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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–345F]

Schedules of Controlled Substances: Temporary Placement of Five Synthetic Cannabinoids Into Schedule I

AGENCY: Drug Enforcement Administration (DEA), U.S. Department of Justice.

ACTION: Final order.

SUMMARY: The Administrator of the Drug Enforcement Administration (DEA) is issuing this final order to temporarily place five synthetic cannabinoids into the Controlled Substances Act (CSA) pursuant to the temporary scheduling provisions. The substances are 1-pentyl-3-(1-naphthoyl)indole (JWH–018), 1-butyl-3-(1-naphthoyl)indole (JWH–073), 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH–200), 5-(1,1-dimethylheptyl)-2-[(1*R*,3*S*)-3-hydroxycyclohexyl]-phenol (CP–47,497), and 5-(1,1-dimethyloctyl)-2-[(1*R*,3*S*)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol; CP–47,497 C8 homologue). This action is based on a finding by the Administrator that the placement of these synthetic cannabinoids into Schedule I of the CSA is necessary to avoid an imminent hazard to the public safety. As a result of this order, the full effect of the CSA and its implementing regulations including criminal, civil and administrative penalties, sanctions and regulatory controls of Schedule I substances will be imposed on the manufacture, distribution, possession, importation, and exportation of these synthetic cannabinoids.

FOR FURTHER INFORMATION CONTACT: Christine A. Sannerud, PhD, Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152, telephone (202) 307–7183, fax (202) 353–1263, or e-mail *ode@usdoj.gov.*

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

SUPPLEMENTARY INFORMATION:

Background

The Comprehensive Crime Control Act of 1984 (Pub. L. 98–473), which was signed into law on October 12, 1984, amended section 201 of the CSA (21 U.S.C. 811) to give the Attorney General the authority to temporarily place a substance into Schedule I of the CSA for one year without regard to the requirements of 21 U.S.C. 811(b) if he finds that such action is necessary to avoid imminent hazard to the public safety. The Attorney General may extend the temporary scheduling up to six months during pendency of proceedings under 21 U.S.C. 811(a)(1). A substance may be temporarily scheduled under the emergency provisions of the CSA if it is not listed in any other schedule under section 202 of the CSA (21 U.S.C. 812) or if there is no exemption or approval in effect under 21 U.S.C. 355 for the substance. The Attorney General has delegated his authority under 21 U.S.C. 811 to the DEA Administrator (28 CFR 0.100).

As per section 201(h)(4) of the CSA (21 U.S.C. 811(h)(4)), the Deputy Administrator, now Administrator, transmitted notice of her intention to temporarily place JWH–018, JWH–073, JWH–200, CP–47,497, and cannabicyclohexanol into Schedule I of the CSA to the Assistant Secretary for Health of the Department of Health and Human Services (HHS) in a letter dated October 6, 2010. In response to this notification, the Assistant Secretary of Health, HHS communicated in a letter dated November 22, 2010, to the then-DEA Acting Administrator that there are no exemptions or approvals in effect for JWH–018, JWH–073, JWH–200, CP–47,497, and cannabicyclohexanol under Section 505 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 355). The substances are not listed in any other schedule in 21 U.S.C. 812.

A notice of intent to temporarily place JWH–018, JWH–073, JWH–200, CP–47,497, and cannabicyclohexanol into Schedule I of the CSA was published in the **Federal Register** on November 24, 2010 (75 FR 71635). Before making a finding that temporarily placing a substance into Schedule I of the CSA is necessary to avoid an imminent hazard to the public safety, the Administrator must consider three of the eight factors (factors 4, 5, and 6) set forth in section 201(c) of the CSA (21 U.S.C. 811(c)). These factors are the history and current pattern of abuse, the scope, duration, and significance of abuse, and what, if any, risk there is to the public health, including actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution. 21 U.S.C. 811(h)(3).

The temporary placement of these five synthetic cannabinoids into Schedule I of the CSA is necessary in order to avoid an imminent hazard to the public safety. First, these substances are not intended for human consumption, but there has been a rapid and significant increase in abuse of these substances in the United States. As a result of this abuse, synthetic cannabinoids are banned in at least 18 states in the United States and several countries, and all five branches of the U.S. military prohibit military personnel from possessing or using synthetic cannabinoids. Second, law enforcement has seized synthetic cannabinoids in conjunction with controlled substances and based on self-reports to law enforcement and health care professionals, synthetic cannabinoids are abused for their psychoactive properties. Third, numerous state and local public health departments and poison control centers have issued health warnings describing the adverse health effects associated with synthetic cannabinoids. Based on scientific data currently available, these five substances have the potential to be extremely harmful and, therefore, pose an imminent hazard to the public safety.

History and Current Pattern of Abuse

A "cannabinoid" is a class of chemical compounds in the marijuana plant that are structurally related. The cannabinoid Δ9-tetrahydrocannabinol (THC) is the primary psychoactive constituent of marijuana. "Synthetic cannabinoids" are a large family of chemically unrelated structures functionally (biologically) similar to THC, the active principle of marijuana.

Two of the five synthetic cannabinoids (CP–47,497 and cannabicyclohexanol) were synthesized in the early 1980s for research purposes

in the investigation of the cannabinoid system. JWH–018, JWH–073, and JWH–200 were prepared in the mid-1990s and evaluated to further advance understanding of drug-receptor interactions regarding the cannabinoid system. Developed and evaluated as research tools, no other known legitimate uses have been identified for these five synthetic cannabinoids. Furthermore, these five synthetic cannabinoids are not intended for human consumption.

The emergence of these five synthetic cannabinoids represents a recent phenomenon in the U.S. designer drug market. Since the initial identification of JWH–018 by U.S. forensic laboratories, many additional synthetic cannabinoids including JWH–073, JWH–200, CP–47,497, and cannabicyclohexanol have been identified in related herbal incense products and plant food. These synthetic cannabinoids have purported psychotropic effects when smoked or ingested. These substances are typically found in powder form or are dissolved in appropriate solvents, such as acetone, before being sprayed on the plant material contained in the herbal incense products.

The popularity of these THC-like synthetic cannabinoids has significantly increased throughout the United States, and they are being abused for their psychoactive properties as reported by law enforcement, the medical community, and through scientific literature.

Some of the product names include, but are not limited to, "Spice," "K2," and many more. Due to sophisticated marketing, the products that contain these five THC-like synthetic cannabinoids are perceived as "legal" alternatives to marijuana despite the fact that they are typically advertised as herbal incense or plant food (Bonsai-18) by Internet retailers, tobacco shops, head shops, and other domestic brick and mortar retail venues, and labeled "Not For Human Consumption." No evidence exists that these synthetic cannabinoids have value as an additive to herbal incense products due to the absence of odor associated with the substances.

Based on law enforcement encounters, these five substances are typically found laced on plant material. The plant material is packaged in small pouches or packets, and is being sold over the Internet, in tobacco and smoke shops, drug paraphernalia shops, gas stations, and convenience stores as herbal incense products, giving customers of all ages direct access to these five substances. Research articles propose that the packaging is professional and conspicuous, targeting young people, possibly eager to use cannabis, but who are afraid of the judicial consequences and/or association with illicit drugs.

According to Internet discussion boards and law enforcement encounters reported directly to DEA, these five synthetic cannabinoids are being both abused alone and/or being sprayed on plant material (which is then smoked). The most common route of administration of these synthetic cannabinoids is by smoking (using a pipe, a water pipe, or rolling the drug-spiked plant material in cigarette papers).

These five synthetic cannabinoids alone or spiked on plant material have the potential to be extremely harmful due to their method of manufacture and high pharmacological potency. There is little information regarding the pharmacology, toxicology, and safety of these substances in humans given the minimal amount of pre-clinical investigations undertaken regarding these substances; therefore, the full danger of these drugs has not yet been determined.

As of January 31, 2011, 18 states in the United States and other countries have controlled one or more of the five synthetic cannabinoids. Moreover, all five branches of the military prohibit their personnel from possessing or using synthetic cannabinoids associated with products such as Spice and K2.

Scope, Duration, and Significance of Abuse

According to forensic laboratory reports, the initial appearance of these synthetic cannabinoids in herbal incense products in the United States occurred in November 2008 when U.S. Customs and Border Protection first encountered products such as Spice.

The increasing abuse of the five synthetic cannabinoids is demonstrated by the increase in federal, state, and local law enforcement activity associated with these substances. The National Forensic Laboratory Information System, a national repository for drug evidence analyses from forensic laboratories across the United States, has reported in excess of 500 exhibits containing synthetic cannabinoid from January 2010 through September 2010. These exhibits came from numerous states across the nation including Alabama, Arkansas, California, Florida, Hawaii, Iowa, Indiana, Kansas, Kentucky, Louisiana, Minnesota, Missouri, North Dakota, Nebraska, Nevada, Oklahoma, Pennsylvania, South Carolina, Tennessee, and Virginia.

Even though there is no evidence of legitimate non-research related use for these synthetic cannabinoids, multiple shipments of JWH–018 and JWH–073 have been encountered by U.S. Customs and Border Protection in 2010. One enforcement operation encountered five shipments of JWH–018 totaling over 50 kilograms (110.2 pounds) of powder. In addition, bulk loads of JWH–018 and JWH–200 have been encountered by law enforcement in 2010. For example, in Casper, Wyoming, DEA agents encountered large quantities of herbal incense products laced with the synthetic cannabinoid JWH–018 in conjunction with methamphetamine and other illegal drugs in execution of search and arrest warrants.

On March 24, 2010, the American Association of Poison Control Centers reported receiving 112 calls from 15 states related to synthetic cannabinoids to U.S. poison centers since 2009. Just nine months later, the number of calls increased to over 2,700 from 49 states and the District of Columbia.

What, If Any, Risk There Is to the Public Health

Health warnings have been issued by numerous state and local public health departments and poison control centers describing the adverse health effects associated with these synthetic cannabinoids and their related products, including agitation, anxiety, nausea, vomiting, tachycardia (fast, racing heartbeat), elevated blood pressure, tremor, seizures, hallucinations, paranoid behavior, and non-responsiveness.

Smoking these synthetic cannabinoids for the purpose of achieving intoxication and experiencing the psychoactive effects has been identified as a reason for emergency room visits and calls to poison control centers. In a fact sheet by the National Drug Court Institute, the problem of synthetic cannabinoid abuse is described as "significant and disturbing." This is supported by information that was communicated to DEA from one of the major private toxicology laboratories. Based on laboratory findings from drug screens for the period of July 2010 through November 2010, over 3,700 specimens tested positive for either JWH–018 or JWH–073. They also indicated that they were finding 30–35% positivity for specimens submitted by juvenile probation departments.

Case reports describe psychotic episodes, withdrawal, and dependence associated with use of these synthetic cannabinoids, similar to syndromes

observed in marijuana abuse. In addition, based on law enforcement encounters reported directly to DEA, when responding to incidents involving individuals who have reportedly smoked these synthetic cannabinoids, first responders report that these individuals have suffered from intense hallucinations. Moreover, emergency department physicians and toxicologists have reported the adverse health effects associated with smoking herbal incense products laced with these substances. Furthermore, based on law enforcement encounters, suspected Driving Under the Influence of Drug incidents are attributed to the smoking of synthetic cannabinoids. For example, in September 2010, police in Nebraska responded to an incident involving a teenage male who had careened his truck into the side of a residence. After striking the residence and several more items, the teen continued several more yards before coming to a complete stop. Prior to crashing the truck, the individual had driven past a junior high school and nearly struck a child. Upon further investigation, the driver of the vehicle admitted to smoking "Wicked X," a product marketed as "herbal incense" and known to contain synthetic cannabinoids, prior to the accident. Preliminary toxicology reports indicated that the individual did not have any alcohol or other illegal substances in his system.

Detailed chemical analyses by DEA and other investigators have found these synthetic cannabinoids spiked on plant material in herbal incense products marketed to the general public. Product analyses have found variations in both the synthetic cannabinoid found on the plant material and the amount. As proposed in scientific literature, the risk of adverse health effects is further increased by the fact that similar products vary in the composition and concentration of synthetic cannabinoids spiked on the plant material.

Self-reported abuse of these THC-like synthetic cannabinoids either alone (*e.g.,* in pills with the substance in powder form) or spiked on plant material appear extensively on Internet discussion boards, and abuse has been reported to public health officials and law enforcement. The abuse of these substances spiked on plant material is corroborated by forensic laboratory analysis of products encountered by law enforcement.

According to the U.S. Customs and Border Protection, a number of the products and synthetic cannabinoids appear to originate from foreign sources. Product manufacturing operations encountered by law enforcement corroborate that the herbal incense products are manufactured in the absence of quality controls and devoid of regulatory oversight. Law enforcement has encountered the manufacture of herbal incense products occurring in such places as residential neighborhoods. These products and associated synthetic cannabinoids are readily accessible via the Internet.

Based on the above data, the continued uncontrolled manufacture, distribution, importation, exportation, and possession of JWH–018, JWH–073, JWH–200, CP–47,497, and cannabicyclohexanol pose an imminent hazard to the public safety. DEA is not aware of any recognized therapeutic uses of these synthetic cannabinoids in the United States.

DEA has considered the three criteria for placing a substance into Schedule I of the CSA (21 U.S.C. 812). The data available and reviewed for JWH–073, JWH–018, JWH–200, CP47,497, and cannabicyclohexanol indicate that these synthetic cannabinoids each has a high potential for abuse, no currently accepted medical use in treatment in the United States and a lack of accepted safety for use under medical supervision.

In accordance with the provisions of section 201(h) of the CSA (21 U.S.C. 811(h)) and 28 CFR 0.100, the Administrator has considered the available data and the three factors required to support a determination to temporarily schedule five synthetic cannabinoids: 1-butyl-3-(1-naphthoyl)indole, 1-pentyl-3-(1-naphthoyl)indole, 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1-dimethylheptyl)-2-[(1*R*,3*S*)-3-hydroxycyclohexyl]-phenol, and 5-(1,1-dimethyloctyl)-2-[(1*R*,3*S*)-3-hydroxycyclohexyl]-phenol in Schedule I of the CSA and finds that temporary placement of these synthetic cannabinoids into Schedule I of the CSA is necessary to avoid an imminent hazard to the public safety.

Regulatory Requirements

With the issuance of this final order, JWH–018, JWH–073, JWH–200, CP–47,497, and cannabicyclohexanol become subject to the regulatory controls and administrative, civil and criminal sanctions applicable to the manufacture, distribution, possession, importation, and exportation of a Schedule I controlled substance under the CSA.

1. *Registration.* Any person who manufactures, distributes, dispenses, imports, exports, or possesses JWH–018, JWH–073, JWH–200, CP–47,497, or cannabicyclohexanol or who engages in research or conducts instructional activities with respect to JWH–018, JWH–073, JWH–200, CP–47,497, or cannabicyclohexanol, or who proposes to engage in such activities, must be registered to conduct such activities in accordance with 21 U.S.C. 823 and 958. Any person who is currently engaged in any of the above activities and is not registered with DEA must submit an application for registration and may not continue their activities until DEA has approved that application. Retail sales of Schedule I controlled substances to the general public are not allowed under the Controlled Substances Act.

2. *Security.* JWH–018, JWH–073, JWH–200, CP–47,497, and cannabicyclohexanol are subject to Schedule I security requirements. Accordingly, appropriately registered DEA registrants must manufacture, distribute and store these substances in accordance with 1301.71; 1301.72(a), (c), and (d); 1301.73; 1301.74; 1301.75(a) and (c); and 1301.76 of Title 21 of the Code of Federal Regulations as of March 1, 2011.

3. *Labeling and packaging.* All labeling and packaging requirements for controlled substances set forth in Part 1302 of Title 21 of the Code of Federal Regulations shall apply to commercial containers of JWH–018, JWH–073, JWH–200, CP–47,497, and cannabicyclohexanol. Current DEA registrants shall have thirty (30) calendar days from the effective date of this Final Order to be in compliance with all labeling and packaging requirements.

4. *Quotas.* Quotas for JWH–018, JWH–073, JWH–200, CP–47,497, and cannabicyclohexanol will be established based on registrations granted and quota applications received pursuant to part 1303 of Title 21 of the Code of Federal Regulations.

5. *Inventory.* Every DEA registrant who possesses any quantity of JWH–018, JWH–073, JWH–200, CP–47,497, or cannabicyclohexanol is required to keep inventory of all stocks of these substances on hand pursuant to 1304.03, 1304.04, and 1304.11 of Title 21 of the Code of Federal Regulations. Every current DEA registrant who desires registration in Schedule I for JWH–018, JWH–073, JWH–200, CP–47,497, or cannabicyclohexanol shall conduct an inventory of all stocks of these substances. Current DEA registrants shall have thirty (30) calendar days from the effective date of this Final Order to be in compliance with all inventory requirements.

6. *Records.* All registrants who handle JWH–018, JWH–073, JWH–200, CP–

47,497, or cannabicyclohexanol are required to keep records pursuant to 1304.03, 1304.04, 1304.21, 1304.22, and 1304.23 of Title 21 of the Code of Federal Regulations. Current DEA registrants shall have thirty (30) calendar days from the effective date of this Final Order to be in compliance with all recordkeeping requirements.

7. *Reports.* All registrants are required to submit reports in accordance with 1304.33 of Title 21 of the Code of Federal Regulations. Registrants who manufacture or distribute JWH–018, JWH–073, JWH–200, CP–47,497, or cannabicyclohexanol are required to comply with these reporting requirements and shall do so as of March 1, 2011.

8. *Order Forms.* All registrants involved in the distribution of JWH–018, JWH–073, JWH–200, CP–47,497, or cannabicyclohexanol must comply with order form requirements of part 1305 of Title 21 of the Code of Federal Regulations as of March 1, 2011.

9. *Importation and Exportation.* All importation and exportation of JWH–018, JWH–073, JWH–200, CP–47,497, or cannabicyclohexanol must be conducted by appropriately registered DEA registrants in compliance with part 1312 of Title 21 of the Code of Federal Regulations on or after March 1, 2011.

10. *Criminal Liability.* The manufacture, distribution, dispensation, or possession with the intent to conduct these activities; possession; importation; or exportation of JWH–018, JWH–073, JWH–200, CP–47,497, or cannabicyclohexanol not authorized by, or in violation of the CSA or the Controlled Substances Import and Export Act occurring as of March 1, 2011 is unlawful.

Executive Order 12988

This final temporary scheduling order meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

Executive Order 13132

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

Congressional Review Act

Pursuant to section 808(2) of the Congressional Review Act, the agency is not required to comply with the Act if it makes a good faith finding that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. It is in the public interest to schedule these cannabinoids immediately because they pose a public health risk. Use of materials spiked with these cannabinoids has been the cause of emergency room visits and calls to poison control centers. The adverse health effects associated with these synthetic cannabinoids and their related products include agitation, anxiety, nausea, vomiting, tachycardia (fast, racing heartbeat), elevated blood pressure, tremor, seizures, hallucinations, paranoid behavior, and non-responsiveness. The materials have been marketed on products that are available to the general public, and their manufacture is devoid of quality controls and unregulated.

This temporary scheduling action is taken pursuant to section 811(h), which is specifically designed to enable DEA to act in an expeditious manner to avoid an imminent hazard to the public safety from new or designer drugs or abuse of those drugs. Section 811(h) exempts the temporary scheduling order from standard notice and comment rulemaking procedures to ensure that the process moves swiftly. For the same reasons that underlie section 811(h), that is, DEA's need to move quickly to place these five cannabinoids into Schedule 1 because they pose a threat to public health, it would be contrary to the public interest to delay implementation of the temporary scheduling order by requiring DEA to undertake the procedures necessary to comply with the Congressional Review Act prior to the order taking effect.

Unfunded Mandates Reform Act of 1995

This final temporary scheduling order will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $126,400,000 or more (adjusting for inflation) in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

Under the authority vested in the Attorney General by section 201(h) of the CSA (21 U.S.C. 811(h)), the Administrator hereby amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

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

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

■ 2. Section 1308.11 is amended by adding new paragraphs (g)(1), (2), (3), (4), and (5) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(g) * * *

(1) 5-(1,1-Dimethylheptyl)-2-[(1*R*,3*S*)-3-hydroxycyclohexyl]-phenol, its optical, positional, and geometric isomers, salts and salts of isomers—7297 (Other names: CP–47,497)

(2) 5-(1,1-Dimethyloctyl)-2-[(1*R*,3*S*)-3-hydroxycyclohexyl]-phenol, its optical, positional, and geometric isomers, salts and salts of isomers—7298 (Other names: cannabicyclohexanol and CP–47,497 C8 homologue)

(3) 1-Butyl-3-(1-naphthoyl)indole, its optical, positional, and geometric isomers, salts and salts of isomers—7173 (Other names: JWH–073)

(4) 1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole, its optical, positional, and geometric isomers, salts and salts of isomers—7200 (Other names: JWH–200)

(5) 1-Pentyl-3-(1-naphthoyl)indole, its optical, positional, and geometric isomers, salts and salts of isomers—7118 (Other names: JWH–018 and AM678)

Dated: February 18, 2011.

Michele M. Leonhart,

Administrator.

[FR Doc. 2011–4428 Filed 2–28–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 541

[Docket No. BOP–1118–F]

RIN 1120–AB18

Inmate Discipline Program/Special Housing Units: Subpart Revision and Clarification

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule; delay of effective date.

SUMMARY: In this document, the Bureau of Prisons delays the effective date of the final rule that appeared in the **Federal Register** on December 8, 2010, (75 FR 76263) and the subsequent correction which appeared in the

Federal Register on December 29, 2010 (75 FR 81853). The new effective date for both documents is June 20, 2011.

DATES: Effective March 1, 2011, the effective date of the final rule published December 8, 2010 (75 FR 76263) and correction document published December 29, 2010 (75 FR 81853) is delayed to June 20, 2011.

FOR FURTHER INFORMATION CONTACT: Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307–2105.

SUPPLEMENTARY INFORMATION: In this document, the Bureau of Prisons delays the effective date of the final rule that appeared in the **Federal Register** on December 8, 2010, (75 FR 76263) and the subsequent correction which appeared in the **Federal Register** on December 29, 2010 (75 FR 81853). The new effective date for both documents is June 20, 2011.

The first document issued a final rule amending the Bureau's Inmate Discipline Program and Special Housing Units (SHU) regulations (28 CFR part 541, subpart A and subpart B), and the second document corrected typographical and numbering errors, but made no substantive changes to the final rule.

Previously, both the final rule and the correction document had an effective date of March 1, 2011. We now delay the effective date of both the final rule and the correction document until June 20, 2011.

Helen Marberry,

Acting Director, Federal Bureau of Prisons.

[FR Doc. 2011–4359 Filed 2–28–11; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management, Regulation and Enforcement

30 CFR Part 250

[Docket ID: BOEM–2010–0076]

Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Safety and Environmental Management Systems; Public Workshop

AGENCY: Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), Interior.

ACTION: Notice; public workshop.

SUMMARY: The Bureau of Ocean Energy Management, Regulation and Enforcement is announcing a workshop to discuss the new regulatory requirements for operators to develop and implement Safety and Environmental Management Systems (SEMS) for oil and gas and sulphur operations in the Outer Continental Shelf (OCS). This workshop is designed to provide an overview and background of the final rule, review and summarize responses to frequently asked questions, receive and respond to new questions pertaining to implementation, and describe BOEMRE audit methodologies for compliance reviews.

DATES: The workshop will be held on March 15, 2011, from 9 a.m. to 1 p.m.

ADDRESSES: The workshop will be held at the Hilton New Orleans Riverside, Two Poydras Street, New Orleans, Louisiana 70130.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah O'Brien by phone at (703) 787–1579, or by e-mail at *Deborah.O'Brien@boemre.gov.*

SUPPLEMENTARY INFORMATION:

Subpart S Rulemaking

On October 15, 2010, BOEMRE published the Final Rule for 30 CFR 250, Subpart S—Safety and Environmental Management Systems, in the **Federal Register** (75 FR 63610). This Final Rule incorporates by reference, and makes mandatory, API RP 75, Third Edition, May 2004, reaffirmed May 2008.

This Final Rule became effective on November 15, 2010, and applies to all OCS oil and gas and sulphur operations and facilities under BOEMRE jurisdiction, including drilling, production, construction, well workover, well completion, well servicing, and DOI pipeline activities.

Workshop Structure

The primary intent of this workshop is to discuss the various elements necessary to implement a robust SEMS for OCS operations and how those elements may be assessed within an operator's management system. The workshop will consist of BOEMRE presentations describing and discussing 30 CFR 250, Subpart S, the background leading to the regulations, frequently asked questions, and audit methodologies for compliance measurement. BOEMRE also will address questions asked by the audience.

Registration

There is no registration fee for this workshop. However, to assess the number of participants, BOEMRE requests participants to register with Ms. Deborah O'Brien by phone at (703) 787–1579, or by e-mail at *Deborah.O'Brien@boemre.gov,* prior to the meeting. The deadline to register is 1 week before the workshop on March 8, 2011. Given the maximum capacity of the meeting room, seating is limited to 500. BOEMRE will make its presentation available via Web site at *http://www.boemre.gov/semp/.*

BOEMRE will consider any questions submitted in advance so that the workshop can focus on key topics. Please submit questions to Ms. Deborah O'Brien in writing at *Deborah.O'Brien@boemre.gov* by March 8, 2011.

Paperwork Reduction Act of 1995 (PRA) Statement

This **Federal Register** document does not refer to or impose any information collection requirement subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

Dated: February 8, 2011.

L. Renee Orr,

Acting Associate Director for Offshore Energy and Minerals Management.

[FR Doc. 2011–4334 Filed 2–28–11; 8:45 am]

BILLING CODE 4310–MR– P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 356

[Docket No. BPD GSRS 11–01; Department of the Treasury Circular, Public Debt Series No. 1–93]

Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds; Minimum Interest Rate

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: This final rule amends Treasury's marketable securities auction rules to establish a minimum interest rate of ⅛ of one percent for all new Treasury note and bond issues.

DATES: Effective April 1, 2011.

ADDRESSES: This final rule is available on the Bureau of the Public Debt's Web site at: *http://www.treasurydirect.gov.* It is also available for public inspection and copying at the Treasury Department Library, Room 1428, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. To visit the library, call (202) 622–0990 for an appointment.

FOR FURTHER INFORMATION CONTACT: Lori Santamorena, Chuck Andreatta, or Kevin Hawkins, Department of the Treasury, Bureau of the Public Debt,

Government Securities Regulations Staff, (202) 504–3632.

SUPPLEMENTARY INFORMATION: The Department of the Treasury ("Treasury" or "We") is issuing an amendment to 31 CFR 356.20(b) of the Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds [1] ("UOC" or "Auction Rules") to establish a minimum interest rate of ⅛ of one percent (*i.e.,* 0.125 percent) for all new marketable Treasury note and bond issues. This amendment is not applicable to reopenings.[2] In this rule we discuss how Treasury determines the interest rate for new note and bond issues, the reason for establishing a minimum interest rate, and the final amendment to the UOC.

I. Determining the Interest Rate for New Treasury Note and Bond Issues

In determining the interest rate for new note and bond issues, Treasury sets the interest rate at a ⅛ of one percent increment. The interest rate we establish produces the price closest to, but not above, par that corresponds to the yield awarded to successful competitive bidders.[3] The interest rate in turn is used to establish the amount of the semi-annual interest payment that note and bond investors receive.[4]

II. Establishing a Minimum Interest Rate

In an extremely low interest rate environment, a note or bond auction could result in an interest rate lower than Treasury's ⅛ of one percent interest rate increment. If that were to happen, under the current methodology the new security would be issued with a zero percent interest rate and would have no semi-annual interest payments. Treasury is amending the UOC because we believe it is preferable that Treasury notes and bonds pay regular, semi-annual interest payments.

III. Amendment to the Rule

Accordingly, Treasury is amending paragraph (b) of 31 CFR 356.20 to state that if a Treasury note or bond auction results in a yield lower than 0.125 percent, the interest rate will be set at ⅛ of one percent with the price adjusted accordingly (*i.e.,* at a premium). This change applies to all new marketable Treasury note and bond issues: Treasury fixed-principal [5] (also referred to as nominal) notes and bonds as well as Treasury inflation-protected notes and bonds.

Procedural Requirements

Executive Order 12866. This final rule is not a "significant regulatory action" pursuant to Executive Order 12866.

Administrative Procedure Act (APA). Because this rule relates to public contracts and procedures for United States securities, the notice, public comment, and delayed effective date provisions of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2).

Regulatory Flexibility Act. As no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

Paperwork Reduction Act. There is no new collection of information contained in this final rule, and, therefore, the Paperwork Reduction Act does not apply. The Office of Management and Budget has approved the collections of information already contained in 31 CFR part 356, under control number 1535–0112. Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

List of Subjects in 31 CFR Part 356

Bonds, Federal Reserve System, Government Securities, Securities.

For the reasons set forth in the preamble, 31 CFR part 356 is amended as follows:

PART 356—SALE AND ISSUE OF MARKETABLE BOOK-ENTRY TREASURY BILLS, NOTES, AND BONDS (DEPARTMENT OF THE TREASURY CIRCULAR, PUBLIC DEBT SERIES NO. 1–93)

■ 1. The authority citation for part 356 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 3102, *et seq.;* 12 U.S.C. 391.

■ 2. Section 356.20 is amended by revising the introductory text of paragraph (b) to read as follows:

§ 356.20 How does the Treasury determine auction awards?

* * * * *

(b) *Determining the interest rate for new note and bond issues.* We set the interest rate at a ⅛ of one percent increment. If a Treasury note or bond auction results in a yield lower than 0.125 percent, the interest rate will be set at ⅛ of one percent, and successful bidders' award prices will be calculated accordingly (see appendix B to this part for formulas).

* * * * *

Richard L. Gregg,

Fiscal Assistant Secretary.

[FR Doc. 2011–4455 Filed 2–28–11; 8:45 am]

BILLING CODE 4810–39–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2010–0850; FRL–9271–9]

Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; The Milwaukee-Racine and Sheboygan Areas; Determination of Attainment of the 1997 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is making determinations under the Clean Air Act (CAA) that the Milwaukee-Racine and Sheboygan, Wisconsin areas have attained the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS). The Milwaukee-Racine area includes Milwaukee, Ozaukee, Racine, Washington, Waukesha, and Kenosha Counties. The Sheboygan area includes Sheboygan County. The determinations are based on complete, quality-assured and certified ambient air monitoring data that show that the areas have monitored attainment of the 1997 8-hour ozone standard for the 2006–2008 and 2007–2009 monitoring periods. Quality assured data available for 2010 indicate that the areas continue to monitor attainment. As a result of these determinations, the requirements for these areas to submit attainment demonstrations and associated reasonably available control measures (RACM), reasonable further progress plans (RFP), contingency measures, and other State Implementation Plan (SIP)

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[1] *See* 58 FR 412, January 5, 1993. The circular, as amended, is codified at 31 CFR part 356. The UOC, together with the offering announcement for each auction, sets out the terms and conditions for the sale and issuance by the Treasury to the public of marketable book-entry Treasury bills, notes, and bonds.

[2] The term *reopening* is defined at 31 CFR 356.2 as the auction of an additional amount of an outstanding security.

[3] For example, the two-year note auction conducted on December 29, 2005, resulted in a yield of 4.404 percent. The interest rate was set at 4⅜ percent with a price of 99.944505. *See http://www.treasurydirect.gov/instit/annceresult/press/preanre/2005/ofk1229051.pdf.*

[4] *See* Appendix B to part 356—Formulas and Tables.

[5] We use the term "fixed-principal" to distinguish such securities from "inflation-protected" securities. We refer to fixed-principal notes and fixed-principal bonds as "notes" and "bonds" in official Treasury publications, such as auction announcements and auction results press releases, as well as in the auction system.

revisions related to attainment of the standard are suspended for as long as the areas continue to attain the 1997 8-hour ozone standard. These determinations also suspend the requirement for EPA to promulgate attainment demonstration, RFP, and any other attainment-related Federal Implementation Plans (FIPs) for these areas. EPA published proposed and direct final approvals of this request on December 15, 2010. We received an adverse comment on our proposed rulemaking, which is addressed below. As a result, EPA withdrew the direct final approval on January 28, 2011.

DATES: This final rule is effective on March 31, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2010–0850. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Kathleen D'Agostino, Environmental Engineer, at (312) 886–1767 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767, *dagostino.kathleen@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. What did EPA propose?
II. What comments did we receive on the proposed action?
III. What actions is EPA taking?
IV. Statutory and Executive Order Reviews

I. What did EPA propose?

On December 15, 2010, EPA published proposed (75 FR 78197) and direct final (75 FR 78164) determinations under the CAA that the Milwaukee-Racine and Sheboygan, Wisconsin areas have attained the 1997 8-hour ozone NAAQS. EPA received an adverse comment on this action and withdrew the direct final approval on January 28, 2011 (76 FR 5078).

II. What comments did we receive on the proposed action?

EPA received an adverse comment from Midwest Environmental Defense Center, Inc.

Comment: The commenter asserts that section 107(d)(3)(E) of the CAA prohibits redesignation of a nonattainment area to attainment unless five requirements are met. The commenter contends that EPA's **Federal Register** document describes air quality monitoring data in the Milwaukee-Racine and Sheboygan areas, but does not discuss the other requirements for redesignation. The commenter argues that unless all five criteria for redesignation are met, the Administrator cannot grant the redesignation.

Response: The commenter's concerns are misplaced; the actions that are the subject of these rulemakings are determinations of attainment, and not redesignations to attainment. As EPA stated in its December 15, 2010, direct final rule, the determinations of attainment in this notice are not equivalent to redesignations to attainment under section 107(d)(3) of the CAA. While the commenter is correct that rulemakings redesignating an area to attainment would need to satisfy the criteria of section 107(d)(3)(E), EPA's actions here are not redesignations. EPA is not purporting here to redesignate the Milwaukee-Racine and Sheboygan areas, and thus we acknowledged in the direct final rulemaking that we were not attempting to approve maintenance plans for the areas as required under section 175A of the CAA, nor have we found that the areas have met the other statutory requirements for redesignation. The designation status of each of the areas remains nonattainment for the 1997 8-hour ozone NAAQS until such time as EPA determines, through notice and comment rulemaking, that it meets the CAA requirements for redesignation to attainment. Thus, EPA's rulemaking here addresses only the air quality issue of whether the areas are attaining the 1997 8-hour ozone standard. The commenter offered no objection to EPA's proposed determinations that the Milwaukee-Racine and Sheboygan nonattainment areas are attaining that standard.

III. What actions is EPA taking?

EPA is making final determinations that the Milwaukee-Racine and Sheboygan, Wisconsin areas have attained the 1997 8-hour ozone NAAQS. The determinations are based upon complete, quality-assured and certified ambient air monitoring data, which show that the areas have monitored attainment of the 1997 8-hour ozone standard for the 2006–2008 and 2007–2009 monitoring periods. Quality assured data for 2010 available to date indicate that the areas continue to monitor attainment.

As provided in 40 CFR 51.918, the determinations of attainment for the Milwaukee-Racine and Sheboygan areas suspend the requirements for the State of Wisconsin to submit for these areas: An attainment demonstration, associated RACM, RFP plan, contingency measures, and any other planning SIPs related to attainment of the 1997 8-hour ozone NAAQS. These determinations also suspend any requirement for EPA to promulgate FIPs for these areas deriving from the concomitant SIP obligations.

The attainment-related SIP and FIP obligations remain suspended for each area for so long as it continues to attain the 1997 8-hour ozone NAAQS or until it is redesignated for that NAAQS, at which time the obligations end. 40 CFR 51.918.

IV. Statutory and Executive Order Reviews

These actions make determinations based on air quality data, and would, if finalized, result in the suspension of certain Federal requirements. For that reason, these actions:

- Are not "significant regulatory actions" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or

safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because a determinations of attainment is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands. However, because there are tribal lands located in Milwaukee County, we provided the affected tribe with the opportunity to consult with EPA on the attainment determination. The consultation occurred on November 15, 2010. The affected tribe raised no concerns.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. These actions are not "major rules" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 2, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of these actions for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. These actions may not be challenged later in proceedings to enforce their requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 14, 2011.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart YY—Wisconsin

■ 2. Section 52.2585 is amended by adding paragraph (y) to read as follows:

§ 52.2585 Control strategy: Ozone.

* * * * *

(y) *Determination of attainment.* EPA has determined, as of March 1, 2011 that the Milwaukee-Racine, WI and Sheboygan, WI areas have attained the 1997 8-hour ozone standard. These determinations suspend the requirements for these areas to submit attainment demonstrations and associated reasonably available control measures (RACM), reasonable further progress plans (RFP), contingency measures, and other State Implementation Plan (SIP) revisions related to attainment of the standard for as long as the areas continue to attain the 1997 8-hour ozone standard. These determinations also stay the requirement for EPA to promulgate attainment demonstration and RFP Federal Implementation Plans (FIPs) for these areas.

[FR Doc. 2011–4380 Filed 2–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2006–0976; FRL–9272–1]

Approval and Promulgation of Air Quality Implementation Plans; Ohio; Oxides of Nitrogen Budget Trading Program; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to remove codification of a State Implementation Plan (SIP) approval vacated by the U.S. Court of Appeals for the Sixth Circuit in a decision dated June 5, 2009. This relates to Ohio rule revisions concerning 240 allowances under the Nitrogen Oxides Budget Trading Program added to the SIP by EPA rulemaking dated February 13, 2008. This final rule conforms the codification of the SIP to the decision by the U.S. Court of Appeals for the Sixth Circuit in *Buckeye Power, Inc.* v. *EPA* (6th Cir., No. 08–3399, June 5, 2009).

DATES: This final rule is effective on March 1, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2006–0976. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Anthony Maietta, Environmental Protection Specialist, at (312) 353–8777 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Anthony Maietta, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8777, *Maietta.anthony@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background Information
II. What action is EPA taking?
III. Statutory and Executive Order Reviews

I. Background information

On October 11, 2006, the Ohio Environmental Protection Agency sent EPA a letter requesting, among other actions, that EPA approve rule revisions

to withdraw and permanently retire 240 oxides of nitrogen (NO_X) allowances from the State's 2005 new source allowance set aside under the NO_X Budget Trading Program. On February 13, 2008 (73 FR 8197), EPA approved the State's rule revisions, in Ohio Administrative Code (OAC) rule 3745–14–05, into the Ohio state implementation plan (SIP). EPA was subsequently sued on our action, and on June 5, 2009, the U.S. Court of Appeals for the Sixth Circuit vacated our February 13, 2008 rulemaking. As a result, we are amending the codification of the SIP in the Code of Federal Regulations to reflect the court's decision. Because our prior rulemaking was vacated by the U.S. Court of Appeals for the Sixth Circuit, our action today is merely a ministerial action to reflect the court's decision, which imposes no requirements or costs. Therefore, under 5 U.S.C. 553(b)(3)(B), notice and public comment is unnecessary. For similar reasons, EPA has good cause to waive the 30 day delayed effective date under 5 U.S.C. 553(d)(3). This rule is effective upon publication in the **Federal Register**.

II. What action is EPA taking?

EPA is revising the codification of the Ohio SIP by removing a reference to revisions to OAC 3745–14–05 that were previously incorporated into the Ohio SIP at 40 CFR 52.1870(c)(142). EPA had incorporated these revisions to OAC 3745–14–05 into Ohio's SIP in rulemaking dated February 13, 2008 (73 FR 8197), but the U.S. Court of Appeals for the Sixth Circuit subsequently vacated this action. Therefore, in this action, we are removing and reserving the pertinent paragraph from the Code of Federal Regulations. Reserving this paragraph is a technical change to the codification of the SIP. This action does not alter any other Ohio SIP rulemaking actions, and Ohio is not obligated to take any further action as a result of this action.

III. Statutory and Executive Order Reviews

This action merely revises the Code of Federal Regulations to reflect the effect of a federal court order and it does not impose any requirements. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 2, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of Nitrogen, Oxides of Nitrogen Budget Trading Program.

Dated: February 14, 2011.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart KK—Ohio

§ 52.1870 [Amended]

■ 2. Section 52.1870 is amended by removing and reserving paragraph (c)(142).

[FR Doc. 2011–4373 Filed 2–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2010–0168; FRL–9271–5]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Missouri State Implementation Plan (SIP) submitted April 10, 2009. The revision includes two new rules which implement restrictions on the idling of heavy duty diesel vehicles in the Kansas City Metropolitan Area and in the St. Louis Ozone Nonattainment Area. EPA is approving this revision because the standards and requirements set by the rules will strengthen the Missouri SIP. EPA's approval of this SIP revision is being done in accordance with the requirements of the Clean Air Act (CAA).

DATES: This direct final rule will be effective May 2, 2011, without further notice, unless EPA receives adverse comment by March 31, 2011. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2010–0168, by one of the following methods:

1. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. *E-mail: bhesania.amy@epa.gov.*
3. *Mail or Hand Delivery:* Amy Bhesania, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2010–0168. 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 through *http://www.regulations.gov* or e-mail information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8:00 to 4:30 excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Amy Bhesania at (913) 551–7147 or by e-mail at *bhesania.amy@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" refer to EPA.

Table of Contents

I. What revisions is EPA approving?
II. Why is EPA approving Missouri's SIP revision?
III. Have the requirements for approval of a SIP revision been met?
IV. What action is EPA taking?
V. Statutory and Executive Order Reviews

I. What revisions Is EPA approving?

On April 10, 2009, Missouri submitted to EPA for approval into the SIP two new rules, 10 CSR 10–2.385 *Control of Heavy Duty Diesel Vehicle Idling Emissions* for the Kansas City Ozone Maintenance Area and 10 CSR 10–5.385 *Control of Heavy Duty Diesel Vehicle Idling Emissions* for the St. Louis Ozone Nonattainment Area. These new rules limit the amount of time a heavy duty diesel vehicle will be permitted to idle while parked or while waiting to load or unload.

These rules apply to owners or operators of commercial, public and institutional heavy duty diesel vehicles (those having a gross vehicle weight rating (GVWR) of greater than 10,000 pounds) that are designed to operate on public streets and highways, whether or not the vehicles are operated on public roadways. These regulations set a time limit of five consecutive minutes idling time (*i.e.,* when a vehicle's engine is on, but it is not in gear) in any sixty minute period. On November 29, 2010, Missouri requested to withdraw subsection (3)(A) of both rules from the April 2009 request. Subsection (3)(A) states that owners or operators of passenger load/unload locations shall not cause or allow vehicles covered by this rule to idle for more than five minutes in any sixty minute period. Missouri found that there was a discrepancy between subsection (3)(A) and section (1). Section (1), Applicability, does not mention that the rules apply to owners or operators of passenger load/unload locations. Missouri did not intend for passenger load/unload locations to be subject to this rule and thus requested to withdraw subsection (3)(A) to clarify. As a result, EPA is not taking action to approve subsection (3)(A).

The regulations do specify exemptions to the idling limit for certain vehicle types and situations. These exemptions include: road traffic conditions; safety or emergency uses; police, fire, ambulance, public safety and other law enforcement vehicles; service and repair needs; state or Federal inspections; mechanical work; armored vehicles; bus idling for passenger comfort (no greater than fifteen minutes in any sixty minute period); vehicles idling for purposes of using sleeper berth compartments; mechanical difficulties; agricultural operations incidentally operated or moved upon public roads; vehicles using auxiliary equipment powered by the engine; and freight load/unload locations (no greater than thirty minutes in any sixty minute period).

Persons violating this rule may be assessed penalties under state law in accordance with the penalty provisions under sections 643.010–643, RSMo. Enforcement of this regulation will follow Missouri's *Guidance for Enforcing the Idle Rules* supplied to EPA as clarification on June 4, 2010. Therefore, EPA has determined that the rule meets applicable criteria for enforceability of SIP requirements.

II. Why is EPA approving Missouri's SIP revision?

The rule 10 CSR 10–2.385 *Control of Heavy Duty Diesel Vehicle Idling Emissions* for the Kansas City Ozone Maintenance Area was included as a contingency measure in the *Kansas City Maintenance Area 8-hour Maintenance Plan for the Control of Ozone.* The contingency measure provision in the plan required the state to implement the idle reduction regulations upon violation of the 1997 8-hour ozone standard. This plan was approved by EPA and effective on October 9, 2007. A violation of the standard occurred during the 2007 ozone season thus triggering the adoption of the rule. The 10 CSR 10–5.385 *Control of Heavy Duty Diesel Vehicle Idling Emissions* for the St. Louis Ozone Nonattainment Area was adopted by the state to be consistent with the Kansas City Maintenance Area provisions and was

not required to be adopted as part of an existing SIP measure or contingency requirement.

These rules will result in reduced emissions of pollutants that contribute to ozone and fine particulate matter. Specifically, these rules lead to elimination of such pollutants resulting from unnecessary extended idling of heavy-duty diesel vehicles. The pollutants reduced by these regulations are volatile organic compounds, nitrogen oxides, carbon monoxide, and fine particulate matter. The approval of this rule will strengthen the Missouri SIP and assist the state in meeting and maintaining compliance with air quality standards, including the standard for ground level ozone.

Missouri's rule is generally consistent with EPA's "Model State Idling Law" (EPA420–S–06–001, April 2006). This model rule was developed with input from the states and industry to address idling issues in a consistent and understandable manner from state to state, to aid in compliance.

III. Have the requirements for approval of a SIP revision been met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

IV. What action Is EPA taking?

EPA is taking final action to approve the request to amend the Missouri SIP to include Missouri rules 10 CSR 10–2.385 *Control of Heavy Duty Diesel Vehicle Idling Emissions* for the Kansas City Ozone Maintenance Area and 10 CSR 10–5.385 *Control of Heavy Duty Diesel Vehicle Idling Emissions* for the St. Louis Ozone Nonattainment Area. The State regulations became effective February 28, 2009.

We are processing this action as a direct final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comments on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 2, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Motor carriers, Motor vehicles, Motor vehicle pollution, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Transportation, Volatile organic compounds.

Dated: *February 16, 2011.*

Karl Brooks,

Regional Administrator, Region 7.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart AA—Missouri

■ 2. In § 52.1320 the table in paragraph (c) is amended by adding new entries in

numerical order for 10–2.385 under Chapter 2 and 10–5.385 under Chapter 5 to read as follows:

§ 52.1320 Identification of Plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources Chapter 2—Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area				
*	*	*	*	*
10–2.385	Control of Heavy Duty Diesel Vehicle Idling Emissions.	02/28/09	03/01/11 [insert FR page number where the document begins].	Subsection (3)(A) is not SIP approved.
*	*	*	*	*
Chapter 5—Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area				
*	*	*	*	*
10–5.385	Control of Heavy Duty Diesel Vehicle Idling Emissions.	02/28/09	03/01/11 [insert FR page number where the document begins].	Subsection (3)(A) is not SIP approved.
*	*	*	*	*

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[FR Doc. 2011–4368 Filed 2–28–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2010–0003; MO 92210–0–0009–B4]

RIN 1018–AW55

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Carex lutea* (Golden Sedge)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), designate critical habitat for the *Carex lutea* (golden sedge) under the Endangered Species Act of 1973, as amended. In total, approximately 202 acres (82 hectares) in 8 units located in Onslow and Pender Counties, North Carolina fall within the boundaries of the critical habitat designation.

DATES: This final rule becomes effective on March 31, 2011.

ADDRESSES: This final rule and the associated final economic analysis are available on the Internet at *http://www.regulations.gov.* Comments and materials received, as well as supporting documentation used in preparing this final rule, are available for public inspection, by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Raleigh Fish and Wildlife Office, 551–F Pylon Drive, Raleigh, NC 27636; telephone 919–856–4520; facsimile 919–856–4556.

FOR FURTHER INFORMATION CONTACT: Pete Benjamin, Field Supervisor, U.S. Fish and Wildlife Service, Raleigh 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

It is our intent to discuss in this final rule only those topics directly relevant to the development and designation of critical habitat for *Carex lutea* under the Act (16 U.S.C. 1531 *et seq.*). For more information on the taxonomy, biology, and ecology of *Carex lutea,* refer to the final listing rule published in the **Federal Register** on January 23, 2002 (67 FR 3120). Information on the associated draft economic analysis (DEA) for the proposed rule to designate critical habitat was published in the **Federal Register** on August 3, 2010 (75 FR 45592).

Species Description, Life History, Distribution, Ecology and Habitat

Carex lutea is a perennial member of the sedge family (Cyperaceae). Fertile culms (stems) may reach 39 in (1 m) or more in height. The yellowish green leaves are grass-like, with those of the culm mostly basal and up to 11 in (28 cm) in length, while those of the vegetative shoots reach a length of 25.6 in (65 cm).

The species is endemic to Onslow and Pender Counties in the Black River section of the Coastal Plain Province of North Carolina. The North Carolina Natural Heritage Program (NCNHP) recognizes eight populations made up of 17 distinct locations or element occurrences. All of the locations occur within a 16- by 5-mile (26- by 8-kilometer) area, extending southwest from the community of Maple Hill.

Carex lutea generally occurs on fine sandy loam, loamy fine sands, and fine sands with a pH of 5.5 to 7.2, and with a mean of 6.7. These soils are moist to saturated to periodically inundated. *Carex lutea* occurs in the Pine Savanna (Very Wet Clay Variant) natural community type (Schafale 1994, p. 136). Community structure is characterized by an open to sparse canopy dominated by pond pine (*Pinus serotina*), and usually with some longleaf pine (*P. palustris*) and pond cypress (*Taxodium ascendens*).

Carex lutea is threatened by fire suppression; habitat alteration such as land conversion for residential, commercial, or industrial development; mining; drainage for silviculture and agriculture; highway expansion; and herbicide use along utility and highway rights-of-way.

Previous Federal Actions

Carex lutea was listed as endangered under the Act on January 23, 2002 (67 FR 3120). Designation of critical habitat had been found to be not prudent in the proposed listing rule (64 FR 44470, August 16, 1999); however, following a reevaluation of information available for the proposal and new information that came in through the public comment period on the proposal, critical habitat designation was determined to be prudent in the final listing rule (67 FR 3120). However, the development of a designation was deferred due to budgetary and workload constraints.

