usually have the branch information in their system for easy retrieval to complete the SOD form.

As discussed in more detail later in this notice, there are differences in the panel of institutions required to report data through the SOD and those required to report data through the BOS. In summary, single-office institutions are not required to file the SOD, but are required to file the BOS. OTS estimates there are approximately 181 single-office savings associations that are currently required to file data through the BOS but would not be required to file data through the SOD.

Another difference in the panel of institutions required to file through the BOS compared to through the SOD are trust-only institutions. All trust-only savings associations are exempt from filing data through the BOS. However, trust-only institutions with more than one office location would be required to file data through the SOD. There is one trust-only savings association with more than one office location and, hence, this institution would be required to file through the SOD. Given these changes in the panel of required filers, the proposed burden estimates above for filing through the SOD reflect a net reduction of 180 savings associations from the total 723 OTS-regulated savings associations required to file through the BOS.

2. *Report Title:* Branch Office Survey System (BOS).

Form Number: OTS 248 (for savings associations).

Frequency of Response: Annually.

Affected Public: Business or other for-profit.

OTS:

OMB Number: 1550–0004.

Current:

Estimated Number of Respondents: 723 savings associations.

Estimated Time per Response: 3 burden hours.

Estimated Total Annual Burden: 2,169 burden hours.

Proposed:

Estimated Number of Respondents: Not applicable.

Estimated Time per Response: Not applicable.

Estimated Total Annual Burden: Not applicable.

The burden estimates above for filing through the BOS reflect a reduction for the 18 trust-only savings associations that would not be required to file through the BOS from the total population of 741 OTS-regulated savings associations.

General Description of Reports

These information collections are mandatory. The FDIC is authorized to collect these data under section 9 (Eighth) of the Federal Deposit Insurance Act (12 U.S.C. 1819), which gives the FDIC the power to require information and reports from banks to carry out its statutory responsibilities regarding bank supervision. The survey has been conducted on a yearly basis since 1972.

OTS is authorized to collect this data under Sections 3(b)(2) and 4(a)(2) of the Home Owners' Loan Act (12 U.S.C. 1462a(b)(2) and 1463(a)(2)).

All data collected through the BOS and the SOD submissions are available to the public.

Abstract

Institutions submit SOD and BOS data to the agencies annually for the agencies' use in monitoring branching activity, reviewing changes in levels of deposits at branches, and in evaluating changes in market share of deposits by location. SOD and BOS submissions also provide branch deposit data necessary for evaluating institutions' corporate applications, for identifying areas of focus for on-site and off-site examinations, and for monetary and other public policy purposes. In addition, SOD data are used to measure the host state loan-to-deposit ratios used to determine compliance with section 109 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, which generally prohibits a bank from establishing or acquiring a branch or branches outside its home state primarily for the purpose of deposit production.

Effect of Recent Legislation

The Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203 (the Dodd-Frank Act) was enacted into law on July 21, 2010. Title

III of the Dodd-Frank Act abolishes the OTS, provides for its integration with the Office of the Comptroller of the Currency (OCC) effective as of July 21, 2011 (the "transfer date"), and transfers its functions to the OCC, the Board of Governors of the Federal Reserve System (Board), and the FDIC.

Under Title III of the Dodd-Frank Act, all functions of the OTS relating to federal savings associations and rulemaking authority for all savings associations are transferred to the OCC. All functions of the OTS relating to state-chartered savings associations (other than rulemaking) are transferred to the FDIC. All functions of the OTS relating to supervision of savings and loan holding companies (including rulemaking) are transferred to the Board.

After careful review, the agencies believe having common financial reports and reporting processes among all FDIC-insured institutions is more efficient and will lead to more uniform comparisons of financial condition, performance, and trends. For these reasons, the OTS is proposing to eliminate the BOS data collection process used by OTS-regulated savings associations and require these entities to file this information using the SOD processes and systems. This proposal would standardize the reporting routines and processes required of all FDIC-insured entities for branch office data through the SOD.

Current Actions

The agencies are proposing to implement changes to savings associations' branch office reporting requirements effective June 30, 2011. These changes are intended to provide a consistent data collection needed for reasons of safety and soundness or other public purposes. The proposed changes would require OTS-regulated savings associations to cease filing through the BOS and commence filing through the SOD, thus standardizing the yearly collection of branch office information, including deposit data, between OTS-regulated savings associations and all other FDIC-insured entities.