On December 19, 2007, the Center for Biological Diversity filed a complaint for declaratory and injunctive relief challenging the Service's continuing failure to timely designate critical habitat for this species as well as three other plant species (*Center for Biological Diversity* v. *Kempthorne,* C–04–3240 JL (N. D. Cal.)). In a settlement agreement dated April 11, 2008, the Service agreed to submit for publication in the **Federal Register** a proposed designation of critical habitat, if prudent and determinable, on or before February 28, 2010, and a final determination by February 28, 2011.

We affirmed that designation of critical habitat for *Carex lutea* is prudent and determinable, and we published a proposal to designate critical habitat for this species in the **Federal Register** on March 10, 2010 (75 FR 11080). We accepted public comments on this proposal for 60 days, ending May 10, 2010. On August 3, 2010 (75 FR 45592), we announced the reopening of the public comment period for an additional 30 days (ending September 2, 2010); the availability of a DEA; our proposal to enlarge two previously proposed subunits of critical habitat because we discovered that *Carex lutea* occupies an area at these two subunits that is greater than what we believed when we were preparing the March 10, 2010, proposed rule; and an amended required determinations section of the proposal (75 FR 45592).

Summary of Comments and Recommendations

We requested written comments from the public on the proposed designation of critical habitat for *Carex lutea* during two comment periods. The first comment period, following publication of the proposed rule, opened March 10, 2010 (75 FR 11080), and closed May 10, 2010. The second comment period, associated with the availability of the DEA and our revised proposal, opened August 3, 2010 (75 FR 45592), and closed September 2, 2010. We contacted appropriate Federal, State, County, and local agencies; scientific organizations; and other interested parties, and invited them to comment on the proposed rule and the associated DEA.

During the first comment period (March 10 through May 10, 2010), we received two comment letters directly addressing the proposed critical habitat designation. During the second comment period (August 3 through September 2, 2010), we received one comment letter addressing the proposed critical habitat designation and the DEA. We did not receive any requests for a public hearing, so no public hearing was held. Comments we received, including comments from peer reviewers (see below), are addressed in the following summary and incorporated into the final rule as appropriate.

Peer Review

In accordance with our peer review policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we solicited expert opinions from three knowledgeable individuals with scientific expertise including familiarity with the species, the geographic region in which the species occur, and conservation biology principles pertinent to the species. We received responses from all three peer reviewers.

We reviewed all comments we received from peer reviewers for substantive issues and new information regarding critical habitat for *Carex lutea.* With a few exceptions, the peer reviewers generally concurred with our methods and conclusions, indicating the Service had used the most current scientific information available; had accurately described the species, their habitat requirements, the primary constituent elements (PCEs) for the species, the reasons for their decline, and threats to their habitat; and had done a thorough job of delineating critical habitat using the best available scientific information.

Peer Reviewer Comments

Comment 1: One reviewer pointed out that, for those sites that occur on land currently owned by the North Carolina Division of Parks and Recreation (NCDPR) or lands expected to be transferred to it in the near future (Sandy Run Savannas and Haws Run), the savanna restoration plans are unclear because of funding and on-site personnel uncertainties; however prescribed burning has been initiated on the parcels.

Our Response: The Service appreciates the work that the NCDPR has done to protect and enhance *Carex lutea* and its habitat, such as the prescribed burns. NCDPR will continue to manage the habitat as resources allow. Additionally, the Service will continue to work with NCDPR to help protect, manage, and enhance *Carex lutea* and its habitat that occurs on the lands as funding becomes available.

Comment 2: One reviewer stated that sea level rise, as a consequence of climate change, could have significant long-term impacts on these populations because the elevation range is only 6.0 ft (1.83 m) to 14.0 ft (4.27 m) for all Sandy Run and Haws Run properties. Additionally, rising water tables may result in shifts of savanna species to higher landscape positions within the natural area.

Our Response: The Service is concerned about global climate change and how sea level rise will affect federally listed species. We will continue to monitor rising water tables and consider actions to protect *Carex lutea.*

Comment 3: Another reviewer summarized that the greatest threats are inadequate fire and the consequences thereof to *Carex lutea* habitat at protected sites. The reviewer further stated that climate change may exacerbate some of the problems associated with this threat.

Our Response: The Service will continue to monitor threats to *Carex lutea* and its habitat and will work with land owners, as appropriate, to encourage prescribed fires and other beneficial management activities. We are not aware of any populations that have been affected by or may be affected by climate change in the future. We will also monitor and work to address potential effects if they occur.

Comment 4: One reviewer commented that fire suppression allows critical habitat to be invaded by nonindigenous plants and animals that are not fire-adapted.

Our Response: The Service agrees with the reviewer's statement, and we included a sentence stating this in the *Special Management Considerations or Protections* section of this rule.

Comment 5: One reviewer pointed out that Baymeade and possibly Mandarin soils are too dry for *Carex lutea* and indicated that if *Carex lutea* is known from an area mapped as Baymeade that it likely occurs on a wetter soil type that is too small to map.

Our Response: The Service reviewed the characteristics for Baymeade and Mandarin soils. Baymeade soil is considered a well-drained soil with rapid permeability, and Mandarin soil is considered somewhat poorly drained. We agree with the commenter and have

made changes in the *Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements* (Soil) section. We removed Baymeade from the list of soil types where *Carex lutea* may occur. Because Mandarin soils are somewhat poorly drained, we made no changes to this soil type in this final rule.

Comment 6: One reviewer clarified that perigynia frequently detach individually or a few together from the spikes and rarely, if ever, reach the ground while still attached to the spike and culm.

Our Response: The Service agrees with the reviewer's statement, and we made the appropriate changes in the *Sites for Breeding, Reproduction, or Rearing (or Development) of Offspring* section.

Comment 7: One reviewer commented that while drainage ditches may have suitable wetland soils and are able to support *Carex lutea,* their hydrologic regimes are not natural and it is likely that seeds produced from ditch populations are transported off site to unsuitable habitat during precipitation events.

Our Response: The Service agrees with this statement, and we included a sentence clarifying this in the *Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements* (Water) section.

Comment 8: One reviewer asked if it was possible for the final rule to refer to the U.S. Department of Agriculture's (USDA) National Agriculture Imagery Program aerial photos that would show the critical habitat as it existed on the date the photos were taken in order to resolve any conflicts regarding the beginning date of any development within the critical habitat area's boundaries.

Our Response: Our regulations require us to provide textual descriptions of the boundaries of critical habitat for a species. These descriptions are most commonly provided using latitude-longitude or Universal Transverse Mercator (UTM) coordinate pairs. The USDA National Agriculture Imagery Program maps do not satisfy this requirement. However, the USDA National Agriculture Imagery Program aerial photos will be made available for viewing at the office listed in the **ADDRESSES** section of this rule.

Comment 9: One reviewer noted that Unit 6, subunit A, The Neck Savanna has the additional significance of being the type locality for *Carex lutea.*

Our Response: The Service agrees with this statement, and we have added language in the unit description to acknowledge this.

Comment 10: One reviewer pointed out that the locations of subunits within Unit 7 were not adequately described.

Our Response: We agree and have amended the location description in the Final Critical Habitat Designation section of this final rule.

Comment 11: One reviewer mentioned that the map for Unit 7 is unclear as subunits 7A and 7B appear as only one polygon.

Our Response: The Service agrees with this comment; however, it is difficult to show subunits 7A and 7B as separate polygons at the resolution required for **Federal Register** publication. Subunits 7A and 7B are only separated by approximately 25 feet (7.6 meters), the width of a gravel road through the site. The boundaries are properly identified in the Final Critical Habitat Designation and Regulation Promulgation sections of this rule. More detailed maps that show the separation of subunits 7A and 7B are available from the Raleigh Fish and Wildlife Office. See the **ADDRESSES** section of this final rule for contact information.

Public Comments

Comment 12: One commenter asked that his family property not be considered a part of the critical habitat area because the family's intent is to continue farming and provide the family's dependent children the opportunity to develop the property as desired.

Our Response: We carefully inspected updated aerial imagery of the proposed critical habitat area. We also conducted a site visit to the commenter's property to determine if the area in question provides the essential physical and biological features for *Carex lutea.* We determined that a small area along the edge of the commenter's property does contain the essential physical and biological features for *Carex lutea* and a small population occurs in the critical habitat area. We are not able to exclude areas that currently provide the essential physical and biological features for the species from critical habitat designation on the basis of anticipated future development, nor do such development plans form the basis for an exclusion from critical habitat under the provisions of the Act. The total amount of designated critical habitat in this subunit is 0.1 acre (ac) (0.04 hectare (ha)). The designation of critical habitat, in and of itself, has no legal effect on property rights or constitutes a physical or regulatory "taking" of real estate property. See the "Takings—Executive Order 12630" discussion below.

Comment 13: One commenter mentioned that *Muhlenbergia expansa* (cutover muhly) is the most abundant grass in relatively undisturbed, specific locations of *Carex lutea.*

Our Response: The Service agrees with this statement, and we incorporated this species in the habitat description in the *Habitats Protected from Disturbance or Representative of the Historic, Geographical, and Ecological Distributions of the Species* section.

Comment 14: One commenter noted that Shaken Creek Savanna is owned and managed by The Nature Conservancy (TNC) and that hunting rights are separately owned by private individuals and are tied to a hunt club.

Our Response: We made the appropriate clarification in the Final Critical Habitat Designation section.

Comment 15: One commenter noted that he is aware of populations of *Carex lutea* at subunits 7A and 7B, but that he is not aware of any *Carex lutea* population at subunit 7C.

Our Response: We contacted the species expert at North Carolina Natural Heritage Program and confirmed that *Carex lutea* and the necessary physical and biological features for this species do occur in subunit 7C. Therefore, we did not make any changes to this part of the critical habitat designation.

Comment 16: One commenter noted that subunit 8C appears to have many acres (hectares) of suitable habitat for *Carex lutea* and suggested that this subunit should be greatly expanded.

Our Response: We conducted a site visit to the property to determine if the area in question provides the essential physical and biological features for *Carex lutea.* Our findings concur with the commenter's suggestions. The actual extent of *Carex lutea* at this site was greater than we previously believed. Based on this new information, we expanded the critical habitat area to incorporate a larger area that contains the essential physical and biological features for *Carex lutea.* On August 3, 2010, we published in the **Federal Register** (75 FR 45592) our proposal to increase the area of subunit 8C, as well as the area of subunit 5D. The total amount of proposed critical habitat in subunit 8C increased by 8.2 ac (3.3 ha), from 1.6 ac (0.6 ha) in our March 10, 2010, proposed rule (75 FR 11080) to 9.8 ac (4.0 ha) in our August 3, 2010, revised proposed rule (75 FR 45592).

Comment 17: One commenter expressed concern over the potential negative impacts of listing the Maple Hill School Road Savanna (Unit 3) as critical habitat. He mentioned that the site consists of several small parcels

owned by approximately 12 private individuals. He is concerned that the critical habitat designation may result in reactive actions by these landowners that may destroy good habitat and the small population that was known to occur there at the time of listing.

Our Response: The Service respects the commenter's opinions on this matter because of his extensive involvement with the protection of many of the conservation lands associated with *Carex lutea.* However, we are not able to exclude areas that currently provide the essential physical and biological features for the species from critical habitat designation on this basis. Further, when we published the proposed rule in March 2010, we contacted all of the property owners that might be affected by the designation. In our correspondence we included a letter that explained the proposed rule and provided a copy of the **Federal Register** notice along with information about how to provide public comments. We did not receive any public comments from any property owner in the vicinity of Unit 3.

Summary of Changes From the Proposed Rule

We thoroughly evaluated all comments received on the proposed designation of critical habitat. As a result of the comments we received on the proposed rules, as well as additional field observations during the 2010 field season, we have made the following changes to our proposed designation.

- We adjusted the boundary of Unit 5, subunit D (Sandy Run Savannas), in Onslow County. We expanded the critical habitat area from 0.3 ac (0.1 ha) to 4.9 ac (2.0 ha), an increase of 4.6 ac (1.9 ha). Unit 5 is in conservation ownership by the NCDPR and managed as the Sandy Run Savannas State Natural Area. The proposed expansion of Unit 5, subunit D (Sandy Run Savannas), was described in our August 3, 2010, revised proposed rule (75 FR 45592).
- We adjusted the boundary of Unit 8, subunit C (McLean Savanna) in Pender County. We expanded the critical habitat area from 1.6 ac (0.6 ha) to 9.8 ac (4.0 ha), for an increase of 8.2 ac (3.3 ha). Subunit 8C is owned by TNC and a private company; however, TNC anticipates acquiring the privately owned section in the next 12 months and managing the entire site as a nature preserve. The proposed expansion of Unit 8, subunit C (McLean Savanna), was described in our August 3, 2010, revised proposed rule (75 FR 45592).

All of the additional areas included within the critical habitat boundaries contain all of the PCEs that were identified in the March 10, 2010, proposed rule (75 FR 11080) to designate critical habitat for *Carex lutea.* Because the areas where we increased the size of the critical habitat units are in current or impending conservation ownership, we determined that including these areas within the critical habitat designation will not impact any development, silviculture, or other activities of economic importance; therefore, this decision will not alter the economic analysis of the designation.

With the inclusion of these additional areas, the Service is designating 8 units (21 subunits) totaling approximately 201.8 ac (81.7 ha) in Onslow and Pender Counties, North Carolina, as critical habitat for *Carex lutea.*

We are finalizing the following critical habitat designation in accordance with section 4 of the Act.

TABLE 1—CRITICAL HABITAT UNIT CHANGES IN ACRES (HECTARES) FOR *Carex lutea*

[Area estimates reflect all land within critical habitat unit boundaries]

Unit	Subunit	Proposed rule ac (ha)	Final rule ac (ha)	Change ac (ha)
1	A	1.2 (0.5)	1.2 (0.5)	
1	B	2.0 (0.8)	2.0 (0.8)	
1	C	0.6 (0.2)	0.6 (0.2)	
2	N/A	27.1 (11.0)	27.1 (11.0)	
3	N/A	27.7 (11.2)	27.7 (11.2)	
4	A	2.3 (0.9)	2.3 (0.9)	
4	B	1.0 (0.4)	1.0 (0.4)	
5	A	2.6 (1.1)	2.6 (1.1)	
5	B	4.3 (1.7)	4.3 (1.7)	
5	C	0.3 (0.1)	0.3 (0.1)	
5	D	0.3 (0.1)	4.9 (2.0)	+ 4.6 (1.9)
5	E	13.1 (5.3)	13.1 (5.3)	
6	A	3.6 (1.5)	3.6 (1.5)	
6	B	0.7 (0.3)	0.7 (0.3)	
6	C	0.1 (0.04)	0.1 (0.04)	
7	A	6.9 (2.8)	6.9 (2.8)	
7	B	24.7 (10.0)	24.7 (10.0)	
7	C	26.1 (10.6)	26.1 (10.6)	
8	A	42.3 (17.1)	42.3 (17.1)	
8	B	0.5 (0.2)	0.5 (0.2)	
8	C	1.6 (0.6)	9.8 (4.0)	+ 8.2 (3.3)
Total *		189.0 (76.5)	201.8 (81.7)	+ 12.8 (5.2)

* **Note:** Area sizes may not sum due to rounding.

Critical Habitat

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by a 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 a 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 to use and the use of all methods and procedures that are necessary to bring an 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, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies insure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of 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 non-Federal landowners. Where a landowner seeks or 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) of the Act would apply, but even in the event of a destruction or adverse modification finding, the obligation of the Federal action agency and the landowner is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

To be included in a critical habitat designation, the habitat within the geographical area occupied by the species at the time it was listed must contain the physical or biological features essential to the conservation of the species, and be included only if those features may require special management considerations or protection. Critical habitat designations identify, to the extent known using the best scientific and commercial data available, those physical and biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat), focusing on the principal biological or physical constituent elements (primary constituent elements) within an area that are essential to the conservation of the species (such as roost sites, nesting grounds, seasonal wetlands, water quality, tide, soil type). Primary constituent elements are the elements of physical and biological features that, when laid out in the appropriate quantity and spatial arrangement to provide for a species' life-history processes, are essential to the conservation of the species.

Under the Act, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed only upon a determination that such areas are essential for the conservation of the species. We designate critical habitat in areas outside the geographical area occupied by a species only when a designation limited to its range would be inadequate to ensure the conservation of the species. When the best available scientific data do not demonstrate that the conservation needs of the species require such additional areas, we will not designate critical habitat in areas outside the geographical area occupied by the species. An area currently occupied by the species but that was not occupied at the time of listing may, however, be essential to the conservation of the species and may be included in the critical habitat designation.

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 (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines, provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific 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.

Habitat is 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. 1181). Climate change may lead to increased frequency and duration of severe storms and droughts (Golladay *et al.* 2004, p. 504; McLaughlin *et al.* 2002, p. 6074; Cook *et al.* 2004, p. 1015). According to the America's Longleaf Regional Working Group (2009, p. 19), the U.S. Department of Agriculture concluded that longleaf pine may extend its range northward, but will likely lose very little of its southern range. The Hadley Centre model suggests that savanna and grasslands may expand and replace southeastern pine forests at some sites in the coastal plain due to increased moisture stress (America's Longleaf Regional Working Group 2009, p. 19). While the effects of climate change on longleaf ecosystem plant communities have not been well studied, one report concluded that while longleaf pine might perform well with increased carbon dioxide, the herbaceous species may not compete as well (America's Longleaf Regional Working Group 2009, p. 19).

The information currently available on the effects of global climate change and increasing temperatures does not make sufficiently precise estimates of the location and magnitude of the effects. Nor are we currently aware of any climate change information specific to the habitat of *Carex lutea* that would indicate what areas may become important to the species in the future. Therefore, as explained in our March 10, 2010, proposed rule (75 FR 11080), we are unable to determine what additional areas, if any, may be appropriate to include in the final

critical habitat for this species to address the effects of climate change.

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 be required for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act, (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to insure their actions are not likely to jeopardize the continued existence of any endangered or threatened species, and (3) the prohibitions of section 9 of the Act if actions occurring in these areas may affect the species. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of this species. 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, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

Physical and Biological Features

In accordance with section 3(5)(A)(i) and 4(b)(1)(A) of the Act and regulations at 50 CFR 424.12, in determining which areas within the geographical area occupied at the time of listing to designate as critical habitat, we consider the physical and biological features essential to the conservation of the species and which may require special management considerations or protection. These 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, or 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 derived the specific physical and biological features required for *Carex lutea* from studies of this species' habitat, ecology, and life history as described in the proposed rule to designate critical habitat published in the **Federal Register** on March 10, 2010 (75 FR 11080), the Background section of this final rule, and the information presented below. Additional information can also be found in the final listing rule published in the **Federal Register** on January 23, 2002 (67 FR 3120).

We have determined that *Carex lutea* requires the following physical and biological features.

Space for Individual and Population Growth and for Normal Behavior

Clonal Growth

Carex lutea is a caespitose, or clumping perennial. New shoots develop from a central point, forming a tufted clump of vegetation that is genetically identical to the parent plant. The full extent to which a plant can expand has not been determined.

Therefore, based on the information above, we identify bare soil areas immediately adjacent to existing clumps of mature *Carex lutea* plants to allow room for expansion of the clump to be a physical and biological feature required for this species.

Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements

Water

Although the specific water needs of the species are unknown, *Carex lutea* is found in wet to saturated to periodically inundated soils. The largest populations are found in the wet to saturated ecotones of savannas and hardwood forests. At a few sites, the plants are most abundant in wet to saturated soils adjacent to drainage ditches, and in the saturated to inundated ditches themselves. The occurrence of individuals in ditches is likely due to the wetter soils of the ditches, or the washing of seeds into the ditches from adjacent habitat or both. It should be noted that seeds produced from populations located in ditches may be transported to unsuitable habitat during precipitation events.

Sometimes *Carex lutea* occurs in very wet soil in areas of savanna habitat characterized by an open to absent canopy, suggesting that its abundance in the savanna-wet hardwood ecotone is strongly influenced by hydrologic conditions as well as by edaphic (influenced by factors inherent in the soil rather than by climatic factors) or light conditions or both. The annual average precipitation in Wilmington, NC, (which is approximately 25 mi (40 km) south-southwest of the epicenter of *Carex lutea*) is 54.3 inches (138 cm) (*http://www.weatherpages.com/variety/precip.html*).

Light

Most *Carex lutea* plants occur in the partially tree-shaded ecotone between savannas and hardwood swamps, with scattered shrubs and a moderate to dense herb layer. The savanna/hardwood swamp ecotone is subject to frequent fires, which favor an herbaceous ground layer and suppress shrub dominance. There is evidence that increased shading and shrub competition from fire suppression has resulted in the reduction in the number of individuals observed.

Soil

Carex lutea occurs on a wide variety of mapped soil types, including fine sands (Mandarin and Pactolus), loamy sands (Stallings), loamy fine sands (Foreston and Grifton), fine sandy loams (Torhunta and Woodington), and loams (Muckalee). The soils are formed from marine sediments and have a range of permeability (from rapid to moderately rapid) and drainage class (from well drained to very poorly drained). Soil tests at the type site (The Neck Savanna) indicate that microsites not supporting *Carex lutea* regularly test at lower pH levels than those supporting *Carex lutea,* with values at inhabited sites ranging from a pH of 5.5 to 7.2, with a mean of 6.7 (Glover 1994, p. 7). This finding may indicate a preference to soils with a high base saturation or low aluminum saturation or both. The extent of the soils with these chemical characteristics is usually limited within the Coastal Plain and, therefore, is normally not mapped as separate soil map units due to the scale of mapping.

Temperature

The outer southeastern coastal plain of North Carolina experiences hot and humid subtropical summers and cool temperate winters with subfreezing periods. Persistent snow accumulation is rare. The average crop growing season (daily minimum temperature higher than 32 degrees Fahrenheit (0 degrees Celsius)) for Onslow County is 162 days (Barnhill 1992, p. 99) and for Pender County is 185 days (Barnhill 1990, p. 105). We have no information about the

tolerance of *Carex lutea* to temperature extremes.

In summary, based on the information above, we identify wet to completely saturated loamy fine sands, fine sands, fine sandy loams, and loamy sands soils with a pH of 5.5 to 7.2, in sunny to partially tree-shaded areas or ecotones between savannas and hardwood forests to be a physical and biological feature required for this species.

Sites for Breeding, Reproduction, or Rearing (or Development) of Offspring

The reproductive biology of *Carex lutea* is unknown; however, due to the observation of ample mature seed production, we can confidently surmise that *Carex lutea* reproduces both sexually, involving gravity and wind-dispersed pollen, as well as vegetatively (LeBlond 1996, p. 19). Perigynia (a special bract that encloses the achene of a *Carex* species) are dispersed when they detach individually or a few at a time from the spikes, thereby depositing the fruits on the substrate adjacent to the maternal parent (LeBlond 1996, p. 19; LeBlond pers. comm. 2010). Seeds have been observed in ditches adjacent to colonies, indicating dispersal by precipitation sheet flow. Animals may also be seed dispersers; the perigynia beaks are minutely serrulate (minutely serrated), perhaps for attachment to fur (LeBlond 1996, p. 19). Survival rates of individual plants are unknown. Based on observation of the larger known populations, it appears that *Carex lutea* is a successful colonizer of suitable newly disturbed areas (LeBlond 1996, p. 19).

In summary, based on the information above, we identify areas of bare soil immediately adjacent (within 12 inches (30 cm)) to mature *Carex lutea* plants where seeds may fall and germinate to be a physical and biological feature required for this species.

Habitats Protected From Disturbance or Representative of the Historic, Geographical, and Ecological Distributions of the Species

The area supporting the *Carex lutea* populations is located in the Black River section of the Coastal Plain Province, and within the Northeast Cape Fear River watershed. The land surface is characterized by large areas of broad, level flatlands and shallow stream basins. The broad flatlands support longleaf pine forests, pond pine woodlands, shrub swamp pocosins, pine plantations, and cropland. The geology is characterized by unconsolidated sand overlying layers of clayey sand and weakly consolidated marine shell deposits (coquina limestone). These sediments were deposited and reshaped during several cycles of coastal emergence and submergence from the Cretaceous period to the present (LeBlond *et al.* 1994, p. 159).

More specifically, *Carex lutea* occurs in the Very Wet Clay Variant of the Pine Savanna community (Schafale 1994, p. 136) or its ecotones. Community structure is characterized by an open to sparse canopy dominated by pond pine (*Pinus serotina*), and usually with some longleaf pine (*Pinus palustris*) and pond cypress (*Taxodium ascendens*). The shrub layer typically is sparse to patchy, with wax myrtle (*Morella carolinensis*), ti-ti (*Cyrilla racemiflora*), ink berry (*Ilex glabra*), myrtle dahoon (*Ilex myrtifolia*), and black highbush blueberry (*Vaccinium fuscatum*) prominent. Juvenile red maple (*Acer rubrum* var. *trilobum*) and swamp tupelo (*Nyssa biflora*) are often present. The herb layer is dense, and dominated by combinations of toothache grass (*Ctenium aromaticum*), cutover muhly (*Muhlenbergia expansa*), Carolina dropseed (*Sporobolus pinetorum*), and several *Rhynchospora* taxa (*e.g.,* globe beaksedge (*R. globularis* var. *pinetorum*), sandswamp whitetop (*R. latifolia*), and Thorne's beakrush (*R. thornei*)). National vegetation type classification places this natural community in the *Pinus palustris—Pinus serotina/Sporobolus pinetorum—Ctenium aromaticum—Eriocaulon decangulare* var. *decangulare* (Tenangle pipewort) Woodland association of the *Pinus palustris—Pinus (P. elliottii, P. serotina)* Saturated Woodland Alliance (NatureServe 2010). This association is equivalent to the Pine Savanna (Very Wet Clay Variant), a natural community type with fewer than 10 occurrences globally (Schafale 1994, p. 136). The Pine Savanna Very Wet Clay Variant is known only from the Maple Hill area near the Onslow/Pender County line and north and west of Holly Shelter Game Land, and from the Old Dock area of the Waccamaw River watershed along the Brunswick/Columbus County line.

In summary, based on the information above, we identify areas containing the natural plant community that would be identified as the Pine Savanna (Very Wet Clay Variant) according to methodology used in Schafale (1994, p. 136) to be essential for this species. The structure of this community is characterized by an open to sparse canopy dominated by pond pine, and usually with some longleaf pine and pond cypress.

Primary Constituent Element for *Carex lutea*

Under the Act and its implementing regulations, we are required to identify the physical and biological features essential to the conservation of *Carex lutea* in areas occupied at the time of listing, focusing on the features' primary constituent elements. We consider primary constituent elements to be the elements of physical and biological features that, when laid out in the appropriate quantity and spatial arrangement to provide for a species' vital life-history functions, are essential to the conservation of the species. Areas designated as critical habitat for *Carex lutea* contain only occupied areas within the species' historical geographic range, and contain the primary constituent element which supports the species' life-history functions.

Based on the above needs and our current knowledge of the life history, biology, and ecology of the species and the habitat requirements for sustaining the essential life-history functions of the species, we have determined that the single primary constituent element for *Carex lutea* is a Pine Savanna (Very Wet Clay Variant) natural plant community or ecotones that contain:

(1) Moist to completely saturated loamy fine sands, fine sands, fine sandy loams, and loamy sands soils with a pH of 5.5 to 7.2;

(2) Open to relatively open canopy that allows full to partial sunlight to penetrate to the herbaceous layer between savannas and hardwood forests; and

(3) Areas of bare soil immediately adjacent (within 12 inches (30 centimeters)) to mature *Carex lutea* plants where seeds may fall and germinate or existing plants may expand in size.

Criteria Used To Identify Critical Habitat

As required by section 4(b)(1)(A) of the Act, we used the best scientific and commercial data available to designate critical habitat. We reviewed available information pertaining to the habitat requirements of this species. In accordance with the Act and its implementing regulations at 50 CFR 424.12(e), we considered whether designating additional areas—outside those currently occupied as well as those occupied at the time of listing—are necessary to ensure the conservation of the species.

In order to determine which sites were occupied at the time of listing, we used the NCNHP database of rare species (NCNHP 2009). If an element

occurrence (EO) record or site was first observed after the species was listed (effective on February 22, 2002), then we considered that those sites were unknown at the time of listing. Five subunits were first observed after February 22, 2002. However, given what we know about the biology of this species and the habitats where it occurs, those five subunits were likely occupied at the time the species was listed. The occurrence at Watkins Savannah (O'Berry Tract C) (Element Occurrence (EO) 5.19) was found during surveys for *Carex lutea* in 2006. The two sites on Ashes Creek at the Southwest Ridge Savanna (EO 11) were found during surveys for *Carex lutea* in 2002, just 3 months after the species was listed. In 2007, surveys for *Carex lutea* at the McLean Savanna yielded two new subpopulations of *Carex lutea* (EOs 24.22 and 24.23). *Carex lutea* was already known from a site nearby, and all three of these subpopulations are now considered to be part of one population. Subunits 5D and 8C were expanded after field work in 2010 indicated that the populations were larger than previously believed. To the best of our knowledge, these areas had not been surveyed for *Carex lutea* previously, and we have no reason to believe that the plant was imported or had dispersed into these areas from other areas after *Carex lutea* was listed in 2002. Based on the biology of this species and its limited ability for the seeds to move and colonize new areas, the occurrences identified since listing likely were in existence for many years prior to listing and were only recently detected due to increased awareness of this species.

We have also reviewed available information that pertains to the habitat requirements of this species including NCNHP data, the original species description (LeBlond *et al.* 1994, pp. 159–160), the status survey (LeBlond 1996, pp. 11–13), the Service's draft Recovery Plan and the 5-Year Review, regional Geographic Information System (GIS) coverages, survey reports, and other relevant information.

We identified critical habitat based on areas that are currently occupied by *Carex lutea.* These areas occur on rare or unique habitat (the Very Wet Clay Variant of the Pine Savanna community, remnant savannas, or ecotones thereof) within the species' range and contain all of the PCEs. Because so few populations are known to exist, they are all important to the long-term survival and recovery of the species. We are designating eight units (21 subunits) based on sufficient quantity and arrangement of the PCEs being present to support *Carex lutea's* life processes.

When determining critical habitat boundaries, we made every effort to avoid including developed areas, such as lands covered by buildings, roads, and other structures, because such lands lack the physical and biological features for *Carex lutea.* 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 rule have been excluded by text in the rule and are not designated. Therefore, if the critical habitat is finalized, a Federal action involving these lands would not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the physical and biological features in the adjacent critical habitat.

To the best of our knowledge, there are no areas that were not occupied by the species at the time it was listed that are essential to the conservation of *Carex lutea.* All of the areas designated as critical habitat for *Carex lutea* are currently occupied by the species and contain the essential physical and biological features. All of the areas designated as critical habitat are also within the known historical range of the species. Therefore, we are not designating any areas outside the geographical area occupied by the species at the time of listing. We believe that the occupied areas are sufficient for the conservation of the species.

Special Management Considerations or Protections

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the species at the time of listing contain features that are essential to the conservation of the species and which may require special management considerations or protection.

The major threats to the features in the areas identified as critical habitat for *Carex lutea* include: Habitat alteration; conversion of its limited habitat for residential, commercial, or industrial development; mining; drainage activities associated with silviculture and agriculture; suppression of fire; highway expansion; and herbicide use along utility and highway rights-of-way. Through our review of the existing data on *Carex lutea,* we conclude that these threats, which were also listed in the final listing rule (67 FR 3120, January 23, 2002), continue to impact this species and its essential physical and biological features.

The destruction of habitat or conversion of habitat for residential, commercial, or industrial development can change the topography, soils, and general character of the site, making it uninhabitable for *Carex lutea.* These activities can remove the primary constituent element by removing soil (by grading) and changing *Carex lutea* habitat to developed land, which is unsuitable for the species.

Drainage activities associated with silviculture and agriculture may alter the hydrology, which can change the groundwater levels and the amount of moisture in the soil, creating conditions under which *Carex lutea* may not be able to survive. Further, removal of existing vegetation or the planting of trees for silviculture may change the existing conditions such that *Carex lutea* plants no longer receive optimal amounts of sunlight.

The close proximity of roadways and power line corridors to populations of *Carex lutea* may affect the species. Herbicide treatment to maintain vegetation in rights-of-ways has the potential to kill non-target plant species such as *Carex lutea.* Highway expansion may change the local topography and affect water runoff making the site drier or wetter than is optimal for *Carex lutea.*

Mining has been documented in close proximity to one *Carex lutea* population. Mining activities may alter many aspects of *Carex lutea* habitat. Heavy equipment can compact or remove the appropriate soils. The grading of areas adjacent to *Carex lutea* habitat can change the hydrology of those areas and make them more susceptible to invasion by nonnative plant species.

Regular fire in areas where *Carex lutea* occurs helps to maintain the open savanna habitat that is conducive to *Carex lutea* growth. Fire reduces competition and allows seeds to germinate in open, bare soil areas. Fire suppression in areas where *Carex lutea* occurs may result in the growth of shrubs and trees that will eventually shade out herbaceous species such as *Carex lutea.* Fire suppression also allows the invasion of nonindigenous plants and animals that are not fire-adapted.

All of these activities may in turn lead to the disruption of the growth and reproduction of *Carex lutea.*

In summary, we find that the areas we are designating as critical habitat contain the features essential to the conservation of *Carex lutea,* 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 or subunit and to preserve and maintain the essential features that the critical habitat units and subunits provide to *Carex lutea.* Additional discussions of threats facing individual sites are provided in the individual unit and subunit descriptions.

Final Critical Habitat Designation

We are designating 8 units (21 subunits) totaling approximately 202 ac (82 ha) as critical habitat for *Carex lutea.* They constitute our current best assessment of areas that meet the definition of critical habitat for *Carex lutea.* The eight areas designated as critical habitat, which are described below, are: (1) Unit 1: Watkins Savanna, (2) Unit 2: Haws Run Mitigation Site, (3) Unit 3: Maple Hill School Road Savanna, (4) Unit 4: Southwest Ridge Savanna, (5) Unit 5: Sandy Run Savannas, (6) Unit 6: The Neck Savanna, (7) Unit 7: Shaken Creek Savanna, and (8) Unit 8: McLean Savanna. All units were occupied at the time of listing and are currently occupied.

The name, ownership information, and approximate size of each designated critical habitat unit and subunit are shown in Table 2. As described above, we assessed all areas we are designating as critical habitat to ensure that they provide the requisite primary constituent element as defined in this final rule.

TABLE 2—DESIGNATED CRITICAL HABITAT UNITS FOR *Carex lutea*—AREA ESTIMATES REFLECT ALL LAND WITHIN CRITICAL HABITAT UNIT BOUNDARIES

Unit	Subunit	Land ownership by type	Size of unit acres (hectares)
1	A	NCDPR	1.2 (0.5)
1	B	Private, NCDPR	2.0 (0.8)
1	C	NCDPR	0.6 (0.2)
2	N/A	NCDOT	27.1 (11.0)
3	N/A	Private	27.7 (11.2)
4	A	NCWRC with Progress Energy, Right-of-way (ROW).	2.3 (0.9)
4	B	NCWRC with Progress Energy, ROW	1.0 (0.4)
5	A	NCDPR with Progress Energy, ROW	2.6 (1.1)
5	B	NCDPR	4.3 (1.7)
5	C	NCDPR	0.3 (0.1)
5	D	NCDPR	4.9 (2.0)
5	E	NCDPR with Progress Energy, ROW	13.1 (5.3)
6	A	NCDPR	3.6 (1.5)
6	B	Private	0.7 (0.3)
6	C	Private with Powerline ROW	0.1 (0.04)
7	A	Private (TNC)	6.9 (2.8)
7	B	Private (TNC)	24.7 (10.0)
7	C	Private (TNC)	26.1 (10.6)
8	A	Private (TNC)	42.3 (17.1)
8	B	Private	0.5 (0.2)
8	C	Private (TNC), Private	9.8 (4.0)
Total *			201.8 (81.7)

* **Note:** Area sizes may not sum due to rounding.

We present brief descriptions of each unit and reasons why they meet the definition of critical habitat below.

Unit 1: Watkins Savanna, Pender County, North Carolina

Unit 1 consists of 3.8 ac (1.5 ha) and includes three subunits in Pender County, NC. This critical habitat unit includes habitat for *Carex lutea* that is under private and State ownership. This unit contains three element occurrences, two of which were known at the time of listing. All three subunits contain the primary constituent element identified for *Carex lutea;* however, they are all very fire-suppressed and have been altered by timber management. The NCDPR is currently negotiating with the NCNHP to designate this site as a Dedicated Nature Preserve.

Subunit A (EO 5.12) consists of 1.2 ac (0.5 ha) and was known to be occupied at the time of listing. It is owned by NCDPR and is managed as part of the Sandy Run Savannas State Natural Area.

Subunit B (EO 5.13) consists of 2.0 ac (0.8 ha) and was known to be occupied at the time of listing. It is owned by private entities and NCDPR. NCDPR plans to manage their portion of the subunit as part of the Sandy Run Savannas State Natural Area.

Subunit C (EO 5.19) consists of 0.6 ac (0.2 ha) and was not known to be occupied at the time of listing. This *Carex lutea* site was discovered in 2006; however, based on the habitat conditions at this site and the biology of the species, we believe that this site was occupied in 2002, when the species was listed. It is in conservation ownership by NCDPR and is managed as part of the Sandy Run Savannas State Natural Area.

Unit 2: Haws Run Mitigation Site, Onslow County, North Carolina

Unit 2 (EO 7) consists of 27.1 ac (11.0 ha) in Onslow County, NC. This critical habitat unit includes habitat for *Carex lutea* and was occupied at the time of listing. It is owned by the NC Department of Transportation and is managed by the NC Ecosystem Enhancement Program. This site was purchased as mitigation for wetland impacts from nearby transportation projects. Although the site is somewhat fire-suppressed and has been altered by timber management, it contains the primary constituent element identified for *Carex lutea.* The land managers conducted a prescribed fire in the vicinity of the *Carex lutea* plants during the summer of 2009 and will continue restoration efforts there. The population at this site appears to be stable and not vulnerable to extirpation. Managers are

considering designating this site as a Dedicated Nature Preserve by the NCNHP.

Unit 3: Maple Hill School Road Savanna, Pender County, North Carolina

Unit 3 (EO 10) consists of 27.7 ac (11.2 ha) in Pender County, NC. This site is privately owned and has not been revisited since it was discovered in 1998. It was occupied at the time of listing. Although three clumps of *Carex lutea* were discovered here in 1998, the full extent of the population is unknown and the habitat is vulnerable to land use changes. This site contains the primary constituent element identified for *Carex lutea.*

Unit 4: Southwest Ridge Savanna, Pender County, North Carolina

Unit 4 (EO 11) consists of 3.3 ac (1.3 ha) in two subunits in Pender County, NC. This unit is owned by NC Wildlife Resources Commission and is managed for conservation purposes. These two subpopulations were discovered in May 2002, shortly after the species was listed as endangered (effective February 22, 2002). Because the species is nearly impossible to identify unless it is flowering, and plants less than 3 months old would not be expected to flower in May, it seems reasonable to assume that the plants discovered in May 2002 were present prior to the 2002 growing season and that the site was occupied at the time of listing. The *Carex lutea* plants occur in a power line right-of-way easement that is managed by Progress Energy. The utility company entered into a Registry Agreement with the NCNHP and agreed not to use herbicides or mow during critical *Carex lutea* growth periods. This population is relatively small in size compared to some of the other populations, but appears to be stable. The subunits contain the primary constituent element identified for *Carex lutea.*

Subunit A is 2.3 ac (0.9 ha) in size and is located southwest of Ashes Creek.

Subunit B is 1.0 ac (0.4 ha) in size and is located northeast of Ashes Creek.

Unit 5: Sandy Run Savannas, Onslow County, North Carolina

Unit 5 consists of 25.2 ac (10.2 ha) in Onslow County, NC, and is divided into five subunits. This critical habitat unit is owned by NCDPR and managed as part of the Sandy Run Savannas State Natural Area. All five *Carex lutea* sites were known at the time of listing. This unit is a remnant pine savanna, and the subunits contain the primary constituent element identified for *Carex lutea;* however, the subunits are all fire-suppressed and have been altered by timber management, including bedding and ditching. The NCDPR is currently negotiating the designation of a Dedicated Nature Preserve with the NCNHP.

Subunit A (EO 15.3) consists of 2.6 ac (1.1 ha) and occurs on the east side of NC 50. Progress Energy has a transmission line right-of-way through this subunit and has entered into a Registry Agreement with the NCNHP in which they have agreed not to use herbicides or mow during critical *Carex lutea* growth periods.

Subunit B (EO 15.4) consists of 4.3 ac (1.7 ha) and occurs contiguous to and along the north side of a private sand road through the property.

Subunit C (EO 15.4) consists of 0.3 ac (0.1 ha) and occurs along the south side of a private sand road through the property and on the west side of a small stream swamp. The plants are growing in an old, wet road bed.

Subunit D (EO 15.4) consists of 4.9 ac (2.0 ha) and occurs along the south and north sides of a private sand road through the property and on the east side of a small stream swamp. The *Carex lutea* plants are growing in a roadside ditch and along a fire break and in associated low, moist areas. The private sand road is not considered part of this critical habitat designation.

Subunit E (EO 15.14) consists of 13.1 ac (5.3 ha) and occurs contiguous to and on the west side of NC 50. Progress Energy has a transmission line right-of-way through this subunit and has entered into a Registry Agreement with the NCNHP in which they have agreed not to use herbicides or mow during critical *Carex lutea* growth periods.

Unit 6: The Neck Savanna, Pender County, North Carolina

Unit 6 consists of 4.4 ac (1.8 ha) in Pender County, NC, and is divided into three subunits. This critical habitat unit includes habitat for *Carex lutea* that is under private and State ownership. This unit contains three element occurrences, two of which were known at the time of listing. The subunits contain the primary constituent element identified for *Carex lutea;* however, they are all very fire-suppressed and have been altered by timber management. The NCDPR is currently negotiating the designation of a Dedicated Nature Preserve with the NCNHP. Privately owned portions of this property are threatened by fire suppression, timber harvesting, and herbicide use. Drainage ditches impact the hydrology of the soils in this area.

Subunit A (EO 18.1) consists of 3.6 ac (1.5 ha), is the type locality for *Carex lutea,* and was known to be occupied at the time of listing. It is owned by NCDPR and will become part of the Sandy Run Savannas State Natural Area.

Subunit B (EO 18.16) consists of 0.7 ac (0.3 ha) and is privately owned. It is currently threatened by fire suppression, but the managers are hopeful that they will be able to burn this tract within the next year or two.

Subunit C (EO 18.17) consists of 0.1 ac (0.04 ha), is privately owned, and occurs in a small power-line corridor along a roadside. It is vulnerable to woody growth and herbicide use in the power line. There has been little management of the site with prescribed fire due to difficult land ownership patterns.

Unit 7: Shaken Creek Savanna, Pender County, North Carolina

Unit 7 consists of 57.7 ac (23.4 ha) in Pender County, NC, and is divided into three subunits. This critical habitat unit includes habitat for *Carex lutea* that is under private ownership. This area is owned and managed by TNC. The hunting rights are separately owned by private individuals and are tied to a hunt club. This unit contains three element occurrences, all of which were known at the time of listing. This savanna complex contains the highest quality natural habitat and the largest population of *Carex lutea* known. With continued fire management, this site should remain stable. The subunits all contain the primary constituent element identified for *Carex lutea.*

Subunit A (EO 21.8) consists of 6.9 ac (2.8 ha) immediately south of Flo Road and east of Alligator Lake Road.

Subunit B (EO 21.8) consists of 24.7 ac (10.0 ha) immediately south of Flo Road and west of Alligator Lake Road.

Subunit C (EO 21.20) consists of 26.1 ac (10.6 ha) immediately south of Flo Road and approximately 1,800 feet (549 meters) west of Alligator Lake Road.

Unit 8: McLean Savanna, Pender County, North Carolina

Unit 8 consists of 52.6 ac (21.3 ha) and includes three subunits in Pender County, NC. This site is known as McLean Savanna or McLean Family Farms and has been kept open for hunting through the use of prescribed burning. *Carex lutea* occurs over an extensive area, and it is one of the larger populations known. Each of the three subunits contains the primary constituent element identified for *Carex lutea.*

Subunit A (EO 24.9) is 42.3 ac (17.1 ha) in size and is owned by TNC. *Carex*

lutea occupied this area at the time of listing.

Subunit B (EO 24.22) is 0.5 ac (0.2 ha) in size and is privately owned. This *Carex lutea* population was discovered in June 2007, after the species was listed; however, based on what we know about the biology of the species, we believe that this site was occupied at the time of listing.

Subunit C (EO 24.23) is 9.8 ac (4.0 ha) in size and is owned by both private entities and TNC. This *Carex lutea* population was also discovered in June 2007, after the species was listed. In 2010, we discovered that the extent of the population was much greater than we originally thought. Based on what we know about the biology of the species, we believe that this site was occupied at the time of listing.

Because the savannas on the McLean Family Farms have been managed by fire for many years to facilitate hunting, and one subpopulation (Subunit A) has been known on this property since 1997, it is reasonable to believe that these other subpopulations (Subunits B and C) have also occurred there for many years and were just undetected because those areas had not been surveyed specifically for *Carex lutea* until 2007.

The Service believes that all critical habitat units and subunits are currently occupied by *Carex lutea.* In addition, based on our knowledge of the species and our best professional judgment, we believe that these critical habitat units and subunits were occupied at the time the species was listed.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to insure that actions they fund, authorize, or carry out are not likely to destroy or adversely modify critical habitat. Decisions by the Courts of Appeals for the Fifth and Ninth Circuits 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,* 245 F.3d 434 (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 proposed Federal action, the affected critical habitat would remain functional (or retain the current ability for the primary constituent elements to be functionally established) to serve its intended conservation role for the species.

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to insure 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. 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 critical habitat; or

(2) A biological opinion for Federal actions that may affect, but are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to result in jeopardy to a listed species or the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable, to avoid these outcomes. 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 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 a new species is listed or critical habitat is subsequently designated that may be affected and the Federal agency has retained discretionary involvement or control over the action (such discretionary involvement or control over the action is authorized by law). Consequently, Federal agencies may 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 *Carex lutea* or its designated critical habitat 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 from us under section 10 of the Act) or involving some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency) are subject to the section 7(a)(2) 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

In making the adverse modification determination, the key factor is whether, with implementation of the Federal action, the affected critical habitat would continue to serve its intended conservation role for the species. 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 *Carex lutea.* As discussed above, the role of critical habitat units is to support life-history needs of the species and provide for the conservation of the species.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any proposed or final regulation that designates critical habitat, activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation.

Activities that may affect critical habitat, when carried out, funded, or authorized by a Federal agency, should result in consultation for *Carex lutea.* These activities include, but are not limited to:

(1) Actions that would result in ground disturbance to sunny to partially tree-shaded areas or ecotones between savannas and hardwood forests. Such activities could include, but are not

limited to: Residential, commercial, or recreational development; ORV activity; dispersed recreation; silviculture practices (including timber harvest); new road construction or widening; existing road and utility maintenance; and mining. These activities could cause direct loss of *Carex lutea* occupied areas, and affect ecotones by damaging or eliminating habitat, altering soil composition due to increased erosion, and increasing densities of nonnative plant species.

In addition, changes in soil composition may lead to changes in the vegetation composition, such as growth of shrub cover resulting in decreased density or vigor of individual *Carex lutea* plants. These activities may also lead to changes in water flows and inundation periods that would degrade, reduce, or eliminate the habitat necessary for the growth and reproduction of *Carex lutea.*

(2) Actions that would significantly alter the hydrological regime of sunny to partially tree-shaded areas or ecotones between savannas and hardwood forests. Such activities could include residential or recreational development adjacent to savanna and hardwood forest ecotones, timber harvest and other silviculture practices, ORV activity, dispersed recreation, new road construction or widening, existing road and utility line maintenance, and mining. These activities could alter surface soil layers and hydrological regimes in a manner that promotes loss of soil matrix components and moisture necessary to support the growth and reproduction of *Carex lutea.*

(3) Actions that would significantly reduce pollination or seed set (reproduction). Such activities could include, but are not limited to, residential or recreational development, and mowing or herbiciding prior to seed set. These activities could prevent reproduction by reducing the numbers of pollinators, or by removal or destruction of reproductive plant parts.

Exemptions

Application of Section 4(a)(3) of the Act

The Sikes Act Improvement Act of 1997 (Sikes Act) (16 U.S.C. 670a) 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.

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 (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."

There were no Department of Defense lands with a completed INRMP within our proposed critical habitat designation. Therefore, we are not exempting any lands from this final designation of critical habitat for *Carex lutea* under section 4(a)(3)(B)(i) of the Act.

Exclusions

Application of Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to 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 statute on its face, as well as the legislative history, are clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor.

Under section 4(b)(2) of the Act, the Secretary may exclude an area from designated critical habitat based on economic impacts, impacts on national security, or any other relevant impacts. 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 the Secretary can exert his discretion to exclude the area only if such exclusion would not result in the extinction of the species.

Economic Impacts

Under section 4(b)(2) of the Act, we consider the economic impacts of specifying any particular area as critical habitat. In order to consider economic impacts, we prepared a draft economic analysis (DEA), which we made available for public review on August 3, 2010 (75 FR 45592), based on the March 10, 2010, proposed rule (75 FR 11080). We opened a comment period on the DEA until September 2, 2010; however, we received no comments on the DEA. Following the close of the comment period, a final analysis of the potential economic effects of the designation was developed, taking into consideration any new information.

The intent of the final economic analysis (FEA) is to quantify the economic impacts of all potential conservation efforts for *Carex lutea.* Some of these costs will likely be incurred regardless of whether we designate critical habitat (baseline). The economic impact of the final critical habitat designation is analyzed by comparing scenarios both "with critical habitat" and "without critical habitat." The "without critical habitat" scenario represents the baseline for the analysis, considering protections already in place for the species (*e.g.,* under the Federal listing and other Federal, State, and local regulations). The baseline, therefore, represents the costs incurred regardless of whether critical habitat is designated. The "with critical habitat" scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. The incremental conservation efforts and associated impacts are those not expected to occur absent the designation of critical habitat for the species. In other words, the incremental costs are those attributable solely to the designation of critical habitat above and beyond the baseline costs; these are the costs we consider in the final designation of critical habitat. The analysis looks retrospectively at baseline impacts incurred since the species was listed (2002), and forecasts both baseline and incremental impacts likely to occur with the designation of critical habitat.

The FEA also addresses how potential economic impacts are likely to be distributed, including an assessment of any local or regional impacts of habitat conservation and the potential effects of conservation activities on government agencies, private businesses, and individuals. The FEA measures lost economic efficiency associated with

residential and commercial development and public projects and activities, such as economic impacts on water management and transportation projects, Federal lands, small entities, and the energy industry. Decision-makers can use this information to assess whether the effects of the designation might unduly burden a particular group or economic sector. Finally, the FEA looks retrospectively at costs that were incurred since January 23, 2002, when we listed *Carex lutea* under the Act (67 FR 3120) and considers those costs that may occur in the 20 years following the designation of critical habitat, which was determined to be the appropriate period for analysis because limited planning information was available for most activities to forecast activity levels for projects beyond a 20-year timeframe. The FEA did not identify any economic impacts of *Carex lutea* conservation efforts associated with development activities.

The FEA estimates that no economic impacts are likely to result from the designation of critical habitat for *Carex lutea.* This determination is based primarily on the fact that more than 80 percent of the lands we are designating as critical habitat is already subject to conservation measures that benefit the plant. Economic impacts are unlikely in the remaining 20 percent, given the limited potential for future economic activity and the low probability of a Federal nexus that would require consultation with the Service.

Consequently, the Secretary has determined not to exercise his discretion to exclude any areas from this designation of critical habitat for *Carex lutea* based on economic impacts. A copy of the FEA with supporting documents may be obtained by contacting the Raleigh Fish and Wildlife Office (*see* **ADDRESSES**) or for downloading from the Internet at *http://www.regulations.gov.*

National Security Impacts

Under section 4(b)(2) of the Act, we consider whether there are lands owned or managed by the Department of Defense where a national security impact might exist. In preparing this rule, we have determined that the lands within the designation of critical habitat for *Carex lutea* are not owned or managed by the Department of Defense, and therefore, there are no impacts to national security. Consequently, the Secretary has determined not to exercise his discretion to exclude any areas from this designation based on impacts on national security.

Other Relevant Impacts

Under section 4(b)(2) of the Act, in addition to economic impacts and impacts on national security, we consider any other relevant impacts. In determining what other impacts may be relevant, we consider a number of factors including whether the landowners have developed any habitat conservation plans (HCPs) or other management plans for the area, or whether there are conservation partnerships that would be encouraged by designation of, or exclusion from, critical habitat. In addition, we look at any Tribal issues, and consider the government-to-government relationship of the United States with Tribal entities. We also consider any social impacts that might occur because of the designation.

In preparing this rule, we have determined that there are currently no HCPs or other management plans for *Carex lutea.* Additionally, the designation does not include any Tribal lands or trust resources. We anticipate no impact to Tribal lands, partnerships, or HCPs or other management plans from this critical habitat designation. Consequently, the Secretary has determined not to exercise his discretion to exclude any areas from this designation based on other relevant impacts.

Required Determinations

Regulatory Planning and Review—Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule is not significant 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 (RFA; 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 effects of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended RFA to require Federal agencies to provide a statement of the factual basis for certifying that 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 critical habitat designation for *Carex lutea* 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; as well as 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 consider the types of activities that might trigger regulatory impacts under this rule, as well as the 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 critical habitat designation for *Carex lutea* could 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 only affects activities authorized, funded, or carried out 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 authorize, fund, or carry out that may affect *Carex lutea.* 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 FEA of the critical habitat designation, we evaluated the potential economic effects on small entities resulting from conservation actions related to the designation of critical habitat for *Carex lutea.* The analysis is based on the estimated impacts associated with the rulemaking as described in Chapters 4 through 6 of the FEA, and evaluated the potential for economic impacts related to development and silvicultural activities. The economic analysis additionally considered the potential economic impacts of the designation on transportation and utilities projects, but concluded that these activities were not likely to incur measurable economic impacts.

As discussed in Chapter 4 and Appendix A, the FEA did not identify any incremental costs resulting from the critical habitat designation. This determination is based on the fact that more than 80 percent of the critical habitat we are designating in this rule is already subject to conservation measures that benefit the plant. Economic impacts are unlikely in the remaining 20 percent, given the limited potential for future economic activity and the low probability of a Federal nexus that would require consultation with the Service. Therefore, based on this analysis, we do not expect this regulation to have a significant impact on any small businesses.

In summary, we considered whether this designation will result in a significant economic impact on a substantial number of small entities, and we determined that we do not expect this regulation to have a significant impact on any small entities. Therefore, we are certifying that the designation of critical habitat for *Carex lutea* will not have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

Energy Supply, Distribution, or Use—Executive Order 13211

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. The OMB has provided guidance for implementing this Executive Order that outlines nine outcomes that may constitute "a significant adverse effect" when compared to no regulatory action under consideration. As discussed in Appendix A, the FEA finds that none of these criteria are relevant to this analysis. The economic analysis concludes that because no modifications are anticipated to result from the designation of critical habitat, energy-related impacts are not expected. Because no incremental impacts associated specifically with this rulemaking on the production, distribution, or use of energy are forecast, designation of critical habitat for *Carex lutea* is not expected to lead to any adverse outcomes (such as a reduction in electricity production or an increase in the cost of energy production or distribution). A Statement of Energy Effects is not required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), 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. It excludes "a condition of Federal assistance." 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. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. "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."

The designation of critical habitat 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 jeopardize the continued existence of the species, or destroy or adversely modify critical habitat under section 7. 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. 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 onto State governments.

(2) As discussed in the FEA of the designation of critical habitat for *Carex lutea,* we do not believe that this rule will significantly or uniquely affect small governments because it will 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 lands we are designating as critical habitat are owned by private individuals, The Nature Conservancy, and the State of North Carolina (Division of Parks and Recreation, Department of Transportation and Wildlife Resources Commission). None of these government entities fit the definition of "small governmental jurisdiction." The economic analysis also identified no cost resulting from the critical habitat designation. Because no incremental costs are anticipated, no small entities are expected to be affected by the rule. Therefore, 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 have analyzed the potential takings implications of designating critical habitat for *Carex lutea* 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 to go forward. The takings implications assessment concludes that this designation of critical habitat for *Carex lutea* does not pose significant takings implications for lands within or affected by the designation.

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 and Department of Commerce policy, we requested information from, and coordinated development of this critical habitat designation with, appropriate State resource agencies in North Carolina. The designation of critical habitat for *Carex lutea* will impose no additional restrictions to those currently in place and, therefore, will have little incremental impact on State and local governments and their activities. The designation of critical habitat 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 essential features themselves are specifically identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, it may assist local governments in long-range planning (rather than having them 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) of the Act will 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 E.O. 12988 (Civil Justice Reform), the Office of the Solicitor has determined that this 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 are designating critical habitat in accordance with the provisions of the Act. This final rule uses standard property descriptions and identifies the physical and biological features essential to the conservation of *Carex lutea* within the designated areas to assist the public in understanding the habitat needs of the species.

Paperwork Reduction Act of 1995

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

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 National Environmental Policy Act (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 readily acknowledge our 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 have determined that there are no tribal lands occupied at the time of listing that contain the features essential for the conservation, and no tribal lands that are essential for the conservation, of *Carex lutea.* Therefore, we are not designating critical habitat for *Carex lutea* on tribal lands.

References Cited

A complete list of references cited in this rulemaking is available upon request from the Field Supervisor, Raleigh Fish and Wildlife Office (*see* **ADDRESSES**) or from *http://www.regulations.gov.*

Authors

The primary authors of this package are the staff members of the Raleigh Fish and Wildlife Office.

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 "*Carex lutea*" under "Flowering Plants" in the List of Endangered and Threatened Plants 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							
*	*	*	*	*	*		*
Carex lutea	Golden sedge	U.S.A. (NC)	Cyperaceae	E	721	17.96(a)	NA
*	*	*	*	*	*		*

■ 3. In § 17.96(a), amend paragraph (a) by adding an entry for "Carex lutea (golden sedge)," in alphabetical order under the family Cyperaceae, to read as follows:

§ 17.96 Critical habitat—plants.

(a) *Flowering plants.*

* * * * *

Family Cyperaceae: *Carex lutea* (golden sedge)

(1) Critical habitat units are depicted for Onslow and Pender Counties, NC, on the maps below.

(2) The primary constituent element of the physical and biological features essential to the conservation of *Carex lutea* is Pine Savanna (Very Wet Clay Variant) natural plant community or ecotones that contain:

(i) Moist to completely saturated loamy fine sands, fine sands, fine sandy loams, and loamy sands soils with a pH between 5.5 and 7.2;

(ii) Open to relatively open canopy that allows full to partial sunlight to penetrate to the herbaceous layer between savannas and hardwood forests; and

(iii) Areas of bare soil immediately adjacent (within 12 inches (30 centimeters)) to mature *Carex lutea* plants where seeds may fall and germinate or existing plants may expand in size.

(3) Critical habitat does not include manmade structures existing on the effective date of this rule and not containing the primary constituent element, such as buildings, aqueducts, runways, roads, and other paved areas, 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 aerial photographs (USDA National Agriculture Imagery Program; NAIP 2008). Critical habitat units were then mapped using Universal Transverse Mercator (UTM) zone 18 North American Datum (NAD) 1983 coordinates. These coordinates establish the vertices and endpoints of the boundaries of the units and subunits.

(5) **Note:** Index Map (Map 1) for critical habitat for *Carex lutea* in Onslow and Pender Counties, NC, follows:

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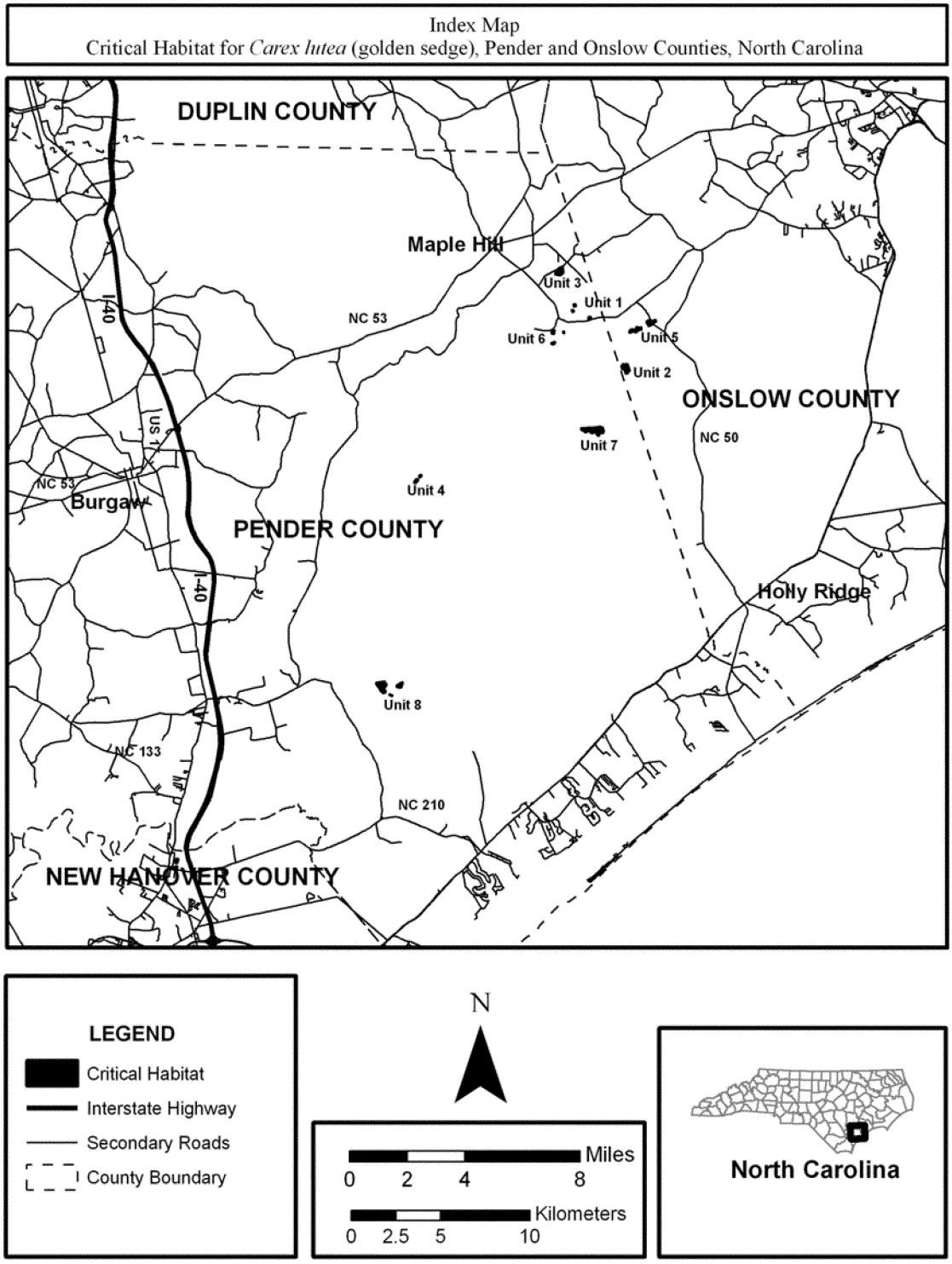


(6) Unit 1, subunits A, B, and C, for *Carex lutea:* Watkins Savanna, Pender County, NC.

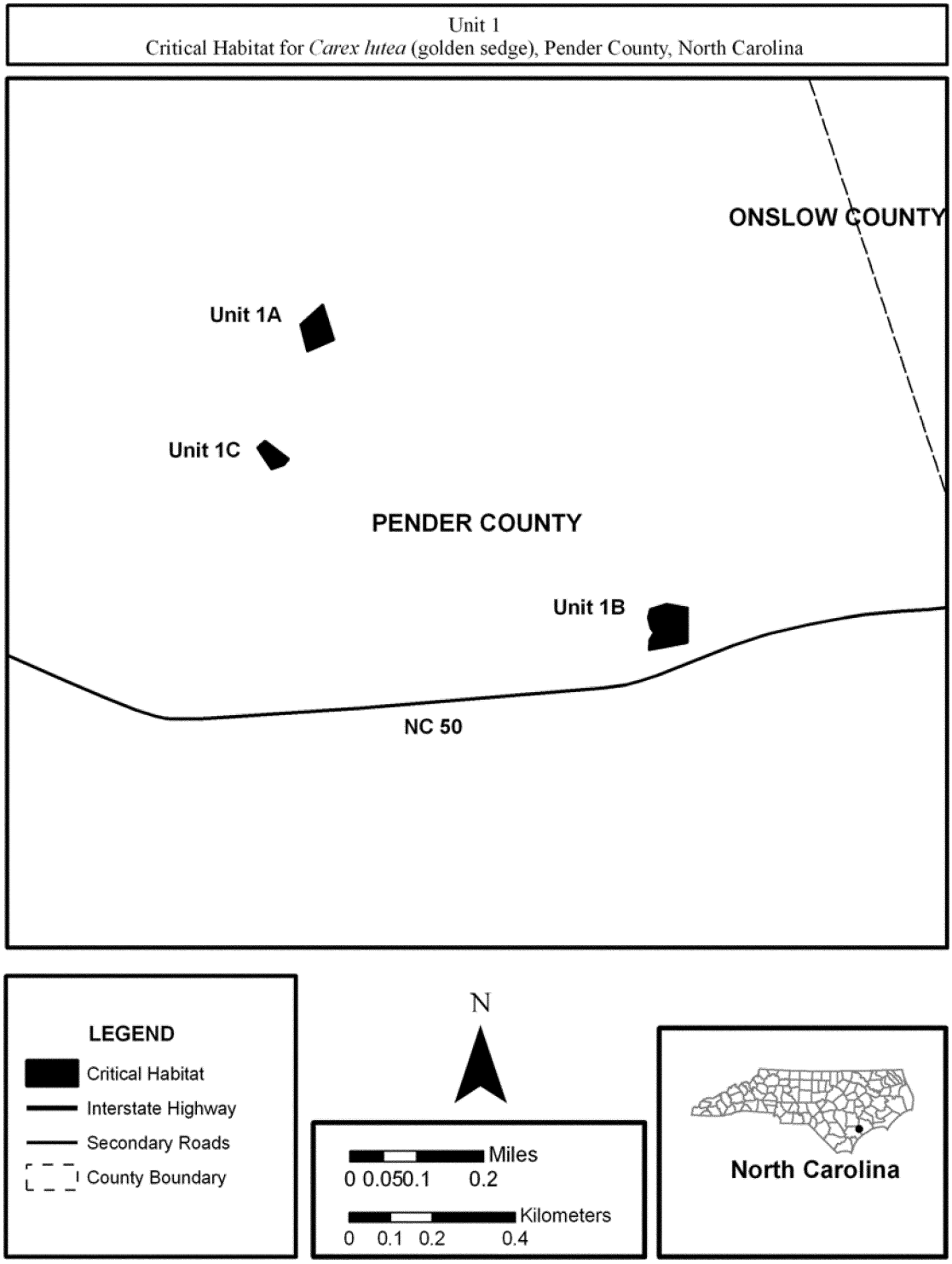
(i) Unit 1, subunits A, B, and C, for *Carex lutea* comprises 3.8 acres (ac) (1.5 hectares (ha)) of somewhat overgrown Pine Savanna habitat. Unit 1 is located approximately 5.1 miles (mi) (8.2 kilometers (km)) southeast of the intersection of NC 50 and NC 53, and all three subunits are on the north side of NC 50.

(ii) Subunit 1A. Land bounded by the following UTM Zone 18, NAD 83 coordinates (E,N): 732264, 99984; 732203, 99954; 732184, 100016; 732234, 100065; 732264, 99984.

(iii) Subunit 1B. Land bounded by the following UTM Zone 18, NAD 83 coordinates (E,N): 733143, 99288; 733053, 99268; 733055, 99291; 733065, 99309; 733055, 99320; 733048, 99344; 733053, 99364; 733090, 99377; 733140, 99370; 733143, 99288.

(iv) Subunit 1C. Land bounded by the following UTM Zone 18, NAD 83 coordinates (E,N): 732155, 99677; 732128, 99667; 732093, 99716; 732109, 99732; 732166, 99692; 732155, 99677.

(v) Map of Unit 1 (Watkins Savanna) follows:

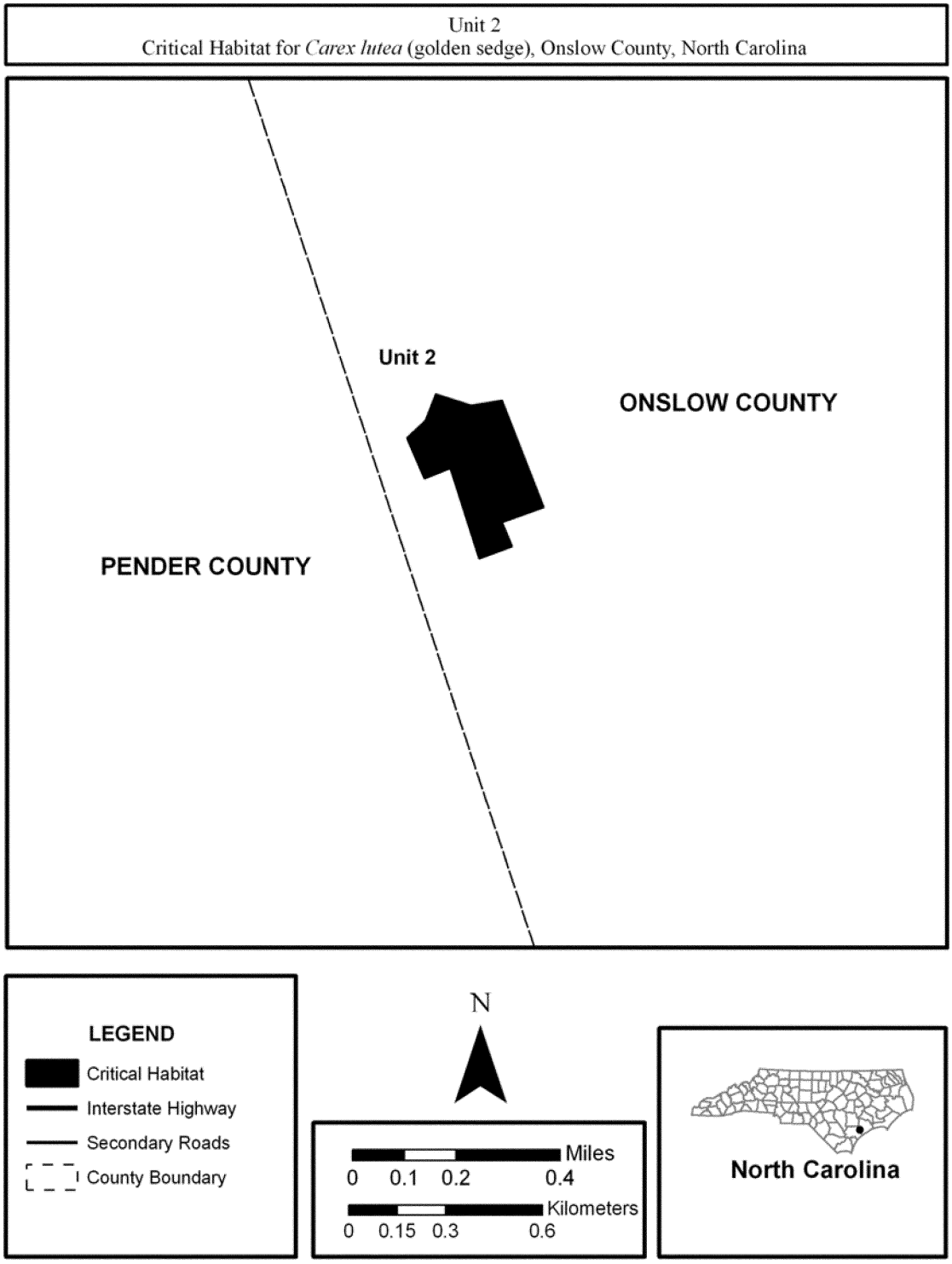


(7) Unit 2 for *Carex lutea:* Haws Run Mitigation Site, Onslow County, NC.

(i) Unit 2 for *Carex lutea* comprises 27.1 ac (11.0 ha) of Pine Savanna. Unit 2 is located approximately 7.6 mi (12.2 km) southeast of the intersection of NC 50 and NC 53, on the south side of NC 50.

(ii) Unit 2. Land bounded by the following UTM Zone 18, NAD 83 coordinates (E,N): 735078, 96823; 735188, 96794; 735282, 96812; 735423, 96489; 735296, 96437; 735329, 96364; 735233, 96324; 735132, 96601; 735053, 96564; 734996, 96686; 735049, 96740; 735078, 96823.

(iii) Map of Unit 2 (Haws Run Mitigation Site) follows:

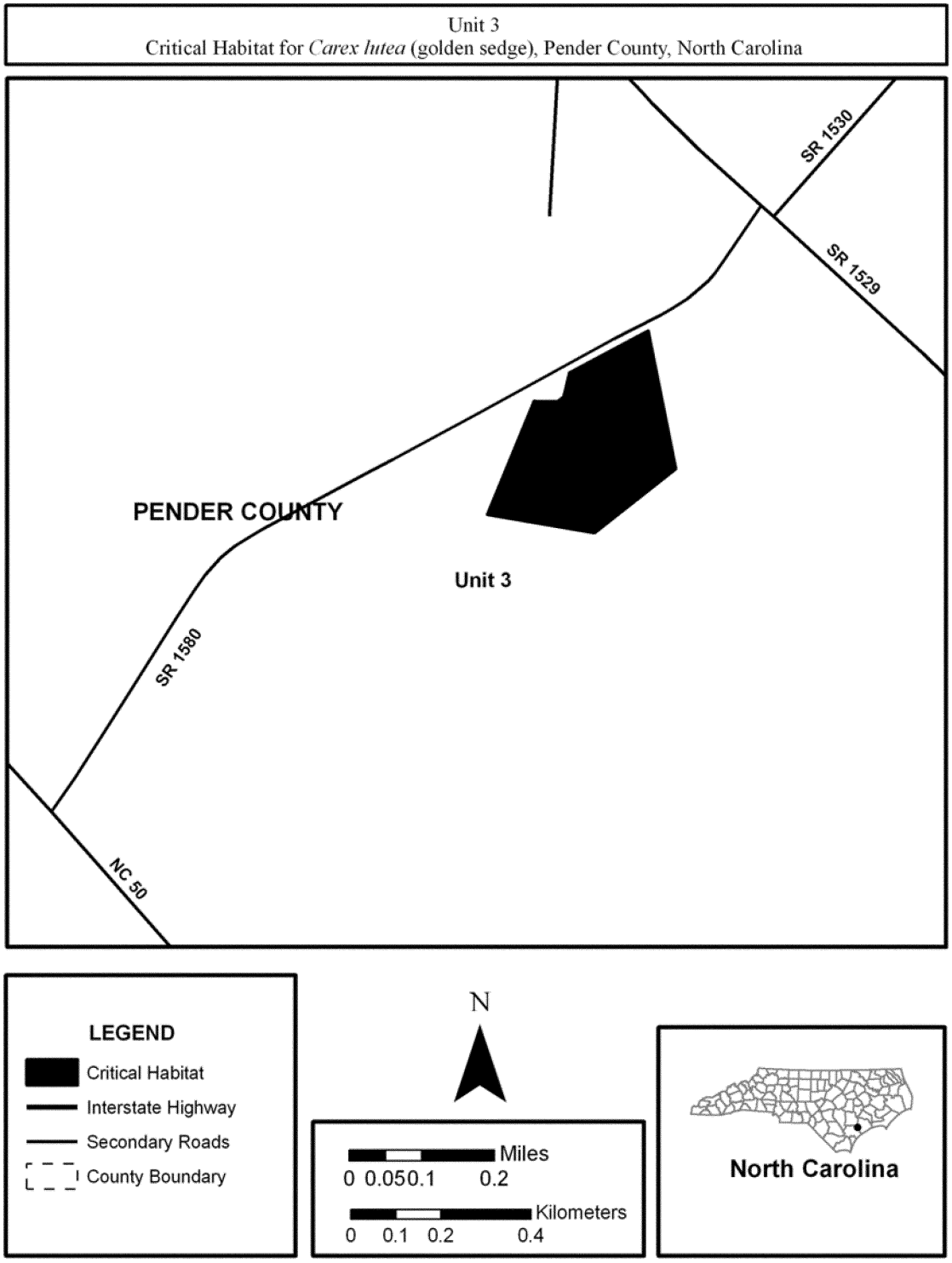


(8) Unit 3 for *Carex lutea:* Maple Hill School Road Savanna, Pender County, NC.

(i) Unit 3 for *Carex lutea* comprises 27.7 ac (11.2 ha) of Pine Savanna. Unit 3 is located approximately 3.7 mi (6.0 km) southeast of the intersection of NC 50 and NC 53, east of SR 1580 and north of NC 50.

(ii) Unit 3. Land bounded by the following UTM Zone 18, NAD 83 coordinates (E,N): 731509, 101826; 731333, 101675; 731094, 101706; 731187, 101962; 731239, 101964; 731253, 101975; 731264, 102030; 731435, 102129; 731509, 101826.

(iii) Map of Unit 3 (Maple Hill School Road Savanna) follows:



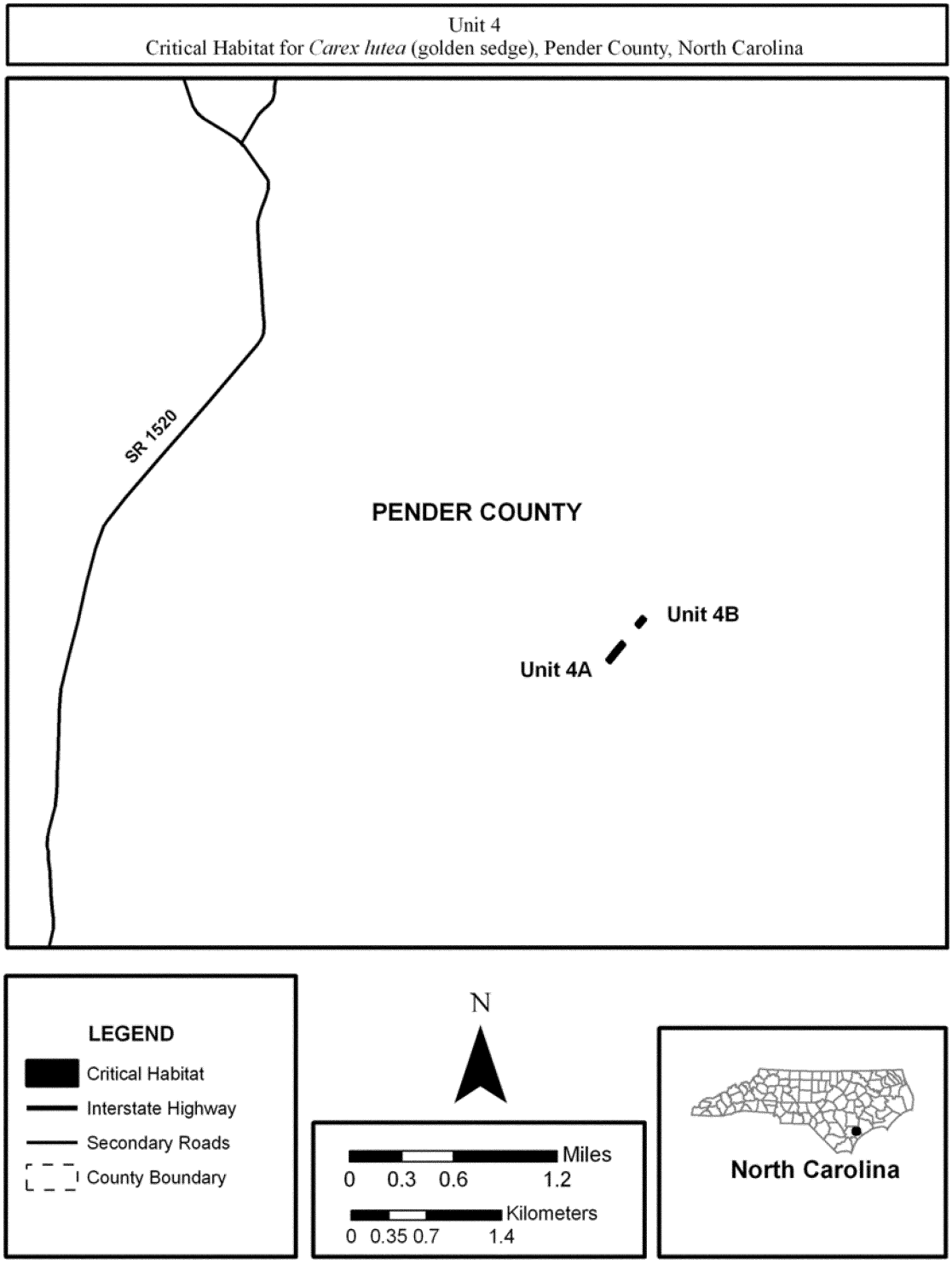
(9) Unit 4, subunits A and B, for *Carex lutea:* Southwest Ridge Savanna, Pender County, NC.

(i) Unit 4, subunits A and B, for *Carex lutea* comprises 3.3 ac (1.3 ha) of maintained power line on the edge of Pine Savanna. Unit 4 is located approximately 9.1 mi (14.7 km) southwest of the intersection of NC 50 and NC 53.

(ii) Subunit 4A. Land bounded by the following UTM Zone 18, NAD 83 coordinates (E,N): 723852, 89908; 723720, 89734; 723688, 89761; 723756, 89851; 723820, 89935; 723852, 89908.

(iii) Subunit 4B. Land bounded by the following UTM Zone 18, NAD 83 coordinates (E,N): 724036, 90152; 723975, 90075; 723946, 90104; 724004, 90177; 724036, 90152.

(iv) Map of Unit 4 (Southwest Ridge Savanna) follows:



(10) Unit 5, subunits A, B, C, D and E, for *Carex lutea:* Sandy Run Savannas, Onslow County, NC.

(i) Unit 5, subunits A, B, C, D and E, for *Carex lutea* comprises 25.2 ac (10.2 ha) of power line right-of-way, ecotone and Pine Savanna habitat. Unit 5 is located approximately 7.1 mi (11.4 km) southeast of the intersection of NC 50 and NC 53. Subunit A is located in a power line corridor east of NC 50, and subunits B, C, D, and E are west of NC 50.

(ii) Subunit 5A. Land bounded by the following UTM Zone 18, NAD 83 coordinates (E,N): 736771, 99308; 736625, 99178; 736587, 99216; 736737, 99350; 736771, 99308.

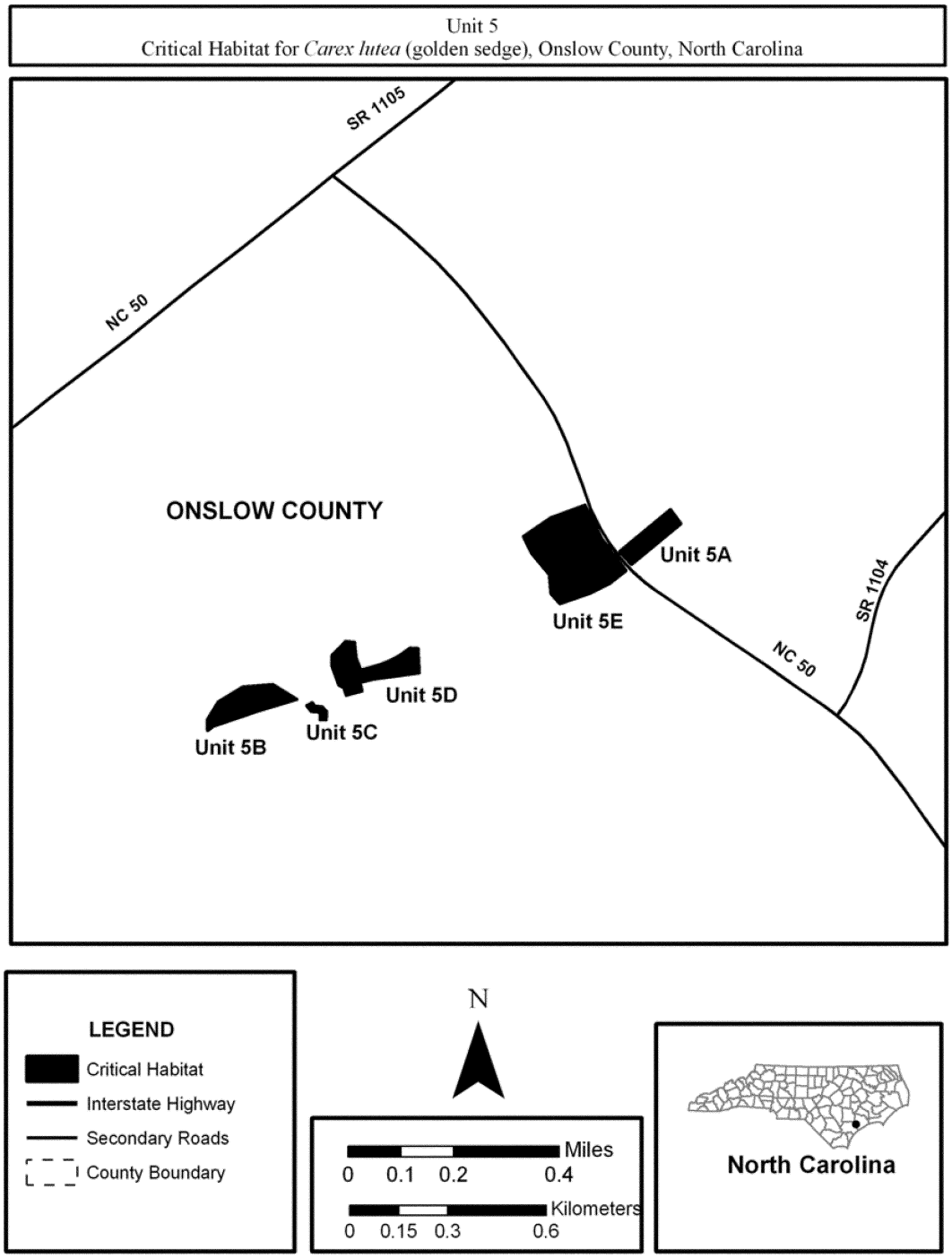
(iii) Subunit 5B. Land bounded by the following UTM Zone 18, NAD 83 coordinates (E,N): 735365, 98631; 735349, 98617; 735348, 98651; 735379, 98706; 735452, 98755; 735543, 98767; 735619, 98723; 735502, 98683; 735365, 98631.

(iv) Subunit 5C. Land bounded by the following UTM Zone 18, NAD 83 coordinates (E,N): 735711, 98665; 735692, 98664; 735692, 98680; 735687, 98688; 735664, 98688; 735650, 98706; 735666, 98715; 735673, 98706; 735697, 98704; 735711, 98689; 735711, 98670; 735711, 98665.

(v) Subunit 5D. Land bounded by the following UTM Zone 18, NAD 83 coordinates (E,N): 735817, 98757; 735769, 98743; 735761, 98762; 735812, 98776; 735817, 98757; and, 735756, 98767; 735745, 98774; 735722, 98827; 735720, 98863; 735761, 98907; 735787, 98905; 735795, 98859; 735810, 98821; 735864, 98838; 735899, 98854; 735928, 98871; 735958, 98894; 735983, 98894; 735990, 98820; 735850, 98795; 735756, 98767.

(vi) Subunit 5E. Land bounded by the following UTM Zone 18, NAD 83 coordinates (E,N): 736501, 99084; 736411, 99048; 736382, 99079; 736375, 99137; 736318, 99202; 736292, 99251; 736374, 99312; 736476, 99354; 736532, 99252; 736610, 99159; 736559, 99115; 736501, 99084.

(vii) Map of Unit 5 (Sandy Run Savannas) follows:



(11) Unit 6, subunits A, B, and C, for *Carex lutea:* The Neck Savanna, Pender County, NC.

(i) Unit 6, subunits A, B, and C, for *Carex lutea* comprises 4.4 ac (1.8 ha) of power line right-of-way, Pine Savanna habitat. Unit 6 is located approximately 5.3 mi (8.5 km) southeast of the intersection of NC 50 and NC 53. All three subunits are located south of NC 50. Subunits 6A and 6B are located in

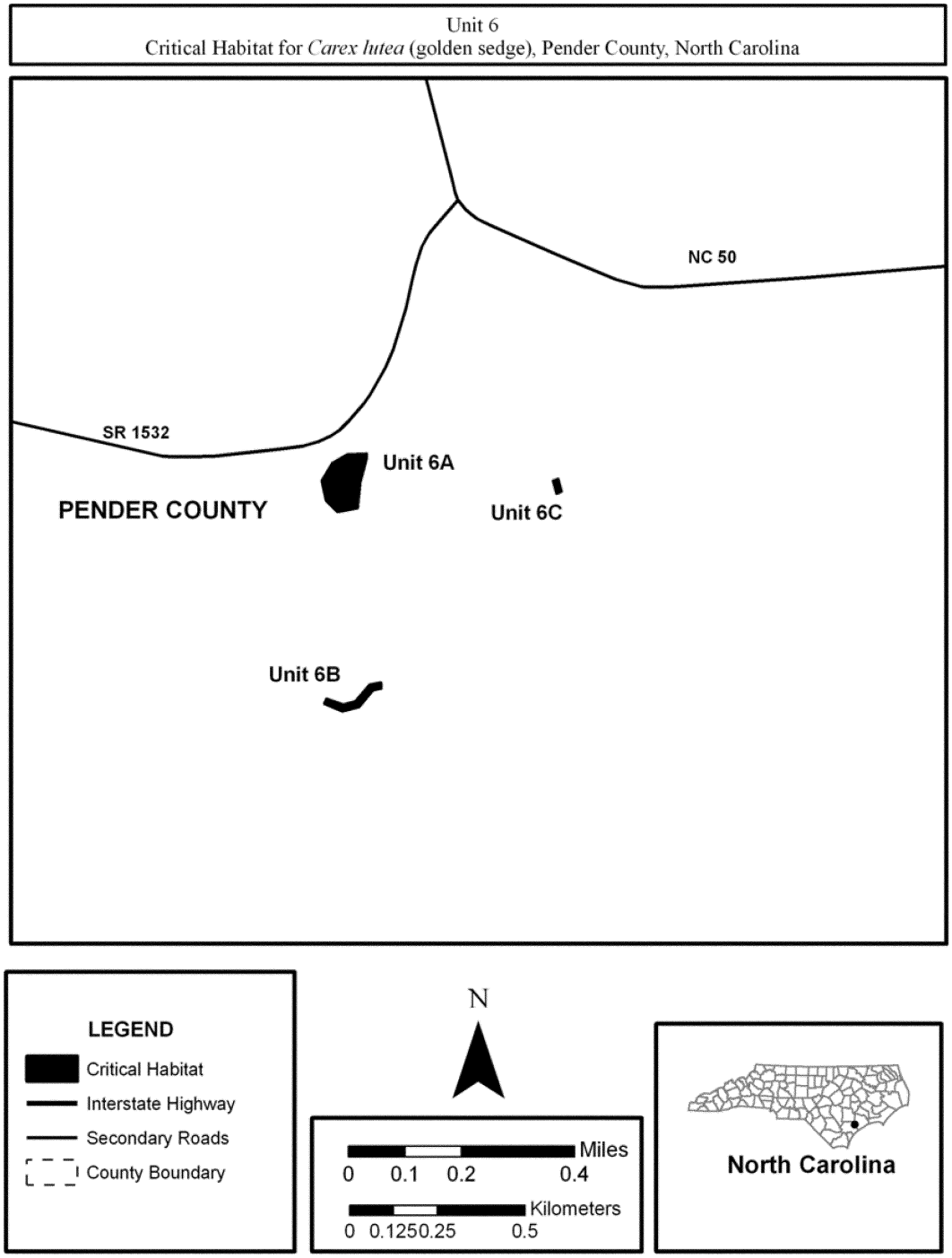
remnant Pine Savanna ecotones southeast of SR 1532, and Subunit 6C is located along a power line right-of-way adjacent to Williams Road.

(ii) Subunit 6A. Land bounded by the following UTM Zone 18, NAD 83 coordinates (E,N): 731077, 98383; 731055, 98378; 731023, 98410; 731008, 98465; 731036, 98516; 731078, 98542; 731132, 98546; 731132, 98531; 731117, 98465; 731114, 98417; 731112, 98391; 731077, 98383.

(iii) Subunit 6B. Land bounded by the following UTM Zone 18, NAD 83 coordinates (E,N): 731177, 97874; 731139, 97824; 731093, 97810; 731042, 97830; 731047, 97843; 731094, 97828; 731130, 97839; 731168, 97888; 731198, 97895; 731200, 97879; 731177, 97874.

(iv) Subunit 6C. Land bounded by the following UTM Zone 18, NAD 83 coordinates (E,N): 731691, 98462; 731678, 98456; 731668, 98491; 731680, 98496; 731691, 98462.

(v) Map of Unit 6 (The Neck Savanna) follows:



(12) Unit 7, subunits A, B, and C, for *Carex lutea:* Shaken Creek Savanna, Pender County, NC.

(i) Unit 7, subunits A, B, and C, for *Carex lutea* comprises 57.7 ac (23.4 ha) of Pine Savanna habitat. Unit 7 is located approximately 8.6 mi (13.8 km) southeast of the intersection of NC 50 and NC 53. All three subunits are

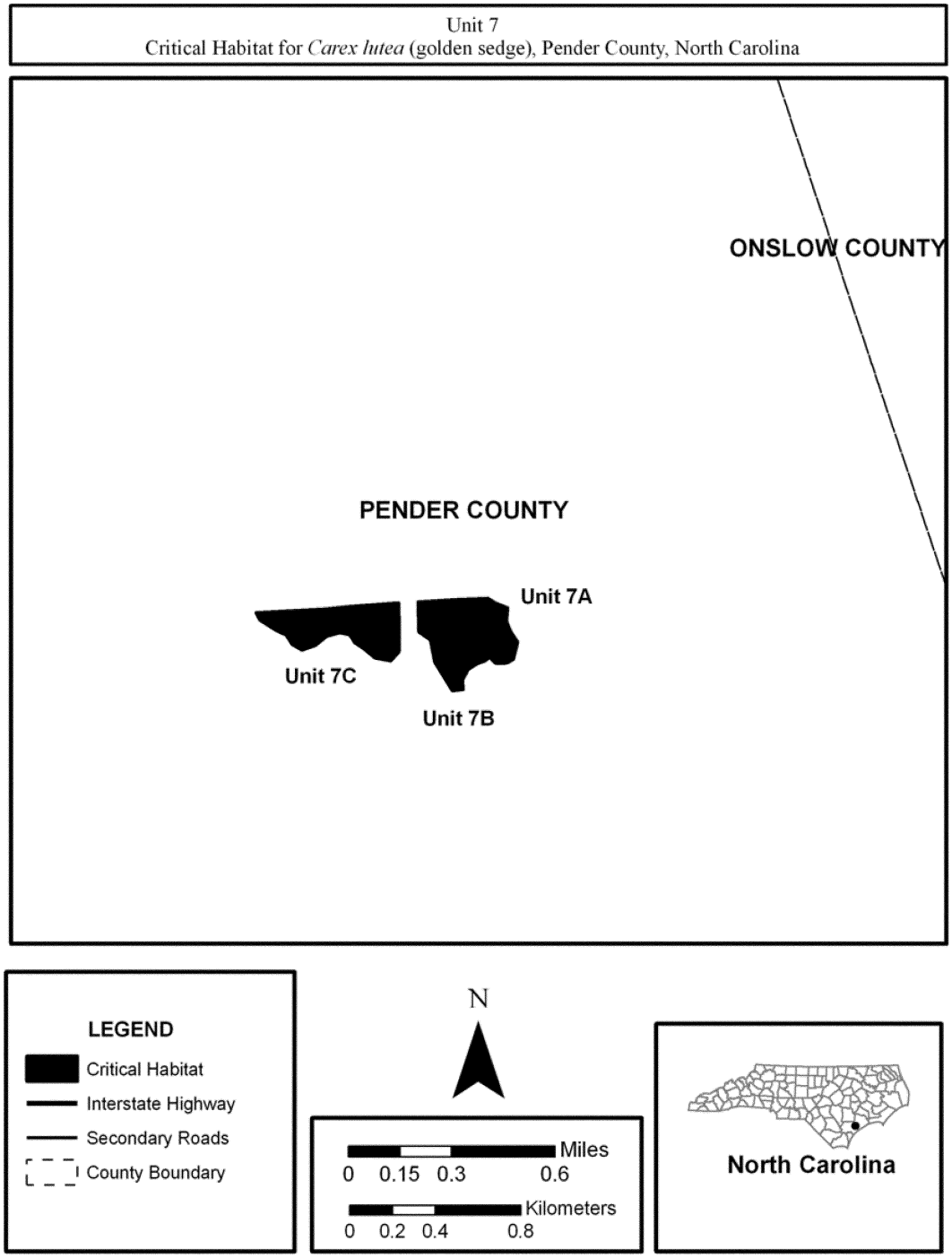
located west of NC 50. Subunit 7A is immediately south side of Flo Road and east of Alligator Lake Road. Subunit 7B is immediately south of Flo Road and west of Alligator Lake Road. Subunit 7C is immediately south of Flo Road and approximately 1,800 feet (549 meters) west of Alligator Lake Road.

(ii) Subunit 7A. Land bounded by the following UTM Zone 18, NAD 83 coordinates (E,N): 734066, 92945; 734015, 92941; 733993, 92959; 733995, 92973; 733987, 92987; 733976, 93018; 733972, 93074; 733967, 93130; 733970, 93156; 733983, 93185; 734006, 93222; 734060, 93204; 734057, 93140; 734080, 93088; 734114, 93044; 734096, 92963; 734066, 92945.

(iii) Subunit 7B. Land bounded by the following UTM Zone 18, NAD 83 coordinates (E,N): 733868, 92812; 733817, 92804; 733727, 92937; 733704, 93040; 733648, 93073; 733640, 93213; 733823, 93232; 733964, 93244; 733997, 93225; 733955, 93155; 733966, 93022; 733985, 92968; 733959, 92949; 733926, 92936; 733886, 92909; 733862, 92857; 733868, 92812.

(iv) Subunit 7C. Land bounded by the following UTM Zone 18, NAD 83 coordinates (E,N): 733556, 93081; 733560, 92976; 733522, 92933; 733449, 92943; 733393, 92985; 733351, 93010; 733327, 93048; 733280, 93055; 733217, 93035; 733165, 92990; 733106, 92968; 733059, 92992; 733030, 93034; 732976, 93056; 732902, 93101; 732883, 93132; 733202, 93163; 733318, 93178; 733549, 93206; 733556, 93081.

(v) Map of Unit 7 (Shaken Creek Savanna) follows:



(13) Unit 8, subunits A, B, and C, for *Carex lutea:* McLean Savanna, Pender County, NC.