OTS-regulated savings associations use OTS-developed proprietary software for the yearly filing of branch office information. Branch office information is filed by all other FDIC-insured entities with the FDIC directly using either FDIC*connect* or institution-acquired commercially available software.

The BOS and SOD collections of branch office information are very similar and the estimated burden hours are identical (an average of 3 hours per entity annually). However, there are some differences between the entities required to file the BOS and the SOD. Single-office OTS-regulated savings associations are required to file through the BOS. However, all other single-office FDIC-insured entities (unit banks) are not required to file through the SOD. Instead, deposit data from the Call Report quarterly information collection are used for deposit balances of unit banks.

Another difference between the BOS and the SOD is that savings associations engaged in trust-only activities [1] are not required to file through the BOS. However, all other trust-only FDIC-insured entities with more than one location (office/branch) are required to file through the SOD.[2] Though these differences are minor, OTS-regulated savings associations are encouraged to review the SOD filing requirements and processes. The SOD general description and instructions can be obtained at the FDIC Web site through the following link: *http://www2.fdic.gov/sod/.*

There is little difference between the BOS and the SOD collections of branch information. Therefore, the burden of changing processes, for most OTS-regulated savings associations, would be minimal or even reduced.[3] Hence, the agencies desire to have a standard yearly collection of branch information among all FDIC-insured entities through the existing FDIC process beginning with the filing of June 30, 2011, branch information.

Request for Comment

Public comment is requested on all aspects of this joint notice. Comments are invited on:

(a) Whether the proposed revisions to the collections of information that are the subject of this notice are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the agencies' estimates of the burden of the information collections as they are proposed to be revised, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments submitted in response to this joint notice will be shared between the agencies. All comments will become a matter of public record.

Dated at Washington, DC, this 24th day of January, 2011.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: *February 2, 2011.*

Ira L. Mills,

Paperwork Clearance Officer, Office of Chief Counsel, Office of Thrift Supervision.

[FR Doc. 2011–2780 Filed 2–7–11; 8:45 am]

BILLING CODE 6714–01–P; 6720–01–P

[1] These OTS-regulated "special purpose" savings associations engage only in trust and asset management activities. These institutions, deemed "trust-only," do not perform commercial or retail banking services by granting credit or taking deposits from the public in the ordinary course of business.

[2] As of September 30, 2010, only one of the eighteen OTS-regulated trust-only savings associations had more than one office location. That one entity would be required to file through the SOD under this proposal.

[3] The OTS estimates there were approximately 180 savings associations operating at September 30, 2010, that filed data through the BOS for the 2010 reporting period, but would not have to file data through the SOD under this proposal.

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Intent To Discontinue and Request for Comment

AGENCY: Office of Thrift Supervision (OTS).

ACTION: Notice of Intent to Discontinue and Request for Comment.

SUMMARY: The OTS is requesting public comment on its proposal to cease collection of data used to calculate and publish the Monthly Median Cost of Funds Index (MMCOF), the Quarterly Cost of Funds Index (QCOF), the Semiannual Cost of Funds Index (SCOF), and other related cost of funds ratios currently published monthly in the OTS's Cost of Funds (COF) Report.[1] At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the OTS should modify the proposal prior to giving final approval. The OTS will then submit the revisions to OMB for review and approval.

DATES: Comments must be submitted on or before April 11, 2011.

ADDRESSES: Interested parties are invited to submit written comments to the OTS.

[1] Link to published COF reports: *http://www.ots.treas.gov/?p=StatisticalReleases.*

You may submit comments, identified by "Cost of Funds Indices," by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail address: infocollection.comments@ots.treas.gov.* Please include "Cost of Funds Indices" in the subject line of the message and include your name and telephone number in the message.
- *Fax:* (202) 906–6518.
- *Mail:* Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, *Attention:* "Cost of Funds Indices."
- *Hand Delivery/Courier:* Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, *Attention:* Information Collection Comments, Chief Counsel's Office, *Attention:* "Cost of Funds Indices."

Instructions: All submissions received must include the agency name. All comments received will be posted without change to the OTS Internet Site at *http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1.* In addition, you may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment for access, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755. (Prior notice identifying the materials you will be requesting will assist us in serving you.) The OTS schedules appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive a request.

FOR FURTHER INFORMATION CONTACT: For further information about the revisions discussed in this notice, please contact Jim Caton, Managing Director—Economic and Industry Analysis, at (202) 906–5680.