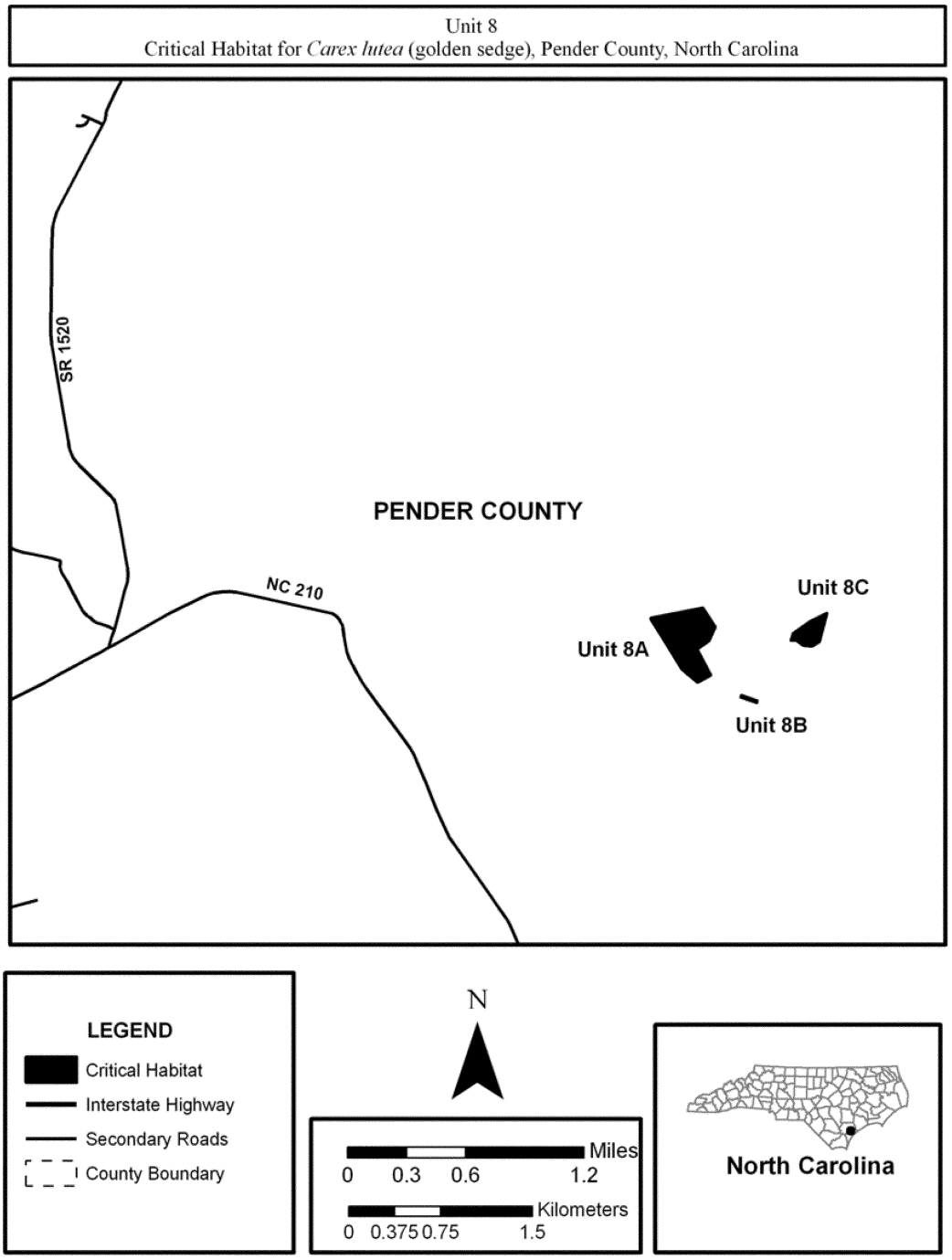
(i) Unit 8, subunits A, B, and C, for *Carex lutea* comprises 52.6 ac (21.3 ha) of Pine Savanna and ecotone habitat. Unit 8 is located approximately 16.4 mi (26.4 km) south of the intersection of NC 50 and NC 53 and approximately 2.1 mi (3.4 km) east of NC 210.

(ii) Subunit 8A. Land bounded by the following UTM Zone 18, NAD 83 coordinates (E,N): 722520, 77995; 722417, 77935; 722283, 78037; 722146, 78244; 722013, 78436; 722019, 78444; 722433, 78542; 722540, 78390; 722492, 78276; 722398, 78205; 722520, 77995.

(iii) Subunit 8B. Land bounded by the following UTM Zone 18, NAD 83 coordinates (E,N): 722780, 77840; 722846, 77820; 722907, 77802; 722903, 77787; 722842, 77806; 722774, 77825; 722780, 77840; 722780, 77840; 722779, 77841; 722780, 77840; 722780, 77840.

(iv) Subunit 8C. Land bounded by the following UTM Zone 18, NAD 83 coordinates (E,N): 723268, 78269; 723209, 78309; 723166, 78305; 723179, 78361; 723313, 78465; 723446, 78537; 723408, 78370; 723395, 78307; 723335, 78264; 723268, 78269.

(v) Map of Unit 8 (McLean Savanna) follows:



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Dated: February 10, 2011.

Thomas L. Strickland,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2011–4036 Filed 2–28–11; 8:45 am]

BILLING CODE 4310–55–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 101126522–0640–02]

RIN 0648–XZ89

Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Final 2011 and 2012 Harvest Specifications for Groundfish

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

ACTION: Final rule; closures.

SUMMARY: NMFS announces final 2011 and 2012 harvest specifications, apportionments, and Pacific halibut prohibited species catch limits for the groundfish fishery of the Gulf of Alaska (GOA). This action is necessary to establish harvest limits for groundfish during the 2011 and 2012 fishing years and to accomplish the goals and objectives of the Fishery Management Plan for Groundfish of the GOA. The intended effect of this action is to conserve and manage the groundfish resources in the GOA in accordance with the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: Effective at 1200 hrs, Alaska local time (A.l.t.), March 1, 2011, through 2400 hrs, A.l.t., December 31, 2012.

ADDRESSES: Electronic copies of the Final Alaska Groundfish Harvest Specifications Environmental Impact Statement (EIS), Record of Decision (ROD), Supplementary Information Report (SIR) to the EIS, and the Final Regulatory Flexibility Analysis (FRFA) prepared for this action are available from *http://alaskafisheries.noaa.gov.* The final 2010 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the GOA, dated November 2010, is available from the North Pacific Fishery Management Council (Council) at 605 West 4th Avenue, Suite 306, Anchorage, AK 99510–2252, phone 907–271–2809, or from the Council's Web site at *http://alaskafisheries.noaa.gov/npfmc.*

FOR FURTHER INFORMATION CONTACT: Tom Pearson, 907–481–1780, or Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the GOA groundfish fisheries in the exclusive economic zone (EEZ) of the GOA under the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The Council prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600, 679, and 680.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify the total allowable catch (TAC) for each target species, the sum of which must be within the optimum yield (OY) range of 116,000 to 800,000 metric tons (mt). Section 679.20(c)(1) further requires NMFS to publish and solicit public comment on proposed annual TACs, halibut prohibited species catch (PSC) amounts, and seasonal allowances of pollock and inshore/offshore Pacific cod. Upon consideration of public comment received under § 679.20(c)(1), NMFS must publish notice of final harvest specifications for up to two fishing years as annual target TAC, per § 679.20(c)(3)(ii). The final harvest specifications set forth in Tables 1 through 25 of this document reflect the outcome of this process, as required at § 679.20(c).

The proposed 2011 and 2012 harvest specifications for groundfish of the GOA and Pacific halibut PSC allowances were published in the **Federal Register** on December 8, 2010 (75 FR 76352). Comments were invited and accepted through January 7, 2011. NMFS did not receive any comments on the proposed harvest specifications. In December 2010, NMFS consulted with the Council regarding the 2011 and 2012 harvest specifications. After considering public testimony, as well as biological and economic data that were available at the Council's December 2010 meeting, NMFS is implementing the final 2011 and 2012 harvest specifications, as recommended by the Council. For 2011, the sum of the TAC amounts is 318,288 mt. For 2012, the sum of the TAC amounts is 335,078 mt.

Acceptable Biological Catch (ABC) and TAC Specifications

In December 2010, the Council, its Advisory Panel (AP), and its Scientific and Statistical Committee (SSC), reviewed current biological and harvest information about the condition of groundfish stocks in the GOA. This information was compiled by the Council's GOA Plan Team and was presented in the draft 2010 SAFE report for the GOA groundfish fisheries, dated November 2010 (*see* **ADDRESSES**). The SAFE report contains a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters, as well as summaries of the available information on the GOA ecosystem and the economic condition of the groundfish fisheries off Alaska. From these data and analyses, the Plan Team estimates an overfishing level (OFL) and ABC for each species or species group. The 2010 SAFE report was made available for public review upon notification of the proposed harvest specifications.

In previous years the largest changes from the proposed to the final harvest specifications have been based on the most recent NMFS stock surveys, which provide updated estimates of stock biomass and spatial distribution, and changes to the models used for making stock assessments. NMFS scientists presented updated and new survey results, changes to assessment models, and accompanying stock estimates at the November Plan Team meeting, and the SSC reviewed this information at the December 2010 Council meeting. In November 2010, the Plan Team considered updated stock assessments for pollock, Pacific cod, sablefish, sharks, squids, sculpins, and octopuses that are included in the final 2010 SAFE report. For the other groundfish stocks without recent surveys or other new scientific information, the final 2010 SAFE report updates the final 2009 SAFE assessments to include any other available, recent information, such as 2010 catch information, which does not result in significant changes from the proposed 2011 and 2012 harvest specifications. Changes from the proposed to the final harvest specifications in 2011 for newly assessed groundfish stocks are discussed below. New stock surveys and assessments are scheduled for 2011 and will be considered at the Plan Team and Council meetings in 2011 for the 2012 and 2013 groundfish fisheries.

The final ABCs and TACs are based on the best available biological and socioeconomic information, including projected biomass trends, information on assumed distribution of stock biomass, and revised methods used to calculate stock biomass. The FMP specifies the formulas, or tiers, to be used to compute ABCs and OFLs. The formulas applicable to a particular stock or stock complex are determined by the level of reliable information available to

fisheries scientists. This information is categorized into a successive series of six tiers to define OFL and ABC amounts, with tier one representing the highest level of information quality available and tier six representing the lowest level of information quality available.

The SSC adopted the final 2011 and 2012 OFLs and ABCs recommended by the Plan Team for all groundfish species, with the exception of sharks. The Plan Team's ABC recommendation for the shark species group was based on a 0.04 fishing mortality rate. However, the SSC preferred an ABC based on the tier 5 ABC calculation for spiny dogfish (where the ABC equals 75 percent of the OFL) and a tier 6 calculation for other sharks in the group. The Council adopted the SSC's OFL and ABC recommendations and the AP's TAC recommendations. The final TAC recommendations were based on the ABCs as adjusted for other biological and socioeconomic considerations, including maintaining the sum of all TACs within the required OY range of 116,000 to 800,000 mt.

The Council recommended TACs for 2011 and 2012 that are equal to ABCs for pollock, deep-water flatfish, rex sole, sablefish, Pacific ocean perch, shortraker rockfish, rougheye rockfish, northern rockfish, pelagic shelf rockfish, thornyhead rockfish, demersal shelf rockfish, big skate, longnose skate, other skates, squids, sharks, octopuses, and sculpins. The Council recommended TACs for 2011 and 2012 that are less than the ABCs for Pacific cod, flathead sole, shallow-water flatfish, arrowtooth flounder, other rockfish, and Atka mackerel. The Pacific cod TACs are set to accommodate the State of Alaska's (State's) guideline harvest levels (GHLs) for Pacific cod so that the ABC is not exceeded. The flathead sole, shallow-water flatfish, and arrowtooth flounder TACs are set to conserve the halibut PSC limit for use in other fisheries. The other rockfish TAC is set to reduce the amount of discards in the Southeast Outside (SEO) District. The Atka mackerel TAC is set to accommodate incidental catch amounts in other fisheries.

The 2011 and 2012 harvest specifications approved by the Secretary of Commerce (Secretary) are unchanged from those recommended by the Council and are consistent with the preferred harvest strategy alternative in the EIS (*see* **ADDRESSES**). NMFS finds that the Council's recommended OFLs, ABCs, and TACs are consistent with the biological condition of the groundfish stocks as described in the final 2010 SAFE report. NMFS also finds that the Council's recommendations for OFLs, ABCs, and TACs are consistent with the biological condition of groundfish stocks as adjusted for other biological and socioeconomic considerations, including maintaining the total TAC within the OY range. NMFS reviewed the Council's recommended TAC specifications and apportionments and approves these harvest specifications under 50 CFR 679.20(c)(3)(ii). The apportionment of TAC amounts among gear types, processing sectors, and seasons is discussed below.

Tables 1 and 2 list the final 2011 and 2012 OFLs, ABCs, TACs, and area apportionments of groundfish in the GOA. The sums of the 2011 and 2012 ABCs are 590,121 mt and 603,990 mt, respectively, which are higher in 2011 and 2012 than the 2010 ABC sum of 565,499 mt (75 FR 11749, March 12, 2010).

Specification and Apportionment of TAC Amounts

The ABC for the pollock stock in the combined Western, Central, and West Yakutat Regulatory Areas (W/C/WYK) has been adjusted to reflect the GHL established by the State for the Prince William Sound (PWS) pollock fishery since its inception in 1995. Genetic studies have led fisheries scientists to believe that the pollock in PWS is not a separate stock from the combined W/C/WYK population. Accordingly, the Council recommended decreasing the W/C/WYK pollock ABC to account for the State's PWS GHL. For 2011 and 2012, the PWS GHL for pollock is 1,650 mt.

The apportionment of annual pollock TAC among the Western and Central Regulatory Areas of the GOA reflects the seasonal biomass distribution and is discussed in greater detail below. The annual pollock TAC in the Western and Central Regulatory Areas of the GOA is apportioned among Statistical Areas 610, 620, and 630, as well as equally among each of the following four seasons: the A season (January 20 through March 10), the B season (March 10 through May 31), the C season (August 25 through October 1), and the D season (October 1 through November 1) (50 CFR 679.23(d)(2)(i) through (iv), and 679.20(a)(5)(iv)(A) through (B)).

As in 2010, the SSC and Council recommended that the method of apportioning the sablefish ABC among management areas in 2011 and 2012 include commercial fishery and survey data. NMFS stock assessment scientists believe the use of unbiased commercial fishery data reflecting catch-per-unit-effort provides rational input for stock distribution assessments. NMFS evaluates annually the use of commercial fishery data to ensure unbiased information is included in stock distribution models. The Council's recommendation for sablefish area apportionments also takes into account the prohibition on the use of trawl gear in the SEO District of the Eastern Regulatory Area and makes available five percent of the combined Eastern Regulatory Area ABCs to trawl gear for use as incidental catch in other directed groundfish fisheries in the WYK District (§ 679.20(a)(4)(i)).

The AP, SSC, and Council recommended apportionment of the ABC for Pacific cod in the GOA among regulatory areas based on the three most recent NMFS summer trawl surveys. The 2011 and 2012 Pacific cod TACs are affected by the State's fishery for Pacific cod in State waters in the Central and Western Regulatory Areas, as well as in PWS. The Plan Team, SSC, AP, and Council recommended that the sum of all State and Federal water Pacific cod removals from the GOA not exceed ABC recommendations. Accordingly, the Council recommended reducing the 2011 and 2012 Pacific cod TACs from the ABCs in the Eastern, Central and Western Regulatory Areas to account for State GHLs. Therefore, the 2011 Pacific cod TACs are less than the ABCs by the following amounts: (1) Eastern GOA, 651 mt; (2) Central GOA, 13,454 mt; and (3) Western GOA, 7,595 mt. The 2012 Pacific cod TACs are less than the ABCs by the following amounts: (1) Eastern GOA, 587 mt; (2) Central GOA, 12,121 mt; and (3) Western GOA, 6,842 mt. These amounts reflect the sum of the State's 2011 and 2012 GHLs in these areas, which are 25 percent of the Eastern, Central, and Western GOA ABCs, respectively. The percentage of the ABC used to calculate the 2011 and 2012 GHL for the State-managed Pacific cod fishery in PWS fisheries has been increased to 25 percent of the Eastern GOA ABC in 2011 and 2012, an increase from 15 percent in 2010.

NMFS establishes seasonal apportionments of the annual Pacific cod TAC in the Western and Central Regulatory Areas. Sixty percent of the annual TAC is apportioned to the A season for hook-and-line, pot, and jig gear from January 1 through June 10, and for trawl gear from January 20 through June 10. Forty percent of the annual TAC is apportioned to the B season for hook-and-line, pot, and jig gear from September 1 through December 31, and for trawl gear from September 1 through November 1 (§§ 679.23(d)(3) and 679.20(a)(12)).

For 2011 and 2012, NMFS establishes an A season directed fishing allowance

(DFA) for the Pacific cod fisheries in the GOA based on the management area TACs minus the recent, average A season incidental catch of Pacific cod in each management area before June 10 (§ 679.20(d)(1)). The DFA and incidental catch before June 10 will be managed such that total harvest in the A season will be no more than 60 percent of the annual TAC. Incidental catch taken after June 10 will continue to accrue against the B season TAC. This action meets the intent of the Steller sea lion protection measures by achieving temporal dispersion of the Pacific cod removals and by reducing the likelihood of harvest exceeding 60 percent of the annual TAC in the A season.

Other Actions Affecting the 2011 and 2012 Harvest Specifications

NMFS published a final rule to implement Amendment 87 to the FMP on October 6, 2010 (75 FR 61639), effective November 5, 2010. Amendment 87 moved squids, sharks, octopuses, and sculpins from the "other species" category to the "target species" category in the GOA and eliminated the "other species" category in the GOA FMP. Amendment 87 revised the FMP to meet the National Standard 1 guidelines for annual catch limits and accountability measures and requires that OFLs, ABCs, and TACs be established for squids, sharks, octopuses, and sculpins as part of the annual groundfish harvest specifications process. Based on the 2010 final SAFE report, NMFS is establishing ABCs, TACs, and OFLs for squids, sharks, octopuses, and sculpins for 2011 and 2012 (*see* Tables 1 and 2).

In October 2008, the Council adopted Amendment 34 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs. Amendment 34 would amend the Bering Sea and Aleutian Islands Crab Rationalization Program (Crab Rationalization Program) to exempt additional fishery participants from harvest limits, called sideboards, which apply to some vessels and license limitation program (LLP) licenses that are used to participate in GOA Pacific cod and pollock fisheries. These particular sideboards are discussed under the subsequent section titled "Non-AFA Crab Vessel Groundfish Harvest Limitations." Tables 17 and 18 specify the 2011 and 2012 sideboard amounts. If the Secretary approves Amendment 34, NMFS would revise the sideboard amounts specified in Tables 17 and 18. Pending completion of applicable rulemaking, these revisions could be effective as soon as the latter half of 2011.

Changes From the Proposed 2011 and 2012 Harvest Specifications in the GOA

In October 2010, the Council's recommendations for the proposed 2011 and 2012 harvest specifications (75 FR 76352, December 8, 2010) were based largely upon information contained in the final 2009 SAFE report for the GOA groundfish fisheries, dated November 2009 (*see* **ADDRESSES**). The Council proposed that the OFLs, ABCs, and TACs established for the 2011 groundfish fisheries (75 FR 11749, March 12, 2010) be rolled over to 2011 and 2012, pending completion and review of the 2010 SAFE report at its December 2010 meeting.

As described previously, the SSC adopted the final 2011 and 2012 OFLs and ABCs recommended by the Plan Team, with the exception of sharks. The Council adopted the SSC's OFL and ABC recommendations and the AP's TAC recommendations for 2011 and 2012. The final 2011 ABCs are higher than the 2011 ABCs published in the proposed 2011 and 2012 harvest specifications (75 FR 76352, December 8, 2010) for sablefish, arrowtooth flounder, northern rockfish, other rockfish, pelagic shelf rockfish, demersal shelf rockfish, squids, sharks, octopuses, and sculpins. Separate ABCs for squid, sharks, octopuses, and sculpins are being established for the first time in 2011 and 2012. These four species were formerly grouped under the "other species" category, with an aggregate OFL, ABC, and TAC. The final 2011 ABCs are lower than the proposed 2011 ABCs for pollock, Pacific cod, deepwater flatfish, rex sole, flathead sole, and rougheye rockfish. The final 2012 ABCs are higher than the proposed 2012 ABCs for pollock, sablefish, deepwater flatfish, flathead sole, other rockfish, demersal shelf rockfish, squids, sharks, octopuses, and sculpins. In contrast, the final 2012 ABCs are lower than the proposed 2012 ABCs for Pacific cod, rex sole, arrowtooth flounder, Pacific ocean perch, northern rockfish, pelagic shelf rockfish, and rougheye rockfish. For the remaining target species, the Council recommended, and the Secretary approved, final 2011 and 2012 ABC levels that are the same as the proposed 2011 and 2012 ABC levels.

Additional information explaining the changes between the proposed and final ABCs is included in the final 2010 SAFE report, which was not available when the Council made its proposed ABC and TAC recommendations in October 2010. At that time, the most recent stock assessment information was contained in the final 2009 SAFE report. The final 2010 SAFE report contains the best and most recent scientific information on the condition of the groundfish stocks, as previously discussed in this preamble. This document currently is available from the Council (*see* **ADDRESSES**). The Council considered the final 2010 SAFE report in December 2010 when it made recommendations for the final 2011 and 2012 harvest specifications, including recommendations for 2011 and 2012 TAC limits. The Council's final 2011 and 2012 TAC recommendations increase fishing opportunities for species for which the Council had sufficient information to raise TAC levels. Conversely, the Council reduced TAC levels to provide greater protection for some species. In the GOA, the total final 2011 TAC amount is 318,288 mt, a decrease of four percent from the total proposed 2011 TAC limit of 330,746 mt. The total final 2012 TAC amount is 335,078 mt, an increase of one percent from the total proposed 2011 TAC limit of 330,746 mt. For the species and species groups for which a new assessment was prepared, the greatest TAC increases were for sablefish, sharks, octopuses, and sculpins, while the greatest decreases were for pollock and Pacific cod. These TAC changes corresponded to associated changes in the ABC levels, as recommended by the SSC.

The largest 2011 decreases in TAC occurred for pollock and Pacific cod. Pollock decreased from the proposed limit 109,105 mt to the final limit of 96,215 mt (12 percent decrease). While the 2010 SAFE report indicates an increase in spawning biomass, the current spawning biomass level places this stock in Tier 3b. Accordingly, ABC was calculated as required by the FMP for Tier 3b stocks, and TAC was set equal to ABC. Although the final TAC for pollock is reduced from the proposed level by 12 percent, this limit is still an increase over the final 2010 pollock TAC. Pacific cod decreased from 73,426 mt to 65,100 mt (11 percent decrease) in light of a new assessment model that projects a slight decline of Pacific cod biomass in coming years (rather than a slight increase as projected in 2009) and a decrease in the biomass estimates for recent year (2006–2009) classes.

The basis for the increased TACs for sablefish, sharks, octopuses, and sculpins varied. Sablefish increased from 9,300 mt to 11,290 mt (21 percent increase) due to an increased biomass estimate from the 2010 sablefish hook-and-line survey. Sharks increased from 957 mt to 6,197 mt (548 percent increase) due to the SSC's modification

of the Plan Team's recommendations for calculating shark ABC. The SSC recommended estimating the spiny dogfish ABC on a tier 5 approach, using the best available estimates for biomass and natural mortality rates for this species. For all other shark species, the SSC recommended using tier 6, which is based on recent average catch information. In combination, these recommendations led to the increased ABC for the shark complex. Octopuses increased from 224 mt to 954 mt (326 percent increase) due to the adoption of a biomass-based estimate placing octopuses in tier 5, rather than tier 6. Tier 6 management is based on the use of average historic catch data, which the Plan Team and SSC agreed was not an appropriate method to use for setting the OFL for octopuses. Instead, the octopus OFL was set using a modified tier 5 approach, using the average of the three most recent GOA trawl survey estimates of biomass as a minimum estimate, and applying a conservative natural mortality rate to that estimate to establish the OFL. Sculpins increased from 4,746 mt to 5,496 mt (16 percent increase) due to revised estimates of natural mortality.

The SSC recommended, and the Council concurred, that sharks and octopuses be placed on bycatch status. This eliminates the possibility that these species could be subject to directed fishing, and minimizes the potential catch of the species in these categories. The SSC believed that the stock assessment models for these species groups should be improved before considering allowing any directed fishing to occur. As such, NMFS is placing sharks and octopuses on bycatch status for the entire year.

Detailed information providing the basis for the changes described above is contained in the final 2010 SAFE report. The other TAC increases or decreases in the final 2011 harvest specifications are within 2 percent of the proposed 2011 harvest specifications. The final TACs are based on the most recent scientific information available. These TACs are specified in compliance with the harvest strategy described in both the proposed and final rules for the 2011 and 2012 harvest specifications. The changes in TAC limits between the proposed and this final rule are compared in the following table.

COMPARISON OF PROPOSED AND FINAL 2011 AND 2012 GOA TACS

[Values are rounded to the nearest metric ton]

Species	2011 final TAC	2011 proposed TAC	2011 difference from proposed	2012 final TAC	2012 proposed TAC	2012 difference from proposed
Pollock	96,215	109,105	−12,890	121,649	109,105	12,544
Pacific cod	65,100	73,426	−8,326	58,650	73,426	−14,776
Sablefish	11,290	9,300	1,990	10,345	9,300	1,045
Shallow-water flatfish	20,062	20,062	0	20,062	20,062	0
Deep-water flatfish	6,305	6,325	−20	6,486	6,325	161
Rex sole	9,565	9,592	−27	9,396	9,592	−196
Arrowtooth flounder	43,000	43,000	0	43,000	43,000	0
Flathead sole	10,587	10,576	11	10,693	10,576	117
Pacific ocean perch	16,997	16,993	4	16,187	16,993	−806
Northern rockfish	4,854	4,808	46	4,614	4,808	−194
Shortraker rockfish	914	914	0	914	914	0
Other rockfish	1,195	1,192	3	1,914	1,192	2
Pelagic shelf rockfish	4,754	4,727	27	4,438	4,727	−289
Rougheye rockfish	1,312	1,313	−1	1,312	1,313	−1
Demersal shelf rockfish	300	295	5	300	295	5
Thornyhead rockfish	1,770	1,770	0	1,770	1,770	0
Atka mackerel	2,000	2,000	0	2,000	2,000	0
Big skate	3,328	3,328	0	3,328	3,328	0
Longnose skates	2,852	2,852	0	2,852	2,852	0
Other skates	2,093	2,093	0	2,093	2,093	0
Squids	1,148	1,148	0	1,148	1,148	0
Sharks	6,197	957	5,240	6,197	957	5,240
Octopuses	954	224	224	954	224	730
Sculpins	5,496	4,746	750	5,496	4,746	750
Total	318,288	330,746	−12,458	335,078	330,746	4,332

The final 2011 and 2012 TAC recommendations for the GOA are within the OY range established for the GOA and do not exceed the ABC for any single species or complex. Tables 1 and 2 list the 2011 and 2012, respectively, final OFL, ABC, and TAC amounts for GOA groundfish.

TABLE 1—FINAL 2011 ABCS, TACS, AND OFLS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA

[Values are rounded to the nearest metric ton]

Species	Area [1]	OFL	ABC	TAC
Pollock [2]	Shumagin (610)	n/a	27,031	27,031
	Chirikof (620)	n/a	37,365	37,365
	Kodiak (630)	n/a	20,235	20,235

TABLE 1—FINAL 2011 ABCS, TACS, AND OFLS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA—Continued

[Values are rounded to the nearest metric ton]

Species	Area [1]	OFL	ABC	TAC
	WYK (640)	n/a	2,339	2,339
	W/C/WYK (subtotal)	118,030	86,970	86,970
	SEO (650)	12,326	9,245	9,245
	Total	130,356	96,215	96,215
Pacific cod [3]	W	n/a	30,380	22,785
	C	n/a	53,816	40,362
	E	n/a	2,604	1,953
	Total	102,600	86,800	65,100
Sablefish [4]	W	n/a	1,620	1,620
	C	n/a	4,740	4,740
	WYK	n/a	1,990	1,990
	SEO	n/a	2,940	2,940
	E (WYK and SEO) (subtotal)	n/a	4,930	4,930
	Total	13,340	11,290	11,290
Shallow-water flatfish [6]	W	n/a	23,681	4,500
	C	n/a	29,999	13,000
	WYK	n/a	1,228	1,228
	SEO	n/a	1,334	1,334
	Total	67,768	56,242	20,062
Deep-water flatfish [5]	W	n/a	529	529
	C	n/a	2,919	2,919
	WYK	n/a	2,083	2,083
	SEO	n/a	774	774
	Total	7,823	6,305	6,305
Rex sole	W	n/a	1,517	1,517
	C	n/a	6,294	6,294
	WYK	n/a	868	868
	SEO	n/a	886	886
	Total	12,499	9,565	9,565
Arrowtooth flounder	W	n/a	34,317	8,000
	C	n/a	144,559	30,000
	WYK	n/a	22,551	2,500
	SEO	n/a	11,723	2,500
	Total	251,068	213,150	43,000
Flathead sole	W	n/a	17,442	2,000
	C	n/a	28,104	5,000
	WYK	n/a	2,064	2,064
	SEO	n/a	1,523	1,523
	Total	61,412	49,133	10,587
Pacific ocean perch [7]	W	3,221	2,798	2,798
	C	11,948	10,379	10,379
	WYK	n/a	1,937	1,937
	SEO	n/a	1,883	1,883
	E (WYK and SEO) (subtotal)	4,397	3,820	3,820
	Total	19,566	16,997	16,997
Northern rockfish [8, 9]	W	n/a	2,573	2,573
	C	n/a	2,281	2,281
	E	n/a	0	0
	Total	5,784	4,854	4,854
Shortraker rockfish [11]	W	n/a	134	134
	C	n/a	325	325
	E	n/a	455	455
	Total	1,219	914	914
Other rockfish [9, 12]	W	n/a	212	212
	C	n/a	507	507
	WYK	n/a	276	276
	SEO	n/a	2,757	200

TABLE 1—FINAL 2011 ABCS, TACS, AND OFLS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA—Continued

[Values are rounded to the nearest metric ton]

Species	Area [1]	OFL	ABC	TAC
	Total	4,881	3,752	1,195
Pelagic shelf rockfish [13]	W	n/a	611	611
	C	n/a	3,052	3,052
	WYK	n/a	407	407
	SEO	n/a	684	684
	Total	5,570	4,754	4,754
Rougheye and Blackspotted rockfish [10]	W	n/a	81	81
	C	n/a	868	868
	E	n/a	363	363
	Total	1,579	1,312	1,312
Demersal shelf rockfish [14]	SEO	479	300	300
Thornyhead rockfish	W	n/a	425	425
	C	n/a	637	637
	E	n/a	708	708
	Total	2,360	1,770	1,770
Atka mackerel	GW	6,200	4,700	2,000
Big skate [15]	W	n/a	598	598
	C	n/a	2,049	2,049
	E	n/a	681	681
	Total	4,438	3,328	3,328
Longnose skate [16]	W	n/a	81	81
	C	n/a	2,009	2,009
	E	n/a	762	762
	Total	3,803	2,852	2,852
Other skates [17]	GW	2,791	2,093	2,093
Squids	GW	1,530	1,148	1,148
Sharks	GW	8,263	6,197	6,197
Octopuses	GW	1,273	954	954
Sculpins	GW	7,328	5,496	5,496
Total		723,928	590,121	318,288

[1] Regulatory areas and districts are defined at § 679.2. (W=Western Gulf of Alaska; C=Central Gulf of Alaska; E=Eastern Gulf of Alaska; WYK=West Yakutat District; SEO=Southeast Outside District; GW=Gulf-wide).

[2] Pollock is apportioned in the Western/Central Regulatory Areas among three statistical areas. Table 5 lists the final 2011 seasonal apportionments. In the West Yakutat and Southeast Outside Districts of the Eastern Regulatory Area, pollock is not divided into seasonal allowances.

[3] The annual Pacific cod TAC is apportioned 60% to the A season and 40% to the B season in the Western and Central Regulatory Areas of the GOA. Pacific cod is allocated 90% for processing by the inshore component and 10% for processing by the offshore component. Table 7 lists the final 2011 Pacific cod seasonal apportionments.

[4] Sablefish is allocated to trawl and hook-and-line gears for 2011. Table 3 lists the final 2011 sablefish TACs.

[5] "Deep-water flatfish" means Dover sole, Greenland turbot, Kamchatka flounder, and deepsea sole.

[6] "Shallow-water flatfish" means flatfish not including "deep-water flatfish," flathead sole, rex sole, or arrowtooth flounder.

[7] "Pacific ocean perch" means *Sebastes alutus.*

[8] "Northern rockfish" means *Sebastes polyspinous.* For management purposes the 3 mt apportionment of ABC to the WYK District of the Eastern Gulf of Alaska has been included in the slope rockfish species group.

[9] "Slope rockfish" means *Sebastes aurora* (aurora), *S. melanostomus* (blackgill), *S. paucispinis* (bocaccio), *S. goodei* (chilipepper), *S. crameri* (darkblotch), *S. elongatus* (greenstriped), *S. variegatus* (harlequin), *S. wilsoni* (pygmy), *S. babcocki* (redbanded), *S. proriger* (redstripe), *S. zacentrus* (sharpchin), *S. jordani* (shortbelly), *S. brevispinis* (silvergrey), *S. diploproa* (splitnose), *S. saxicola* (stripetail), *S. miniatus* (vermilion), and *S. reedi* (yellowmouth). In the Eastern GOA only, slope rockfish also includes northern rockfish, *S. polyspinous.*

[10] "Rougheye rockfish" means *Sebastes aleutianus* (rougheye) and *Sebastes melanostictus* (blackspotted).

[11] "Shortraker rockfish" means *Sebastes borealis.*

[12] "Other rockfish" in the Western and Central Regulatory Areas and in the West Yakutat District means slope rockfish and demersal shelf rockfish. The "other rockfish" species group in the SEO District means slope rockfish.

[13] "Pelagic shelf rockfish" means, *S. variabilis* (dusky), *S. entomelas* (widow), and *S. flavidus* (yellowtail).

[14] "Demersal shelf rockfish" means *Sebastes pinniger* (canary), *S. nebulosus* (china), *S. caurinus* (copper), *S. maliger* (quillback), *S. helvomaculatus* (rosethorn), *S. nigrocinctus* (tiger), and *S. ruberrimus* (yelloweye).

[15] "Big skate" means *Raja binoculata.*

[16] "Longnose skate" means *Raja rhina.*

[17] "Other skates" means *Bathyraja spp.*

TABLE 2—FINAL 2012 ABCS, TACS, AND OFLS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA

[Values are rounded to the nearest metric ton]

Species	Area [1]	OFL	ABC	TAC
Pollock [2]	Shumagin (610)	n/a	34,932	34,932
	Chirikof (620)	n/a	48,293	48,293
	Kodiak (630)	n/a	26,155	26,155
	WYK (640)	n/a	3,024	3,024
	W/C/WYK (subtotal)	151,030	112,404	112,404
	SEO (650)	12,326	9,245	9,245
	Total	163,356	121,649	121,649
Pacific cod [3]	W	n/a	27,370	20,528
	C	n/a	48,484	36,362
	E	n/a	2,346	1,760
	Total	92,300	78,200	58,650
Sablefish [4]	W	n/a	1,484	1,484
	C	n/a	4,343	4,343
	WYK	n/a	1,818	1,818
	SEO	n/a	2,700	2,700
	E (WYK and SEO) (subtotal)	n/a	4,518	4,518
	Total	12,232	10,345	10,345
Shallow-water flatfish [6]	W	n/a	23,681	4,500
	C	n/a	29,999	13,000
	WYK	n/a	1,228	1,228
	SEO	n/a	1,334	1,334
	Total	67,768	56,242	20,062
Deep-water flatfish [5]	W	n/a	541	541
	C	n/a	3,004	3,004
	WYK	n/a	2,144	2,144
	SEO	n/a	797	797
	Total	8,046	6,486	6,486
Rex sole	W	n/a	1,490	1,490
	C	n/a	6,184	6,184
	WYK	n/a	853	853
	SEO	n/a	889	889
	Total	12,279	9,396	9,396
Arrowtooth flounder	W	n/a	33,975	8,000
	C	n/a	143,119	30,000
	WYK	n/a	22,327	2,500
	SEO	n/a	11,606	2,500
	Total	248,576	211,027	43,000
Flathead sole	W	n/a	17,960	2,000
	C	n/a	28,938	5,000
	WYK	n/a	2,125	2,125
	SEO	n/a	1,568	1,568
	Total	63,202	50,591	10,693
Pacific ocean perch [7]	W	3,068	2,665	2,665
	C	11,379	9,884	9,884
	WYK	n/a	1,845	1,845
	SEO	n/a	1,793	1,793
	E (WYK and SEO) (subtotal)	4,188	3,638	3,638
	Total	18,635	16,187	16,187
Northern rockfish [8, 9]	W	n/a	2,446	2,446
	C	n/a	2,168	2,168
	E	n/a	0	0
	Total	5,498	4,614	4,614
Shortraker rockfish [11]	W	n/a	134	134
	C	n/a	325	325
	E	n/a	455	455
	Total	1,219	914	914
Other rockfish [9, 12]	W	n/a	212	212
	C	n/a	507	507

TABLE 2—FINAL 2012 ABCS, TACS, AND OFLS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA—Continued

[Values are rounded to the nearest metric ton]

Species	Area [1]	OFL	ABC	TAC
	WYK	n/a	275	275
	SEO	n/a	2,757	200
	Total	4,881	3,751	1,194
Pelagic shelf rockfish [13]	W	n/a	570	570
	C	n/a	2,850	2,850
	WYK	n/a	380	380
	SEO	n/a	638	638
	Total	5,387	4,438	4,438
Rougheye and Blackspotted rockfish [10]	W	n/a	81	81
	C	n/a	868	868
	E	n/a	363	363
	Total	1,579	1,312	1,312
Demersal shelf rockfish [14]	SEO	479	300	300
Thornyhead rockfish	W	n/a	425	425
	C	n/a	637	637
	E	n/a	708	708
	Total	2,360	1,770	1,770
Atka mackerel	GW	6,200	4,700	2,000
Big skate [15]	W	n/a	598	598
	C	n/a	2,049	2,049
	E	n/a	681	681
	Total	4,438	3,328	3,328
Longnose skate [16]	W	n/a	81	81
	C	n/a	2,009	2,009
	E	n/a	762	762
	Total	3,803	2,852	2,852
Other skates [17]	GW	2,791	2,093	2,093
Squids	GW	1,530	1,148	1,148
Sharks	GW	8,263	6,197	6,197
Octopuses	GW	1,272	954	954
Sculpins	GW	7,328	5,496	5,496
Total		743,421	603,990	335,078

[1] Regulatory areas and districts are defined at § 679.2. (W=Western Gulf of Alaska; C=Central Gulf of Alaska; E=Eastern Gulf of Alaska; WYK=West Yakutat District; SEO=Southeast Outside District; GW=Gulf-wide).

[2] Pollock is apportioned in the Western/Central Regulatory Areas among three statistical areas. Table 6 lists the final 2012 seasonal apportionments. In the West Yakutat and Southeast Outside Districts of the Eastern Regulatory Area, pollock is not divided into seasonal allowances.

[3] The annual Pacific cod TAC is apportioned 60% to the A season and 40% to the B season in the Western and Central Regulatory Areas of the GOA. Pacific cod is allocated 90% for processing by the inshore component and 10% for processing by the offshore component. Table 8 lists the final 2012 Pacific cod seasonal apportionments.

[4] Sablefish is allocated to trawl gear only for 2012. Table 3 lists the final 2012 trawl allocation of sablefish TACs.

[5] "Deep-water flatfish" means Dover sole, Greenland turbot, Kamchatka flounder, and deepsea sole.

[6] "Shallow-water flatfish" means flatfish not including "deep-water flatfish," flathead sole, rex sole, or arrowtooth flounder.

[7] "Pacific ocean perch" means *Sebastes alutus.*

[8] "Northern rockfish" means *Sebastes polyspinous.* For management purposes the 2 mt apportionment of ABC to the WYK District of the Eastern Gulf of Alaska has been included in the slope rockfish species group.

[9] "Slope rockfish" means *Sebastes aurora* (aurora), *S. melanostomus* (blackgill), *S. paucispinis* (bocaccio), *S. goodei* (chilipepper), *S. crameri* (darkblotch), *S. elongatus* (greenstriped), *S. variegatus* (harlequin), *S. wilsoni* (pygmy), *S. babcocki* (redbanded), *S. proriger* (redstripe), *S. zacentrus* (sharpchin), *S. jordani* (shortbelly), *S. brevispinis* (silvergrey), *S. diploproa* (splitnose), *S. saxicola* (stripetail), *S. miniatus* (vermilion), and *S. reedi* (yellowmouth). In the Eastern GOA only, slope rockfish also includes northern rockfish, *S. polyspinous.*

[10] "Rougheye rockfish" means *Sebastes aleutianus* (rougheye) and *Sebastes melanostictus* (blackspotted).

[11] "Shortraker rockfish" means *Sebastes borealis.*

[12] "Other rockfish" in the Western and Central Regulatory Areas and in the West Yakutat District means slope rockfish and demersal shelf rockfish. The "other rockfish" species group in the SEO District means slope rockfish.

[13] "Pelagic shelf rockfish" means, *S. variabilis* (dusky), *S. entomelas* (widow), and *S. flavidus* (yellowtail).

[14] "Demersal shelf rockfish" means *Sebastes pinniger* (canary), *S. nebulosus* (china), *S. caurinus* (copper), *S. maliger* (quillback), *S. helvomaculatus* (rosethorn), *S. nigrocinctus* (tiger), and *S. ruberrimus* (yelloweye).

[15] "Big skate" means *Raja binoculata.*

[16] "Longnose skate" means *Raja rhina.*

[17] "Other skates" means *Bathyraja spp.*

Apportionment of Reserves

Section 679.20(b)(2) requires NMFS to set aside 20 percent of each TAC for pollock, Pacific cod, flatfish, squids, sharks, octopuses, and sculpins in reserves for possible apportionment at a later date during the fishing year. In 2010, NMFS reapportioned all the reserves in the final harvest specifications. For 2011 and 2012, NMFS proposed reapportionment of all the reserves in the proposed 2011 and 2012 harvest specifications published in the **Federal Register** on December 8, 2010 (75 FR 76352). NMFS did not receive any public comments on the proposed reapportionments. For the final 2011 and 2012 harvest specifications, NMFS reapportioned, as proposed, all the reserves for pollock, Pacific cod, flatfish, squids, sharks, octopuses, and sculpins. Specifications of TAC shown in Tables 1 and 2 reflect reapportionment of reserve amounts for these species and species groups.

Allocations of the Sablefish TAC Amounts to Vessels Using Hook-and-Line and Trawl Gear

Section 679.20(a)(4)(i) and (ii) require allocations of sablefish TACs for each of the regulatory areas and districts to hook-and-line and trawl gear. In the Western and Central Regulatory Areas, 80 percent of each TAC is allocated to hook-and-line gear, and 20 percent of each TAC is allocated to trawl gear. In the Eastern Regulatory Area, 95 percent of the TAC is allocated to hook-and-line gear, and five percent is allocated to trawl gear. The trawl gear allocation in the Eastern Regulatory Area may only be used to support incidental catch of sablefish in directed fisheries for other target species (§ 679.20(a)(4)(i)). In recognition of the trawl ban in the SEO District of the Eastern Regulatory Area, the Council recommended allocating five percent of the combined Eastern Regulatory Area sablefish TAC to trawl gear in the WYK District and making the remainder of the WYK sablefish TAC available to vessels using hook-and-line gear. NMFS concurs with the Council's recommendation, and, as a result, allocates 100 percent of the sablefish TAC in the SEO District to vessels using hook-and-line gear. This recommendation results in an allocation of 247 mt to trawl gear and 1,744 mt to hook-and-line gear in the WYK District in 2011, an allocation of 2,940 mt to hook-and-line gear in the SEO District in 2011, and 226 mt to trawl gear in the WYK District in 2012. Table 3 lists the allocations of the 2011 sablefish TACs to hook-and-line and trawl gear. Table 4 lists the allocations of the 2012 sablefish TACs to trawl gear.

The Council recommended that the hook-and-line sablefish TAC be established annually to ensure that this Individual Fishery Quota (IFQ) fishery is conducted concurrent with the halibut IFQ fishery and is based on the most recent sablefish survey information. The Council also recommended that only a trawl sablefish TAC be established for two years so that retention of incidental catch of sablefish by trawl gear could commence in January in the second year of the groundfish harvest specifications. However, since there is an annual assessment for sablefish and the final harvest specifications are expected to be published before the IFQ season begins (typically, early March), the Council recommended that the hook-and-line sablefish TAC be set on an annual basis, rather than for two years, so that the best and most recent scientific information could be considered in establishing the sablefish ABCs and TACs. Since sablefish is on bycatch status for trawl gear during the entire fishing year, and given that fishing for groundfish is prohibited prior to January 20, it is not likely that the trawl allocation of sablefish would be reached before the effective date of the final harvest specifications.

TABLE 3—FINAL 2011 SABLEFISH TAC SPECIFICATIONS IN THE GOA AND ALLOCATIONS TO HOOK-AND-LINE AND TRAWL GEAR

[Values are rounded to the nearest metric ton]

Area/district	TAC	Hook-and-line allocation	Trawl allocation
Western	1,620	1,296	324
Central	4,740	3,792	948
West Yakutat [1]	1,990	1,744	247
Southeast Outside	2,940	2,940	0
Total	11,290	9,772	1,519

[1] The trawl allocation is based on allocating five percent of the combined Eastern Regulatory Area (West Yakutat and Southeast Outside combined) sablefish TAC to trawl gear in the West Yakutat District.

TABLE 4—FINAL 2012 SABLEFISH TAC SPECIFICATIONS IN THE GOA AND ALLOCATION TO TRAWL GEAR [1]

[Values are rounded to the nearest metric ton]

Area/district	TAC	Hook-and-line allocation	Trawl allocation
Western	1,484	n/a	297
Central	4,343	n/a	869
West Yakutat [2]	1,818	n/a	226
Southeast Outside	2,700	n/a	0
Total	10,345	n/a	1,391

[1] The Council recommended that harvest specifications for the hook-and-line gear sablefish Individual Fishing Quota fisheries be limited to one year.

[2] The trawl allocation is based on allocating five percent of the combined Eastern Regulatory Area (West Yakutat and Southeast Outside combined) sablefish TAC to trawl gear in the West Yakutat District.

Apportionments of Pollock TAC Among Seasons and Regulatory Areas, and Allocations for Processing by Inshore and Offshore Components

In the GOA, pollock is apportioned by season and area, and is further allocated for processing by inshore and offshore components. Pursuant to § 679.20(a)(5)(iv)(B), the annual pollock TAC specified for the Western and Central Regulatory Areas of the GOA is apportioned into four equal seasonal allowances of 25 percent. As established by § 679.23(d)(2)(i) through (iv), the A, B, C, and D season allowances are available from January 20 to March 10, March 10 to May 31, August 25 to October 1, and October 1 to November 1, respectively.

Pollock TACs in the Western and Central Regulatory Areas of the GOA are apportioned among Statistical Areas 610, 620, and 630, pursuant to § 679.20(a)(5)(iv)(A). In the A and B seasons, the apportionments are in proportion to the distribution of pollock biomass based on the four most recent NMFS winter surveys. In the C and D seasons, the apportionments are in proportion to the distribution of pollock biomass based on the four most recent NMFS summer surveys. For 2011 and 2012, the Council recommends, and NMFS approves, averaging the winter and summer distribution of pollock in the Central Regulatory Area for the A season. The average is intended to reflect the distribution of pollock and the performance of the fishery in the area during the A season for the 2011 and 2012 fishing years. During the A season, the apportionment is based on an adjusted estimate of the relative distribution of pollock biomass of approximately 23 percent, 56 percent, and 21 percent in Statistical Areas 610, 620, and 630, respectively. During the B season, the apportionment is based on the relative distribution of pollock biomass at 23 percent, 67 percent, and 10 percent in Statistical Areas 610, 620, and 630, respectively. During the C and D seasons, the apportionment is based on the relative distribution of pollock biomass at 41 percent, 27 percent, and 32 percent in Statistical Areas 610, 620, and 630, respectively. Within any fishing year, the amount by which a seasonal allowance is underharvested or overharvested may be added to, or subtracted from, subsequent seasonal allowances in a manner to be determined by the Regional Administrator (§ 679.20(a)(5)(iv)(B)). The rollover amount is limited to 20 percent of the unharvested seasonal apportionment for the statistical area. Any unharvested pollock above the 20 percent limit could be further distributed to the other statistical areas, in proportion to the estimated biomass in the subsequent season in those statistical areas (§ 679.20(a)(5)(iv)(B)). The pollock TACs in the WYK and SEO District of 2,339 mt and 9,245 mt, respectively, in 2011, and 3,024 mt and 9,245 mt, respectively, in 2012, are not allocated by season.

Section 679.20(a)(6)(i) requires the allocation of 100 percent of the pollock TAC in all regulatory areas and all seasonal allowances to vessels catching pollock for processing by the inshore component after subtraction of amounts projected by the Regional Administrator to be caught by, or delivered to, the offshore component incidental to directed fishing for other groundfish species. Thus, the amount of pollock available for harvest by vessels harvesting pollock for processing by the offshore component is that amount that will be taken as incidental catch during directed fishing for groundfish species other than pollock, up to the maximum retainable amounts allowed by § 679.20(e) and (f). At this time, these incidental catch amounts of pollock are unknown and will be determined during the fishing year during the course of fishing activities by the offshore component.