In addition, copies of the reporting forms and instructions for cost of funds reporting requirements can be obtained at the OTS Web site through the following link: *http://www.ots.treas.gov/?p=StatisticalReleases.*

SUPPLEMENTARY INFORMATION: The OTS is proposing to cease collection of data used to calculate and publish the MMCOF and to cease publication of the MMCOF, QCOF, SCOF, and other related COF indices.

Abstract

Some institutions submit MMCOF data to the OTS monthly for the OTS's use in calculating a monthly median cost of funds index. Additionally, the OTS publishes two indices based on calculations from data included in the Thrift Financial Report (TFR): [2]

1. A quarterly average cost of funds index, and
2. A semiannual average cost of funds index.

These indices are used by certain mortgage lenders as benchmarks from which to base rate adjustments for adjustable rate mortgages (ARMs).

Effect of Recent Legislation

The Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203 (the Dodd-Frank Act), was enacted into law on July 21, 2010. Title III of the Dodd-Frank Act abolishes the OTS, provides for its integration with the Office of the Comptroller of the Currency (OCC) effective as of July 21, 2011 (the "transfer date"), and transfers the OTS's functions to the OCC, the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC).

Under Title III of the Dodd-Frank Act, all functions of the OTS relating to federal savings associations and rulemaking authority for all savings associations are transferred to the OCC. All functions of the OTS relating to state-chartered savings associations (other than rulemaking) are transferred to the FDIC. All functions of the OTS relating to supervision of savings and loan holding companies (including rulemaking) are transferred to the Board.

Current Actions

After careful review, the OTS believes the volume of ARMs using COF indices the OTS publishes as benchmarks for ARM rate adjustments has declined significantly. In addition, the COF indices published by the OTS are being derived from data of fewer savings associations than they were in prior years as discussed in more detail later in this notice. Hence, these indices are subject to greater skewing from data outliers and extraneous data movements. For these reasons, the OTS is proposing to eliminate the data collection used to calculate and publish the MMCOF index, as well as the publications of the QCOF, SCOF, and other related COF indices.

The OTS is proposing to implement changes to savings associations' data reporting requirements effective January 31, 2012. The proposed changes would require savings associations currently regulated by the OTS to cease filing data used to calculate the MMCOF index. Further publication of the MMCOF, the QCOF, the SCOF, and other related cost of funds ratios currently published monthly in the COF Report would cease as of January 31, 2012. The final COF Report would be for the month of December 2011. Until the effective date of these changes, savings associations would continue to file MMCOF data in the current manner using existing processes.

In making this proposal, the OTS reviewed its proposal made in 1994 [3] to eliminate the MMCOF and the comments received regarding that proposal. The OTS also closely reviewed the changes in savings associations' aggregate asset composition and mortgage portfolio since the 1994 proposal, as well as recent changes in the overall mortgage markets.

As noted in the 1994 proposal, mortgage lending survey data from the then Federal Housing Finance Board (FHFB) indicated the indices published by the OTS were not widely used. For loans closed in March 1994, only 1.8 percent of ARMs were adjusted with indices included in the "Other Cost of Funds Indexes"—the category that included the MMCOF as well as the QCOF and SCOF.[4]

Despite the low usage of these indices by lenders, the OTS decided not to pursue eliminating the MMCOF at that time. The primary reasons for this decision were comments regarding potential customer confusion and concern if the MMCOF index were discontinued.

The OTS notes that much has changed regarding the volume of ARMs held by savings associations and the number of institutions whose data comprise the MMCOF, QCOF, and SCOF indices. At the end of 1994, there were 1,526 OTS-regulated savings associations that participated in providing information to calculate the MMCOF. That number declined 52 percent to 733 at the end of the third quarter 2010. This decline has made the

[2] Copies of the reporting forms and instructions for the TFR can be obtained at the OTS Web site (*http://www.ots.treas.gov/?p=ThriftFinancialReports*).

[3] Link to 1994 proposal: *http://www.ots.treas.gov/_files/4830057.pdf.*

[4] Comparable mortgage lending survey data is no longer published by the successor agency to the FHFB—the Federal Housing Finance Agency (FHFA).

MMCOF index more susceptible to outlier and extraneous data movements.

The QCOF and SCOF are weighted averages of the cost of funds from all applicable OTS-regulated savings associations. Like the MMCOF, the decline in the number of OTS-regulated savings associations has made these indices more susceptible to outlier and extraneous data movements. This is especially true of these indices since weighted averages subject them to more skewing by large institutions and data outliers.