Tables 5 and 6 list the seasonal biomass distribution of pollock in the Western and Central Regulatory Areas, area apportionments, and seasonal allowances. The amounts of pollock for processing by the inshore and offshore components are not shown.

TABLE 5—FINAL 2011 DISTRIBUTION OF POLLOCK IN THE CENTRAL AND WESTERN REGULATORY AREAS OF THE GOA; SEASONAL BIOMASS DISTRIBUTION, AREA APPORTIONMENTS; AND SEASONAL ALLOWANCES OF ANNUAL TAC

[Values are rounded to the nearest metric ton]

Season [1]	Shumagin (Area 610)		Chirikof (Area 620)		Kodiak (Area 630)		Total [2]
A (Jan 20–Mar 10)	4,787	(22.62%)	11,896	(56.22%)	4,475	(21.15%)	21,159
B (Mar 10–May 31)	4,787	(22.62%)	14,232	(67.26%)	2,139	(10.11%)	21,158
C (Aug 25–Oct 1)	8,729	(41.25%)	5,618	(26.55%)	6,811	(32.19%)	21,158
D (Oct 1–Nov 1)	8,729	(41.25%)	5,618	(26.55%)	6,811	(32.19%)	21,158
Annual Total [3]	27,031		37,365		20,235		84,631

[1] As established by § 679.23(d)(2)(i) through (iv), the A, B, C, and D season allowances are available from January 20 to March 10, March 10 to May 31, August 25 to October 1, and October 1 to November 1, respectively. The amounts of pollock for processing by the inshore and offshore components are not shown in this table.

[2] The WYK and SEO District pollock TACs are not allocated by season and are not included in the total pollock TACs shown in this table.

[3] Seasonal apportionments may not total precisely due to rounding.

TABLE 6—FINAL 2012 DISTRIBUTION OF POLLOCK IN THE CENTRAL AND WESTERN REGULATORY AREAS OF THE GOA; SEASONAL BIOMASS DISTRIBUTION, AREA APPORTIONMENTS; AND SEASONAL ALLOWANCES OF ANNUAL TAC

[Values are rounded to the nearest metric ton]

Season [1]	Shumagin (Area 610)		Chirikof (Area 620)		Kodiak (Area 630)		Total [2]
A (Jan 20–Mar 10)	6,186	(22.62%)	15,374	(56.22%)	5,783	(21.15%)	27,345
B (Mar 10–May 31)	6,185	(22.62%)	18,393	(67.26%)	2,765	(10.11%)	27,345
C (Aug 25–Oct 1)	11,280	(41.25%)	7,262	(26.55%)	8,803	(32.19%)	27,345
D (Oct 1–Nov 1)	11,280	(41.25%)	7,262	(26.55%)	8,803	(32.19%)	27,345

TABLE 6—FINAL 2012 DISTRIBUTION OF POLLOCK IN THE CENTRAL AND WESTERN REGULATORY AREAS OF THE GOA; SEASONAL BIOMASS DISTRIBUTION, AREA APPORTIONMENTS; AND SEASONAL ALLOWANCES OF ANNUAL TAC—Continued

[Values are rounded to the nearest metric ton]

Annual Total [3]	34,932		48,293		26,155		109,380

[1] As established by § 679.23(d)(2)(i) through (iv), the A, B, C, and D season allowances are available from January 20 to March 10, March 10 to May 31, August 25 to October 1, and October 1 to November 1, respectively. The amounts of pollock for processing by the inshore and offshore components are not shown in this table.

[2] The WYK and SEO District pollock TACs are not allocated by season and are not included in the total pollock TACs shown in this table.

[3] Seasonal apportionments may not total precisely due to rounding.

Seasonal Apportionments of Pacific Cod TAC and Allocations for Processing of Pacific Cod TAC Between Inshore and Offshore Components

Pacific cod fishing is divided into two seasons in the Western and Central Regulatory Areas of the GOA. For hook-and-line, pot, and jig gear, the A season is January 1 through June 10, and the B season is September 1 through December 31. For trawl gear, the A season is January 20 through June 10, and the B season is September 1 through November 1 (§ 679.23(d)(3)(i)). After subtraction of incidental catch from the A season, 60 percent of the annual TAC will be available as a DFA during the A season for the inshore and offshore components. The remaining 40 percent of the annual TAC will be available for harvest during the B season. Under § 679.20(a)(12)(ii), any overage or underage of the Pacific cod allowance from the A season may be subtracted from or added to the subsequent B season allowance.

Section 679.20(a)(6)(ii) requires allocation of the TAC apportionments of Pacific cod in all regulatory areas to vessels catching Pacific cod for processing by the inshore and offshore components. Ninety percent of the Pacific cod TAC in each regulatory area is allocated to vessels catching Pacific cod for processing by the inshore component. The remaining 10 percent of the TAC is allocated to vessels catching Pacific cod for processing by the offshore component. Tables 7 and 8 list the seasonal apportionments and allocations of the final 2011 and 2012 Pacific cod TACs, respectively.

TABLE 7—FINAL 2011 SEASONAL APPORTIONMENTS AND ALLOCATION OF PACIFIC COD TAC AMOUNTS IN THE GOA; ALLOCATIONS FOR PROCESSING BY THE INSHORE AND OFFSHORE COMPONENTS

[Values are rounded to the nearest metric ton]

Regulatory area	Season	TAC	Component allocation	
			Inshore (90%)	Offshore (10%)
Western	Annual	22,785	20,507	2,279
	A season (60%)	13,671	12,304	1,367
	B season (40%)	9,114	8,203	911
Central	Annual	40,362	36,326	4,036
	A season (60%)	24,217	21,795	2,422
	B season (40%)	16,145	14,530	1,614
Eastern	Annual	1,953	1,758	195
	Total	65,100	58,590	6,510

TABLE 8—FINAL 2012 SEASONAL APPORTIONMENTS AND ALLOCATION OF PACIFIC COD TAC AMOUNTS IN THE GOA; ALLOCATIONS FOR PROCESSING BY THE INSHORE AND OFFSHORE COMPONENTS

[Values are rounded to the nearest metric ton]

Regulatory area	Season	TAC	Component allocation	
			Inshore (90%)	Offshore (10%)
Western	Annual	20,528	18,475	2,053
	A season (60%)	12,317	11,085	1,232
	B season (40%)	8,211	7,390	821
Central	Annual	36,363	32,727	3,636
	A season (60%)	21,818	19,636	2,182
	B season (40%)	14,545	13,091	1,455
Eastern	Annual	1,759	1,583	176
	Total	58,650	52,785	5,865

Demersal Shelf Rockfish (DSR)

The recommended 2011 and 2012 DSR TAC is 300 mt. Management of DSR is delegated to the State. In 2006, the Alaska Board of Fish allocated future SEO District DSR TACs between the commercial fishery (84 percent) and the sport fishery (16 percent) after deductions were made for anticipated subsistence harvests (8 mt). This results in 2011 and 2012 allocations of 245 mt to the commercial fishery and 47 mt to the sport fishery. The Alaska Department of Fish and Game (ADF&G) deducts estimates of incidental catch of DSR in the commercial halibut fishery and test fishery mortality from the DSR commercial fishery allocation. In 2010,

this resulted in 100 mt being available for the directed commercial DSR fishery apportioned between four outer coast areas. Only one of these areas, the South Southeast Outside area was open to directed commercial fishery with a GHL of 30 mt and a harvest of 30 mt. DSR harvest in the halibut fishery is linked to the halibut quota; therefore the ADF&G cannot estimate potential DSR incidental catch in that fishery until those quotas are established. Federally permitted catcher vessels using hook-and-line or jig gear fishing for groundfish and Pacific halibut in the SEO District of the GOA are required to retain all DSR (§ 679.20(j)). The ADF&G will announce the opening of directed fishing for DSR in 2011 in January following the International Pacific Halibut Commission's (IPHC) January 2011 annual meeting.

Apportionments to the Central GOA Rockfish Pilot Program

Section 679.81(a)(1) and (2) require the allocation of the primary rockfish species TACs in the Central Regulatory Area, after deducting incidental catch needs in other directed groundfish fisheries, to participants in the Rockfish Program. Five percent (2.5 percent to trawl gear and 2.5 percent to fixed gear) of the final TACs for Pacific ocean perch, northern rockfish, and pelagic shelf rockfish in the Central Regulatory Area are allocated to the entry level rockfish fishery; the remaining 95 percent are allocated to those vessels eligible to participate in the Rockfish Program. The Rockfish Program will expire in December 2011, although the Council has proposed a new program to supersede the existing Rockfish Program by 2012. NMFS is developing a proposed rule to implement the Council's revised program and anticipates that it will be published in the **Federal Register** for public review and comment early in 2011.

In 2011, NMFS is setting aside incidental catch amounts (ICAs) of 500 mt of Pacific ocean perch, 100 mt of northern rockfish, and 100 mt of pelagic shelf rockfish for other directed fisheries in the Central Regulatory Area. These amounts are based on recent average incidental catch in the Central Regulatory Area by these other groundfish fisheries.

Section 679.83(a)(1)(i) requires that allocations to the trawl entry level fishery must be made first from the allocation of Pacific ocean perch available to the rockfish entry level fishery. If the amount of Pacific ocean perch available for allocation is less than the total allocation allowable for trawl catcher vessels in the rockfish entry level fishery, then northern rockfish and pelagic shelf rockfish must be allocated to trawl catcher vessels. Allocations of Pacific ocean perch, northern rockfish, and pelagic shelf rockfish to longline catcher vessels must be made after the allocations to trawl gear.

Table 9 lists the final 2011 allocations of rockfish in the Central GOA to trawl and longline gear in the entry level rockfish fishery. Allocations of primary rockfish species TACs among participants in the Rockfish Program are not included in the final harvest specifications because applications for catcher/processor and catcher vessel cooperatives are due to NMFS on March 1 of each calendar year, thereby preventing NMFS from calculating final 2011 allocations. NMFS will post these allocations on the Alaska Region Web site (*http://alaskafisheries.noaa.gov/sustainablefisheries/goarat/default.htm*) when they become available

TABLE 9—FINAL 2011 ALLOCATIONS OF ROCKFISH IN THE CENTRAL GULF OF ALASKA TO TRAWL AND LONGLINE GEAR [1] IN THE ENTRY-LEVEL ROCKFISH FISHERY

[Values are rounded to the nearest metric ton]

Species	TAC	Incidental catch allowance	TAC minus ICA	5% TAC	2.5% TAC	Entry-level trawl allocation	Entry-level longline allocation
Pacific ocean perch	10,379	500	9,879	494	247	375	119
Northern rockfish	2,281	100	2,181	109	55	0	109
Pelagic shelf rockfish	3,052	100	2,952	148	74	0	148
Total	15,712	700	15,012	751	375	375	375

[1] Longline gear includes jig and hook-and-line gear.

Halibut PSC Limits

Section 679.21(d) establishes the annual halibut PSC limit apportionments to trawl and hook-and-line gear and permits the establishment of apportionments for pot gear. In December 2010, the Council recommended that NMFS maintain the 2010 halibut PSC limits of 2,000 mt for the trawl fisheries and 300 mt for the hook-and-line fisheries for the 2011 and 2012 groundfish fisheries. Ten mt of the hook-and-line limit is further allocated to the DSR fishery in the SEO District. The DSR fishery is defined at § 679.21(d)(4)(iii)(A). This fishery has been apportioned 10 mt in recognition of its small-scale harvests. Most vessels in the DSR fishery are less than 60 ft (18.3 m) length overall and are exempt from observer coverage. Therefore, observer data are not available to verify actual bycatch amounts. NMFS estimates low halibut bycatch in the DSR fishery because: The duration of the DSR fisheries and the gear soak times are short; the DSR fishery occurs in the winter when less overlap occurs in the distribution of DSR and halibut; and, the directed commercial DSR fishery has a low DSR TAC. Of the 295 mt TAC for DSR in 2010, 100 mt was available for the commercial fishery, of which 30 mt were harvested.

The FMP authorizes the Council to exempt specific gear from the halibut PSC limits. NMFS, after consultation with the Council, exempts pot gear, jig gear, and the sablefish IFQ hook-and-line gear fishery from the non-trawl halibut limit for 2011 and 2012. The Council recommended these exemptions because (1) the pot gear fisheries have low annual halibut bycatch mortality (averaging 19 mt annually from 2001 through 2010); (2) IFQ program regulations prohibit discard of halibut if any halibut IFQ permit holder on board a catcher vessel holds unused halibut IFQ (§ 679.7(f)(11)); sablefish IFQ fishermen typically hold halibut IFQ permits and are therefore required to retain the halibut they catch while fishing sablefish IFQ; and (3) NMFS estimates negligible halibut mortality for the jig gear fisheries. NMFS estimates that halibut mortality is negligible in the jig gear fisheries given the small amount of groundfish harvested by jig gear

(averaging 275 mt annually from 2001 through 2010), the selective nature of jig gear, and the high survival rates of halibut caught (and subsequently released) with jig gear.

Section 679.21(d)(5) authorizes NMFS to seasonally apportion the halibut PSC limits after consultation with the Council. The FMP and regulations require the Council and NMFS to consider the following information in seasonally apportioning halibut PSC limits: (1) Seasonal distribution of halibut, (2) seasonal distribution of target groundfish species relative to halibut distribution, (3) expected halibut bycatch needs on a seasonal basis relative to changes in halibut biomass and expected catch of target groundfish species, (4) expected bycatch rates on a seasonal basis, (5) expected changes in directed groundfish fishing seasons, (6) expected actual start of fishing effort, and (7) economic effects of establishing seasonal halibut allocations on segments of the target groundfish industry. The Council obtained the information it considered when setting the halibut PSC limits from the 2010 SAFE report, NMFS catch data, ADF&G catch data, IPHC stock assessment and mortality data, and public testimony.

NMFS concurs in the Council's recommendations listed in Table 10, which shows the final 2011 and 2012 Pacific halibut PSC limits, allowances, and apportionments. Sections 679.21(d)(5)(iii) and (iv) specify that any underages or overages of a seasonal apportionment of a PSC limit will be deducted from or added to the next respective seasonal apportionment within the fishing year.

TABLE 10—FINAL 2011 AND 2012 PACIFIC HALIBUT PSC LIMITS, ALLOWANCES, AND APPORTIONMENTS

[Values are in metric tons]

Trawl gear			Hook-and-line gear [1]				
			Other than DSR			DSR	
Season	Percent	Amount	Season	Percent	Amount	Season	Amount
January 20–April 1	27.5	550	January 1–June 10	86	250	January 1–December 31	10
April 1–July 1	20	400	June 10–September 1	2	5		
July 1–September 1	30	600	September 1–December 31	12	35		
September 1–October 1	7.5	150					
October 1–December 31	15	300					
Total		2,000			290		10

[1] The Pacific halibut PSC limit for hook-and-line gear is allocated to the DSR fishery and fisheries other than DSR. The hook-and-line sablefish fishery is exempt from halibut PSC limits.

Section 679.21(d)(3)(ii) authorizes further apportionment of the trawl halibut PSC limit to trawl fishery categories. The annual apportionments are based on each category's proportional share of the anticipated halibut bycatch mortality during the fishing year and optimization of the total amount of groundfish harvest under the halibut PSC limit. The fishery categories for the trawl halibut PSC limits are (1) a deep-water species category, comprised of sablefish, rockfish, deep-water flatfish, rex sole, and arrowtooth flounder; and (2) a shallow-water species category, comprised of pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, skates, and "other species" (§ 679.21(d)(3)(iii)). Table 11 lists the final 2011 and 2012 apportionments of Pacific halibut PSC trawl limits between the trawl gear deep-water and the shallow-water species complexes.

TABLE 11—FINAL 2011 AND 2012 APPORTIONMENT OF PACIFIC HALIBUT PSC TRAWL LIMITS BETWEEN THE TRAWL GEAR DEEP-WATER SPECIES COMPLEX AND THE SHALLOW-WATER SPECIES COMPLEX

[Values are in metric tons]

Season	Shallow-water	Deep-water [1]	Total
January 20–April 1	450	100	550
April 1–July 1	100	300	400
July 1–September 1	200	400	600
September 1–October 1	150	Any remainder	150
Subtotal January 20–October 1	900	800	1,700
October 1–December 31 [2]			300
Total			2,000

[1] Vessels participating in cooperatives in the Central GOA Rockfish Program will receive a portion of the third season (July 1–September 1) deep-water category halibut PSC apportionment. This amount is not currently known but will be posted later on the Alaska Region Web site (*http://alaskafisheries.noaa.gov)* when it becomes available.

[2] There is no apportionment between shallow-water and deep-water trawl fishery categories during the fifth season (October 1–December 31).

Estimated Halibut Bycatch in Prior Years

The best available information on estimated halibut bycatch was data collected by observers during 2010. The calculated halibut bycatch mortality by trawl and hook-and-line gears in 2010 is 1,637 mt and 232 mt, respectively, for a total halibut mortality of 1,869 mt. This mortality was calculated using groundfish and halibut catch data from the NMFS Alaska Region's catch

accounting system. This system contains historical and recent catch information compiled from each Alaska groundfish fishery.

Halibut bycatch restrictions seasonally constrained trawl gear fisheries during the 2010 fishing year. Table 12 displays the closure dates for fisheries that resulted from the attainment of seasonal or annual halibut PSC limits. NMFS does not know the amount of groundfish that trawl gear might have harvested if halibut PSC limits had not restricted some 2010 GOA groundfish fisheries. The hook-and-line fishery category was not constrained by halibut bycatch during 2010.

TABLE 12—2010 FISHERY CLOSURES DUE TO ATTAINMENT OF PACIFIC HALIBUT PSC LIMITS

Fishery category	Opening date	Closure date	**Federal Register** citation
Trawl Deep-water, season 1	January 20, 2010	April 28, 2010	75 FR 23189, May 3, 2010.
Trawl Shallow-water, season 4	September 1, 2010	September 3, 2010	75 FR 54290, September 7, 2010.
Trawl Shallow-water, season 4	September 11, 2010	October 1, 2010	75 FR 56017, September 15, 2010.

Current Estimates of Halibut Biomass and Stock Condition

The most recent halibut stock assessment was developed by the IPHC staff in December 2010 for the 2011 commercial fishery; this assessment was considered by the IPHC at its annual January 2011 meeting. Since 2006, the IPHC stock assessment has been fitted to a coastwide data set (including the United States and Canada) to estimate total exploitable biomass. Coastwide exploitable biomass at the beginning of 2011 is estimated to be 317 million pounds (143,790 mt), down from 334 million pounds (151,500 mt) in 2010. The coastwide exploitable biomass was apportioned among regulatory areas in accordance with survey estimates of relative abundance and other considerations.

The halibut resource is fully utilized. Recent catches in the commercial halibut fisheries in Alaska over the last 17 years (1994–2010) have averaged 32,336 mt round weight per year. In December 2010, IPHC staff recommended Alaska commercial catch limits totaling 19,662 mt round weight for 2011, a 21 percent decrease from 25,008 mt in 2010. Through December 31, 2010, commercial hook-and-line harvests of halibut off Alaska totaled 24,095 mt round weight.

The IPHC and its staff have expressed concerns that the IPHC's Slow Up-Fast Down (SUFD) harvest policy adjustments—which applied a policy of a 33 percent increase from the previous year's catch limit and a 50 percent decrease in recommended catch—have not achieved target harvest rate goals due to continued stock declines, decreases in halibut growth rate, and a recent history of high exploitation rates in some areas. The IPHC staff has recommended the SUFD policy be modified to a "Slow Up-Full Down (SUFullD)" policy to achieve the necessary reductions in harvest rate and promote increases in exploitable biomass. The SUFullD policy incorporates the existing policy of a 33 percent increase from the previous year's catch limits when stock yields are expected to increase but would use a 100 percent decrease in recommended catch when stock yields are projected to decrease.

The largest decreases in the 2011 catch limit recommendations in Alaska are for Area 2C, down from 2,661 mt round weight in 2010 to 1,409 mt round weight in 2011 (the decline is primarily the result of the application of the SUFullD harvest policy adjustment), and, for Areas 3A and 3B, down from 18,077 mt round weight in 2010 to 13,233 mt round weight in 2011 (the decline is primarily due to a decline in estimated exploitable biomass).

Additional information on the Pacific halibut stock assessment may be found in the IPHC's 2010 Pacific halibut stock assessment (December 2010), available on the IPHC Web site at *http://www.iphc.washington.edu.* The IPHC considered the 2010 Pacific halibut assessment for 2011 at its January 2011 annual meeting when it set the 2011 commercial halibut fishery catch limits.

The proposed 2011 and 2012 harvest specifications (75 FR 76352, December 8, 2010) discuss potential impacts of expected fishing for groundfish on halibut stocks, as well as methods available for reducing halibut bycatch in the groundfish fisheries.

Halibut Discard Mortality Rates

The Council recommended that the halibut discard mortality rates (DMRs) developed and recommended by the IPHC for the 2010 through 2012 GOA groundfish fisheries be used to monitor the 2011 and 2012 GOA halibut bycatch mortality allowances. The IPHC will analyze observer data annually and recommend changes to the DMRs when a DMR shows large variation from the mean. Most of the IPHCs assumed DMRs were based on an average of mortality rates determined from NMFS observer data collected between 1999 and 2008. Long-term average DMRs were not available for some fisheries (for example, the deepwater flatfish fishery has not been prosecuted in recent years), so the IPHC used the average rates from the available years between 1999 and 2008. For other fisheries targets (which include Atka mackerel, skates, squids, sharks, octopuses, and sculpins for all gear types; and for the hook-and-line sablefish targets), where no data mortality was available, the IPHC recommended the mortality rate of halibut caught in the Pacific cod fishery for that gear type as a default rate. Table 13 lists the final GOA halibut DMRs for 2011 and 2012. These DMRs are unchanged from the proposed 2011 and 2012 harvest specifications (75 FR 76352, December 8, 2010). A discussion of the DMRs and their justification is presented in Appendix 2 to the 2010 SAFE report (*see* **ADDRESSES**).

TABLE 13—FINAL 2011 AND 2012 HALIBUT DMRS FOR VESSELS FISHING IN THE GOA

[Values are percent of halibut bycatch assumed to be dead]

Gear	Target fishery	Final 2011 and 2012 mortality rate (%)
Hook-and-line	Other fisheries[1]	12
	Pacific cod	12
	Rockfish	9

TABLE 13—FINAL 2011 AND 2012 HALIBUT DMRS FOR VESSELS FISHING IN THE GOA—Continued

[Values are percent of halibut bycatch assumed to be dead]

Gear	Target fishery	Final 2011 and 2012 mortality rate (%)
Trawl	Arrowtooth flounder	72
	Deep-water flatfish	48
	Flathead sole	65
	Non-pelagic pollock	59
	Other fisheries[1]	62
	Pacific cod	62
	Pelagic pollock	76
	Rex sole	64
	Rockfish	67
	Sablefish	65
	Shallow-water flatfish	71
Pot	Other fisheries[1]	17
	Pacific cod	17

[1] Other fisheries include all gear types for Atka mackerel, skates, squid, sharks, octopuses, sculpins, and hook-and-line sablefish.

American Fisheries Act (AFA) Catcher/Processor (C/P) and Catcher Vessel (CV) Groundfish Harvest and PSC Limits

Section 679.64 establishes groundfish harvesting and processing sideboard limitations on AFA C/Ps and CVs in the GOA. These sideboard limits are necessary to protect the interests of fishermen and processors, who do not directly benefit from the AFA, from those fishermen and processors who receive exclusive harvesting and processing privileges under the AFA. Section 679.7(k)(1)(ii) prohibits listed AFA C/Ps from harvesting any species of groundfish in the GOA. Additionally, § 679.7(k)(1)(iv) prohibits listed AFA C/Ps from harvesting any species of groundfish in the GOA. Furthermore, § 679.7(k)(1)(iv) prohibits listed AFA C/Ps from processing any pollock harvested in a directed pollock fishery in the GOA and any groundfish harvested in Statistical Area 630 of the GOA.

AFA CVs that are less than 125 ft (38.1 m) length overall, have annual landings of pollock in the Bering Sea and Aleutian Islands less than 5,100 mt, and have made at least 40 groundfish landings from 1995 through 1997 are exempt from GOA sideboard limits under § 679.64(b)(2)(ii). Sideboard limits for non-exempt AFA CVs in the GOA are based on their traditional harvest levels of TAC in groundfish fisheries covered by the FMP. Section 679.64(b)(3)(iii) establishes the groundfish sideboard limitations in the GOA based on the retained catch of non-exempt AFA CVs of each sideboard species from 1995 through 1997 divided by the TAC for that species over the same period. Tables 14 and 15 list the final 2011 and 2012 non-exempt AFA CV groundfish sideboard limits. NMFS will deduct all targeted or incidental catch of sideboard species made by non-exempt AFA CVs from the sideboard limits specified in Tables 14 and 15.

TABLE 14—FINAL 2011 GOA NON-EXEMPT AFA CV GROUNDFISH HARVEST SIDEBOARD LIMITATIONS

[Values are rounded to nearest metric ton]

Species	Apportionments by season/gear	Area/component	Ratio of 1995–1997 non-exempt AFA CV catch to 1995–1997 TAC	2011 TAC	2011 non-exempt AFA CV sideboard limit
Pollock	A Season	Shumagin (610)	0.6047	4,787	2,895
	January 20–March 10	Chirikof (620)	0.1167	11,896	1,388
		Kodiak (630)	0.2028	4,475	908
	B Season	Shumagin (610)	0.6047	4,787	2,895
	March 10–May 31	Chirikof (620)	0.1167	14,232	1,661
		Kodiak (630)	0.2028	2,139	434
	C Season	Shumagin (610)	0.6047	8,729	5,278
	August 25–October 1	Chirikof (620)	0.1167	5,618	656
		Kodiak (630)	0.2028	6,811	1,381
	D Season	Shumagin (610)	0.6047	8,729	5,278
	October 1–November 1	Chirikof (620)	0.1167	5,618	656
		Kodiak (630)	0.2028	6,811	1,381
	Annual	WYK (640)	0.3495	2,339	817
		SEO (650)	0.3495	9,245	3,231
Pacific cod	A Season[1]	W inshore	0.1365	12,303	1,679
	January 1–June 10	W offshore	0.1026	1,367	140
		C inshore	0.0689	21,795	1,502
		C offshore	0.0721	2,422	175
	B Season[2]	W inshore	0.1365	8,202	1,120
	September 1—December 31	W offshore	0.1026	911	94

TABLE 14—FINAL 2011 GOA NON-EXEMPT AFA CV GROUNDFISH HARVEST SIDEBOARD LIMITATIONS—Continued

[Values are rounded to nearest metric ton]

Species	Apportionments by season/gear	Area/component	Ratio of 1995–1997 non-exempt AFA CV catch to 1995–1997 TAC	2011 TAC	2011 non-exempt AFA CV sideboard limit
		C inshore	0.0689	14,530	1,001
		C offshore	0.0721	1,614	116
	Annual	E inshore	0.0079	1,758	14
		E offshore	0.0078	195	2
Sablefish	Annual, trawl gear	W	0.0000	334	0
		C	0.0642	948	61
		E	0.0433	247	11
Flatfish, Shallow-water	Annual	W	0.0156	4,500	70
		C	0.0587	13,000	763
		E	0.0126	1,228	15
Flatfish, deep-water	Annual	W	0.0000	529	0
		C	0.0647	2,919	189
		E	0.0128	2,083	27
Rex sole	Annual	W	0.0007	1,517	1
		C	0.0384	6,294	242
		E	0.0029	868	3
Arrowtooth flounder	Annual	W	0.0021	8,000	17
		C	0.0280	30,000	840
		E	0.0002	2,500	1
Flathead sole	Annual	W	0.0036	2,000	7
		C	0.0213	5,000	107
		E	0.0009	2,064	2
Pacific ocean perch	Annual	W	0.0023	2,798	6
		C	0.0748	10,379	776
		E	0.0466	1,937	90
Northern rockfish	Annual	W	0.0003	2,573	1
		C	0.0277	2,281	63
Shortraker rockfish	Annual	W	0.0000	134	0
		C	0.0218	325	7
		E	0.0100	455	5
Other rockfish	Annual	W	0.0034	212	1
		C	0.1699	507	86
		E	0.0000	276	0
Pelagic shelf rockfish	Annual	W	0.0001	611	0
		C	0.0000	3,052	0
		E	0.0067	407	3
Rougheye rockfish	Annual	W	0.0000	81	0
		C	0.0237	868	21
		E	0.0124	363	5
Demersal shelf rockfish	Annual	SEO	0.0020	300	1
Thornyhead rockfish	Annual	W	0.0280	425	12
		C	0.0280	637	18
		E	0.0280	708	20
Atka mackerel	Annual	Gulfwide	0.0309	2,000	62
Big skates	Annual	W	0.0063	598	4
		C	0.0063	2,049	13
		E	0.0063	681	4
Longnose skates	Annual	W	0.0063	81	1
		C	0.0063	2,009	13

TABLE 14—FINAL 2011 GOA NON-EXEMPT AFA CV GROUNDFISH HARVEST SIDEBOARD LIMITATIONS—Continued

[Values are rounded to nearest metric ton]

Species	Apportionments by season/gear	Area/component	Ratio of 1995–1997 non-exempt AFA CV catch to 1995–1997 TAC	2011 TAC	2011 non-exempt AFA CV sideboard limit
		E	0.0063	762	5
Other skates	Annual	Gulfwide	0.0063	2,093	13
Squids	Annual	Gulfwide	0.0063	1,148	7
Sharks	Annual	Gulfwide	0.0063	6,197	39
Octopuses	Annual	Gulfwide	0.0063	954	6
Sculpins	Annual	Gulfwide	0.0063	5,496	35

[1] The Pacific cod A season for trawl gear does not open until January 20.
[2] The Pacific cod B season for trawl gear closes November 1.

TABLE 15—FINAL 2012 GOA NON-EXEMPT AFA CV GROUNDFISH HARVEST SIDEBOARD LIMITATIONS

[Values are rounded to nearest metric ton]

Species	Apportionments by season/gear	Area/component	Ratio of 1995–1997 non-exempt AFA CV catch to 1995–1997 TAC	2012 TAC	2012 non-exempt AFA CV sideboard limit
Pollock	A Season	Shumagin (610)	0.6047	6,186	3,741
	January 20–March 10	Chirikof (620)	0.1167	15,374	1,794
		Kodiak (630)	0.2028	5,783	1,173
	B Season	Shumagin (610)	0.6047	6,185	3,740
	March 10–May 31	Chirikof (620)	0.1167	18,392	2,146
		Kodiak (630)	0.2028	2,765	561
	C Season	Shumagin (610)	0.6047	11,280	6,821
	August 25–October 1	Chirikof (620)	0.1167	7,262	847
		Kodiak (630)	0.2028	8,803	1,785
	D Season	Shumagin (610)	0.6047	11,280	6,821
	October 1–November 1	Chirikof (620)	0.1167	7,262	847
		Kodiak (630)	0.2028	8,803	1,785
	Annual	WYK (640)	0.3495	3,024	1,057
		SEO (650)	0.3495	9,245	3,231
Pacific cod	A Season [1]	W inshore	0.1365	18,475	2,522
	January 1–June 10	W offshore	0.1026	2,053	211
		C inshore	0.0689	19,636	1,353
		C offshore	0.0721	2,182	157
	B Season [2]	W inshore	0.1365	7,390	1,009
	September 1–December 31	W offshore	0.1026	821	84
		C inshore	0.0689	13,091	902
		C offshore	0.0721	1,455	105
	Annual	E inshore	0.0079	1,583	13
		E offshore	0.0078	176	1
Sablefish	Annual, trawl gear	W	0.0000	297	0
		C	0.0642	869	56
		E	0.0433	226	10
Flatfish, Shallow-water	Annual	W	0.0156	4,500	70
		C	0.0587	13,000	763
		E	0.0126	1,228	15
Flatfish, deep-water	Annual	W	0.0000	541	0
		C	0.0647	3,004	194
		E	0.0128	2,144	27
Rex sole	Annual	W	0.0007	1,490	1
		C	0.0384	6,184	237
		E	0.0029	853	2
Arrowtooth flounder	Annual	W	0.0021	8,000	17
		C	0.0280	30,000	840

TABLE 15—FINAL 2012 GOA NON-EXEMPT AFA CV GROUNDFISH HARVEST SIDEBOARD LIMITATIONS—Continued

[Values are rounded to nearest metric ton]

Species	Apportionments by season/gear	Area/component	Ratio of 1995–1997 non-exempt AFA CV catch to 1995–1997 TAC	2012 TAC	2012 non-exempt AFA CV sideboard limit
		E	0.0002	2,500	1
Flathead sole	Annual	W	0.0036	2,000	7
		C	0.0213	5,000	107
		E	0.0009	2,125	2
Pacific ocean perch	Annual	W	0.0023	2,665	6
		C	0.0748	9,884	739
		E	0.0466	1,845	86
Northern rockfish	Annual	W	0.0003	2,446	1
		C	0.0277	2,168	60
Shortraker rockfish	Annual	W	0.0000	134	0
		C	0.0218	325	7
		E	0.0100	455	5
Other rockfish	Annual	W	0.0034	212	0
		C	0.1699	507	86
		E	0.0000	475	0
Pelagic shelf rockfish	Annual	W	0.0001	570	0
		C	0.0000	2,850	0
		E	0.0067	380	3
Rougheye rockfish	Annual	W	0.0000	81	0
		C	0.0237	868	21
		E	0.0124	363	5
Demersal shelf rockfish	Annual	SEO	0.0020	300	1
Thornyhead rockfish	Annual	W	0.0280	425	12
		C	0.0280	637	18
		E	0.0280	708	20
Atka mackerel	Annual	Gulfwide	0.0309	2,000	62
Big skates	Annual	W	0.0063	598	4
		C	0.0063	2,049	13
		E	0.0063	681	4
Longnose skates	Annual	W	0.0063	81	0
		C	0.0063	2,009	13
		E	0.0063	762	5
Other skates	Annual	Gulfwide	0.0063	2,093	13
Squids	Annual	Gulfwide	0.0063	1,148	7
Sharks	Annual	Gulfwide	0.0063	6,197	39
Octopuses	Annual	Gulfwide	0.0063	954	6
Sculpins	Annual	Gulfwide	0.0063	5,496	35

[1] The Pacific cod A season for trawl gear does not open until January 20.
[2] The Pacific cod B season for trawl gear closes November 1.

Non-Exempt AFA Catcher Vessel Halibut PSC Limits

The halibut PSC sideboard limits for non-exempt AFA CVs in the GOA are based on the aggregate retained groundfish catch by non-exempt AFA CVs in each PSC target category from 1995 through 1997 divided by the retained catch of all vessels in that fishery from 1995 through 1997 (§ 679.64(b)(4)). Table 16 lists the final 2011 and 2012 non-exempt AFA CV halibut PSC limits for vessels using trawl gear in the GOA. These halibut PSC limits are unchanged from the proposed 2011 and 2012 harvest specifications.

TABLE 16—FINAL 2011 AND 2012 NON-EXEMPT AFA CV HALIBUT PROHIBITED SPECIES CATCH (PSC) LIMITS FOR VESSELS USING TRAWL GEAR IN THE GOA

[Values are rounded to nearest metric ton]

Season	Season dates	Target fishery	Ratio of 1995–1997 non-exempt AFA CV retained catch to total retained catch	2011 and 2012 PSC limit	2011 and 2012 non-exempt AFA CV PSC limit
1	January 20–April 1	shallow-water	0.340	450	153
		deep-water	0.070	100	7
2	April 1–July 1	shallow-water	0.340	100	34
		deep-water	0.070	300	21
3	July 1–September 1	shallow-water	0.340	200	68
		deep-water	0.070	400	28
4	September 1–October 1	shallow-water	0.340	150	51
		deep-water	0.070	0	0
5	October 1–December 31	all targets	0.205	300	62

Non-AFA Crab Vessel Groundfish Harvest Limitations

Section 680.22 establishes groundfish catch limits for vessels with a history of participation in the Bering Sea snow crab fishery to prevent these vessels from using the increased flexibility provided by the Crab Rationalization Program to expand their level of participation in the GOA groundfish fisheries. Sideboard limits restrict these vessels' catch to their collective historical landings in each GOA groundfish fishery (except the fixed-gear sablefish fishery). Sideboard limits also apply to catch made using a LLP license derived from the history of a restricted vessel, even if that LLP license is used on another vessel.

Sideboard limits for non-AFA crab vessels in the GOA are based on their traditional harvest levels of TAC in groundfish fisheries covered by the FMP. Sections 680.22(d) and (e) establish the formulas used to calculate groundfish sideboard limitations in the GOA. These limitations are calculated by dividing the non-AFA crab vessels' retained catch for each sideboard species from 1996–2000 by the total retained harvest of that species over the same period. The resultant ratios are applied against annual TAC limits to establish annual sideboard limits for individual species. Tables 18 and 19 list these final 2011 and 2012 GOA groundfish sideboard limits for non-AFA crab vessels. NMFS will deduct all targeted or incidental catch of sideboard species made by non-AFA crab vessels from the sideboard limits specified in Tables 17 and 18. The sideboard limits in these tables are different from those contained in the proposed 2011 and 2012 harvest specifications, since the TACs in Tables 17 and 18 have been updated to reflect the final 2011 and 2012 TACs contained in Tables 1 and 2 of this rule.

Vessels exempt from Pacific cod sideboards are those that landed less than 45,359 kilograms of Bering Sea snow crab and more than 500 mt of groundfish (in round weight equivalents) from the GOA between January 1, 1996, and December 31, 2000, and any vessel named on an LLP that was generated in whole or in part by the fishing history of a vessel meeting the criteria in § 680.22(a)(3).

TABLE 17—FINAL 2011 GOA NON-AMERICAN FISHERIES ACT CRAB VESSEL GROUNDFISH HARVEST SIDEBOARD LIMITS

[Values are rounded to nearest metric ton]

Species	Season/gear	Area/component	Ratio of 1996–2000 non-AFA crab vessel catch to 1996–2000 total harvest	2011 TAC	2011 non-AFA crab vessel sideboard limit
Pollock	A Season January 20–March 10	Shumagin (610)	0.0098	4,787	47
		Chirikof (620)	0.0031	11,896	37
		Kodiak (630)	0.0002	4,475	1
	B Season March 10–May 31	Shumagin (610)	0.0098	4,787	47
		Chirikof (620)	0.0031	14,232	44
		Kodiak (630)	0.0002	2,139	0
	C Season August 25–October 1	Shumagin (610)	0.0098	8,729	86
		Chirikof (620)	0.0031	5,618	17
		Kodiak (630)	0.0002	6,811	1
	D Season October 1–November 1	Shumagin (610)	0.0098	8,729	86
		Chirikof (620)	0.0031	5,618	17
		Kodiak (630)	0.0002	6,811	1
	Annual	WYK (640)	0.0000	2,339	0
		SEO (650)	0.0000	9,245	0
Pacific cod	A Season [1] January 1–June 10	W inshore	0.0902	12,303	1,110
		W offshore	0.2046	1,367	280
		C inshore	0.0383	21,795	835
		C offshore	0.2074	2,422	502

TABLE 17—FINAL 2011 GOA NON-AMERICAN FISHERIES ACT CRAB VESSEL GROUNDFISH HARVEST SIDEBOARD LIMITS—Continued

[Values are rounded to nearest metric ton]

Species	Season/gear	Area/component	Ratio of 1996–2000 non-AFA crab vessel catch to 1996–2000 total harvest	2011 TAC	2011 non-AFA crab vessel sideboard limit
	B Season [2] September 1–December 31	W inshore	0.0902	8,202	740
		W offshore	0.2046	911	186
		C inshore	0.0383	14,530	557
		C offshore	0.2074	1,614	335
	Annual	E inshore	0.0110	1,758	19
		E offshore	0.0000	195	0
Sablefish	Annual, trawl gear	W	0.0000	334	0
		C	0.0000	948	0
		E	0.0000	247	0
Flatfish, shallow-water	Annual	W	0.0059	4,500	27
		C	0.0001	13,000	1
		E	0.0000	1,228	0
Flatfish, deep-water	Annual	W	0.0035	529	2
		C	0.0000	2,919	0
		E	0.0000	2,083	0
Rex sole	Annual	W	0.0000	1,517	0
		C	0.0000	6,294	0
		E	0.0000	868	0
Arrowtooth flounder	Annual	W	0.0004	8,000	3
		C	0.0001	30,000	3
		E	0.0000	2,500	0
Flathead sole	Annual	W	0.0002	2,000	0
		C	0.0004	5,000	2
		E	0.0000	2,064	0
Pacific ocean perch	Annual	W	0.0000	2,798	0
		C	0.0000	10,379	0
		E	0.0000	1,937	0
Northern rockfish	Annual	W	0.0005	2,573	1
		C	0.0000	2,281	0
Shortraker rockfish	Annual	W	0.0013	134	0
		C	0.0012	325	0
		E	0.0009	455	0
Other rockfish	Annual	W	0.0035	212	1
		C	0.0033	507	2
		E	0.0000	276	0
Pelagic shelf rockfish	Annual	W	0.0017	611	1
		C	0.0000	3,052	0
		E	0.0000	407	0
Rougheye rockfish	Annual	W	0.0067	81	1
		C	0.0047	868	4
		E	0.0008	363	0
Demersal shelf rockfish	Annual	SEO	0.0000	300	0
Thornyhead rockfish	Annual	W	0.0047	425	2
		C	0.0066	637	4
		E	0.0045	708	3
Atka mackerel	Annual	Gulfwide	0.0000	2,000	0
Big skate	Annual	W	0.0392	598	23
		C	0.0159	2,049	33

TABLE 17—FINAL 2011 GOA NON-AMERICAN FISHERIES ACT CRAB VESSEL GROUNDFISH HARVEST SIDEBOARD LIMITS—Continued

[Values are rounded to nearest metric ton]

Species	Season/gear	Area/component	Ratio of 1996–2000 non-AFA crab vessel catch to 1996–2000 total harvest	2011 TAC	2011 non-AFA crab vessel sideboard limit
		E	0.0000	681	0
Longnose skate	Annual	W	0.0392	81	3
		C	0.0159	2,009	32
		E	0.0000	762	0
Other skates	Annual	Gulfwide	0.0176	2,093	37
Squids	Annual	Gulfwide	0.0176	1,148	20
Sharks	Annual	Gulfwide	0.0176	6,197	109
Octopuses	Annual	Gulfwide	0.0176	954	17
Sculpins	Annual	Gulfwide	0.0176	5,496	97

[1] The Pacific cod A season for trawl gear does not open until January 20.
[2] The Pacific cod B season for trawl gear closes November 1.

TABLE 18—FINAL 2012 GOA NON-AMERICAN FISHERIES ACT CRAB VESSEL GROUNDFISH HARVEST SIDEBOARD LIMITS

[Values are rounded to nearest metric ton]

Species	Season/gear	Area/component	Ratio of 1996–2000 non-AFA crab vessel catch to 1996–2000 total harvest	2012 TAC	2012 non-AFA crab vessel sideboard limit
Pollock	A Season	Shumagin (610)	0.0098	6,186	61
	January 20–March 10	Chirikof (620)	0.0031	15,374	48
		Kodiak (630)	0.0002	5,783	1
	B Season	Shumagin (610)	0.0098	6,185	61
	March 10–May 31	Chirikof (620)	0.0031	18,393	57
		Kodiak (630)	0.0002	2,765	1
	C Season	Shumagin (610)	0.0098	11,280	111
	August 25–October 1	Chirikof (620)	0.0031	7,262	23
		Kodiak (630)	0.0002	8,803	2
	D Season	Shumagin (610)	0.0098	11,280	111
	October 1–November 1	Chirikof (620)	0.0031	7,262	23
		Kodiak (630)	0.0002	8,803	2
	Annual	WYK (640)	0.0000	3,024	0
		SEO (650)	0.0000	9,245	0
Pacific cod	A Season [1]	W inshore	0.0902	11,085	1,000
	January 1–June 10	W offshore	0.2046	1,232	252
		C inshore	0.0383	19,636	752
		C offshore	0.2074	2,182	453
	B Season [2]	W inshore	0.0902	7,390	667
	September 1–December 31	W offshore	0.2046	821	168
		C inshore	0.0383	13,091	501
		C offshore	0.2074	1,455	302
	Annual	E inshore	0.0110	1,583	17
		E offshore	0.0000	176	0
Sablefish	Annual, trawl gear	W	0.0000	297	0
		C	0.0000	869	0
		E	0.0000	226	0
Flatfish, shallow-water	Annual	W	0.0059	4,500	27
		C	0.0001	13,000	1
		E	0.0000	1,228	0
Flatfish, deep-water	Annual	W	0.0035	541	2
		C	0.0000	3,004	0
		E	0.0000	2,144	0
Rex sole	Annual	W	0.0000	1,490	0

TABLE 18—FINAL 2012 GOA NON-AMERICAN FISHERIES ACT CRAB VESSEL GROUNDFISH HARVEST SIDEBOARD LIMITS—Continued

[Values are rounded to nearest metric ton]

Species	Season/gear	Area/component	Ratio of 1996–2000 non-AFA crab vessel catch to 1996–2000 total harvest	2012 TAC	2012 non-AFA crab vessel sideboard limit
		C	0.0000	6,184	0
		E	0.0000	853	0
Arrowtooth flounder	Annual	W	0.0004	8,000	3
		C	0.0001	30,000	3
		E	0.0000	2,500	0
Flathead sole	Annual	W	0.0002	2,000	0
		C	0.0004	5,000	2
		E	0.0000	2,125	0
Pacific ocean perch	Annual	W	0.0000	2,665	0
		C	0.0000	9,884	0
		E	0.0000	1,845	0
Northern rockfish	Annual	W	0.0005	2,446	1
		C	0.0000	2,168	0
Shortraker rockfish	Annual	W	0.0013	134	0
		C	0.0012	325	0
		E	0.0009	455	0
Other rockfish	Annual	W	0.0035	212	1
		C	0.0033	507	2
		E	0.0000	275	0
Pelagic shelf rockfish	Annual	W	0.0017	570	1
		C	0.0000	2,850	0
		E	0.0000	380	0
Rougheye shelf rockfish	Annual	W	0.0067	81	1
		C	0.0047	868	4
		E	0.0008	363	0
Demersal shelf rockfish	Annual	SEO	0.0000	300	0
Thornyhead rockfish	Annual	W	0.0047	425	2
		C	0.0066	637	4
		E	0.0045	708	3
Atka mackerel	Annual	Gulfwide	0.0000	2,000	0
Big skate	Annual	W	0.0392	598	23
		C	0.0159	2,049	33
		E	0.0000	681	0
Longnose skate	Annual	W	0.0392	81	3
		C	0.0159	2,009	32
		E	0.0000	762	0
Other skates	Annual	Gulfwide	0.0176	2,093	37
Squids	Annual	Gulfwide	0.0176	1,148	20
Sharks	Annual	Gulfwide	0.0176	6,197	109
Octopuses	Annual	Gulfwide	0.0176	954	17
Sculpins	Annual	Gulfwide	0.0176	5,496	97

[1] The Pacific cod A season for trawl gear does not open until January 20.
[2] The Pacific cod B season for trawl gear closes November 1.

Rockfish Program Groundfish Sideboard Limitations and Halibut Mortality Limitations

Section 679.82(d) establishes sideboards to limit the ability of participants eligible for the Rockfish Program to harvest fish in fisheries other than the Central GOA rockfish fisheries. The Rockfish Program provides certain economic advantages, which could be used to increase their participation in other fisheries and possibly adversely affect the existing participants in those fisheries. Traditionally, the Central GOA rockfish fisheries opened in July. The sideboards are designed to restrict fishing during the historical season for the fishery, but allow eligible rockfish harvesters to participate in fisheries before or after the historical rockfish season.

The final sideboards for 2011 limit the total amount of catch that could be taken by eligible harvesters and limit the amount of halibut mortality to historic levels. The sideboard measures are in effect only during the month of July. Table 19 lists the final 2011 Rockfish Program harvest limits in the WYK District and the Western GOA. These limits reflect the final 2011 pelagic shelf rockfish, Pacific ocean perch, and northern rockfish TACs established by this action, including some changes from the proposed 2011 harvest specifications. Table 20 lists the final 2011 Rockfish Program halibut mortality limits for C/Ps and CVs. These mortality limits are unchanged from the proposed 2011 harvest specifications.

As discussed earlier in this preamble, the Rockfish Program will expire in December 2011. The Council has proposed a new, revised program and associated FMP amendment. NMFS is developing rulemaking to implement the program, if approved by the Secretary. The proposed rule and, if approved, the final rule for the new Rockfish Program will include revised groundfish sideboards and halibut mortality limits for 2012. Since the current Rockfish Program expires at the end of 2011, these final harvest specifications for groundfish sideboards and halibut mortality limits are only for 2011.

TABLE 19—FINAL 2011 ROCKFISH PROGRAM HARVEST LIMITS BY SECTOR FOR WYK DISTRICT AND WESTERN REGULATORY AREA BY THE CATCHER/PROCESSOR (C/P) AND CATCHER VESSEL (CV) SECTORS

[Values are rounded to nearest metric ton]

Area	Fishery	C/P sector (% of TAC)	CV sector (% of TAC)	2011 TAC	2011 C/P limit	2011 CV limit
West Yakutat District	Pelagic shelf rockfish	72.4	1.7	407	295	7
	Pacific ocean perch	76.0	2.9	1,937	1,472	56
Western GOA	Pelagic shelf rockfish	63.3	0	611	387	0
	Pacific ocean perch	61.1	0	2,798	1,710	0
	Northern rockfish	78.9	0	2,573	2,030	0

TABLE 20—FINAL 2011 ROCKFISH PROGRAM HALIBUT MORTALITY LIMITS FOR THE CATCHER/PROCESSOR (C/P) AND CATCHER VESSEL (CV) SECTORS

[Values are rounded to nearest metric ton]

Sector	Shallow-water complex halibut PSC sideboard ratio (percent)	Deep-water complex halibut PSC sideboard ratio (percent)	Annual halibut mortality limit (mt)	Annual shallow-water complex halibut PSC sideboard limit (mt)	Annual deep-water complex halibut PSC sideboard limit (mt)
C/P	0.54	3.99	2,000	11	80
CV	6.32	1.08	2,000	126	22

GOA Amendment 80 Vessel Groundfish Harvest and PSC Limits

Amendment 80 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (Amendment 80 program) established a limited access privilege program for the non-AFA trawl C/P sector. To limit the ability of participants eligible for the Amendment 80 program to expand their harvest efforts in the GOA, the Amendment 80 program established groundfish and halibut PSC catch limits for Amendment 80 program participants.

Section 679.92 establishes groundfish harvesting sideboard limits on all Amendment 80 program vessels, other than the F/V GOLDEN FLEECE, to amounts no greater than the limits shown in Table 37 to 50 CFR part 679. Under regulations at § 679.92(d), the F/V GOLDEN FLEECE is prohibited from directed fishing for pollock, Pacific cod, Pacific ocean perch, pelagic shelf rockfish, and northern rockfish in the GOA. Groundfish sideboard limits for Amendment 80 program vessels operating in the GOA are based on their average aggregate harvests from 1998 to 2004. Tables 21 and 22 list the final 2011 and 2012 sideboard limits for Amendment 80 program vessels. These limits are based on the final 2011 and 2012 TACs established by this action, and thus may differ proportionately from the sideboard limits in the proposed 2011 and 2012 harvest specifications. NMFS will deduct all targeted or incidental catch of sideboard species made by Amendment 80 program vessels from the sideboard limits in Tables 21 and 22.

TABLE 21—FINAL 2011 GOA GROUNDFISH SIDEBOARD LIMITS FOR AMENDMENT 80 PROGRAM VESSELS

[Values are rounded to nearest metric ton]

Species	Apportionments and allocations by season	Area	Ratio of Amendment 80 sector vessels 1998–2004 catch to TAC	2011 TAC (mt)	2011 Amendment 80 vessel sideboards (mt)
Pollock	A Season	Shumagin (610)	0.003	4,786	14
	January 20–February 25	Chirikof (620)	0.002	11,895	24
		Kodiak (630)	0.002	4,475	9
	B Season	Shumagin (610)	0.003	4,876	14
	March 10–May 31	Chirikof (620)	0.002	14,231	28
		Kodiak (630)	0.002	2,139	4
	C Season	Shumagin (610)	0.003	8,729	26
	August 25–September 15	Chirikof (620)	0.002	5,619	11
		Kodiak (630)	0.002	6,812	14
	D Season	Shumagin (610)	0.003	8,729	26
	October 1–November 1	Chirikof (620)	0.002	5,619	11
		Kodiak (630)	0.002	6,812	14
	Annual	WYK (640)	0.002	2,339	5
Pacific cod	A Season [1]	W	0.020	13,671	273
	January 1–June 10	C	0.044	24,217	1,066
	B Season [2]	W	0.020	9,114	182
	September 1–December 31	C	0.044	16,145	710
	Annual	WYK	0.034	1,953	66
Pacific ocean perch	Annual	W	0.994	2,798	2,781
		WYK	0.961	1,937	1,861
Northern rockfish	Annual	W	1.000	2,573	2,573
Pelagic shelf rockfish	Annual	W	0.764	611	467
		WYK	0.896	407	365

[1] The Pacific cod A season for trawl gear does not open until January 20.
[2] The Pacific cod B season for trawl gear closes November 1.

TABLE 22—FINAL 2012 GOA GROUNDFISH SIDEBOARD LIMITS FOR AMENDMENT 80 PROGRAM VESSELS

[Values are rounded to nearest metric ton]

Species	Apportionments and allocations by season	Area	Ratio of Amendment 80 sector vessels 1998–2004 catch to TAC	2012 TAC (mt)	2012 Amendment 80 vessel sideboards (mt)
Pollock	A Season	Shumagin (610)	0.003	6,186	19
	January 20–February 25	Chirikof (620)	0.002	15,375	31
		Kodiak (630)	0.002	5,783	12
	B Season	Shumagin (610)	0.003	6,186	19
	March 10–May 31	Chirikof (620)	0.002	18,392	37
		Kodiak (630)	0.002	2,765	6
	C Season	Shumagin (610)	0.003	11,281	34
	August 25–September 15	Chirikof (620)	0.002	7,261	15
		Kodiak (630)	0.002	8,803	18
	D Season	Shumagin (610)	0.003	11,281	34
	October 1–November 1	Chirikof (620)	0.002	7,261	15
		Kodiak (630)	0.002	8,803	18
	Annual	WYK (640)	0.002	3,024	6
Pacific cod	A Season [1]	W	0.020	12,317	246
	January 1–June 10	C	0.044	21,817	960
	B Season [2]	W	0.020	8,211	164
	September 1–December 31	C	0.044	14,545	640
	Annual	WYK	0.034	1,759	60
Pacific ocean perch	Annual	W	0.994	2,665	2,649

TABLE 22—FINAL 2012 GOA GROUNDFISH SIDEBOARD LIMITS FOR AMENDMENT 80 PROGRAM VESSELS—Continued

[Values are rounded to nearest metric ton]

Species	Apportionments and allocations by season	Area	Ratio of Amendment 80 sector vessels 1998–2004 catch to TAC	2012 TAC (mt)	2012 Amendment 80 vessel sideboards (mt)
		WYK	0.961	1,845	1,773
Northern rockfish	Annual	W	1.000	2,446	2,446
Pelagic shelf rockfish	Annual	W	0.764	570	435
		WYK	0.896	380	340

[1] The Pacific cod A season for trawl gear does not open until January 20.
[2] The Pacific cod B season for trawl gear closes November 1.

The halibut PSC sideboard limits for Amendment 80 program vessels in the GOA are based on the historic use of halibut PSC by Amendment 80 program vessels in each PSC target category from 1998 through 2004. These values are slightly lower than the average historic use to accommodate two factors: allocation of halibut PSC cooperative quota under the Central GOA Rockfish Program and the exemption of the F/V GOLDEN FLEECE from this restriction (§ 679.92(b)(2)). Table 23 lists the final 2011 and 2012 halibut PSC limits for Amendment 80 program vessels, as proscribed at Table 38 to 50 CFR part 679. These PSC limits are unchanged from those listed in the proposed 2011 and 2012 harvest specifications.

TABLE 23—FINAL 2011 AND 2012 HALIBUT PSC LIMITS FOR AMENDMENT 80 PROGRAM VESSELS IN THE GOA

[Values are rounded to nearest metric ton]

Season	Season dates	Target fishery	Historic Amendment 80 use of the annual halibut PSC limit catch (ratio)	2011 and 2012 annual PSC limit (mt)	2011 and 2012 Amendment 80 vessel PSC limit (mt)
1	January 20–April 1	shallow-water	0.0048	2,000	10
		deep-water	0.0115	2,000	23
2	April 1–July 1	shallow-water	0.0189	2,000	38
		deep-water	0.1072	2,000	214
3	July 1–September 1	shallow-water	0.0146	2,000	29
		deep-water	0.0521	2,000	104
4	September 1–October 1	shallow-water	0.0074	2,000	15
		deep-water	0.0014	2,000	3
5	October 1–December 31	shallow-water	0.0227	2,000	45
		deep-water	0.0371	2,000	74

Directed Fishing Closures

Pursuant to § 679.20(d)(1)(i), if the Regional Administrator determines (1) that any allocation or apportionment of a target species or species group allocated or apportioned to a fishery will be reached; or (2) with respect to pollock and Pacific cod, that an allocation or apportionment to an inshore or offshore component allocation will be reached, the Regional Administrator may establish a DFA for that species or species group. If the Regional Administrator establishes a DFA and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified GOA regulatory area or district (§ 679.20(d)(1)(iii)).

The Regional Administrator has determined that the TAC limits for the species listed in Table 24 are necessary to account for the incidental catch of these species in other anticipated groundfish fisheries for the 2011 and 2012 fishing years.

TABLE 24—2011 AND 2012 DIRECTED FISHING CLOSURES IN THE GOA

[Amounts for incidental catch in other directed fisheries are in metric tons]

Target	Area/component/gear	Incidental catch amount
Pollock	all/offshore	[1] unknown
Sablefish[2]	all/trawl	1,519 (2011) 1,391 (2012)
Shortraker rockfish[2]	all	914
Other rockfish	all	1,195 (2011)

TABLE 24—2011 AND 2012 DIRECTED FISHING CLOSURES IN THE GOA—Continued

[Amounts for incidental catch in other directed fisheries are in metric tons]

Target	Area/component/gear	Incidental catch amount
		1,194 (2012)
Rougheye rockfish	all	1,312
Thornyhead	all	1,770
Atka mackerel	all	2,000
Big skate	all	3,328
Longnose skate	all	2,852
Other skates	all	2,093
Squids	all	1,148
Sharks	all	6,197
Octopuses	all	954

[1] Pollock is closed to directed fishing in the GOA by the offshore component under § 679.20(a)(6)(i).
[2] Closures not applicable to participants in cooperatives conducted under the Rockfish Pilot Program.

Consequently, in accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the DFA for the species or species groups listed in Table 24 as zero mt. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing for those species, areas, gear types, and components in the GOA listed in Table 24. These closures will remain in effect through 2400 hrs, A.l.t., December 31, 2012.

Section 679.64(b)(5) provides for management of AFA CV groundfish harvest limits and PSC bycatch limits using directed fishing closures and PSC closures according to procedures set out at §§ 679.20(d)(1)(iv), 679.21(d)(8), and 679.21(e)(3)(v). The Regional Administrator has determined that, in addition to the closures listed above, many of the non-exempt AFA CV sideboard limits listed in Tables 14 and 15 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2011 and 2012 fishing years. In accordance with § 679.20(d)(1)(iv), the Regional Administrator sets the DFAs for the species and species groups in Table 25 at zero. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing by non-exempt AFA CVs in the GOA for the species and specified areas listed in Table 25. These closures will remain in effect through 2400 hrs, A.l.t., December 31, 2012.

TABLE 25—2011 AND 2012 NON-EXEMPT AFA CV SIDEBOARD DIRECTED FISHING CLOSURES FOR ALL GEAR TYPES IN THE GOA

[Amounts for incidental catch in other directed fisheries are in metric tons]

Species	Regulatory area/district	Incidental catch amount
Pacific cod	Eastern	14 (inshore) and 2 (offshore) in 2011. 13 (inshore) and 1 (offshore) in 2012.
Deep-water flatfish	Western	0.
Rex sole	Eastern and Western	1 and 3 in 2011. 1 and 2 in 2012.
Arrowtooth flounder	Eastern and Western	1 and 17.
Flathead sole	Eastern and Western	2 and 7.
Pacific ocean perch	Western	6.
Northern rockfish	Western	1.
Pelagic shelf rockfish	Entire GOA	3.
Demersal shelf rockfish	SEO District	1.
Sculpins	Entire GOA	35.
Squids	Entire GOA	7.

Section 680.22 provides for the management of non-AFA crab vessel sideboards using directed fishing closures in accordance with § 680.22(e)(2) and (3). The Regional Administrator has determined that the non-AFA crab vessel sideboards listed in Tables 17 and 18 are insufficient to support a directed fishery and has set the sideboard DFA at zero, with the exception of Pacific cod in the Western and Central Regulatory Areas. Therefore, NMFS is prohibiting directed fishing by non-AFA crab vessels in the GOA for all species and species groups listed in Tables 17 and 18, with the exception of Pacific cod in the Western and Central Regulatory Areas.

Section 679.82 provides for the management of Rockfish Program sideboard limits using directed fishing closures in accordance with § 679.82(d)(7)(i) and (ii). The Regional Administrator has determined that the CV sideboards listed in Table 19 are insufficient to support a directed fishery and has set the sideboard DFA at zero. Therefore, NMFS is closing directed fishing for Pacific ocean perch and pelagic shelf rockfish in the WYK District and the Western Regulatory Area and for northern rockfish in the Western Regulatory Area by CVs participating in the Central GOA Rockfish Program during the month of July in 2011. These closures will remain in effect through 2400 hrs, A.l.t., December 31, 2011.

Closures implemented under the 2010 and 2011 Gulf of Alaska harvest specifications for groundfish (75 FR 11749, March 12, 2010) remain effective under authority of these final 2011 and 2012 harvest specifications, and are posted at the following Web sites:

http://alaskafisheries.noaa.gov/index/infobulletins/infobulletins.asp?Yr=2010, and *http://alaskafisheries.noaa.gov/2010/status.htm.* While these closures are in effect, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a fishing trip. These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 679. NMFS may implement other closures during the 2011 and 2012 fishing years as necessary for effective conservation and management.

Response to Comments

NMFS did not receive any comments in response to the proposed 2011 and 2012 harvest specifications (75 FR 76352, December 8, 2010).

Classification

NMFS has determined that these final harvest specifications are consistent with the FMP and with the Magnuson-Stevens Act and other applicable laws.

This action is authorized under 50 CFR 679.20 and is exempt from review under Executive Order 12866.

NMFS prepared an EIS for this action (*see* **ADDRESSES**) and made it available to the public on January 12, 2007 (72 FR 1512). On February 13, 2007, NMFS issued the Record of Decision (ROD) for the EIS. In January 2011, NMFS prepared a Supplemental Information Report (SIR) for this action. Copies of the EIS, ROD, and SIR for this action are available from NMFS (*see* **ADDRESSES**). The EIS analyzes the environmental consequences of the groundfish harvest specifications and alternative harvest strategies on resources in the action area. The EIS found no significant environmental consequences of this action and its alternatives. The SIR evaluates the need to prepare a Supplemental EIS (SEIS) for the 2011 and 2012 groundfish harvest specifications.

A SEIS should be prepared if (1) the agency makes substantial changes in the proposed action that are relevant to environmental concerns, or (2) significant new circumstances or information exist relevant to environmental concerns and bearing on the proposed action or its impacts (40 CFR 1502.9(c)(1)). After reviewing the information contained in the SIR and SAFE reports, the Regional Administrator has determined that (1) approval of the 2011 and 2012 harvest specifications, which were set according to the preferred harvest strategy in the EIS, do not constitute a change in the action; and (2) there are no significant new circumstances or information relevant to environmental concerns and bearing on the action or its impacts. Additionally, the 2011 and 2012 harvest specifications will result in environmental impacts within the scope of those analyzed and disclosed in the EIS. Therefore, supplemental National Environmental Protection Act documentation is not necessary to implement the 2011 and 2012 harvest specifications.

NMFS also prepared an Initial Regulatory Flexibility Analysis (IRFA) as required by section 603 of the Regulatory Flexibility Act, analyzing the methodology for establishing the relevant TACs. The IRFA evaluated the impacts on small entities of alternative harvest strategies for the groundfish fisheries in the EEZ off Alaska. Accordingly, NMFS used the IRFA prepared for the EIS is association with this action. NMFS published a notice of availability of the IRFA and its summary in the Classification section of the proposed 2006 and 2007 harvest specifications for the GOA in the **Federal Register** on December 15, 2006 (71 FR 75460). No comments were received regarding the IRFA or on the economic effects of the TAC-setting methodology.

NMFS also prepared a Final Regulatory Flexibility Analysis (FRFA), as required by section 604 of the Regulatory Flexibility Act. Copies of the FRFA are available from NMFS, Alaska Region (*see* **ADDRESSES**). The FRFA analyzed the methodology for establishing the relevant TACs. As set forth in the methodology, TACs are set to a level that fall within the range of ABCs recommended by the SSC; the sum of the TACs must achieve optimum yield specified in the FMP. While the specific numbers that the methodology may produce vary from year to year, the methodology itself remains constant. Accordingly, NMFS is using the FRFA prepared for the EIS in association with this action. Pursuant to sections 3.2.3 and 3.2.4 of the FMP, the established methodology produces ABCs and TACs within specified ranges and the numbers in this final rule's preferred alternative are within those ranges.

In addition, NMFS considers the annual rulemakings establishing the harvest specification numbers to be a series of closely-related rules stemming from the harvest strategy and representing one rule for purposes of the Regulatory Flexibility Act (5 U.S.C. 605(c)). The need for, and objectives of, this final rule are described in the preamble. A summary of the 2007 FRFA follows. This action is taken in accordance with the FMP prepared by the Council pursuant to the Magnuson-Stevens Act.

The directly regulated small entities include approximately 747 small CVs and fewer than 20 small C/Ps in the GOA. The entities directly regulated by this action harvest groundfish in the EEZ of the GOA, and in parallel fisheries within State of Alaska waters. These include entities operating CVs and C/Ps within the action area, and entities receiving direct allocations of groundfish. CVs and C/Ps were considered to be small entities if they had annual gross receipts of $4 million per year or less from all economic activities, including the revenue of their affiliated operations (*see* Table 37 to the Economic Status of the Groundfish Fisheries off Alaska, 2005, in the 2006 SAFE report, dated February 2007, available from the Council (*see* **ADDRESSES**)).

Estimates of gross product value for the GOA groundfish were used as an index of revenue and potential impacts of the alternative harvest strategies on small entities. Revenues were projected to decline from 2006 levels in 2007 and 2008 under the preferred alternative due to declines in ABCs for key species, but by relatively small amounts. For example, the 2006 estimated earned revenue for GOA groundfish was 199.4 million dollars, with projected revenues of 192.2 million dollars and 199.2 million dollars in 2007 and 2008, respectively.

The preferred alternative (Alternative 2) was compared to four other alternatives. These included Alternative 1, which would have set TACs to generate fishing rates equal to the maximum permissible ABC (if the full TAC were harvested), unless the sum of TACs exceeded the GOA OY, in which case harvests would be limited to the OY. Alternative 3 would have set TACs to produce fishing rates equal to the most recent five-year average fishing rate. Alternative 4 would have set TACs to equal the lower limit of the GOA OY range. Alternative 5—the "no action" alternative—would have set TACs equal to zero.

Alternatives 3, 4, and 5 were all associated with smaller levels for important fishery TACs than Alternative 2. Estimated total gross product values were used as an index of potential adverse impacts to small entities. As a consequence of the lower TAC levels, Alternatives 3, 4, and 5 all had smaller first wholesale revenue indices than Alternative 2. Thus, Alternatives 3, 4, and 5 had greater adverse impacts on small entities. Alternative 1 appeared to generate higher values of the gross revenue index for fishing operations in the GOA than Alternative 2. A large part of the Alternative 1 GOA revenue

appears to be due to the assumption that the full Alternative 1 TAC would be harvested. Much of the larger revenue was due to increases in flatfish TACs that were much greater for Alternative 1 than for Alternative 2. In recent years, halibut bycatch constraints in these fisheries have kept actual flatfish catches from reaching Alternative 1 levels. Therefore, a large part of the revenues associated with Alternative 1 are unlikely to occur. Also, Alternative 2 TACs are constrained by the ABCs the Plan Teams and SSC are likely to recommend to the Council on the basis of a full consideration of biological issues. These ABCs are often less than Alternative 1's maximum permissible ABCs; therefore higher TACs under Alternative 1 may not be consistent with prudent biological management of the resource. For these reasons, Alternative 2 is the preferred alternative.

In addition to the IRFA prepared in association with the groundfish harvest specifications EIS, NMFS prepared a supplemental IRFA (SIRFA) in conjunction with the proposed harvest specifications (*see* **ADDRESSES**). The SIRFA evaluated the specification of separate OFLs and TACs for squids, sharks, octopuses, and sculpins in the GOA, consistent with the previously selected harvest strategy, the tier system used to set OFL (per the FMP), Amendment 87 to the FMP, the Magnuson-Stevens Act, and other applicable law (*see* **ADDRESSES**). Amendment 87 to the FMP was published on September 22, 2010, and dissolved the "other species" complex into its component species of squids, sharks, octopuses, and sculpins.

This supplemental Final Regulatory Flexibility Analysis (SFRFA) incorporates the SIRFA, a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' responses to those comments, and provides a summary of the analyses completed to support the action. The SFRFA augments the FRFA prepared in connection with the 2007 Alaska Groundfish Harvest Specification EIS.

NMFS published the proposed harvest specifications on December 8, 2010 (75 FR 76352) with comments invited through January 7, 2011. A SIRFA was prepared and summarized in the "Classification" section of the proposed rule. The description of this action, its purpose, and its legal basis are described in the preamble to the proposed rule and are not repeated here.

No public comments were specifically received on the SIRFA or on the economic impacts of this action more generally. No changes were made from the proposed rule to the final rule.

The 2010 Economic Status of Groundfish Fisheries Off Alaska report, prepared in conjunction with the 2010 SAFE report (*see* **ADDRESSES**), identifies 669 small groundfish entities operating in the GOA, with average revenues from all sources of about $600,000. Most of these (660) are C/Vs. A majority of the C/Vs (510), used hook-and-line gear and had average revenues of about $390,000. There were 73 trawl C/Vs, with average revenues of about $840,000, and 123 pot C/Vs with average revenues of $550,000. There were five C/Ps, mostly hook-and-line vessels, with average gross revenues of about $2.49 million. The 2010 SAFE report may overstate the number of small entities because it considers individual vessel gross revenues, but does not capture affiliations among vessels. All of these small entities would be directly regulated by this action. As described below, however, certain small entities may be more likely than others to be adversely affected by this action as a result of potential impacts associated with the incidental catch of sharks, octopuses, or squids in other target fisheries.

This action does not modify any recordkeeping or reporting requirements.

NMFS considered several alternatives to the action to specify separate OFLs and TACS for GOA sculpins, sharks, octopuses, and squids species complexes. However, each of these alternatives has been eliminated from further consideration because it either does not minimize significant economic impacts on a substantial number of small entities or does not accomplish the stated objectives of, or is in conflict with the requirements of, applicable statutes.

This action is intended to fulfill the agency's mandate to establish catch limits that are based on the best available scientific information, and to achieve optimum yield while preventing overfishing. This action adopts the alternative that is both consistent with the agency's obligations under the Magnuson-Stevens Act and the FMP and minimizes the likelihood that the specification of TACs and OFLs for the sculpin, sharks, octopuses, and squid species complexes will adversely affect small entities.

NMFS considered dividing the TACs for each of the species complexes among different regulatory areas in the GOA. Any such further division of the TACs would not change the total TACs for each species complex in the GOA as a whole. However, the incidental catch of fishing vessels that operate within each of the regulatory areas would be counted against a reduced TAC and OFL, which would increase the likelihood that the TAC or OFL would be reached and that one or more area closures may be triggered.

NMFS considered excusing small entities from compliance with the TACs for each of the species complexes evaluated in the SFRFA. However, the Magnuson-Stevens Act requires NMFS to implement conservation and management measures that prevent overfishing. Authorizing unlimited incidental catch of these species complexes by small entities would present an unacceptable risk of overfishing, and would not be consistent with the agency's obligations under Magnuson-Stevens Act, nor with the requirements of the Council's FMP.

In order to minimize the economic impacts of this action, NMFS considered allocating relatively large portions of the TACs for each of the species complexes to potentially affected small entities. However, any such allocation, which would be motivated solely by economic considerations under the Regulatory Flexibility Act, would not be consistent with National Standard 5, which states that "no [conservation and management measure] shall have economic allocation as its sole purpose." 16 U.S.C. 1851(a)(5).

Finally, NMFS considered establishing a single group TAC for all four of the species complexes in the GOA, which would substantially reduce the likelihood that incidental catch would reach or exceed the TAC or OFL and result in area closures of target fisheries. However, the establishment of a stock complex comprised of species with such disparate life histories would not be consistent with the statutory requirement to establish catch limits that prevent overfishing for stocks in the fishery, nor with the Council's intent in enacting Amendment 87.

Adverse impacts on marine mammals resulting from fishing activities conducted under this rule are discussed in the EIS (*see* **ADDRESSES**).

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries, NOAA, finds good cause to waive the 30-day delay in effectiveness for this rule. Plan Team review occurred in November 2010, and Council consideration and recommendations occurred in December 2010. Accordingly, NMFS review could not begin until January 2011. For all fisheries not currently closed because the TACs established under the final 2010 and 2011 harvest specifications (75 FR 11749, March 12, 2010) were not

reached, the possibility exists that they would be closed prior to the expiration of a 30-day delayed effectiveness period, if implemented, because their TACs could be reached. Certain fisheries, such as those for pollock and Pacific cod are intensive, fast-paced fisheries. Other fisheries, such as those for flatfish, rockfish, skates, squids, sharks, and octopuses are critical as directed fisheries and as incidental catch in other fisheries. U.S. fishing vessels have demonstrated the capacity to catch the TAC allocations in these fisheries. If a TAC is reached, NMFS would close directed fishing or prohibit retention for the applicable species, pending completion of the 30-day delayed effectiveness period. Any delay in allocating the final TACs in these fisheries would cause confusion to the industry and potential economic harm through unnecessary discards. Waiving the 30-day delay allows NMFS to prevent economic loss to fishermen that could occur should 2011 TACs be reached prior to the close of the 30 day delay. Determining which fisheries may close is impossible because these fisheries are affected by several factors that cannot be predicted in advance, including fishing effort, weather, movement of fishery stocks, and market price. Furthermore, the closure of one fishery has a cascading effect on other fisheries by freeing-up fishing vessels, allowing them to move from closed fisheries to open ones, increasing the fishing capacity in those open fisheries and causing them to close at an accelerated pace.

In fisheries subject to declining sideboards, a failure to implement the updated sideboards before initial season's end could preclude the intended economic protection to the non-sideboarded sectors. Conversely, in fisheries with increasing sideboards, economic benefit could be precluded to the sideboarded sectors.

If the final harvest specifications are not effective by March 12, 2011, which is the start of the 2011 Pacific halibut season as specified by the IPHC, the hook-and-line sablefish fishery will not begin concurrently with the Pacific halibut IFQ season. This would result in confusion for the industry and economic harm from unnecessary discard of sablefish that are caught along with Pacific halibut, as both hook-and-line sablefish and Pacific halibut are managed under the same IFQ program. Immediate effectiveness of the final 2011 and 2012 harvest specifications will allow the sablefish IFQ fishery to begin concurrently with the Pacific halibut IFQ season. Also, the immediate effectiveness of this action is required to provide consistent management and conservation of fishery resources based on the best available scientific information. This is particularly true of those species which have lower 2011 ABCs and TACs than those established in the 2010 and 2011 harvest specifications (75 FR 11749, March 12, 2010). Immediate effectiveness also would give the fishing industry the earliest possible opportunity to plan and conduct its fishing operations with respect to new information about TAC limits. Therefore, NMFS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3).

Small Entity Compliance Guide

The following information is a plain language guide to assist small entities in complying with this final rule as required by the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule's primary purpose is to announce the final 2011 and 2012 harvest specifications and prohibited species bycatch allowances for the groundfish fisheries of the GOA. This action is necessary to establish harvest limits and associated management measures for groundfish during the 2011 and 2012 fishing years and to accomplish the goals and objectives of the FMP. This action affects all fishermen who participate in the GOA fisheries. The specific amounts of OFL, ABC, TAC, and PSC are provided in tables to assist the reader. NMFS will announce closures of directed fishing in the **Federal Register** and information bulletins released by the Alaska Region. Affected fishermen should keep themselves informed of such closures.

Authority: 16 U.S.C. 773 *et seq.;* 16 U.S.C. 1540(f), 1801 *et seq.;* 16 U.S.C. 3631 *et seq.;* Pub. L. 105–277; Pub. L. 106–31; Pub. L. 106–554; Pub. L. 108–199; Pub. L. 108–447; Pub. L. 109–241; Pub. L. 109–479.

Dated: February 22, 2011.

Samuel D. Rauch III,

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

[FR Doc. 2011–4402 Filed 2–28–11; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 101126521–0640–02]

RIN 0648–XZ90

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Final 2011 and 2012 Harvest Specifications for Groundfish

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

ACTION: Final rule; closures.

SUMMARY: NMFS announces final 2011 and 2012 harvest specifications and prohibited species catch allowances for the groundfish fishery of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to establish harvest limits for groundfish during the 2011 and 2012 fishing years, and to accomplish the goals and objectives of the Fishery Management Plan for Groundfish of the BSAI (FMP). The intended effect of this action is to conserve and manage the groundfish resources in the BSAI in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Effective from 1200 hrs, Alaska local time (A.l.t.), March 1, 2011, through 2400 hrs, A.l.t., December 31, 2012.

ADDRESSES: Electronic copies of the Final Alaska Groundfish Harvest Specifications Environmental Impact Statement (EIS), Record of Decision (ROD), Supplementary Information Report (SIR) to the EIS, the Final Regulatory Flexibility Analysis (FRFA), and Supplemental FRFA prepared for this action are available from *http://alaskafisheries.noaa.gov.* The final 2010 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the BSAI, dated November 2010, is available from the North Pacific Fishery Management Council (Council) at 605 West 4th Avenue, Suite 306, Anchorage, AK 99510–2252, phone 907–271–2809, or from the Council's Web site at *http://alaskafisheries.noaa.gov/npfmc.*

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7269.

SUPPLEMENTARY INFORMATION: Federal regulations at 50 CFR part 679 implement the FMP and govern the groundfish fisheries in the BSAI. The

North Pacific Fishery Management Council (Council) prepared the FMP, and NMFS approved it under the Magnuson-Stevens Act. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify the total allowable catch (TAC) for each target species; the sum must be within the optimum yield (OY) range of 1.4 million to 2.0 million metric tons (mt) (see § 679.20(a)(1)(i)). NMFS also must specify apportionments of TACs, prohibited species catch (PSC) allowances, and prohibited species quota (PSQ) reserves established by § 679.21; seasonal allowances of pollock, Pacific cod, and Atka mackerel TAC; Amendment 80 allocations; and Community Development Quota (CDQ) reserve amounts established by § 679.20(b)(1)(ii). The final harvest specifications set forth in Tables 1 through 16 of this action satisfy these requirements. The sum of TACs is 2,000,000 mt for 2011 and is 2,000,000 mt for 2012.

Section 679.20(c)(3)(i) further requires NMFS to consider public comment on the proposed annual TACs (and apportionments thereof) and PSC allowances, and to publish final harvest specifications in the **Federal Register**. The proposed 2011 and 2012 harvest specifications and PSC allowances for the groundfish fishery of the BSAI were published in the **Federal Register** on December 8, 2010 (75 FR 76372). Comments were invited and accepted through January 7, 2011. NMFS received 9 letters with 4 comments on the proposed harvest specifications. These comments are summarized and responded to in the "Response to Comments" section of this rule. NMFS consulted with the Council on the final 2011 and 2012 harvest specifications during the December 2010 Council meeting in Anchorage, AK. After considering public comments, as well as biological and economic data that were available at the Council's December meeting, NMFS is implementing the final 2011 and 2012 harvest specifications as recommended by the Council.

Acceptable Biological Catch (ABC) and TAC Harvest Specifications

The final ABC levels are based on the best available biological and socioeconomic information, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass. In general, the development of ABCs and overfishing levels (OFLs) involves sophisticated statistical analyses of fish populations. The FMP specifies a series of six tiers to define OFL and ABC amounts based on the level of reliable information available to fishery scientists. Tier one represents the highest level of information quality available while tier six represents the lowest.

In December 2010, the Scientific and Statistical Committee (SSC), Advisory Panel (AP), and Council reviewed current biological information about the condition of the BSAI groundfish stocks. The Council's Plan Team compiled and presented this information in the 2010 SAFE report for the BSAI groundfish fisheries, dated November 2010. The SAFE report contains a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters, as well as summaries of the available information on the BSAI ecosystem and the economic condition of groundfish fisheries off Alaska. The SAFE report was made available for public review upon notification of the proposed harvest specifications. The 2010 SAFE report continues to be available for public review (*see* **ADDRESSES**). From these data and analyses, the Plan Team estimated an OFL and ABC for each species or species category.

In December 2010, the SSC, AP, and Council reviewed the Plan Team's recommendations. The SSC concurred with the Plan Team's recommendations, and the Council adopted the OFL and ABC amounts recommended by the SSC (Table 1). The final TAC recommendations were based on the ABCs as adjusted for other biological and socioeconomic considerations, including maintaining the sum of the TACs within the required OY range of 1.4 million to 2.0 million mt. The Council adopted the AP's 2011 and 2012 TAC recommendations. As required by annual catch limit rules (FR 74 3178, January 16, 2009), none of the Council's recommended TACs for 2011 or 2012 exceeds the final 2011 or 2012 ABCs for any species category. The final 2010 and 2011 harvest specifications approved by the Secretary are unchanged from those recommended by the Council and are consistent with the preferred harvest strategy alternative in the EIS (*see* **ADDRESSES**). NMFS finds that the Council's recommended OFLs, ABCs, and TACs are consistent with the biological condition of groundfish stocks as described in the 2010 SAFE report that was approved by the Council.

Other Actions Potentially Affecting the 2011 and 2012 Harvest Specifications

NMFS intends to develop a single database that stock assessment authors can access through a single source such as the Alaska Fisheries Information Network. The development of this database will require the cooperation of several agencies, including NMFS, the Alaska Department of Fish and Game, and the International Pacific Halibut Commission (IPHC). At its October 2010 meeting, the Council's groundfish Plan Teams recommended the formation of a total catch accounting working group to assist NMFS in developing a methodology to estimate total catch of groundfish. While much of the information is currently available and will be incorporated into the final 2010 SAFE reports, the development of an adequate methodology is ongoing and not fully ready for use in the final SAFE reports. NMFS intends to have the information available for the assessment cycle in the fall of 2011.

The Council is currently considering an action to modify the non-Chinook salmon management measures to minimize non-Chinook salmon bycatch. This potential action could impose cap threshold limits, sector specific allocations, and area specific closures for BSAI groundfish closures. This action is not expected to be in place by the 2012 fishing year.

The Council has approved a new program to replace the Gulf of Alaska Rockfish Pilot Program (Rockfish Program), which is scheduled to expire on December 31, 2011. NMFS is currently developing regulations to implement this program. The new rockfish program could alter BSAI groundfish sideboards for vessels participating in the Rockfish Program. This new program is expected to be in place for the 2012 fishing year.

In 2010, NMFS Alaska Region completed a Section 7 formal consultation on the effects of the authorization of the Alaska groundfish fisheries on Endangered Species Act listed species under NMFS jurisdiction. The consultation resulted in a biological opinion that determined that the effects of the Alaska groundfish fisheries were likely to jeopardize the continued existence of, and adversely modify designated critical habitat for, the western distinct population segment of Steller sea lions. The biological opinion included a reasonable and prudent alternative (RPA) that requires changes to the BSAI Atka mackerel and Aleutian Islands subarea Pacific cod fisheries to prevent the likelihood of jeopardy of extinction or adverse modification of

critical habitat for Steller sea lions. Separate rulemaking for implementation of the RPA became effective January 1, 2011 (FR 75 77535, December 13, 2010; and 75 FR 81921, December 29, 2010). Changes to the Atka mackerel and Pacific cod harvest specifications that are required by the rule implementing the RPA are described in the section for each of these target species. The proposed harvest specifications notified the public of possible changes to the harvest specification limits.

At the October 2010 meeting, the Council and the Scientific and Statistical Committee (SSC) recommended separating Kamchatka flounder from the arrowtooth flounder complex starting in the year 2011. As a result, arrowtooth flounder and Kamchatka flounder have separate OFLs, ABCs, and TACs for 2011 and 2012. In the proposed 2011 and 2012 harvest specifications NMFS requested public comment on the proposal to allocate 10.7 percent of the Kamchatka flounder TAC to the CDQ Program. Six comments were received, and NMFS has determined to not allocate Kamchatka flounder to the six CDQ groups in 2011. See the Response to Comments section below.

Changes From the Proposed 2010 and 2011 Harvest Specifications in the BSAI

In October 2010, the Council made its recommendations for the proposed 2011 and 2012 harvest specifications (75 FR 76372, December 8, 2010), based largely on information contained in the 2009 SAFE report for the BSAI groundfish fisheries. Through the proposed harvest specifications, NMFS notified the public that these harvest specifications were subject to change and that the Council would consider information contained in the 2010 SAFE report, recommendations from the SSC, Plan Team, and AP committees, and public testimony when making its recommendations for final harvest specification levels at the December Council meeting. NMFS further notified the public that, as required by the BSAI Groundfish FMP and its implementing regulations, the sum of the TACs must be within the optimum yield range of 1.4 and 2.0 million metric tons.

Information contained in the 2010 SAFE reports indicates an increase in biomass for several groundfish species. At the December Council meeting, the SSC recommended increasing the ABCs for many species in 2011 and 2012 based on the best and most recent information contained in the 2010 SAFE reports. This increase resulted in an ABC sum total that exceeds 2 million metric tons for both 2011 and 2012. Based on the SSC ABC recommendations and the 2010 SAFE reports, the AP recommended raising the TACs for more economically valuable species that have increasing biomasses such as pollock, Pacific cod, Pacific ocean perch, and Atka mackerel in the Eastern Aleutian Islands and Bering Sea subarea. Because these increases caused the sum of the TACs to exceed the 2 million metric ton limit, section 3.2.3.4 of the BSAI FMP required that the TACs be adjusted. The AP recommended a downward adjustment of TACs for several species that are not part of the directed fishery and that are easily avoided, such as octopuses, sculpins, sharks, skates, squid, and Alaska plaice. After receiving testimony from the Amendment 80 cooperatives, the AP recommended a reduction in Amendment 80 flatfish species TACs and arrowtooth flounder TAC to levels that the Amendment 80 fleet believed they could harvest given their PSC constraints. The Council accepted the SSC and AP recommendations.

The changes to TAC between the proposed and final harvest specifications are based on the most recent scientific and economic information and are consistent with the FMP and regulatory obligations and harvest strategy as described in the proposed harvest specifications. These changes are compared in the following table.

Table 1 lists the Council's recommended final 2011 and 2012 OFL, ABC, TAC, initial TAC (ITAC) and CDQ reserve amounts of the BSAI groundfish. NMFS concurs with these recommendations. The final 2011 and 2012 TAC recommendations for the BSAI are within the OY range established for the BSAI and do not exceed the ABC for any single species or complex. The apportionment of TAC amounts among fisheries and seasons is discussed below.

COMPARISON OF FINAL 2011 AND 2012 WITH PROPOSED 2011 AND 2012 TOTAL ALLOWABLE CATCH IN THE BSAI

[Amounts are in metric tons]

Species	Area [1]	2011 final TAC	2011 proposed TAC	2011 difference from proposed	2012 final TAC	2012 proposed TAC	2012 difference from proposed
Pollock	BS	1,252,000	1,107,000	145,000	1,253,658	1,105,000	148,658
	AI	19,000	19,000	0	19,000	19,000	0
	Bogoslof	150	75	75	150	75	75
Pacific cod	BSAI	227,950	207,580	20,370	229,608	207,580	22,028
Sablefish	BS	2,850	2,500	350	2,610	2,500	110
	AI	1,900	1,860	40	1,740	1,860	−120
Atka mackerel	EAI/BS	40,300	20,900	19,400	36,800	20,900	15,900
	CAI	11,280	26,000	−14,720	10,293	26,000	−15,707
	WAI	1,500	18,100	−16,600	1,500	18,100	−16,600
Yellowfin sole	BSAI	196,000	213,000	−17,000	197,660	213,000	−15,340
Rock sole	BSAI	85,000	90,000	−5,000	85,000	90,000	−5,000
Greenland turbot	BS	3,500	3,700	−200	3,500	3,700	−200
	AI	1,550	1,670	−120	1,450	1,670	−220
Arrowtooth flounder	BSAI	25,900	60,000	−34,100	25,900	60,000	−34,100
Kamchatka flounder	BSAI	17,700	17,700	0	17,700	17,700	0
Flathead sole	BSAI	41,548	60,000	−18,452	41,548	60,000	−18,452
Other flatfish	BSAI	3,000	17,300	−14,300	3,000	17,300	−14,300
Alaska plaice	BSAI	16,000	40,000	−24,000	16,000	40,000	−24,000
Pacific ocean perch	BS	5,710	3,790	1,920	5,710	3,790	1,920
	EAI	5,660	4,180	1,480	5,660	4,180	1,480
	CAI	4,960	4,230	730	4,960	4,230	730
	WAI	8,370	6,480	1,890	8,370	6,480	1,890

COMPARISON OF FINAL 2011 AND 2012 WITH PROPOSED 2011 AND 2012 TOTAL ALLOWABLE CATCH IN THE BSAI—Continued

[Amounts are in metric tons]

Species	Area [1]	2011 final TAC	2011 proposed TAC	2011 difference from proposed	2012 final TAC	2012 proposed TAC	2012 difference from proposed
Northern rockfish	BSAI	4,000	7,290	−3,290	4,000	7,290	−3,290
Shortraker rockfish	BSAI	393	387	6	393	387	6
Rougheye rockfish [2]	BS/EAI	234	42	192	240	42	198
	CAI/WAI	220	489	−269	225	489	−264
Other rockfish	BS	500	485	15	500	485	15
	AI	500	555	−55	500	555	−55
Squid	BSAI	425	1,970	−1,545	425	1,970	−1,545
Skates	BSAI	16,500	30,000	−13,500	16,500	30,000	−13,500
Sharks	BSAI	50	449	−399	50	449	−399
Octopuses	BSAI	150	233	−83	150	233	−83
Sculpins	BSAI	5,200	30,035	−24,835	5,200	30,035	−24,835
Total	BSAI	2,000,000	1,997,000	3,000	2,000,000	1,995,000	5,000

[1] Bering Sea subarea (BS), Aleutian Islands subarea (AI), Bering Sea and Aleutian Islands management area (BSAI), Eastern Aleutian District (EAI), Central Aleutian District (CAI), and Western Aleutian District (WAI).

[2] The proposed rule split rougheye rockfish TACs by the Aleutian Islands, and the Bering Sea. The final rule splits rougheye rockfish by the Bering Sea and Eastern Aleutians District, and the Central Aleutian District and Western Aleutian District.

TABLE 1—FINAL 2011 AND 2012 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND CDQ RESERVE ALLOCATION OF GROUNDFISH IN THE BSAI [1]

[Amounts are in metric tons]

Species	Area	2011					2012				
		OFL	ABC	TAC	ITAC [2]	CDQ [3]	OFL	ABC	TAC	ITAC [2]	CDQ [3]
Pollock [3]	BS [2]	2,450,000	1,270,000	1,252,000	1,126,800	125,200	3,170,000	1,600,000	1,253,658	1,128,292	125,366
	AI [2]	44,500	36,700	19,000	17,100	1,900	50,400	41,600	19,000	17,100	1,900
	Bogoslof	22,000	156	150	150	0	22,000	156	150	150	0
Pacific cod [4, 5]	BSAI	272,000	235,000	227,950	203,559	24,391	329,000	281,000	229,608	205,040	24,568
Sablefish [5]	BS	3,360	2,850	2,850	2,351	392	3,080	2,610	2,610	1,109	98
	AI	2,250	1,900	1,900	1,544	321	2,060	1,740	1,740	370	33
Atka mackerel [5]	BSAI	101,000	85,300	53,080	47,400	5,680	92,200	77,900	48,593	43,394	5,199
	EAI/BS	n/a	40,300	40,300	35,988	4,312	n/a	36,800	36,800	32,862	3,938
	CAI	n/a	24,000	11,280	10,073	1,207	n/a	21,900	10,293	9,192	1,101
	WAI	n/a	21,000	1,500	1,340	161	n/a	19,200	1,500	1,340	161
Yellowfin sole [5]	BSAI	262,000	239,000	196,000	175,028	20,972	266,000	242,000	197,660	176,510	21,150
Rock sole [5, 6]	BSAI	248,000	224,000	85,000	75,905	9,095	243,000	219,000	85,000	75,905	9,095
Greenland turbot [5]	BSAI	7,220	6,140	5,050	4,293	n/a	6,760	5,750	4,950	4,208	n/a
	BS	n/a	4,590	3,500	2,975	375	n/a	4,300	3,500	2,975	375
	AI	n/a	1,550	1,550	1,318	0	n/a	1,450	1,450	1,233	0
Arrowtooth flounder [5]	BSAI	186,000	153,000	25,900	22,015	2,771	191,000	157,000	25,900	22,015	2,771
Kamchatka flounder	BSAI	23,600	17,700	17,700	15,045	0	23,600	17,700	17,700	15,045	0
Flathead sole [5, 7]	BSAI	83,300	69,300	41,548	37,102	4,446	82,100	68,300	41,548	37,102	4,446
Other flatfish [8]	BSAI	19,500	14,500	3,000	2,550	0	19,500	14,500	3,000	2,550	0
Alaska plaice	BSAI	79,100	65,100	16,000	13,600	0	83,800	69,100	16,000	13,600	0
Pacific ocean perch [5]	BSAI	36,300	24,700	24,700	21,812	n/a	34,300	24,700	24,700	21,812	n/a
	BS	n/a	5,710	5,710	4,854	0	n/a	5,710	5,710	4,854	0
	EAI	n/a	5,660	5,660	5,054	606	n/a	5,660	5,660	5,054	606
	CAI	n/a	4,960	4,960	4,429	531	n/a	4,960	4,960	4,429	531
	WAI	n/a	8,370	8,370	7,474	896	n/a	8,370	8,370	7,474	896
Northern rockfish	BSAI	10,600	8,670	4,000	3,400	0	10,400	8,330	4,000	3,400	0
Shortraker rockfish	BSAI	524	393	393	334	0	524	393	393	334	0
Rougheye rockfish [9]	BSAI	549	454	454	386	0	563	465	465	395	0
	EBS/EAI	n/a	234	234	199	0	n/a	240	240	204	0
	CAI/WAI	n/a	220	220	187	0	n/a	225	225	191	0
Other rockfish [10]	BSAI	1,700	1,280	1,000	850	0	1,700	1,280	1,000	850	0
	BS	n/a	710	500	425	0	n/a	710	500	425	0
	AI	n/a	570	500	425	0	n/a	570	500	425	0
Squids	BSAI	2,620	1,970	425	361	0	2,620	1,970	425	361	0
Skates	BSAI	37,800	31,500	16,500	14,025	0	37,200	31,000	16,500	14,025	0
Sharks	BSAI	1,360	1,020	50	43	0	1,360	1,020	50	43	0
Octopuses	BSAI	528	396	150	128	0	528	396	150	128	0
Sculpins	BSAI	58,300	43,700	5,200	4,420	0	58,300	43,700	5,200	4,420	0
Total		3,954,111	2,534,729	2,000,000	1,790,200	199,467	4,731,995	2,911,610	2,000,000	1,788,157	198,926

[1] These amounts apply to the entire BSAI management area unless otherwise specified. With the exception of pollock, and for the purpose of these harvest specifications, the Bering Sea (BS) subarea includes the Bogoslof District.

[2] Except for pollock, the portion of the sablefish TAC allocated to hook-and-line and pot gear, and Amendment 80 species, 15 percent of each TAC is put into a reserve. The ITAC for these species is the remainder of the TAC after the subtraction of these reserves.

[3] Under § 679.20(a)(5)(i)(A)(1), the annual Bering Sea subarea pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (3.0 percent), is further allocated by sector for a directed pollock fishery as follows: Inshore—50 percent; catcher/processor—40 percent; and motherships—10 percent. Under § 679.20(a)(5)(iii)(B)(2)(i) and (ii), the annual Aleutian Islands subarea pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (1,600 mt), is allocated to the Aleut Corporation for a directed pollock fishery.

[4] The Pacific cod TAC is reduced by three percent from the ABC to account for the State guideline harvest level in State waters of the Aleutian Islands subarea.

[5] For the Amendment 80 species (Atka mackerel, Aleutian Islands Pacific ocean perch, yellowfin sole, rock sole, flathead sole, and Pacific cod), 10.7 percent of the TAC is reserved for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31). Twenty percent of the sablefish TAC allocated to hook-and-line gear or pot gear, 7.5 percent of the sablefish TAC allocated to trawl gear, and 10.7 percent of the TACs for Bering Sea Greenland turbot and arrowtooth flounder are reserved for use by CDQ participants (see § 679.20(b)(1)(ii)(B) and (D)). Aleutian Islands Greenland turbot, "other flatfish", Alaska plaice, Bering Sea Pacific ocean perch, northern rockfish, shortraker rockfish, rougheye rockfish, "other rockfish", octopuses, sculpins, sharks, skates, and squid are not allocated to the CDQ program.

[6] "Rock sole" includes Lepidopsetta polyxystra (Northern rock sole) and Lepidopsetta bilineata (Southern rock sole).

[7] "Flathead sole" includes Hippoglossoides elassodon (flathead sole) and Hippoglossoides robustus (Bering flounder).

[8] "Other flatfish" includes all flatfish species, except for halibut (a prohibited species), arrowtooth flounder, flathead sole, Greenland turbot, Kamchatka flounder, rock sole, and yellowfin sole.

[9] "Rougheye rockfish" includes Sebastes aleutianus (rougheye) and Sebastes melanostictus (blackspotted).

[10] "Other rockfish" includes all Sebastes and Sebastolobus species except for Pacific ocean perch, northern, shortraker, and rougheye rockfish.