Additionally, the amount of adjustable rate residential mortgages and mortgage-backed securities held by savings associations has also declined since 1994 despite an increase in aggregate thrift industry assets. At the end of 1994, OTS-regulated savings associations held $774 billion in aggregate assets. Of that total, $304 billion, or 39.6 percent, were held in residential ARM loans and related securities. Though third quarter 2010 industry assets of $928 billion were higher than at the end of 1994, ARM holdings declined to $130 billion, or 14.0 percent of assets.

The decline in ARM loans and related securities with lagging market indices (LMI)—which include the MMCOF, QCOF, and SCOF among other LMIs—was more stark over this period. At the end of 1994, savings associations' LMI ARMs totaled $152 billion, or 19.8 percent of assets. LMI ARMs held by savings associations declined 93 percent to just $10 billion, or 1.1 percent of assets as of September 30, 2010.

The general decline in savings associations' ARMs was attributable to low prevailing interest rates for fixed-rate loans during the past three years. These low rates have resulted in strong refinancing activity out of ARMs and into fixed-rate loans.

Due to the decline in savings associations' ARMs outstanding, especially for LMI ARMs, savings associations' reporting costs and burden associated with reporting for the MMCOF, agency costs and burden associated with the publication of these indices, and the declining number of institutions comprising these indices, the OTS is proposing to discontinue the publication of, and special data collections for all the OTS's COF indices.

Index Substitution

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law 101–73 (FIRREA), was enacted into law on August 9, 1989. Section 402(e)(4) of FIRREA requires the OTS to designate acceptable substitute indices should it discontinue publication of indices used for ARM rate adjustments. To help designate acceptable substitute indices for the MMCOF, QCOF, and SCOF indices, the OTS analyzed the values and changes of 17 publicly available indices on a monthly basis from January 1990 through August 2010. The OTS compared the values and changes of the publicly available indices to those of the MMCOF, QCOF, and SCOF. Correlation coefficients [5] were calculated for each publicly available index value to the MMCOF, QCOF, and SCOF.

Based on this analysis, the following indices were the most highly correlated to the MMCOF:

1. 11th District Cost of Funds (*Source:* The Federal Home Loan Bank of San Francisco (FHLB–SF)): Correlation 0.98
2. Federal Cost of Funds (*Source:* Freddie Mac (FHLMC)): Correlation 0.96
3. National Average Contract Mortgage Rate (*Source:* The Federal Housing Finance Agency (FHFA)): Correlation 0.96
4. Monthly Treasury Average (MTA) (*Source:* Federal Reserve Board—H.15 FRSD): Correlation 0.93

The following were the most highly correlated to the QCOF:

1. 11th District Cost of Funds: Correlation 1.00
2. Federal Cost of Funds: Correlation 0.98
3. National Average Contract Mortgage Rate: Correlation 0.96
4. Monthly Treasury Average (MTA): Correlation 0.96

Quarterly averages were calculated from the monthly indices and used for calculating the correlation to the QCOF.

The following were the most highly correlated to the SCOF:

1. 11th District Cost of Funds: Correlation 1.00
2. Federal Cost of Funds: Correlation 0.98
3. National Average Contract Mortgage Rate: Correlation 0.97
4. Monthly Treasury Average (MTA): Correlation 0.96

Semi-annual averages were calculated from the monthly indices and used for calculating the correlation to the SCOF.

As set out above, the same four publicly available indices had the highest correlation coefficients when compared to each of the OTS's COF indices. Though the correlation coefficients differed slightly, all were highly correlated to the OTS's COF indices.

[5] The correlation coefficient is a single number that describes the degree of relationship between two variables. A perfect positive correlation (a correlation coefficient of +1) implies that as one index moves, either up or down, the other index will move in lockstep, in the same direction.

It should be noted that due to the significant monetary actions taken to help the U.S. economy stabilize and fully recover from the most recent recession, some of the publicly available indices based on U.S. Treasury security rates—such as the MTA—have declined to levels below the OTS's COF indices. However, as indicated by the correlation coefficients, the movements of these indices track the OTS's COF movements well. Hence, the movements in these indices could possibly be used for future rate adjustments rather than the index value itself.

Request for Comment

Comments are requested on the proposed requirement that OTS-regulated savings associations cease filing data used to calculate the MMCOF index. Comments are also requested on what should be considered an appropriate substitute index for each of the OTS's COF indices or alternatively, what should be considered an appropriate index to benchmark periodic changes to ARM rates based currently on the OTS's COF indices.

Comments submitted in response to this notice will become a matter of public record.

Dated: February 3, 2011.

John E. Bowman,

Acting Director, Office of Thrift Supervision.

[FR Doc. 2011–2781 Filed 2–7–11; 8:45 am]

BILLING CODE 6720–01–P

FEDERAL RESERVE BOARD

Notice of Intent To Require Reporting Forms for Savings and Loan Holding Companies

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is providing notice of its intention to require savings and loan holding companies (SLHCs) to submit the same reports as bank holding companies (BHCs), beginning with the March 31, 2012, reporting period. The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 transfers supervisory functions related to SLHCs and their non-depository subsidiaries to the Board on July 21, 2011. The planned reporting requirements for SLHCs outlined in this notice would provide the Board with data necessary to analyze the overall financial condition of SLHCs to ensure safe and sound operations. The reports would also collect organizational structure and

activity information from SLHCs in order to populate the Federal Reserve System's National Information Center (NIC) database with a comprehensive list of subsidiaries and affiliates of each SLHC.

DATES: Comments must be submitted on or before April 11, 2011.

ADDRESSES: You may submit comments, identified by *FR Y–6, FR Y–7, FR Y–9C, FR Y–9LP, FR Y–9SP, FR Y–9ES, FR Y–9CS, FR Y–10, FR Y–11, FR 2314, FR Y–8, or FR Y–12,* by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov*. Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm*.
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *E-mail*: *regs.comments@federalreserve.gov*. Include docket number in the subject line of the message.
- *FAX*: 202/452–3819 or 202/452–3102.
- *Mail*: Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.,) between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Additional information may be requested from the agency clearance officer, whose name appears below. Cynthia Ayouch, Acting Board Clearance Officer (202–452–3829), Division of Research and Statistics, and Amanda Allexon, Counsel (202) 452–3818 or Anne Zorc (202) 452–3876, Counsel, Legal Division, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact (202–263–4869), Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the Dodd-Frank Act) was enacted into law on July 21, 2010. Title III of the Dodd-Frank Act abolishes the Office of Thrift Supervision (OTS) effective as of July 21, 2011, and transfers supervisory functions (including rulemaking) related to SLHCs and their non-depository subsidiaries to the Board. Beginning July 21, 2011, the Federal Reserve would become responsible for assessing the holding company on a consolidated basis with the objective of encouraging the safe and sound operation of the SLHCs. Consolidated information assists in the identification and evaluation of significant risks that may exist in a holding company.

The Board is issuing this advance notice of a proposal with regard to reporting requirements in order to seek early comment. The Board proposes that SLHCs submit the same reports as BHCs beginning with the March 31, 2012, reporting period. Under the proposal, SLHCs would continue to submit all required regulatory reports under the current SLHC reporting scheme (including the submission of the OTS Form H–(b)11 and Schedule HC HOLA 10(l)) through the December 31, 2011, reporting period using the existing processing, editing and validating system, which is the Electronic Filing System (EFS) established by the OTS. In addition to this notice, the Board will publish a formal proposed notice on these information collection activities after July 21, 2011, the date that supervisory functions for SLHCs are transferred from the OTS to the Board.

The forms that the Board is considering making applicable to SLHCs beginning with the March 31, 2012 reporting period would be FR Y–6, FR Y–7, FR Y–9C, FR Y–9LP, FR Y–9SP, FR Y–9ES, FR Y–9CS, FR Y–10, FR Y–11/S, FR 2314/S, FR Y–8, and FR Y–12/12A. These reports are filed either quarterly (March, June, September and December), semiannually (June and December), annually (December) or event-generated. The report forms required to be filed by BHCs and the related instructions can be found at *http://www.frbservices.org/files/reporting/pdf/bhc_financial_and_structure_reports.pdf.* A summary of these forms can be found below.

The Board acknowledges there would be initial increased burden on SLHCs when converting to the financial reports required to be filed by BHCs but believes there would be long-term efficiencies. To reduce the initial burden the Board would provide outreach to SLHCs to address questions.

Specific estimates of the paperwork burden associated with these reports, including statutory and regulatory history, and a description of the reporting requirements and how the estimated total annual burden is calculated will be provided in the proposed notice of information collection planned to be published by the Board in the **Federal Register** after the July 21, 2011 transfer date.

The Board consulted with the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the OTS (collectively, the "agencies") to coordinate the publication of this notice of intent with the agencies' proposal to require savings associations currently filing the Thrift Financial Report (TFR) to convert to filing the Consolidated Reports of Condition and Income (Call Report) (FFIEC 031 and FFIEC 041), also published in today's **Federal Register** by the agencies and the Board. Savings associations generally would continue to submit Thrift Financial Reports (TFRs), including Schedules HC and CMR, through the December 31, 2011, reporting period using the existing system, according to the proposal.