Groundfish Reserves and the Incidental Catch Allowance (ICA) for Pollock, Atka Mackerel, Flathead Sole, Rock Sole, Yellowfin Sole, and Aleutian Islands Pacific Ocean Perch

Section 679.20(b)(1)(i) requires the placement of 15 percent of the TAC for each target species, except for pollock, the hook-and-line and pot gear allocation of sablefish, and the Amendment 80 species, in a non-specified reserve. Section 679.20(b)(1)(ii)(B) requires that 20 percent of the hook-and-line and pot gear allocation of sablefish be allocated to the fixed gear sablefish CDQ reserve. Section 679.20(b)(1)(ii)(D) requires allocation of 7.5 percent of the trawl gear allocations of sablefish and 10.7 percent of the Bering Sea Greenland turbot and arrowtooth flounder TACs to the respective CDQ reserves. Section 679.20(b)(1)(ii)(C) requires allocation of 10.7 percent of the TACs for Atka mackerel, Aleutian Islands Pacific ocean perch, yellowfin sole, rock sole, flathead sole, and Pacific cod to the CDQ reserves. Sections 679.20(a)(5)(i)(A) and 679.31(a) also require the allocation of 10 percent of the BSAI pollock TACs to the pollock CDQ directed fishing allowance (DFA). The entire Bogoslof District pollock TAC is allocated as an ICA (*see* § 679.20(a)(5)(ii)). With the exception of the hook-and-line and pot gear sablefish CDQ reserve, the regulations do not further apportion the CDQ allocations by gear.

Pursuant to § 679.20(a)(5)(i)(A)(*1*), NMFS allocates a pollock ICA of 3 percent of the BS subarea pollock TAC after subtraction of the 10 percent CDQ reserve. This allowance is based on NMFS' examination of the pollock incidental catch, including the incidental catch by CDQ vessels, in target fisheries other than pollock from 1999 through 2010. During this 12-year period, the pollock incidental catch ranged from a low of 2.4 percent in 2006 to a high of 5 percent in 1999, with a 12-year average of 3 percent. Pursuant to § 679.20(a)(5)(iii)(B)(*2*)(*i*) and (*ii*), NMFS establishes a pollock ICA of 1,600 mt of the AI subarea TAC after subtraction of the 10 percent CDQ DFA. This allowance is based on NMFS' examination of the pollock incidental catch, including the incidental catch by CDQ vessels, in target fisheries other than pollock from 2003 through 2010. During this 8-year period, the incidental catch of pollock ranged from a low of 5 percent in 2006 to a high of 10 percent in 2003, with an 8-year average of 7 percent.

Pursuant to § 679.20(a)(8) and (10), NMFS allocates ICAs of 5,000 mt of flathead sole, 5,000 mt of rock sole, 2,000 mt of yellowfin sole, 10 mt of Western Aleutian District Pacific (WAI) ocean perch, 75 mt of Central Aleutian District (CAI) Pacific ocean perch, 100 mt of Eastern Aleutian District (EAI) Pacific ocean perch, 40 mt of WAI Atka mackerel, 75 mt of CAI Atka mackerel, and 75 mt of EAI and BS subarea Atka mackerel TAC after subtraction of the 10.7 percent CDQ reserve. These allowances are based on NMFS' examination of the incidental catch in other target fisheries from 2003 through 2010.

The regulations do not designate the remainder of the non-specified reserve by species or species group. Any amount of the reserve may be apportioned to a target species category during the year, providing that such apportionments do not result in overfishing (*see* § 679.20(b)(1)(i)). The Regional Administrator has determined that the ITACs specified for the species listed in Table 2 need to be supplemented from the non-specified reserve because U.S. fishing vessels have demonstrated the capacity to catch the full TAC allocations. Therefore, in accordance with § 679.20(b)(3), NMFS is apportioning the amounts shown in Table 2 from the non-specified reserve to increase the ITAC for northern rockfish, shortraker rockfish, rougheye rockfish, and Bering Sea "other rockfish" by 15 percent of the TAC in 2011 and 2012.

TABLE 2—FINAL 2011 AND 2012 APPORTIONMENT OF RESERVES TO ITAC CATEGORIES

[Amounts are in metric tons]

Species-area or subarea	2011 ITAC	2011 reserve amount	2011 final ITAC	2012 ITAC	2012 reserve amount	2012 final ITAC
Shortraker rockfish–BSAI	334	59	393	334	59	393
Rougheye rockfish–EBS/EAI	199	35	234	204	36	240
Rougheye rockfish–CAI/WAI	187	33	220	191	34	225
Northern rockfish–BSAI	3,400	600	4,000	3,400	600	4,000
Other rockfish—Bering Sea subarea	425	75	500	425	75	500
Total	4,545	802	5,347	4,554	804	5,358

Allocation of Pollock TAC Under the American Fisheries Act (AFA)

Section 679.20(a)(5)(i)(A) requires that the pollock TAC apportioned to the BS subarea, after subtraction of the 10 percent for the CDQ program and the 3 percent for the ICA, be allocated as a DFA as follows: 50 percent to the inshore sector, 40 percent to the catcher/processor (C/P) sector, and 10 percent to the mothership sector. In the BS subarea, 40 percent of the DFA is allocated to the A season (January 20–June 10), and 60 percent of the DFA is allocated to the B season (June 10–November 1) (§ 679.20(a)(5)(i)(A)). The AI directed pollock fishery allocation to the Aleut Corporation is the amount of pollock remaining in the AI subarea after subtracting 1,900 mt for the CDQ DFA (10 percent) and 1,600 mt for the ICA (§ 679.20(a)(5)(iii)(B)(*2*)(*ii*)). In the AI subarea, 40 percent of the DFA is allocated to the A season and the remainder of the directed pollock fishery is allocated to the B season. Table 3 lists these 2011 and 2012 amounts.

Section 679.20(a)(5)(i)(A)(*4*) also includes several specific requirements regarding BS subarea pollock allocations. First, 8.5 percent of the pollock allocated to the C/P sector will be available for harvest by AFA catcher vessels (CVs) with C/P sector endorsements, unless the Regional Administrator receives a cooperative contract that provides for the distribution of harvest among AFA C/Ps and AFA CVs in a manner agreed to by all members. Second, AFA C/Ps not listed in the AFA are limited to harvesting not more than 0.5 percent of the pollock allocated to the C/P sector. Table 3 lists the 2011 and 2012 allocations of pollock TAC. Tables 11 through 16 list the AFA C/P and CV harvesting sideboard limits. The tables

for the pollock allocations to the BS subarea inshore pollock cooperatives and open access sector will be posted on the Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

Table 3 also lists seasonal apportionments of pollock and harvest limits within the Steller Sea Lion Conservation Area (SCA). The harvest within the SCA, as defined at § 679.22(a)(7)(vii), is limited to 28 percent of the annual DFA until 12 noon, April 1 as provided in § 679.22(a)(5)(i)(C). The remaining 12 percent of the 40 percent annual DFA allocated to the A season may be taken outside the SCA before 12 noon, April 1 or inside the SCA after 12 noon, April 1. If less than 28 percent of the annual DFA is taken inside the SCA before 12 noon, April 1, the remainder will be available to be taken inside the SCA after 12 noon, April 1. The A season pollock SCA harvest limit will be apportioned to each sector in proportion to each sector's allocated percentage of the DFA. Table 3 lists these 2011 and 2012 amounts by sector.

TABLE 3—FINAL 2011 AND 2012 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA)[1]

[Amounts are in metric tons]

Area and sector	2011 Allocations	2011 A season [1]		2011 B season [1]	2012 Allocations	2012 A season [1]		2012 B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA		A season DFA	SCA harvest limit [2]	B season DFA
Bering Sea subarea	1,252,000	n/a	n/a	n/a	1,253,658	n/a	n/a	n/a
CDQ DFA	125,200	50,080	35,056	75,120	125,366	50,146	35,102	75,219
ICA [1]	33,804	n/a	n/a	n/a	33,849	n/a	n/a	n/a
AFA Inshore	546,498	218,599	153,019	327,899	547,222	218,889	153,222	328,333
AFA Catcher/Processors [3]	437,198	174,879	122,416	262,319	437,777	175,111	122,578	262,666
Catch by C/Ps	400,037	160,015	n/a	240,022	400,566	160,227	n/a	240,340
Catch by CVs [3]	37,162	14,865	n/a	22,297	37,211	14,884	n/a	22,327
Unlisted C/P Limit [4]	2,186	874	n/a	1,312	2,189	876	n/a	1,313
AFA Motherships	109,300	43,720	30,604	65,580	109,444	43,778	30,644	65,667
Excessive Harvesting Limit [5]	191,274	n/a	n/a	n/a	191,528	n/a	n/a	n/a
Excessive Processing Limit [6]	327,899	n/a	n/a	n/a	328,333	n/a	n/a	n/a
Total Bering Sea DFA	1,092,996	437,198	306,039	655,798	1,094,443	437,777	306,444	656,666
Aleutian Islands subarea [1]	19,000	n/a	n/a	n/a	19,000	n/a	n/a	n/a
CDQ DFA	1,900	760	n/a	1,140	1,900	760	n/a	1,140
ICA	1,600	800	n/a	800	1,600	800	n/a	800
Aleut Corporation	15,500	15,500	n/a	0	15,500	15,500	n/a	0
Bogoslof District ICA [7]	150	n/a	n/a	n/a	150	n/a	n/a	n/a

[1] Pursuant to § 679.20(a)(5)(i)(A), the BS subarea pollock, after subtraction for the CDQ DFA (10 percent) and the ICA (3 percent), is allocated as a DFA as follows: inshore sector—50 percent, catcher/processor sector (C/P)—40 percent, and mothership sector—10 percent. In the BS subarea, 40 percent of the DFA is allocated to the A season (January 20–June 10) and 60 percent of the DFA is allocated to the B season (June 10–November 1). Pursuant to § 679.20(a)(5)(iii)(B)(*2*)(*i*) and (*ii*), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second the ICA (1,600 mt), is allocated to the Aleut Corporation for a directed pollock fishery. In the AI subarea, the A season is allocated 40 percent of the ABC and the B season is allocated the remainder of the directed pollock fishery.

[2] In the BS subarea, no more than 28 percent of each sector's annual DFA may be taken from the SCA before April 1. The remaining 12 percent of the annual DFA allocated to the A season may be taken outside of SCA before April 1 or inside the SCA after April 1. If less than 28 percent of the annual DFA is taken inside the SCA before April 1, the remainder will be available to be taken inside the SCA after April 1.

[3] Pursuant to § 679.20(a)(5)(i)(A)(*4*), not less than 8.5 percent of the DFA allocated to listed C/Ps shall be available for harvest only by eligible catcher vessels delivering to listed C/Ps.

[4] Pursuant to § 679.20(a)(5)(i)(A)(*4*)(*iii*), the AFA unlisted C/Ps are limited to harvesting not more than 0.5 percent of the C/Ps sector's allocation of pollock.

[5] Pursuant to § 679.20(a)(5)(i)(*A*)(*6*), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the non-CDQ pollock DFAs.

[6] Pursuant to § 679.20(a)(5)(i)(*A*)(*7*), NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the non-CDQ pollock DFAs.

[7] The Bogoslof District is closed by the final harvest specifications to directed fishing for pollock. The amounts specified are for ICA only and are not apportioned by season or sector.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Allocation of the Atka Mackerel TACs

Section 679.20(a)(8) allocates the Atka mackerel TACs to the Amendment 80 and BSAI trawl limited access sectors, after subtraction of the CDQ reserves, jig gear allocation, and ICAs for the BSAI trawl limited access sector and non-trawl gear (Table 4). The process for allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is listed in Table 33 to part 679 and § 679.91. Pursuant to § 679.20(a)(8)(i), up to 2 percent of the EAI and the BS subarea Atka mackerel ITAC may be allocated to jig gear. The amount of this allocation is determined annually by the Council based on several criteria, including the anticipated harvest capacity of the jig gear fleet. The Council recommended, and NMFS approves, a 0.5 percent allocation of the Atka mackerel ITAC in the EAI and BS subarea to the jig gear in 2011 and 2012. This percentage is applied after subtraction of the CDQ reserve and the ICA.

The RPA implemented on January 1, 2011, (FR 75 77535, December 13, 2010, and 75 FR 81921, December 29, 2010), requires that NMFS make several changes from the proposed to the final harvest specifications for BSAI Atka mackerel. The platoon management of Atka mackerel harvest inside the harvest limit area is no longer needed because the RPA prohibits all retention of Atka mackerel in Area 543 and requires that nearly all directed fishing for Atka mackerel in waters 0 nm to 20 nm around Steller sea lion sites in Area 542. The harvest limit area limits that were in the proposed harvest specification therefore have been removed from the final harvest specifications in Areas 542 and 543. The TACs in these two areas, which were set to ABC, decreased from the proposed amounts. In area 543, the final amount is set to account for discards in other fisheries since the RPA at § 679.7(a)(19) prohibits retention in Area 543. Also the final Area 542 TAC decreased from the proposed TAC since the RPA at § 679.20(a)(8)(ii)(C)(*3*) limits the annual TAC for this area to no more than 47 percent of the Area 542 ABC.

Section 679.20(a)(8)(ii)(A) apportions the Atka mackerel ITAC into two equal seasonal allowances. The RPA changed the end of the A season and start of the B season dates at § 679.23(e)(3). The first

seasonal allowance is made available for directed fishing with trawl gear from January 20 to June 10 (A season), and the second seasonal allowance is made available from June to November 1 (B season). Also, § 679.23(e)(4)(iii) the RPA applies Atka mackerel seasons to CDQ Atka mackerel fishing. The jig gear allocation is not apportioned by season.

Section 679.20(a)(8)(ii)(C)(*ii*)(*2*) requires the Amendment 80 cooperatives and CDQ groups to limit harvest to 10 percent of their Central Aleutian District Atka mackerel allocation equally divided between the A and B seasons within waters 10 nm to 20 nm of Gramp Rock and Tag Island, as described on Table 12 to part 679. Vessels not fishing under the authority of an Amendment 80 cooperative quota or CDQ allocation are prohibited from conducting directed fishing for Atka mackerel inside Steller sea lion critical habitat in the Central Aleutian District.

Table 4 lists these 2011 and 2012 Atka mackerel season and area allowances, as well as the sector allocations. The 2012 allocations for Atka mackerel between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2011.

TABLE 4—FINAL 2011 AND 2012 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

Sector [1]	Season [2, 3, 4]	2011 allocation by area			2012 allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District [5]	Western Aleutian District	Eastern Aleutian District/Bering Sea	Central Aleutian District [5]	Western Aleutian District
TAC	n/a	40,300	11,280	1,500	36,800	10,293	1,500
CDQ reserve	Total	4,312	1,207	161	3,938	1,101	161
	A	2,156	603	80	1,969	551	80
	Critical habitat [5]	n/a	60	n/a	n/a	55	n/a
	B	2,156	603	80	1,969	551	80
	Critical habitat [5]	n/a	60	n/a	n/a	55	n/a
ICA	Total	75	75	40	75	75	40
Jig [6]	Total	180	0	0	164	0	0
BSAI trawl limited access	Total	2,859	800	0	3,262	912	0
	A	1,429	400	0	1,631	456	0
	B	1,429	400	0	1,631	456	0
Amendment 80 sectors	Total	32,875	9,198	1,300	29,361	8,205	1,300
	A	16,437	4,599	650	14,681	4,102	650
	B	16,437	4,599	650	14,681	4,102	650
Alaska Groundfish Cooperative	Total	19,181	5,389	755	n/a	n/a	n/a
	A	9,591	2,695	377	n/a	n/a	n/a
	Critical habitat [5]	n/a	269	n/a	n/a	n/a	n/a
	B	9,591	2,695	377	n/a	n/a	n/a
	Critical habitat [5]	n/a	269	n/a	n/a	n/a	n/a
Alaska Seafood Cooperative	Total	13,694	3,809	545	n/a	n/a	n/a
	A	6,847	1,904	272	n/a	n/a	n/a
	Critical habitat [5]	n/a	190	n/a	n/a	n/a	n/a
	B	6,847	1,904	272	n/a	n/a	n/a
	Critical habitat [5]	n/a	190	n/a	n/a	n/a	n/a

[1] Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtraction of the CDQ reserves, jig gear allocation, and ICAs to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31).

[2] Sections 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

[3] The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

[4] Section 679.23(e)(3) authorizes directed fishing for Atka mackerel with trawl gear during the A season from January 20 to June 10 and the B season from June 10 to November 1.

[5] Section 679.20(a)(8)(ii)(C) requires the TAC in area 542 shall be no more than 47% of ABC, and Atka mackerel harvests for Amendment 80 cooperatives and CDQ groups within waters 10 nm to 20 nm of Gramp Rock and Tag Island, as described Table 12 to part 679, in Area 542 are limited to no more than 10 percent of the Amendment 80 cooperative Atka mackerel allocation or 10 percent of the CDQ Atka mackerel allocation.

[6] Section 679.20(a)(8)(i) requires that up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea TAC be allocated to jig gear after subtraction of the CDQ reserve and ICA. The amount of this allocation is 0.5 percent. The jig gear allocation is not apportioned by season.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Allocation of the Pacific Cod ITAC

Section 679.20(a)(7)(i) and (ii) allocates the Pacific cod TAC in the BSAI, after subtraction of 10.7 percent for the CDQ reserve, as follows: 1.4 percent to vessels using jig gear; 2.0 percent to hook-and-line and pot CVs less than 60 ft (18.3 m) length overall (LOA); 0.2 percent to hook-and-line CVs greater than or equal to 60 ft (18.3 m) LOA; 48.7 percent to hook-and-line C/P; 8.4 percent to pot CVs greater than or equal to 60 ft (18.3 m) LOA; 1.5 percent to pot C/Ps; 2.3 percent to AFA trawl C/Ps; 13.4 percent to non-AFA trawl C/Ps; and 22.1 percent to trawl CVs. The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. For 2011 and 2012, the Regional Administrator establishes an ICA of 500 mt based on anticipated incidental catch by these sectors in other fisheries. The allocation of the ITAC for Pacific cod to the Amendment 80 sector is established in Table 33 to part 679 and § 679.91. The 2012 allocations for Pacific cod between Amendment 80 cooperatives and the Amendment 80 limited access

sector will not be known until November 1, 2011, the date by which the applicants eligible to apply for participation in the Amendment 80 program must file their application. Amendment 80 applications for 2012 have not yet been submitted to NMFS, thereby preventing NMFS from calculating 2012 allocations. NMFS will post 2012 Amendment 80 allocations when they become available in December 2011.

The Pacific cod ITAC is apportioned into seasonal allowances to disperse the Pacific cod fisheries over the fishing year (*see* §§ 679.20(a)(7) and 679.23(e)(5)). In accordance with § 679.20(a)(7)(iv)(B) and (C), any unused portion of a seasonal Pacific cod allowance will become available at the beginning of the next seasonal allowance.

The CDQ and non-CDQ season allowances by gear based on the 2011 and 2012 Pacific cod TACs are listed in Tables 5a and 5b based on the sector allocation percentages of Pacific cod set forth at §§ 679.20(a)(7)(i)(B) and 679.20(a)(7)(iv)(A); and the seasonal allowances of Pacific cod set forth at § 679.23(e)(5).

The RPA implemented on January 1, 2011 (75 FR 77535, December 13, 2010), includes two prohibitions for Pacific cod. Section 679.7(a)(19) prohibits retention of Pacific cod in Area 543 and § 679.7(a)(23) prohibits directed fishing for Pacific cod with hook-and-line, pot, or jig gear in the Aleutian Islands subarea November 1 through December 31.

TABLE 5a—FINAL 2011 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

[Amounts are in metric tons]

Gear sector	Percent	Share of gear sector total	Share of sector total	Seasonal apportionment	
				Dates	Amount
Total TAC	100	227,950	n/a	n/a	n/a
CDQ	10.7	24,391	n/a	see § 679.20(a)(7)(i)(B)	n/a
Total hook-and-line/pot gear	60.8	123,764	n/a	n/a	n/a
Hook-and-line/pot ICA [1]	n/a	500	n/a	see § 679.20(a)(7)(ii)(B)	n/a
Hook-and-line/pot sub-total	n/a	123,264	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	98,733	Jan 1–Jun 10	50,354
				Jun 10–Dec 31	48,379
Hook-and-line catcher vessel ≥ 60 ft LOA.	0.2	n/a	405	Jan 1–Jun 10	207
				Jun 10–Dec 31	199
Pot catcher/processor	1.5	n/a	3,041	Jan 1–Jun 10	1,551
				Sept 1–Dec 31	1,490
Pot catcher vessel ≥ 60 ft LOA	8.4	n/a	17,030	Jan 1–Jun 10	8,685
				Sept 1–Dec 31	8,345
Catcher vessel < 60 ft LOA using hook-and-line or pot gear.	2	n/a	4,055	n/a	n/a
Trawl catcher vessel	22.1	44,987	n/a	Jan 20–Apr 1	33,290
				Apr 1–Jun 10	4,949
				Jun 10–Nov 1	6,748
AFA trawl catcher/processor	2.3	4,682	n/a	Jan 20–Apr 1	3,511
				Apr 1–Jun 10	1,170
				Jun 10–Nov 1	0
Amendment 80	13.4	27,277	n/a	Jan 20–Apr 1	20,458
				Apr 1–Jun 10	6,819
				Jun 10–Nov 1	0
Alaska Groundfish Cooperative	n/a	n/a	5,079	Jan 20–Apr 1	3,809
				Apr 1–Jun 10	1,270
				Jun 10–Nov 1	0
Alaska Seafood Cooperative	n/a	n/a	22,198	Jan 20–Apr 1	16,649
				Apr 1–Jun 10	5,550
				Jun 10–Nov 1	0
Jig	1.4	2,850	n/a	Jan 1–Apr 30	1,710
				Apr 30–Aug 31	570
				Aug 31–Dec 31	570

[1] The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 500 mt based on anticipated incidental catch in these fisheries.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

TABLE 5b—FINAL 2012 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

[Amounts are in metric tons]

Gear sector	Percent	Share of gear sector total	Share of sector total	Seasonal apportionment [2 3]	
				Dates	Amount
Total TAC	100	229,608	n/a	n/a	n/a
CDQ	10.7	24,568	n/a	see § 679.20(a)(7)(i)(B)	n/a
Total hook-and-line/pot gear	60.8	124,664	n/a	n/a	n/a
Hook-and-line/pot ICA [1]	n/a	500	n/a	see § 679.20(a)(7)(ii)(B)	n/a
Hook-and-line/pot sub-total	n/a	124,164	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	99,454	Jan 1–Jun 10	50,722
				Jun 10–Dec 31	48,732

TABLE 5b—FINAL 2012 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC—Continued

[Amounts are in metric tons]

Gear sector	Percent	Share of gear sector total	Share of sector total	Seasonal apportionment [2 3]	
				Dates	Amount
Hook-and-line catcher vessel ≥ 60 ft LOA	0.2	n/a	408	Jan 1–Jun 10	208
				Jun 10–Dec 31	200
Pot catcher/processor	1.5	n/a	3,063	Jan 1–Jun 10	1,562
				Sept 1–Dec 31	1,501
Pot catcher vessel ≥ 60 ft LOA	8.4	n/a	17,154	Jan 1–Jun 10	8,749
				Sept 1–Dec 31	8,406
Catcher vessel < 60 ft LOA using hook-and-line or pot gear.	2	n/a	4,084	n/a	n/a
Trawl catcher vessel	22.1	45,314	n/a	Jan 20–Apr 1	33,532
				Apr 1–Jun 10	4,985
				Jun 10–Nov 1	6,797
AFA trawl catcher/processor	2.3	4,716	n/a	Jan 20–Apr 1	3,537
				Apr 1–Jun 10	1,179
				Jun 10–Nov 1	0
Amendment 80	13.4	27,475	n/a	Jan 20–Apr 1	20,607
				Apr 1–Jun 10	6,869
				Jun 10–Nov 1	0
Amendment 80 limited access [2]	n/a	n/a	see footnote 2	Jan 20–Apr 1	75%
				Apr 1–Jun 10	25%
				Jun 10–Nov 1	0
Amendment 80 cooperatives [2]	n/a	n/a	see footnote 2	Jan 20–Apr 1	75%
				Apr 1–Jun 10	25%
				Jun 10–Nov 1	0
Jig	1.4	2,871	n/a	Jan 1–Apr 30	1,722
				Apr 30–Aug 31	574
				Aug 31–Dec 31	574

[1] The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 500 mt based on anticipated incidental catch in these fisheries.

[2] The 2012 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known November 1, 2011, the date by which the applicants eligible to apply for participation in the Amendment 80 program must file their application.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Sablefish Gear Allocation

Sections 679.20(a)(4)(iii) and (iv) require the allocation of sablefish TACs for the BS and AI subareas between trawl and hook-and-line or pot gear. Gear allocations of the TACs for the BS subarea are 50 percent for trawl gear and 50 percent for hook-and-line or pot gear. Gear allocations of the TACs for the AI subarea are 25 percent for trawl gear and 75 percent for hook-and-line or pot gear. Section 679.20(b)(1)(ii)(B) requires apportionment of 20 percent of the hook-and-line and pot gear allocation of sablefish to the CDQ reserve. Additionally, § 679.20(b)(1)(ii)(D) requires apportionment of 7.5 percent of the trawl gear allocation of sablefish from the nonspecified reserves, established under § 679.20(b)(1)(i), to the CDQ reserve. The Council recommended that only trawl sablefish TAC be established biennially. This is because the harvest specifications for the hook-and-line gear and pot gear sablefish Individual Fishing Quota (IFQ) fisheries will be limited to the 2011 fishing year to ensure those fisheries are conducted concurrently with the halibut IFQ fishery. Concurrent sablefish and halibut IFQ fisheries reduce the potential for discards of halibut and sablefish in those fisheries. The sablefish IFQ fisheries will remain closed at the beginning of each fishing year until the final specifications for the sablefish IFQ fisheries are in effect. Table 6 lists the 2011 and 2012 gear allocations of the sablefish TAC and CDQ reserve amounts.

TABLE 6—FINAL 2011 AND 2012 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS

[Amounts are in metric tons]

Subarea and gear	Percent of TAC	2011 Share of TAC	2011 ITAC	2011 CDQ reserve	2012 Share of TAC	2012 ITAC	2012 CDQ reserve
Bering Sea:							
Trawl [1]	50	1,425	1,211	107	1,305	1,109	98
Hook-and-line/pot gear [2]	50	1,425	1,140	285	n/a	n/a	n/a
Total	100	2,850	2,351	392	1,305	1,109	98
Aleutian Islands:							
Trawl [1]	25	475	404	36	435	370	33
Hook-and-line/pot gear [2]	75	1,425	1,140	285	n/a	n/a	n/a

TABLE 6—FINAL 2011 AND 2012 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS—Continued

[Amounts are in metric tons]

Subarea and gear	Percent of TAC	2011 Share of TAC	2011 ITAC	2011 CDQ reserve	2012 Share of TAC	2012 ITAC	2012 CDQ reserve
Total	100	1,900	1,544	321	435	370	33

[1] Except for the sablefish hook-and-line or pot gear allocation, 15 percent of TAC is apportioned to the reserve. The ITAC is the remainder of the TAC after the subtraction of these reserves.

[2] For the portion of the sablefish TAC allocated to vessels using hook-and-line or pot gear, 20 percent of the allocated TAC is reserved for use by CDQ participants. The Council recommended that specifications for the hook-and-line gear sablefish IFQ fisheries be limited to one year.

Allocation of the AI Pacific Ocean Perch, and BSAI Flathead Sole, Rock Sole, and Yellowfin Sole TACs

Sections 679.20(a)(10)(i) and (ii) require the allocation between the Amendment 80 sector and BSAI trawl limited access sector for AI Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole TACs, after subtraction of 10.7 percent for the CDQ reserve and an ICA for the BSAI trawl limited access sector and vessels using non-trawl gear. The allocation of the ITAC for AI Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole to the Amendment 80 sector is established in accordance with Tables 33 and 34 to part 679 and § 679.91. The 2012 allocations for Amendment 80 species between Amendment 80 cooperatives and limited access sector will not be known until November 1, 2011, the date by which the applicants eligible to apply for participation in the Amendment 80 program must file their application. Amendment 80 applications for 2012 have not yet been submitted to NMFS, thereby preventing NMFS from calculating 2012 allocations. NMFS will post 2012 Amendment 80 allocations when they become available in December, 2011. Table 7a and 7b lists the 2011 and 2012 allocations of the AI Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole TACs.

TABLE 7a—FINAL 2011 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS

[Amounts are in metric tons]

Sector	Pacific ocean perch			Flathead sole	Rock sole	Yellowfin sole
	Eastern Aleutian District	Central Aleutian District	Western Aleutian District	BSAI	BSAI	BSAI
TAC	5,660	4,960	8,370	41,548	85,000	196,000
CDQ	606	531	896	4,446	9,095	20,972
ICA	100	75	10	5,000	5,000	2,000
BSAI trawl limited access	495	435	149	0	0	34,153
Amendment 80	4,459	3,919	7,315	32,102	70,905	138,875
Alaska Groundfish Cooperative	2,364	2,078	3,879	6,269	19,902	58,948
Alaska Seafood Cooperative	2,095	1,841	3,436	25,833	51,003	79,926

Note: Sector apportionments may not total precisely due to rounding.

TABLE 7b—FINAL 2012 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS

[Amounts are in metric tons]

Sector	Pacific ocean perch			Flathead sole	Rock sole	Yellowfin sole
	Eastern Aleutian District	Central Aleutian District	Western Aleutian District	BSAI	BSAI	BSAI
TAC	5,660	4,960	8,370	41,548	85,000	197,660
CDQ	606	531	896	4,446	9,095	21,150
ICA	100	75	10	5,000	5,000	2,000
BSAI trawl limited access	495	435	149	0	0	34,746
Amendment 80 [1]	4,459	3,919	7,315	32,102	70,905	139,764

[1] The 2012 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until November 1, 2011, the date by which the applicants eligible to apply for participation in the Amendment 80 program must file their application.

Note: Sector apportionments may not total precisely due to rounding.

Allocation of PSC Limits for Halibut, Salmon, Crab, and Herring

Section 679.21(e) sets forth the BSAI PSC limits. Pursuant to § 679.21(e)(1)(iv) and (e)(2), the 2011 and 2012 BSAI halibut mortality limits are 3,675 mt for trawl fisheries and 900 mt for the non-trawl fisheries. Sections 679.21(e)(3)(i)(A)(*2*) and (e)(4)(i)(A) allocate 326 mt of the trawl halibut mortality limit and 7.5 percent, or 67 mt, of the non-trawl halibut mortality

limit as the PSQ reserve for use by the groundfish CDQ program.

Section 679.21(e)(4)(i) authorizes the apportionment of the non-trawl halibut PSC limit into PSC bycatch allowances among six fishery categories. Table 8c lists the fishery bycatch allowances for the trawl and non-trawl fisheries.

Pursuant to section 3.6 of the BSAI FMP, the Council recommends, and NMFS agrees, that certain specified non-trawl fisheries be exempt from the halibut PSC limit. As in past years after consultation with the Council, NMFS exempts pot gear, jig gear, and the sablefish IFQ hook-and-line gear fishery categories from halibut bycatch restrictions for the following reasons: (1) The pot gear fisheries have low halibut bycatch mortality; (2) NMFS estimates halibut mortality for the jig gear fleet to be negligible because of the small size of the fishery and the selectivity of the gear; and (3) the sablefish and halibut IFQ fisheries have low halibut bycatch mortality because the IFQ program requires legal-size halibut to be retained by vessels using hook-and-line gear if a halibut IFQ permit holder or a hired master is aboard and is holding unused halibut IFQ (subpart D of 50 CFR part 679). In 2010, total groundfish catch for the pot gear fishery in the BSAI was approximately 23,028 mt, with an associated halibut bycatch mortality of about 4 mt.

The 2010 jig gear fishery harvested about 344 mt of groundfish. Most vessels in the jig gear fleet are less than 60 ft (18.3 m) LOA and thus are exempt from observer coverage requirements. As a result, observer data are not available on halibut bycatch in the jig gear fishery. However, as mentioned above, NMFS estimates a negligible amount of halibut bycatch mortality because of the selective nature of jig gear and the low mortality rate of halibut caught with jig gear and released.

In January 2011, NMFS implemented Amendment 91 to the FMP, § 679.21(f)(2), to annually allocate portions of either 47,591 or 60,000 Chinook salmon PSC among the AFA sectors depending upon past catch performance and upon whether or not Chinook salmon bycatch incentive plan agreements are formed. If an AFA sector participates in an approved Chinook salmon bycatch incentive plan agreement, then NMFS will allocate a portion of the 60,000 PSC limit to that sector as specified in § 679.21(f)(3)(iii)(A). If no Chinook salmon bycatch incentive plan agreement is approved, or if the sector has exceeded its performance standard under § 679.21(f)(6), NMFS will allocate a portion of the 47,591 Chinook salmon PSC limit to that sector as specified in § 679.21(f)(3)(iii)(B). In 2011, the Chinook salmon PSC limit is 60,000 and the AFA sector Chinook salmon allocations are seasonally allocated with 70 percent of the allocation for the A season pollock fishery, and 30 percent of the allocation for the B season pollock fishery as stated in § 679.21(f)(3)(iii)(A). The basis for these PSC limits is described in detail in the final rule implementing management measures for Amendment 91 (75 FR 53026, August 30, 2010). NMFS publishes the approved Chinook salmon bycatch incentive plan agreements, 2011 allocations and reports at: *http://alaskafisheries.noaa.gov/sustainablefisheries/bycatch/default.htm.*

Section 679.21(e)(1)(viii) specifies 700 fish as the 2011 and 2012 Chinook salmon PSC limit for the AI subarea pollock fishery. Section 679.21(e)(3)(i)(A)(*3*)(*i*) allocates 7.5 percent, or 53 Chinook salmon, as the AI subarea PSQ for the CDQ program and allocates the remaining 647 Chinook salmon to the non-CDQ fisheries.

Section 679.21(e)(1)(vii) specifies 42,000 fish as the 2011 and 2012 non-Chinook salmon PSC limit. Section 679.21(e)(3)(i)(A)(*3*)(*ii*) allocates 10.7 percent, or 4,494 non-Chinook salmon, as the PSQ for the CDQ program and allocates the remaining 37,506 non-Chinook salmon to the non-CDQ fisheries.

PSC limits for crab and herring are specified annually based on abundance and spawning biomass. Pursuant to § 679.21(e)(3)(i)(A)(*1*), 10.7 percent from each trawl gear PSC limit specified for crab is allocated as a PSQ reserve for use by the groundfish CDQ program.

Based on the 2010 survey data, the red king crab mature female abundance is estimated at 31.5 million red king crabs, and the effective spawning biomass is estimated at 67.4 million lb. Based on the criteria set out at § 679.21(e)(1)(i), the 2011 and 2012 PSC limit of red king crab in Zone 1 for trawl gear is 197,000 animals. This limit derives from the mature female abundance of more than 8.4 million king crab and the effective spawning biomass estimate of more than 55 million lb (24,948 mt).

Section 679.21(e)(3)(ii)(B)(*2*) establishes criteria under which NMFS must specify an annual red king crab bycatch limit for the Red King Crab Savings Subarea (RKCSS). The regulations limit the RKCSS to up to 25 percent of the red king crab PSC limit based on the need to optimize the groundfish harvest relative to red king crab bycatch. In December 2010, the Council recommended that the red king crab bycatch limit be equal to 25 percent of the red king crab PSC limit within the RKCSS (Table 8b). NMFS concurs in the Council's recommendation.

Based on 2010 survey data, Tanner crab (*Chionoecetes bairdi*) abundance is estimated at 379 million animals. Pursuant to criteria set out at § 679.21(e)(1)(ii), the calculated 2011 and 2012 *C. bairdi* crab PSC limit for trawl gear is 830,000 animals in Zone 1 and 2,520,000 animals in Zone 2. These limits are derived from the *C. bairdi* crab abundance estimate being in excess of the 270 million animals for the Zone 1 allocation and 290 million animals for the Zone 2 allocation, but less than 400 million animals for both Zone allocations.

Pursuant to § 679.21(e)(1)(iii), the PSC limit for snow crab (*C. opilio*) is based on total abundance as indicated by the NMFS annual bottom trawl survey. The *C. opilio* crab PSC limit is set at 0.1133 percent of the BS abundance index minus 150,000 crab if left unadjusted. However, if the abundance is less than 4.5 million animals, the minimum PSC limit will be 4,350,000 animals pursuant to § 679.21(e)(1)(iii)(A) and (B). Based on the 2010 survey estimate of 7.467 billion animals, the calculated limit is 8,310,480 animals.

Pursuant to § 679.21(e)(1)(v), the PSC limit of Pacific herring caught while conducting any trawl operation for BSAI groundfish is 1 percent of the annual eastern BS herring biomass. The best estimate of 2011 and 2012 herring biomass is 227,269 mt. This amount was derived using 2010 survey data and an age-structured biomass projection model developed by the Alaska Department of Fish and Game. Therefore, the herring PSC limit for 2011 and 2012 is 2,273 mt for all trawl gear as presented in Tables 8a and b.

Section 679.21(e)(3)(A) requires PSQ reserves to be subtracted from the total trawl PSC limits. The amounts of 2011 PSC limits assigned to the Amendment 80 and BSAI trawl limited access sectors are specified in Table 35 to part 679. The resulting allocation of PSC limit to CDQ PSQ, the Amendment 80 sector, and the BSAI trawl limited access fisheries are listed in Table 8a. Pursuant to § 679.21(e)(1)(iv) and § 679.91(d) through (f), crab and halibut trawl PSC limits assigned to the Amendment 80 sector are then further allocated to Amendment 80 cooperatives as PSC cooperative quota (CQ) as listed in Table 8d. PSC CQ assigned to Amendment 80 cooperatives is not allocated to specific fishery categories. In 2011, there are no

vessels in the Amendment 80 limited access sector. NMFS will not know the 2012 PSC allocations between Amendment 80 cooperatives and the Amendment 80 limited access sector until November 1, 2011, the date by which the applicants eligible to apply for participation in the Amendment 80 program must file their application. Section 679.21(e)(3)(i)(B) requires the apportionment of each trawl PSC limit not assigned to Amendment 80 cooperatives into PSC bycatch allowances for seven specified fishery categories.

Section 679.21(e)(5) authorizes NMFS, after consultation with the Council, to establish seasonal apportionments of PSC amounts for the BSAI trawl limited access and Amendment 80 limited access sectors in order to maximize the ability of the fleet to harvest the available groundfish TAC and to minimize bycatch. The factors to be considered are (1) Seasonal distribution of prohibited species; (2) seasonal distribution of target groundfish species; (3) PSC bycatch needs on a seasonal basis relevant to prohibited species biomass; (4) expected variations in bycatch rates throughout the year; (5) expected start of fishing effort; and (6) economic effects of seasonal PSC apportionments on industry sectors. The Council recommended and NMFS approves the seasonal PSC apportionments in Table 8c to maximize harvest among gear types, fisheries, and seasons while minimizing bycatch of PSC based on the above criteria.

TABLE 8a—FINAL 2011 AND 2012 APPORTIONMENT OF PROHIBITED SPECIES CATCH ALLOWANCES TO NON-TRAWL GEAR, THE CDQ PROGRAM, AMENDMENT 80, AND THE BSAI TRAWL LIMITED ACCESS SECTORS

PSC species	Total non-trawl PSC	Non-trawl PSC remaining after CDQ PSQ [1]	Total trawl PSC	Trawl PSC remaining after CDQ PSQ [1]	CDQ PSQ reserve [1]	Amendment 80 sector		BSAI trawl limited access fishery
						2011	2012	
Halibut mortality (mt) BSAI	900	832	3,675	3,349	393	2,375	2,325	875
Herring (mt) BSAI	n/a	n/a	2,273	n/a	n/a	n/a	n/a	n/a
Red king crab (animals) Zone 1 [2]	n/a	n/a	197,000	175,921	21,079	93,432	87,925	53,797
C. opilio (animals) COBLZ [2]	n/a	n/a	8,310,480	7,421,259	889,221	3,875,381	3,647,549	2,385,193
C. bairdi crab (animals) Zone 1 [2]	n/a	n/a	830,000	741,190	88,810	331,608	312,115	348,285
C. bairdi crab (animals) Zone 2 [2]	n/a	n/a	2,520,000	2,250,360	269,640	565,966	532,660	1,053,394

[1] Section 679.21(e)(3)(i)(A)(*2*) allocates 326 mt of the trawl halibut mortality limit and § 679.21(e)(4)(i)(A) allocates 7.5 percent, or 67 mt, of the non-trawl halibut mortality limit as the PSQ reserve for use by the groundfish CDQ program. The PSQ reserve for crab species is 10.7 percent of each crab PSC limit.
[2] Refer to § 679.2 for definitions of zones.
Note: Sector apportionments may not total precisely due to rounding.

TABLE 8b—FINAL 2011 AND 2012 HERRING AND RED KING CRAB SAVINGS SUBAREA PROHIBITED SPECIES CATCH ALLOWANCES FOR ALL TRAWL SECTORS

Fishery categories	Herring (mt) BSAI	Red king crab (animals) Zone 1
Yellowfin sole	195	n/a
Rock sole/flathead sole/other flatfish [1]	33	n/a
Turbot/arrowtooth/sablefish [2]	16	n/a
Rockfish	12	n/a
Pacific cod	33	n/a
Midwater trawl pollock	1,737	n/a
Pollock/Atka mackerel/other species [3, 4]	247	n/a
Red king crab savings subarea non-pelagic trawl gear [5]	n/a	49,250
Total trawl PSC	2,273	197,000

[1] "Other flatfish" for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), arrowtooth flounder, flathead sole, Greenland turbot, Kamchatka flounder, rock sole, and yellowfin sole.
[2] "Arrowtooth flounder" for PSC monitoring includes Kamchatka flounder.
[3] Pollock other than pelagic trawl pollock, Atka mackerel, and "other species" fishery category.
[4] "Other species" for PSC monitoring includes octopuses, sculpins, sharks, and skates.
[5] In December 2010, the Council recommended that the red king crab bycatch limit for non-pelagic trawl fisheries within the RKCSS be limited to 25 percent of the red king crab PSC allowance (see § 679.21(e)(3)(ii)(B)(*2*)).

TABLE 8c—FINAL 2011 AND 2012 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL LIMITED ACCESS SECTOR AND NON-TRAWL FISHERIES

BSAI trawl limited access fisheries	Prohibited species and area [1]				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	*C. opilio* (animals) COBLZ	*C. bairdi* (animals)	
				Zone 1	Zone 2
Yellowfin sole	167	47,397	2,247,640	293,234	1,005,879
Rock sole/flathead sole/other flatfish [2]	0	0	0	0	0
Turbot/arrowtooth/sablefish [3]	0	0	0	0	0
Rockfish April 15–December 31	5	0	3,821	0	849
Pacific cod	453	6,000	95,523	50,816	42,424
Pollock/Atka mackerel/other species [4]	250	400	38,209	4,235	4,242
Total BSAI trawl limited access PSC	875	53,797	2,385,193	348,285	1,053,394

Non-trawl fisheries	Catcher/ processor	Catcher vessel
Pacific cod—Total	760	15
January 1–June 10	455	10
June 10–August 15	190	3
August 15–December 31	115	2
Other non-trawl—Total		58
May 1—December 31		58
Groundfish pot and jig		Exempt
Sablefish hook-and-line		Exempt
Total non-trawl PSC		833

[1] Refer to § 679.2 for definitions of areas.
[2] "Other flatfish" for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, Kamchatka flounder, and arrowtooth flounder.
[3] Arrowtooth flounder for PSC monitoring includes Kamchatka flounder.
[4] "Other species" for PSC monitoring includes octopuses, sculpins, sharks, and skates.

TABLE 8d–FINAL 2011 PROHIBITED SPECIES BYCATCH ALLOWANCE FOR THE BSAI AMENDMENT 80 COOPERATIVES

Cooperative	Prohibited species and zones [1]				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	*C. opilio* (animals) COBLZ	*C. bairdi* (animals)	
				Zone 1	Zone 2
Alaska Seafood Cooperative	1,643	63,631	2,502,043	233,442	390,500
Alaska Groundfish Cooperative	732	29,801	1,373,339	98,167	175,465

[1] Refer to § 679.2 for definitions of zones.
Note: Sector apportionments may not total precisely due to rounding.

Halibut Discard Mortality Rates (DMR)

To monitor halibut bycatch mortality allowances and apportionments, the Regional Administrator uses observed halibut bycatch rates, DMRs, and estimates of groundfish catch to project when a fishery's halibut bycatch mortality allowance or seasonal apportionment is reached. The DMRs are based on the best information available, including information contained in the annual SAFE report.

NMFS approves the halibut DMRs developed and recommended by the IPHC and the Council for the 2011 and 2012 BSAI groundfish fisheries for use in monitoring the 2011 and 2012 halibut bycatch allowances (*see* Tables 8a–d). The IPHC developed these DMRs for the 2010 and 2012 BSAI fisheries using the 10-year mean DMRs for those fisheries. The IPHC will analyze observer data annually and recommend changes to the DMRs when a fishery DMR shows large variation from the mean. The document justifying these DMRs is available in Appendix 2 in the final 2010 SAFE report dated November 2010 (*see* **ADDRESSES**). Table 9 lists the 2011 and 2012 DMRs.

TABLE 9—FINAL 2011 AND 2012 PACIFIC HALIBUT DISCARD MORTALITY RATES FOR THE BSAI

Gear	Fishery [1]	Halibut discard mortality rate (percent)
Non-CDQ hook-and-line	Greenland turbot	11
	Other species	10
	Pacific cod	10
	Rockfish	9
Non-CDQ trawl	Arrowtooth flounder	76
	Atka mackerel	76
	Flathead sole	74
	Greenland turbot	67
	Non-pelagic pollock	73
	Pelagic pollock	89
	Other flatfish	72
	Other species	71
	Pacific cod	71
	Rockfish	81
	Rock sole	82
	Sablefish	75
	Yellowfin sole	81
Non-CDQ Pot	Other species [2]	8
	Pacific cod	8
CDQ trawl	Atka mackerel	85
	Greenland turbot	88
	Flathead sole	84

TABLE 9—FINAL 2011 AND 2012 PACIFIC HALIBUT DISCARD MORTALITY RATES FOR THE BSAI—Continued

Gear	Fishery [1]	Halibut discard mortality rate (percent)
	Non-pelagic pollock	85
	Pacific cod	90
	Pelagic pollock	90
	Rockfish	84
	Rock sole	87
	Yellowfin sole	85
CDQ hook-and-line	Greenland turbot	4
	Pacific cod	10
CDQ pot	Pacific cod	8
	Sablefish	32

[1] Arrowtooth flounder includes Kamchatka flounder.
[2] "Other species" includes octopuses, sculpins, sharks, and skates.

Directed Fishing Closures

In accordance with § 679.20(d)(1)(i), the Regional Administrator may establish a DFA for a species or species group if the Regional Administrator determines that any allocation or apportionment of a target species has been or will be reached. If the Regional Administrator establishes a DFA, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified subarea or district (*see* § 697.20(d)(1)(iii)). Similarly, pursuant to § 679.21(e), if the Regional Administrator determines that a fishery category's bycatch allowance of halibut, red king crab, *C. bairdi* crab, or *C. opilio* crab for a specified area has been reached, the Regional Administrator will prohibit directed fishing for each species in that category in the specified area.

Based upon historic catch patterns and anticipated fishing activity, the Regional Administrator has determined that the groundfish allocation amounts in Table 10 will be necessary as incidental catch to support other anticipated groundfish fisheries for the 2011 and 2012 fishing years. Consequently, in accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the DFA for the species and species groups in Table 10 as zero. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing for these sectors and species in the specified areas effective at 1200 hrs, A.l.t., March 1, 2011, through 2400 hrs, A.l.t., December 31, 2012. Also, for the BSAI trawl limited access sector, bycatch allowances of halibut, red king crab, *C. bairdi* crab, and *C. opilio* crab listed in Table 10 are insufficient to support directed fisheries. Therefore, in accordance with § 679.21(e)(7), NMFS is prohibiting directed fishing for these sectors and fishery categories in the specified areas effective at 1200 hrs, A.l.t., March 1, 2011, through 2400 hrs, A.l.t., December 31, 2012.

TABLE 10—2011 AND 2012 DIRECTED FISHING CLOSURES [1]

[Groundfish and halibut amounts are in metric tons. Crab amounts are in number of animals]

Area	Sector	Species	2011 Incidental catch allowance	2012 Incidental catch allowance
Bogoslof District	All	Pollock	150	150
Aleutian Islands subarea	All	ICA pollock	1,600	1,600
		"Other rockfish"	425	425
Eastern Aleutian District/Bering Sea.	Non-amendment 80 and BSAI trawl limited access.	ICA Atka mackerel	75	75
Eastern Aleutian District/Bering Sea.	All	Rougheye rockfish	234	240
Eastern Aleutian District	Non-amendment 80 and BSAI trawl limited access.	ICA Pacific ocean perch	100	100
Central Aleutian District	Non-amendment 80 and BSAI trawl limited access.	ICA Atka mackerel	75	75
		ICA Pacific ocean perch	75	75
Western Aleutian District	Non-amendment 80 and BSAI trawl limited access.	ICA Atka mackerel	40	40
		ICA Pacific ocean perch	10	10
Central and Western Aleutian Districts.	All	Rougheye rockfish	220	225
Bering Sea subarea	All	Pacific ocean perch	4,854	4,854
		"Other rockfish"	500	500
		ICA pollock	45,072	45,132
Bering Sea and Aleutian Islands	All	Northern rockfish	4,000	4,000
		Shortraker rockfish	393	393
		Squids	361	361
		Skates	14,025	14,025
		Sharks	43	43
		Octopuses	128	128

TABLE 10—2011 AND 2012 DIRECTED FISHING CLOSURES [1]—Continued

[Groundfish and halibut amounts are in metric tons. Crab amounts are in number of animals]

Area	Sector	Species	2011 Incidental catch allowance	2012 Incidental catch allowance
		Sculpins	4,420	4,420
	Hook-and-line and pot gear	ICA Pacific cod	500	500
	Non-amendment 80	ICA flathead sole	5,000	5,000
	ICA rock sole	10,000	10,000	
	Non-amendment 80 and BSAI trawl limited access.	ICA yellowfin sole	2,000	2,000
	BSAI trawl limited access	Rock sole/flathead sole/other flatfish—halibut mortality, red king crab zone 1, *C. opilio* COBLZ, *C. bairdi* Zone 1 and 2.	0	0
		Turbot/arrowtooth/sablefish—halibut mortality, red king crab zone 1, *C. opilio* COBLZ, *C. bairdi* Zone 1 and 2.	0	0
		Rockfish—red king crab zone 1	0	0

[1] Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

Closures implemented under the 2010 and 2011 BSAI harvest specifications for groundfish (75 FR 11778, March 12, 2010) remain effective under authority of these final 2011 and 2012 harvest specifications, and are posted at the following Web sites: *http://alaskafisheries.noaa.gov/index/infobulletins/infobulletins.asp?Yr=2011* and *http://alaskafisheries.noaa.gov/2011/status.htm.* While these closures are in effect, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a fishing trip. These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 679.