Request for Comment on Notice of Intent

Comments are invited on the following:

a. Whether the planned collection of information is necessary for the proper performance of the Board's functions; including whether the information has practical utility;

b. The burden of the planned information collection proposal;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

Description of Reports

1. Report title: Annual Report of Bank Holding Companies.

Agency form number: FR Y–6.

Frequency: Annually.

General description of report: The FR Y–6 is an annual information collection submitted by top-tier BHCs and nonqualifying foreign banking organizations (FBOs). It collects financial data, an organization chart, verification of domestic branch data, and information about shareholders. The Federal Reserve uses the data to monitor holding company operations and determine holding company compliance with the provisions of the BHC Act and Regulation Y (12 CFR 225).

2. Report title: Annual Report of Foreign Banking Organizations.

Agency form number: FR Y–7.

Frequency: Annually.

General description of report: The FR Y–7 is an annual information collection submitted by qualifying FBOs to update their financial and organizational information with the Federal Reserve. The Federal Reserve uses information to assess an FBO's ability to be a continuing source of strength to its U.S. operations and to determine compliance with U.S. laws.

3. Report title: Financial Statements for Bank Holding Companies.

Agency form number: FR Y–9C, FR Y–9LP, FR Y–9SP, FR Y–9ES, and FR Y–9CS.

Frequency: Quarterly, semiannually, and annually.

General description of report: These reports are currently filed by BHCs. The FR Y–9C and the FR Y–9LP are standardized financial statements for the consolidated BHC and the parent holding company only. The FR Y–9 family of reports historically has been, and continues to be, the primary source of financial information on BHCs between on-site inspections. Financial information from these reports is used to detect emerging financial problems, to review performance and conduct pre-inspection analysis, to monitor and evaluate capital adequacy, to evaluate BHC mergers and acquisitions, and to analyze a BHC's overall financial condition to ensure safe and sound operations.

The FR Y–9C consists of standardized financial statements similar to the Federal Financial Institutions Examination Council (FFIEC) Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031 and 041) filed by insured commercial banks and state-chartered savings banks. The FR Y–9C collects consolidated data from BHCs. The FR Y–9C is filed by top-tier BHCs with total consolidated assets of $500 million or more. (Under certain circumstances defined in the General Instructions, BHCs under $500 million may be required to file the FR Y–9C.)

The FR Y–9LP includes standardized financial statements filed quarterly on a parent company only basis from each BHC that files the FR Y–9C. In addition, for tiered BHCs, a separate FR Y–9LP must be filed for each lower tier BHC.

The FR Y–9SP is a parent company only financial statement filed by smaller BHCs. Respondents include BHCs with total consolidated assets of less than $500 million. This form is a simplified or abbreviated version of the more extensive parent company only financial statement for large BHCs (FR Y–9LP). This report is designed to obtain basic balance sheet and income information for the parent company, information on intangible assets, and information on intercompany transactions.

The FR Y–9ES collects financial information from ESOPs that are also BHCs on their benefit plan activities. It consists of four schedules: Statement of Changes in Net Assets Available for Benefits, Statement of Net Assets Available for Benefits, Memoranda, and Notes to the Financial Statements.

The FR Y–9CS is a supplemental report that may be utilized to collect additional information deemed to be critical and needed in an expedited manner from BHCs. The information is used to assess and monitor emerging issues related to BHCs. It is intended to supplement the FR Y–9 reports, which are used to monitor BHCs between on-site inspections. The data items of information included on the supplement may change as needed.

4. *Report title:* Report of Changes in Organizational Structure.

Agency form number: FR Y–10.

Frequency: As needed, FR Y–10 is submitted within 30 calendar days of a reportable transaction or event.

General description of report: The FR Y–10 is an event-generated information collection submitted by FBOs; top-tier BHCs; state member banks unaffiliated with a BHC; Edge and agreement corporations that are not controlled by a member bank, a domestic BHC, or a FBO; and nationally chartered banks that are not controlled by a BHC (with regard to their foreign investments only), to capture changes in their regulated investments and activities. The Board uses the data to monitor structure information on subsidiaries and regulated investments of these entities engaged in banking and nonbanking activities.

5. *Report title:* Financial Statements for Nonbank Subsidiaries of U.S. Bank Holding Companies.

Agency form number: FR Y–11 and FR Y–11S.

Frequency: Quarterly and annually.

General description of report: These reports are currently filed by BHCs. The FR Y–11 reports collect financial information for individual non-functionally regulated U.S. nonbank subsidiaries of domestic BHCs. BHCs file the FR Y–11 on a quarterly or annual basis according to filing criteria. The FR Y–11 data are used with other BHC data to assess the condition of BHCs that are heavily engaged in nonbanking activities and to monitor the volume, nature, and condition of their nonbanking operations.

The FR Y–11S is an abbreviated reporting form that collects four data items: net income, total assets, equity capital, and total off-balance-sheet data items. The FR Y–11S is filed annually, as of December 31, by top-tier BHCs for each individual nonbank subsidiary (that does not meet the criteria for filing the detailed report) with total assets of at least $50 million, but less than $250 million, or with total assets greater than 1 percent of the total consolidated assets of the top-tier organization.

6. *Report title:* Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations.

Agency form number: FR 2314 and FR 2314S.

Frequency: Quarterly and annually.

General description of report: The reports are currently filed by foreign subsidiaries of BHCs, U.S. state member banks (SMBs), and Edge or agreement corporations.

The FR 2314 reports collect financial information for non-functionally regulated direct or indirect foreign subsidiaries of SMBs, Edge and agreement corporations, and BHCs. Parent organizations (SMBs, Edge and agreement corporations, or BHCs) file the FR 2314 on a quarterly or annual basis according to filing criteria. The FR 2314 data are used to identify current and potential problems at the foreign subsidiaries of U.S. parent companies, to monitor the activities of U.S. banking organizations in specific countries, and to develop a better understanding of activities within the industry, in general, and of individual institutions, in particular.

The FR 2314S is an abbreviated reporting form that collects four data items: net income, total assets, equity capital, and total off-balance-sheet data items. The FR 2314S is filed annually, as of December 31, for each individual subsidiary (that does not meet the criteria for filing the detailed report) with assets of at least $50 million but less than $250 million, or with total assets greater than 1 percent of the total consolidated assets of the top-tier organization.

7. *Report title:* Bank Holding Company Report of Insured Depository Institutions' Section 23A Transactions with Affiliates.

Agency form number: FR Y–8.

Frequency: Quarterly.

General description of report: The report is currently filed by top-tier BHCs, including financial holding companies (FHCs), for all insured depository institutions that are owned by the BHC and by FBOs that directly own a U.S. subsidiary bank.

This reporting form collects information on transactions between an insured depository institution and its affiliates that are subject to section 23A of the Federal Reserve Act. The primary

purpose of the data is to enhance the Board's ability to monitor bank exposures to affiliates and to ensure banks' compliance with section 23A of the Federal Reserve Act. Section 23A of the Federal Reserve Act is one of the most important statutes on limiting exposures to individual institutions and protecting against the expansion of the federal safety net.

8. *Report title:* Consolidated Bank Holding Company Report of Equity Investments in Nonfinancial Companies, and the Annual Report of Merchant Banking Investments Held for an Extended Period.

Agency form number: FR Y–12 and FR Y–12A, respectively.

Frequency: FR Y–12, quarterly and semiannually; and FR Y–12A, annually.

General description of report: This report is currently filed by BHCs and FHCs.

The FR Y–12 collects information from certain domestic BHCs on their equity investments in nonfinancial companies. Respondents report the FR Y–12 either quarterly or semi-annually based on reporting threshold criteria. The FR Y–12A is filed annually by institutions that hold merchant banking investments that are approaching the end of the holding period permissible under Regulation Y.

As indicated above, the Board plans to solicit comment on a notice of proposed collection of information regarding the application of BHC reporting requirements to SLHCs after the July 21, 2011 transfer date.

Board of Governors of the Federal Reserve System, February 2, 2011.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2011–2782 Filed 2–7–11; 8:45 am]

BILLING CODE 6210–01–P

Reader Aids

Federal Register

Vol. 76, No. 26

Tuesday, February 8, 2011

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids — **202–741–6000**

Laws — **741–6000**

Presidential Documents

Executive orders and proclamations — **741–6000**

The United States Government Manual — **741–6000**

Other Services

Electronic and on-line services (voice) — **741–6020**

Privacy Act Compilation — **741–6064**

Public Laws Update Service (numbers, dates, etc.) — **741–6043**

TTY for the deaf-and-hard-of-hearing — **741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **www.ofr.gov.**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

Reminders. Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at **http://www.regulations.gov.**

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, FEBRUARY

5467–5678 1
5679–6048 2
6049–6310 3
6311–6522 4
6522–6686 7
6686–7094 8

CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revison date of each title.

1 CFR

9 6311
11 6311
12 6311

3 CFR

Proclamations:
8625 6305
8626 6307
8627 6521

Executive Orders:
13501 (revoked by 13564) 6309
13564 6309

7 CFR

301 5679
1429 6313
2902 6319

Proposed Rules:
2902 6366

9 CFR

78 6322

Proposed Rules:
103 6702
112 6702
114 6702
309 6572

10 CFR

Proposed Rules:
73 ..... 6085, 6086, 6087, 6200

12 CFR

21 6687
41 6687

Proposed Rules:
1228 6702

13 CFR

121 5680
124 5680
125 5680
126 5680
134 5680

Proposed Rules:
Ch. III 5501, 6088

14 CFR

39 ..... 5467, 6323, 6523, 6525, 6529, 6533, 6535, 6536, 6539, 6541, 6543, 6549
71 ..... 5469, 5470, 5471, 5472, 6049
97 ..... 6050, 6053

Proposed Rules:
25 6088
27 6094
29 6094
39 ..... 5503, 5505, 5507, 6575, 6578, 6581, 6584
139 5510

15 CFR

Proposed Rules:
922 6368

17 CFR

229 6010
240 6010
249 6010

Proposed Rules:
3 6095
23 ..... 6708, 6715
32 6095
33 6095
35 6095
229 ..... 6110, 6111
239 6110
249 ..... 6110, 6111

18 CFR

Proposed Rules:
410 6727

19 CFR

123 6688
142 6688
178 6688

Proposed Rules:
351 5518

21 CFR

510 6326
516 6326
878 6551

23 CFR

470 6690

24 CFR

Proposed Rules:
200 5518
903 6654
905 6654
941 6654
968 6654
969 6654

26 CFR

1 6553

Proposed Rules:
301 6369

27 CFR

1 5473
4 5473
5 5473
7 5473
9 5473
13 5473
16 5473

17.....5473
18.....5473
20.....5473
22.....5473
24.....5473
25.....5473
26.....5473
28.....5473
30.....5473
40.....5473
41.....5473
44.....5473
45.....5473
53.....5473
70.....5473
71.....5473

28 CFR

552.....6054

Proposed Rules:

115.....6248

30 CFR

Proposed Rules:

104.....5719
938.....6587
948.....6589

31 CFR

548.....5482

Proposed Rules:

29.....6112

32 CFR

655.....6692

Proposed Rules:

156.....5729

33 CFR

117 .....5685, 5686, 6694
334.....6327

Proposed Rules:

165.....5732, 6728

36 CFR

1254.....6554

Proposed Rules:

242.....6730

37 CFR

Proposed Rules:

1.....6369

38 CFR

1.....6694
36.....6555

Proposed Rules:

3.....5733

40 CFR

51.....6328
52.....6331, 6559
81.....6056
93.....6328
180 .....5687, 5691, 5696, 5704, 5711, 6335, 6342, 6347
271.....6561, 6564

Proposed Rules:

26.....5735
52.....6376, 6590
271.....6594

42 CFR

405.....5862
424.....5862
447.....5862
455.....5862
457.....5862
498.....5862
1007.....5862

Proposed Rules:

416.....5755
418.....5755
482.....5755
483.....5755
484.....5755
485.....5755
486.....5755
491.....5755

44 CFR

Proposed Rules:

67.....5769, 6380

45 CFR

Proposed Rules:

170.....5774
1609.....6381

46 CFR

401.....6351

47 CFR

Proposed Rules:

0.....6928
1.....5652, 6928
2.....5521, 6928
5.....6928
15.....5521
22.....6928
73.....5521, 6928
74.....6928
80.....6928
87.....6928
90.....6928
101.....6928

48 CFR

245.....6004, 6006
252.....6004, 6006
1816.....6696

49 CFR

171.....5483
173.....5483
191.....5494
192.....5494

Proposed Rules:

385.....5537
390.....5537
395.....5537

50 CFR

17.....6066, 6848
216.....6699
300.....6567
622.....5717, 6364
679.....5718, 6083

Proposed Rules:

17.....6734
100.....6730
223.....6754, 6755
224.....6383
648.....5555
680.....5556

LIST OF PUBLIC LAWS

This is the first in a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 366/P.L. 112-1
To provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes. (Jan. 31, 2011)

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.