Central Gulf of Alaska Rockfish Program

On June 6, 2005, the Council adopted the Rockfish Program to meet the requirements of Section 802 of the Consolidated Appropriations Act of 2004 (Pub. L. 108–199). The basis for the BSAI fishing prohibitions and the CV BSAI Pacific cod sideboard limits of the Rockfish Program are discussed in detail in the final rule for Amendment 68 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (71 FR 67210, November 20, 2006). Pursuant to § 679.82(d)(6)(i), the CV BSAI Pacific cod sideboard limit is 0.0 mt. Therefore, in accordance with § 679.82(d)(7)(ii), NMFS is prohibiting directed fishing for BSAI Pacific cod in July for CVs under the Rockfish Program sideboard limitations.

The Rockfish Program will expire in December 2011. In June 2010, the Council proposed a new program to supersede the existing Rockfish Program by 2012. NMFS is developing rulemaking to implement the Council's revised program. The revised program, if approved by the Secretary, may affect the harvest specifications for 2012.

Listed AFA Catcher/Processor Sideboard Limits

Pursuant to § 679.64(a), the Regional Administrator is responsible for restricting the ability of listed AFA C/Ps to engage in directed fishing for groundfish species other than pollock to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery cooperatives in the directed pollock fishery. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80 (72 FR 52668, September 14, 2007). Table 11 lists the 2011 and 2012 C/P sideboard limits.

All harvest of groundfish sideboard species by listed AFA C/Ps, whether as targeted catch or incidental catch, will be deducted from the sideboard limits in Table 11. However, groundfish sideboard species that are delivered to listed AFA C/Ps by CVs will not be deducted from the 2011 and 2012 sideboard limits for the listed AFA C/Ps.

TABLE 11—FINAL 2011 AND 2012 LISTED BSAI AMERICAN FISHERIES ACT CATCHER/PROCESSOR GROUNDFISH SIDEBOARD LIMITS

[Amounts are in metric tons]

Target species	Area	1995–1997			2011 ITAC available to trawl C/Ps [1]	2011 AFA C/P side-board limit	2012 ITAC available to trawl C/Ps [1]	2012 AFA C/P side-board limit
		Retained catch	Total catch	Ratio of retained catch to total catch				
Sablefish trawl	BS	8	497	0.016	1,211	19	1,109	18
	AI	0	145	0	404	0	370	0
Atka mackerel	Central AI A season [2]	n/a	n/a	0.115	5,037	579	4,596	529
	B season [2]	n/a	n/a	0.115	5,037	579	4,596	529
	Western AI A season [2]	n/a	n/a	0.2	670	134	670	134
	B season [2]	n/a	n/a	0.2	670	134	670	134
Rock sole	BSAI	6,317	169,362	0.037	75,905	2,808	75,905	2,808
Greenland turbot	BS	121	17,305	0.007	2,975	21	2,975	21
	AI	23	4,987	0.005	1,318	7	1,233	6
Arrowtooth flounder	BSAI	76	33,987	0.002	22,015	44	22,015	44
Kamchatka flounder	BSAI	76	33,987	0.002	15,045	30	15,045	30
Flathead sole	BSAI	1,925	52,755	0.036	37,102	1,336	37,102	1,336

TABLE 11—FINAL 2011 AND 2012 LISTED BSAI AMERICAN FISHERIES ACT CATCHER/PROCESSOR GROUNDFISH SIDEBOARD LIMITS—Continued

[Amounts are in metric tons]

Target species	Area	1995–1997			2011 ITAC available to trawl C/Ps [1]	2011 AFA C/P sideboard limit	2012 ITAC available to trawl C/Ps [1]	2012 AFA C/P sideboard limit
		Retained catch	Total catch	Ratio of retained catch to total catch				
Alaska plaice	BSAI	14	9,438	0.001	13,600	14	13,600	14
Other flatfish	BSAI	3,058	52,298	0.058	2,550	148	2,550	148
Pacific ocean perch	BS	12	4,879	0.002	4,854	10	4,854	10
	Eastern AI	125	6,179	0.02	5,054	101	5,054	101
	Central AI	3	5,698	0.001	4,429	4	4,429	4
	Western AI	54	13,598	0.004	7,474	30	7,474	30
Northern rockfish	BSAI	91	13,040	0.007	4,000	28	4,000	28
Shortraker rockfish	BSAI	50	2,811	0.018	393	7	393	7
Rougheye rockfish	EBS/EAI	50	2,811	0.018	234	4	240	4
	CAI/WAI	50	2,811	0.018	220	4	225	4
Other rockfish	BS	18	621	0.029	500	15	500	15
	AI	22	806	0.027	425	11	425	11
Squid	BSAI	73	3,328	0.022	361	8	361	8
Skates	BSAI	553	68,672	0.008	14,025	112	14,025	112
Sharks	BSAI	553	68,672	0.008	43	0	43	0
Octopuses	BSAI	553	68,672	0.008	128	1	128	1
Sculpins	BSAI	553	68,672	0.008	4,420	35	4,420	35

[1] Aleutian Islands Pacific ocean perch, and BSAI Atka mackerel, flathead sole, rock sole, yellowfin sole are multiplied by the remainder of the TAC after the subtraction of the CDQ reserve under § 679.20(b)(1)(ii)(C).

[2] The seasonal apportionment of Atka mackerel in the open access fishery is 50 percent in the A season and 50 percent in the B season. Listed AFA catcher/processors are limited to harvesting no more than zero in the Eastern Aleutian District and Bering Sea subarea, 20 percent of the annual ITAC specified for the Western Aleutian District, and 11.5 percent of the annual ITAC specified for the Central Aleutian District.

Section 679.64(a)(2) and Tables 40 and 41 of part 679 establish a formula for calculating PSC sideboard limits for listed AFA C/Ps. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80 (72 FR 52668, September 14, 2007).

PSC species listed in Table 12 that are caught by listed AFA C/Ps participating in any groundfish fishery other than pollock will accrue against the 2011 and 2012 PSC sideboard limits for the listed AFA C/Ps. Section 679.21(e)(3)(v) authorizes NMFS to close directed fishing for groundfish other than pollock for listed AFA C/Ps once a 2011 or 2012 PSC sideboard limit listed in Table 12 is reached.

Crab or halibut PSC caught by listed AFA C/Ps while fishing for pollock will accrue against the bycatch allowances annually specified for either the midwater pollock or the pollock/Atka mackerel/"other species" fishery categories under regulations at § 679.21(e)(3)(iv).

TABLE 12—FINAL 2011 AND 2012 BSAI AFA LISTED CATCHER/PROCESSOR PROHIBITED SPECIES SIDEBOARD LIMITS

PSC species and area [1]	Ratio of PSC catch to total PSC	2011 and 2012 PSC available to trawl vessels after subtraction of PSQ [2]	2011 and 2012 catcher/processor sideboard limit [2]
Halibut mortality BSAI	n/a	n/a	286
Red king crab zone 1	0.007	175,921	1,231
C. opilio (COBLZ)	0.153	7,421,259	1,135,453
C. bairdi:			
Zone 1	0.14	741,190	103,767
Zone 2	0.05	2,250,360	112,518

[1] Refer to § 679.2 for definitions of areas.

[2] Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.

AFA Catcher Vessel Sideboard Limits

Pursuant to § 679.64(a), the Regional Administrator is responsible for restricting the ability of AFA CVs to engage in directed fishing for groundfish species other than pollock to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery cooperatives in the directed pollock fishery. Section 679.64(b) establishes a formula for setting AFA CV groundfish and PSC sideboard limits for the BSAI. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80 (72 FR 52668, September 14, 2007). Tables 13 and 14 list the 2011 and 2012 AFA CV sideboard limits.

All catch of groundfish sideboard species made by non-exempt AFA CVs, whether as targeted catch or incidental catch, will be deducted from the 2011 and 2012 sideboard limits listed in Table 13.

TABLE 13—FINAL 2011 AND 2012 AMERICAN FISHERIES ACT CATCHER VESSEL BSAI GROUNDFISH SIDEBOARD LIMITS

[Amounts are in metric tons]

Species	Fishery by area/gear/season	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2011 initial TAC [1]	2011 AFA catcher vessel sideboard limits	2012 initial TAC [1]	2012 AFA catcher vessel sideboard limits
Pacific cod	BSAI	0	n/a	0	n/a	0
	Jig gear					
	Hook-and-line CV	0.0006	207	0	208	0
	Jan 1–Jun 10					
	Jun 10–Dec 31	0.0006	199	0	200	0
	Pot gear CV	0.0006	8,685	5	8,749	5
	Jan 1–Jun 10					
	Sept 1–Dec 31	0.0006	8,345	5	8,406	5
	CV < 60 feet LOA using hook-and-line or pot gear.	0.0006	4,055	2	4,084	2
	Trawl gear CV	0.8609	33,290	28,659	33,532	28,868
	Jan 20–Apr 1					
	Apr 1–Jun 10	0.8609	4,949	4,261	4,985	4,292
	Jun 10–Nov 1	0.8609	6,748	5,809	6,797	5,852
Sablefish	BS trawl gear	0.0906	1,211	110	1,109	100
	AI trawl gear	0.0645	404	26	370	24
Atka mackerel	Eastern AI/BS	0.0032	17,994	58	16,431	53
	Jan 1–Jun 10					
	Jun 10–Nov 1	0.0032	17,994	58	16,431	53
	Central AI	0.0001	5,037	1	4,596	0
	Jan 1–Jun 10					
	Jun 10–Nov 1	0.0001	5,037	1	4,596	0
	Western AI	0	n/a	0	n/a	0
	Jan 1–Jun 10					
	Jun 10–Nov 1	0	n/a	0	n/a	0
Rock sole	BSAI	0.0341	75,905	2,588	75,905	2,588
Greenland turbot	BS	0.0645	2,975	192	2,975	192
	AI	0.0205	1,318	27	1,233	25
Arrowtooth flounder	BSAI	0.069	22,015	1,519	22,015	1,519
Kamchatka flounder	BSAI	0.069	15,045	1,038	15,045	1,038
Alaska plaice	BSAI	0.0441	13,600	600	13,600	600
Other flatfish	BSAI	0.0441	2,550	112	2,550	112
Flathead sole	BS trawl gear	0.0505	37,102	1,874	37,102	1,874
Pacific ocean perch	BS	0.1	4,854	485	4,854	485
	Eastern AI	0.0077	5,054	39	5,054	39
	Central AI	0.0025	4,429	11	4,429	11
	Western AI	0	n/a	0	n/a	0
Northern rockfish	BSAI	0.0084	4,000	34	4,000	34
Shortraker rockfish	BSAI	0.0037	393	1	393	1
Rougheye rockfish	EBS/EAI	0.0037	234	1	240	1
	CAI/WAI	0.0037	220	1	225	1
Other rockfish	BS	0.0048	500	2	500	2
	AI	0.0095	425	4	425	4
Squids	BSAI	0.3827	361	138	361	138
Skates	BSAI	0.0541	14,025	759	14,025	759
Sharks	BSAI	0.0541	43	2	43	2
Octopuses	BSAI	0.0541	128	7	128	7
Sculpins	BSAI	0.0541	4,420	239	4,420	239

[1] Aleutian Islands Pacific ocean perch, and BSAI Atka mackerel, flathead sole, and rock sole are multiplied by the remainder of the TAC of that species after the subtraction of the CDQ reserve under § 679.20(b)(1)(ii)(C).

Halibut and crab PSC limits listed in Table 14 that are caught by AFA CVs participating in any groundfish fishery for groundfish other than pollock will accrue against the 2011 and 2012 PSC sideboard limits for the AFA CVs. Sections 679.21(d)(8) and 679.21(e)(3)(v) authorize NMFS to close directed fishing for groundfish other than pollock for AFA CVs once a 2011 or 2012 PSC sideboard limit listed in Table 14 is reached. The PSC that is caught by AFA CVs while fishing for pollock in the BSAI will accrue against the bycatch allowances annually specified for either the midwater pollock or the pollock/Atka mackerel/"other species" fishery categories under regulations at § 679.21(e)(3)(iv).

TABLE 14—FINAL 2011 AND 2012 AMERICAN FISHERIES ACT CATCHER VESSEL PROHIBITED SPECIES CATCH SIDEBOARD LIMITS FOR THE BSAI [1]

PSC species	Target fishery category [2]	AFA catcher vessel PSC sideboard limit ratio	2011 and 2012 PSC limit after subtraction of PSQ reserves	2011 and 2012 AFA catcher vessel PSC sideboard limit
Halibut	Pacific cod trawl	n/a	n/a	887
	Pacific cod hook-and-line or pot	n/a	n/a	2

TABLE 14—FINAL 2011 AND 2012 AMERICAN FISHERIES ACT CATCHER VESSEL PROHIBITED SPECIES CATCH SIDEBOARD LIMITS FOR THE BSAI [1]—Continued

PSC species	Target fishery category [2]	AFA catcher vessel PSC sideboard limit ratio	2011 and 2012 PSC limit after subtraction of PSQ reserves	2011 and 2012 AFA catcher vessel PSC sideboard limit
	Yellowfin sole total	n/a	n/a	101
	Rock sole/flathead sole/other flatfish [3]	n/a	n/a	228
	Greenland turbot/arrowtooth/sablefish [4]	n/a	n/a	0
	Rockfish	n/a	n/a	2
	Pollock/Atka mackerel/other species [5]	n/a	n/a	5
Red king crab Zone 1 [4, 6]	n/a	0.299	175,921	52,600
C. opilio COBLZ [4, 6]	n/a	0.168	7,421,259	1,246,771
C. bairdi Zone 1 [4, 6]	n/a	0.33	741,190	244,593
C. bairdi Zone 2 [6]	n/a	0.186	2,250,360	418,567

[1] Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.
[2] Target fishery categories are defined in regulation at § 679.21(e)(3)(iv).
[3] "Other flatfish" for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, Kamchatka flounder, and arrowtooth flounder.
[4] Arrowtooth for PSC monitoring includes Kamchatka flounder.
[5] "Other species" for PSC monitoring includes octopuses, sculpins, sharks, and skates.
[6] Refer to § 679.2 for definitions of areas.

AFA Catcher/Processor and Catcher Vessel Sideboard Directed Fishing Closures

Based upon historical catch patterns, the Regional Administrator has determined that many of the AFA C/P and CV sideboard limits listed in Tables 15 and 16 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2011 fishing year. In accordance with § 679.20(d)(1)(iv), the Regional Administrator establishes the sideboard limits listed in Tables 15 and 16 as DFAs. Because many of these DFAs will be reached before the end of the year, the Regional Administrator has determined, in accordance with § 679.20(d)(1)(iii), that NMFS is prohibiting directed fishing by listed AFA C/Ps for the species in the specified areas set out in Table 15 and directed fishing by non-exempt AFA CVs for the species in the specified areas set out in Table 16.

TABLE 15—FINAL 2011 AND 2012 AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR SIDEBOARD DIRECTED FISHING CLOSURES [1]

[Amounts are in metric tons]

Species	Area	Gear types	2011 sideboard limit	2012 sideboard limit
Sablefish trawl	BS	trawl	19	18
	AI	trawl	0	0
Rock sole	BSAI	all	2,808	2,808
Greenland turbot	BS	all	21	21
	AI	all	7	6
Arrowtooth flounder	BSAI	all	44	44
Kamchatka flounder	BSAI	all	30	30
Alaska plaice	BSAI	all	14	14
Other flatfish	BSAI	all	148	148
Flathead sole	BSAI	all	1,336	1,336
Pacific ocean perch	BS	all	10	10
	Eastern AI	all	101	101
	Central AI	all	4	4
	Western AI	all	30	30
Northern rockfish	BSAI	all	28	28
Shortraker rockfish	BSAI	all	7	7
Rougheye rockfish	EBS/EAI	all	4	4
	CAI/WAI	all	4	4
Other rockfish	BS	all	15	15
	AI	all	11	11
Squids	BSAI	all	8	8
Skates	BSAI	all	112	112
Sharks	BSAI	all	0	0
Octopuses	BSAI	all	1	1
Sculpins	BSAI	all	35	35

[1] Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

TABLE 16—FINAL 2011 AND 2012 AMERICAN FISHERIES ACT CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES [1]

[Amounts are in metric tons]

Species	Area	Gear types	2011 sideboard limit	2012 sideboard limit
Pacific cod	BSAI	hook-and-line	0	0
	BSAI	pot	10	10
	BSAI	CV < 60 feet LOA	2	2
	BSAI	jig	0	0
Sablefish	BS	trawl	110	100
	AI	trawl	26	24
Atka mackerel	Eastern AI/BS	all	116	106
	Central AI	all	2	0
	Western AI	all	0	0
Greenland turbot	BS	all	192	192
	AI	all	27	25
Arrowtooth flounder	BSAI	all	1,519	1,519
Kamchatka flounder	BSAI	all	1,038	1,038
Alaska plaice	BSAI	all	600	600
Other flatfish	BSAI	all	112	112
Flathead sole	BSAI	all	1,874	1,874
Rock sole	BSAI	all	2,588	2,588
Pacific ocean perch	BS	all	485	485
	Eastern AI	all	39	39
	Central AI	all	11	11
	Western AI	all	0	0
Northern rockfish	BSAI	all	34	34
Shortraker rockfish	BSAI	all	1	1
Rougheye rockfish	BS/EAI	all	1	1
	CAI/WAI	all	1	1
Other rockfish	BS	all	2	2
	AI	all	4	4
Squids	BSAI	all	138	138
Skates	BSAI	all	759	759
Sharks	BSAI	all	2	2
Octopuses	BSAI	all	7	7
Sculpins	BSAI	all	239	239

[1] Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

Response to Comments

NMFS received 9 letters of comment, from 6 CDQ groups and three non-CDQ industry participants, which included 4 distinct comments, in response to the proposed 2011 and 2012 harvest specifications. These comments are summarized and responded to below.

Comment 1: The comment asserts that the pollock ABCs and TACs are too high, based on anecdotal observations.

Response: The harvest specifications process is intended to foster conservation and management of marine resources. This process incorporates the best available scientific information from the most recent stock assessment and fisheries evaluation reports prepared by multi-disciplinary teams of scientists. Such reports contain the most recent scientific information on the condition of various groundfish stocks, as well as the condition of other ecosystem components and economic data about Alaska groundfish fisheries. This body of information allows the Council to make scientifically-based recommendations for annual catch limits that do not exceed, on a species by species basis, the OFLs and ABCs established for each BSAI target species managed under the FMP. NMFS believes that the 2011 and 2012 are the correct pollock ABCs and TACs, based upon this process.

Comment 2: NMFS should account for the bycatch of groundfish in fisheries such as the State managed salmon fisheries.

Response: NMFS is actively engaged in a process to improve the catch accounting system to more accurately account for the bycatch of groundfish in other fisheries, including State managed fisheries. NMFS agrees with this comment. However, this is beyond the scope of this action.

Comment 3: The 10,000 mt ICA for rock sole is largely based upon high levels of yellowfin sole harvest by the BSAI trawl limited access sector. For 2011 and 2012, the BSAI trawl limited access harvest is likely to be smaller, and a 5,000 mt for rock sole is more appropriate.

Response: NMFS agrees with this comment, and NMFS adjusted the ICA of rock sole to 5,000 metric tons.

Comment 4: Six CDQ groups commented that the new Kamchatka flounder fishery is too small to be a meaningful CDQ fishery and could inhibit the prosecution of other CDQ fisheries. Thus, Kamchatka flounder should not be a CDQ fishery at this time.

Response: In the proposed 2011 and 2012 harvest specifications NMFS requested comments about whether Kamchatka flounder was a directed fishery of the BSAI under section 305(i)(1)(B)(ii)(II) of the MSA. If it were, NMFS would allocate 10.7 percent of the Kamchatka flounder TAC to the CDQ Program. NMFS specifically requested comments from the CDQ groups about the economic value of Kamchatka flounder and whether the CDQ groups intend to conduct directed fishing for Kamchatka flounder in the future. Based on the comments received, NMFS has determined that Kamchatka flounder is not a directed fishery of the BSAI under section 305(i)(1)(B)(ii)(II).

Therefore, NMFS will not allocate Kamchatka flounder to the CDQ Program in the final 2011 and 2012 harvest specifications. However, NMFS will consider allocating Kamchatka flounder to the CDQ Program in the future if information is presented in future harvest specifications that the status of Kamchatka flounder as a directed fishery of the BSAI has changed.

Classification

NMFS has determined that these final harvest specifications are consistent with the FMP and with the Magnuson-Stevens Act and other applicable laws.

This action is authorized under 50 CFR 679.20 and is exempt from review under Executive Orders 12866 and 13563.

NMFS prepared an EIS for this action (*see* **ADDRESSES**) and made it available to the public on January 12, 2007 (72 FR 1512). On February 13, 2007, NMFS issued the Record of Decision (ROD) for the EIS. In January 2011, NMFS prepared a Supplemental Information Report (SIR) for this action. Copies of the EIS, ROD, and SIR for this action are available from NMFS (*see* **ADDRESSES**). The EIS analyzes the environmental consequences of the groundfish harvest specifications and alternative harvest strategies on resources in the action area. The EIS found no significant environmental consequences of this action and its alternatives. The SIR evaluates the need to prepare a Supplemental EIS (SEIS) for the 2011 and 2012 groundfish harvest specifications.

A SEIS should be prepared if (1) the agency makes substantial changes in the proposed action that are relevant to environmental concerns, or (2) significant new circumstances or information exist relevant to environmental concerns and bearing on the proposed action or its impacts (40 CFR 1502.9(c)(1)). After reviewing the information contained in the SIR and SAFE reports, the Regional Administrator has determined that (1) approval of the 2011 and 2012 harvest specifications, which were set according to the preferred harvest strategy in the EIS, do not constitute a change in the action; and (2) there are no significant new circumstances or information relevant to environmental concerns and bearing on the action or its impacts. Additionally, the 2011 and 2012 harvest specifications will result in environmental impacts within the scope of those analyzed and disclosed in the EIS. Therefore, supplemental National Environmental Protection Act (NEPA) documentation is not necessary to implement the 2011 and 2012 harvest specifications.

NMFS also prepared an Initial Regulatory Flexibility Analysis (IRFA) as required by section 603 of the Regulatory Flexibility Act, analyzing the methodology for establishing the relevant TACs. The IRFA evaluated the impacts on small entities of alternative harvest strategies for the groundfish fisheries in the EEZ off Alaska. Accordingly, NMFS used the IRFA prepared for the EIS in association with this action. NMFS published a notice of the availability of the IRFA and its summary in the Classification section of the proposed 2006 and 2007 harvest specifications for the groundfish fisheries in the BSAI in the **Federal Register** on December 15, 2006 (71 FR 75437). No comments were received regarding the IRFA or the economic effects of the TAC-setting methodology.

NMFS also prepared a final regulatory flexibility analysis (FRFA), as required by section 604 of the Regulatory Flexibility Act. Copies of the FRFA prepared for this action are available from NMFS, Alaska Region (*see* **ADDRESSES**). The FRFA analyzed the methodology for establishing the relevant TACs. As set forth in the methodology, TACs are set to a level that fall within the range of ABCs recommended by the SSC; the sum of the TACs must achieve optimum yield specified in the FMP. While the specific numbers that the methodology may produce vary from year to year, the methodology itself remains constant. Accordingly, NMFS is using the FRFA prepared for the EIS in association with this action. Pursuant to sections 3.2.2 and 3.2.3 of the FMP, the established methodology produces ABCs and TACs within specified ranges and the numbers in this final rule's preferred alternatives are within those ranges.

In addition, NMFS considers the annual rulemakings establishing the harvest specification numbers to be a series of closely-related rules stemming from the harvest strategy and representing one rule for purposes of the Regulatory Flexibility Act (5 U.S.C. 605(c)). The need for, and objectives of, this final rule are described in the preamble. A summary of the 2007 FRFA follows. This action is taken in accordance with the FMP prepared by the Council pursuant to the Magnuson-Stevens Act.

There are 244 directly regulated small entities including approximately 223 small CVs, 15 small C/Ps, and six CDQ groups. The entities directly regulated by this action harvest groundfish in the EEZ of the BSAI, and in parallel fisheries within State of Alaska waters. These include entities operating CVs and C/Ps within the action area, and entities receiving direct allocations of groundfish. CVs and C/Ps were considered to be small entities if their annual gross receipts of $4 million per year or less from all economic activities, including the revenue of their affiliated operations (see Table 37 to the Economic Status of the Groundfish Fisheries off Alaska, 2005, in the 2006 SAFE report, dated February 2007, available from the Council (*see* **ADDRESSES**)).

Estimates of gross product value for the BSAI non-CDQ and CDQ groundfish were used as an index of revenue and potential impacts of the alternative harvest strategies on small entities. Revenues were projected to decline from 2006 levels in 2007 and 2008 under the preferred alternative due to declines in ABCs for key species, but by relatively small amounts.

The preferred alternative (Alternative 2) was compared to four other alternatives. These included Alternative 1, which would have set TACs to generate fishing rates equal to the maximum permissible ABC (if the full TAC were harvested), unless the sum of TACs exceeded the BSAI OY, in which case harvests would be limited to the OY. Alternative 3 would have set TACs to produce fishing rates equal to the most recent 5-year average fishing rate. Alternative 4 would have set TACs to equal the lower limit of the BSAI OY range. Alternative 5—the "no action" alternative—would have set TACs equal to zero.

Alternatives 3, 4, and 5 were all associated with smaller levels for important fishery TACs than Alternative 2. Estimated total gross product values were used as an index of potential adverse impacts to small entities. As a consequence of the lower TAC levels, Alternatives 3, 4, and 5 all had smaller first wholesale revenue indices than Alternative 2. Thus, Alternatives 3, 4, and 5 had greater adverse impacts on small entities. Alternative 1 appeared to generate higher values of the gross revenue index for fishing operations in the BSAI than Alternative 2. A large part of the Alternative 1 BSAI revenue appears to be due to the assumption that the full Alternative 1 TAC would be harvested. Much of the larger revenue was due to increases in flatfish TACs that were much greater for Alternative 1 than for Alternative 2. In recent years, halibut bycatch constraints in these fisheries have kept actual flatfish catches from reaching Alternative 1 levels. Therefore, a large part of the revenues associated with Alternative 1 are unlikely to occur. Also, Alternative

2 TACs are constrained by the ABCs the Plan Teams and SSC are likely to recommend to the Council on the basis of a full consideration of biological issues. These ABCs are often less than Alternative 1's maximum permissible ABCs; therefore higher TACs under Alternative 1 may not be consistent with prudent biological management of the resource. For these reasons, Alternative 2 is the preferred alternative.

In addition to the IRFA prepared in association with the groundfish harvest specifications EIS, NMFS prepared a supplemental IRFA (SIRFA) in conjunction with the proposed harvest specifications (*see* **ADDRESSES**). The SIRFA evaluated the specification of separate OFLs and TACs for octopuses, sculpins, sharks, and skates in the BSAI, consistent with the previously selected harvest strategy, the tier system used to set OFL (per the FMP), Amendments 95 and 96 to the FMP, the Magnuson-Stevens Act, and other applicable law (*see* **ADDRESSES**). Amendments 95 and 96 to the FMP were published on October 6, 2010 (75 FR 61639), and split the "other species" complex into its component species of octopuses, sculpins, sharks, and skates.

This supplemental Final Regulatory Flexibility Analysis (SFRFA) incorporates the SIRFA, a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' responses to those comments, and provides a summary of the analyses completed to support the action. The SFRFA augments the FRFA prepared in connection with the 2007 Alaska Groundfish Harvest Specification EIS. NMFS published the proposed harvest specifications on December 8, 2010 (75 FR 76372) with comments invited through January 7, 2011. A SIRFA was prepared and summarized in the "Classification" section of the proposed rule. The description of this action, its purpose, and its legal basis are described in the preamble to the proposed rule and are not repeated here. No public comments were specifically received on the SIRFA. No changes were made from the proposed rule to the final rule.

The 2010 Economic Status of Groundfish Fisheries Off Alaska report, prepared in conjunction with the 2010 SAFE report (*see* **ADDRESSES**), identifies 209 small groundfish entities operating in the BSAI, with average revenues from all sources of about $1.37 million. Most of these (191) are C/Vs. A majority of the C/Vs (107) used trawl gear and had average revenues of about $1.49 million. There were 38 hook-and-line C/Vs, with average revenues of about $600,000, and 51 pot C/Vs with average revenues of $1.37 million. There were five C/Vs that used multiple gear types and are counted in at least two of the preceding figures. There were 18 C/Ps, mostly hook-and-line vessels, with average gross revenues of about $2.53 million. The 2010 SAFE report may overstate the number of small entities because it considers individual vessel gross revenues, but does not capture affiliations among vessels. All of these small entities would be directly regulated by the proposed action. As described below, however, certain small entities may be more likely than others to be adversely affected by the proposed action as a result of potential impacts associated with the incidental catch of octopuses, sculpins, sharks, and skates in other target fisheries.

This action does not modify recordkeeping or reporting requirements.

NMFS considered several alternatives to the action to specify separate OFLs and TACS for BSAI octopuses, sculpins, sharks, and skates species complexes. However, each of these alternatives has been eliminated from further consideration because it either does not minimize significant economic impacts on a substantial number of small entities or does not accomplish the stated objectives of, or is in conflict with the requirements of, applicable statutes.

This action is intended to fulfill the agency's mandate to establish catch limits that are based on the best available scientific information, and to achieve optimum yield while preventing overfishing. This action adopts the alternative that is both consistent with the agency's obligations under the Magnuson-Stevens Act and the FMP and minimizes the likelihood that the specification of TACs and OFLs for the octopuses, sculpins, sharks, and skates species complexes will adversely affect small entities.

NMFS considered dividing the TACs for each of the species complexes among different regulatory areas in the BSAI. Any such further division of the TACs would not change the total TACs for each species complex in the BSAI as a whole. However, the incidental catch of fishing vessels that operate within each of the regulatory areas would be counted against a reduced TAC and OFL, which would increase the likelihood that the TAC or OFL would be reached and that one or more area closures may be triggered.

NMFS considered exempting small entities from compliance with the TACs for each of the species complexes evaluated in the SIRFA. However, the Magnuson-Stevens Act requires NMFS to implement conservation and management measures that prevent overfishing. Authorizing unlimited incidental catch of these species complexes by small entities would present an unacceptable risk of overfishing, and would not be consistent with the agency's obligations under Magnuson-Stevens Act, nor with the requirements of the Council's FMP.

In order to minimize the economic impacts of this action, NMFS considered allocating relatively large portions of the TACs for each of the species complexes to potentially affected small entities. However, any such allocation, which would be motivated solely by economic considerations under the Regulatory Flexibility Act, would not be consistent with National Standard 5, which states that "no [conservation and management measure] shall have economic allocation as its sole purpose." 16 U.S.C. 1851(a)(5).

Finally, NMFS considered establishing a single group TAC for all four of the species complexes in the BSAI, which would substantially reduce the likelihood that incidental catch would reach or exceed the TAC or OFL and result in area closures of target fisheries. However, the establishment of a stock complex comprised of species with such disparate life histories would not be consistent with the statutory requirement to establish catch limits that prevent overfishing for stocks in the fishery, nor with the Council's intent in enacting Amendments 95 and 96.

Adverse impacts on marine mammals resulting from fishing activities conducted under this rule are discussed in the EIS (*see* **ADDRESSES**).

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries, NOAA, finds good cause to waive the 30-day delay in effectiveness for this rule. Plan Team review occurred in November 2010, and Council consideration and recommendations occurred in December 2010. Accordingly, NMFS review could not begin until January 2011. For all fisheries not currently closed because the TACs established under the final 2010 and 2011 harvest specifications (75 FR 11778, March 12, 2010) were not reached, the possibility exists that they would be closed prior to the expiration of a 30-day delayed effectiveness period, if implemented, because their TACs could be reached. Certain fisheries, such as those for pollock and Pacific cod are intensive, fast-paced fisheries. Other fisheries, such as those for flatfish, rockfish, octopuses, sculpins, sharks, skates, and squids, are critical as directed fisheries and as incidental catch in other fisheries. U.S. fishing

vessels have demonstrated the capacity to catch the TAC allocations in these fisheries. Any delay in allocating the final TACs in these fisheries would cause confusion to the industry and potential economic harm through unnecessary discards. Determining which fisheries may close is impossible because these fisheries are affected by several factors that cannot be predicted in advance, including fishing effort, weather, movement of fishery stocks, and market price. Furthermore, the closure of one fishery has a cascading effect on other fisheries by freeing up fishing vessels, allowing them to move from closed fisheries to open ones, increasing the fishing capacity in those open fisheries and causing them to close at an accelerated pace.

In fisheries subject to declining sideboards, a failure to implement the updated sideboards before initial season's end could preclude the intended economic protection to the non-sideboarded sectors. Conversely, in fisheries with increasing sideboards, economic benefit could be precluded to the sideboarded sectors.

If the final harvest specifications are not effective by March 12, 2011, which is the start of the 2011 Pacific halibut season as specified by the IPHC, the hook-and-line sablefish fishery will not begin concurrently with the Pacific halibut IFQ season. Delayed effectiveness of this action would result in confusion for sablefish harvesters and economic harm from unnecessary discard of sablefish that are caught along with Pacific halibut, as both hook-and-line sablefish and Pacific halibut are managed under the same IFQ program. Immediate effectiveness of the final 2011 and 2012 harvest specifications will allow the sablefish IFQ fishery to begin concurrently with the Pacific halibut IFQ season. Also, the immediate effectiveness of this action is required to provide consistent management and conservation of fishery resources based on the best available scientific information. This is particularly true of those species which have lower 2011 ABCs and TACs than those established in the 2010 and 2011 harvest specifications (75 FR 11778, March 12, 2010). Immediate effectiveness also would give the fishing industry the earliest possible opportunity to plan and conduct its fishing operations with respect to new information about TAC limits. Therefore, NMFS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3).

Small Entity Compliance Guide

This final rule is a plain language guide to assist small entities in complying with this final rule as required by the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule's primary purpose is to announce the final 2011 and 2012 harvest specifications and prohibited species bycatch allowances for the groundfish fisheries of the BSAI. This action is necessary to establish harvest limits and associated management measures for groundfish during the 2011 and 2012 fishing years and to accomplish the goals and objectives of the FMP. This action affects all fishermen who participate in the BSAI fisheries. The specific amounts of OFL, ABC, TAC, and PSC are provided in tables to assist the reader. NMFS will announce closures of directed fishing in the **Federal Register** and information bulletins released by the Alaska Region. Affected fishermen should keep themselves informed of such closures.

Authority: 16 U.S.C. 773 *et seq.;* 16 U.S.C. 1540(f); 16 U.S.C. 1801 *et seq.;* 16 U.S.C. 3631 *et seq.;* Pub. L. 105–277; Pub. L. 106–31; Pub. L. 106–554; Pub. L. 108–199; Pub. L. 108–447; Pub. L. 109–241; Pub. L. 109–479.

Dated: February 23, 2011.

Samuel D. Rauch III,

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

[FR Doc. 2011–4538 Filed 2–28–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket Nos. 0910131362–0087–02 and 0910131363–0087–02]

RIN 0648–XA256

Fisheries of the Exclusive Economic Zone Off Alaska; Sablefish Managed Under the Individual Fishing Quota Program

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

ACTION: Temporary rule; opening.

SUMMARY: NMFS is opening directed fishing for sablefish with fixed gear managed under the Individual Fishing Quota (IFQ) Program and the Community Development Quota (CDQ) Program. The season will open 1200 hrs, Alaska local time (A.l.t.), March 12, 2011, and will close 1200 hrs, A.l.t., November 18, 2011. This period is the same as the 2011 commercial halibut fishery opening dates adopted by the International Pacific Halibut Commission. The IFQ and CDQ halibut season is specified by a separate publication in the **Federal Register** of annual management measures.

DATES: Effective *March 1, 2011,* until 1200 hrs, A.l.t., December 31, 2011.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: Beginning in 1995, fishing for Pacific halibut and sablefish with fixed gear in the IFQ regulatory areas defined in 50 CFR 679.2 has been managed under the IFQ Program. The IFQ Program is a regulatory regime designed to promote the conservation and management of these fisheries and to further the objectives of the Magnuson-Stevens Fishery Conservation and Management Act and the Northern Pacific Halibut Act. Persons holding quota share receive an annual allocation of IFQ. Persons receiving an annual allocation of IFQ are authorized to harvest IFQ species within specified limitations. Further information on the implementation of the IFQ Program, and the rationale supporting it, are contained in the preamble to the final rule implementing the IFQ Program published in the **Federal Register**, November 9, 1993 (58 FR 59375) and subsequent amendments.

This announcement is consistent with § 679.23(g)(1), which requires that the directed fishing season for sablefish managed under the IFQ Program be specified by the Administrator, Alaska Region, and announced by publication in the **Federal Register**. This method of season announcement was selected to facilitate coordination between the sablefish season, chosen by the Administrator, Alaska Region, and the halibut season, adopted by the International Pacific Halibut Commission (IPHC). The directed fishing season for sablefish with fixed gear managed under the IFQ Program will open 1200 hrs, A.l.t., March 12, 2011, and will close 1200 hrs, A.l.t., November 18, 2011. This period runs concurrently with the IFQ season for Pacific halibut announced by the IPHC. The IFQ halibut season will be specified by a separate publication in the **Federal Register** of annual management measures pursuant to 50 CFR 300.62.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant

Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of the sablefish fishery thereby increasing bycatch and regulatory discards between the sablefish fishery and the halibut fishery, and preventing the accomplishment of the management objective for simultaneous opening of these two fisheries. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 23, 2011.

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

This action is required by § 679.23 and is exempt from review under Executive Order 12866.

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

Dated: February 24, 2011.

Margo Schulze-Haugen,

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

[FR Doc. 2011–4541 Filed 2–28–11; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 76, No. 40
Tuesday, March 1, 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 JUSTICE

2 CFR Chapter XXVII

5 CFR Chapter XXVIII

8 CFR Chapter V

21 CFR Chapter II

27 CFR Chapter II

28 CFR Chapters I, III, V, and VI

31 CFR Chapter IX

40 CFR Chapter IV

41 CFR Chapter 128

45 CFR Chapter V

48 CFR Chapter 28

[Docket No. OLP 150]

Reducing Regulatory Burden; Retrospective Review Under E.O. 13563

AGENCY: Department of Justice.

ACTION: Request for information.

SUMMARY: As part of its implementation of Executive Order 13563, "Improving Regulation and Regulatory Review," issued by the President on January 18, 2011, the Department of Justice (the Department) is seeking comments and information from interested parties to assist it in reviewing its existing regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed. The purpose of Justice's review is to make the agency's regulatory program more effective and less burdensome in achieving its regulatory objectives.

Comment Date: Written comments must be postmarked and electronic comments must be submitted on or before March 31, 2011. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after 11:59 p.m. Eastern Time on the last day of the comment period.

ADDRESSES: Comments may be mailed to OLP Regulatory Docket Clerk, Department of Justice, 950 Pennsylvania Avenue, NW., Room 4250, Washington, DC 20530. To ensure proper handling, please reference OLP Docket No. 150 on your correspondence. You may submit comments electronically or view an electronic version of this final rule with request for comments at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Robert Hinchman, Senior Counsel, Office of Legal Policy, Department of Justice, 950 Pennsylvania Avenue, NW., Room 4252, Washington, DC 20530; Telephone (202) 514–8059.

SUPPLEMENTARY INFORMATION:

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

Personal identifying information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

The Department understands that the public comment period set forth in this Notice is shorter than the 60-day comment period normally given for proposed rules. However, in this notice (which is not, of course, a proposed rule), the Department is not asking for detailed, lengthy comments on its regulations, but only on matters pertaining to the retrospective review plan which it currently has under development. Further opportunities will be given for public comment on those regulations that the Department identifies for retrospective review.

Overview

The Department of Justice is not a major regulatory agency. Although the number and economic impact of the Department's regulations may be less than that of some of our sister Federal agencies, the Department is nonetheless committed to reviewing its existing regulations as described more fully below.

On January 18, 2011, the President issued Executive Order 13563, "Improving Regulation and Regulatory Review," to ensure that Federal regulations seek more affordable, less intrusive means to achieve policy goals, and that agencies give careful consideration to the benefits and costs of those regulations. To that end, the Executive Order requires, among other things, that:

- Agencies propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; and that agencies tailor regulations to impose the least burden on society, consistent with obtaining the regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; and that agencies select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity).
- The regulatory process encourages public participation and an open exchange of views, with an opportunity for the public to comment.
- Agencies coordinate, simplify, and harmonize regulations to reduce costs and promote certainty for businesses and the public.
- Agencies consider lower-cost approaches that reduce burdens and maintain flexibility.
- Regulations be guided by objective scientific evidence.

Additionally, the Executive Order directs agencies to consider how best to promote retrospective analyses of existing rules. Specifically, agencies must develop a preliminary plan under which the agency will periodically review existing regulations to determine which should be maintained, modified, strengthened, or repealed to increase the effectiveness and decrease the burdens of the agency's regulatory program.

To implement the Executive Order, the Department is taking several immediate steps to launch its retrospective review of existing regulatory requirements. As described further below, the Department is issuing this Request for Information (RFI) seeking public comment on how best to

review its existing regulations and to identify whether any of its existing regulations should be modified, streamlined, expanded, or repealed. We will also be working with the Department's rulemaking components on a preliminary plan for the periodic review of its existing regulations, including ways to institutionalize, within the Department, the ongoing review of the Department's regulations, in an open dialog with the public. Through this process, the Department will consider the elimination of rules that are no longer warranted, and will also consider strengthening, complementing, or modernizing rules where necessary or appropriate—including, as appropriate, undertaking new rulemaking actions.

Consistent with the Department's commitment to public participation in the rulemaking process, the Department is beginning this process by soliciting views from the public on how best to conduct its analysis of existing Justice rules and how best to identify those rules that might be modified, streamlined, expanded, or repealed. It is also seeking views from the public on specific rules or obligations that should be altered or eliminated. While the Department promulgates rules in accordance with the law and to the best of its ability, we recognize that the best information as to the consequences of a rule, including its costs and benefits, comes from practical, real-world experience (both on the part of the public and on the part of the Department) after the rule has been implemented. Members of the public and of entities affected by Department's regulations are likely to have useful information and perspectives on the benefits and burdens of existing requirements beyond the information that was available to the Department at the time a regulation was issued. Interested parties may also be well-positioned to identify those rules that are most in need of review and, thus, assist the Department in prioritizing and properly tailoring its retrospective review process. In short, engaging the public in an open, transparent process is a crucial first step in the Department's review of its existing regulations.

Questions for Commenters

The following list of questions represents a preliminary attempt to identify issues raised by the Department's efforts to develop a preliminary plan for the retrospective analysis of its regulations and to identify rules/obligations on which it should immediately focus. This nonexhaustive list is meant to assist in the formulation of comments and is not intended to restrict the issues that may be addressed. In addressing these questions or others, we request that commenters identify with specificity the regulation or reporting requirement at issue, providing the legal citation and providing where possible empirical information on the impact of the rule on those subject to it. We also request that the submitter explain, in as much detail as possible, why a regulation or reporting requirement should be modified, streamlined, expanded, or repealed, as well as suggest specific alternative means for the Department to better achieve the statutory or regulatory objectives.

(1) How can the Department best promote meaningful periodic reviews of its existing rules and how can it best identify those rules that might be modified, streamlined, expanded, or repealed?

(2) What factors should the agency consider in selecting and prioritizing rules for review?

(3) Are there regulations that have become ineffective or been overtaken by technological or other change and, if so, what are they? How can they be modernized to accomplish the statutory or regulatory objectives better?

(4) Are there rules that can simply be revoked without impairing the Department's statutory obligations and policy objectives and, if so, what are they?

(5) Are there rules that are still necessary, but have not operated as well as expected such that a modified, stronger, or different approach is justified?

(6) How can the Department best obtain and consider accurate, objective information and data about the costs, burdens, and benefits of existing regulations consistent with the Paperwork Reduction Act and without imposing information collection burdens on the public? Are there existing sources of data the Department can use to evaluate the post-promulgation effects of regulations over time? We invite interested parties to provide data that may be in their possession that documents the costs, burdens, and benefits of existing requirements.

The Department notes that this Request for Information is issued solely for information and program-planning purposes. The Department will give careful consideration to the responses, and may use them as appropriate during the retrospective review, but we do not anticipate providing a point-by-point response to each comment submitted. While responses to this RFI do not bind the Department to any further actions related to the response, all submissions will be made publically available on *http://www.regulations.gov.*

Dated: February 22, 2011.

Christopher H. Schroeder,

Assistant Attorney General, Office of Legal Policy.

[FR Doc. 2011–4513 Filed 2–28–11; 8:45 am]

BILLING CODE P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 703, 704, 709, and 742

RIN 3133–AD86

Removing References to Credit Ratings in Regulations; Proposing Alternatives to the Use of Credit Ratings

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of proposed rulemaking.

SUMMARY: NCUA is proposing rules to implement certain statutory provisions in Title IX of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act). The proposed rules replace or remove references to credit ratings in NCUA regulations.

DATES: Comments must be received on or before May 2, 2011.

ADDRESSES: You may submit comments by any of the following methods (Please send comments by one method only):

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

NCUA Web site: http://www.ncua.gov/Resources/RegulationsOpinionsLaws/ProposedRegulations.aspx. Follow the instructions for submitting comments.

E-mail: Address to *regcomments@ncua.gov.* Include "[Your name] Comments on "Notice of Proposed Rulemaking—Removing References to Credit Ratings" in the e-mail subject line.

Fax: (703) 518–6319. Use the subject line described above for e-mail.

Mail: Address to Mary Rupp, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

Hand Delivery/Courier: Same as mail address.

Public Inspection: All public comments are available on the agency's Web site at *http://www.ncua.gov/Resources/RegulationsOpinionsLaws/ProposedRegulations.aspx* as submitted, except as may not be possible for

technical reasons. Public comments will not be edited to remove any identifying or contact information. Paper copies of comments may be inspected in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518–6546 or send an e-mail to *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Mark Vaughan, Director, Division of Capital Markets, or Dale Klein, Senior Capital Markets Specialist, at the address above or telephone (703) 518–6620; or Lisa Henderson, Staff Attorney, or Frank Kressman, Staff Attorney, at the address above or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

I. Background

Section 939A of the Dodd-Frank Act requires each Federal agency to review (1) any regulation issued by such agency that requires the use of an assessment of the creditworthiness of a security or money market instrument; and (2) any references to or requirements in such regulations regarding credit ratings.[1] Section 939A further requires each agency to modify any such regulations identified by the review to remove any reference to or requirement of reliance on credit ratings and to substitute in such regulations such standards of creditworthiness as each respective agency shall determine as appropriate for such regulations. In developing substitute standards of creditworthiness, an agency shall seek to establish, to the extent feasible, uniform standards of creditworthiness for use by the agency, taking into account the entities it regulates that would be subject to such standards.[2]

NCUA has identified 24 general areas of its regulations that contain references to nationally recognized statistical rating organization (NRSRO)[3] credit ratings. Eight are found in part 703 of the regulations governing the investment activities of natural person Federal credit unions (FCUs). 12 CFR part 703. Fourteen are found in part 704 of the regulations governing the operations, investment activities, and capital risk-weighting of corporate credit unions. 12 CFR part 704. There is also one reference to credit ratings in part 709 of the regulations governing the involuntary liquidation of Federal credit unions and one reference in part 742 of the regulations governing NCUA's regulatory flexibility program. 12 CFR parts 709 and 742.

II. General Approach

The proposed rule generally handles NRSRO ratings three different ways, depending on the manner in which the rating is used in the regulations. For investments, the proposal generally replaces the minimum credit rating requirement with a requirement that the credit union do an internal credit analysis of the investment pursuant to a particular narrative standard. For counterparty transactions, the proposal generally replaces the minimum credit rating requirement with a requirement that the credit union do an internal credit analysis of the counterparty pursuant to an internal standard set by the credit union's board. For ratings usage outside of investment and counterparty suitability, the proposal generally removes the ratings reference without requiring some substitute analysis. These three approaches are discussed in more detail below and in Section III.

a. Investment Authority

Where the regulations require that a security have particular rating in order for it to be a permissible investment for a credit union, the proposed rule replaces the minimum rating with a narrative standard that is focused primarily on credit quality. The proposal generally requires a credit union to conduct and document an internal analysis demonstrating that the issue or issuer of a security has a certain, specified capacity to meet its financial commitments.

For each section of the rule, the necessary capacity to meet financial commitments is correlated to narrative descriptions provided by the NRSRO rating agencies. For example, two of the larger NRSROs, Standard and Poor's and Fitch, state that a AA issuer rating (*e.g.,* "in one of the two highest ratings categories") means the obligor has a *very strong* capacity to meet its financial commitments. Accordingly, where the NCUA regulations currently require an investment to have a AA rating or equivalent, the proposal generally requires the credit union to determine that the issuer of the security has a *very strong* capacity to meet its financial commitments. The proposal contains similar translations for other ratings (*e.g.,* a rating of BBB is equivalent to *adequate capacity,* and a rating of A is equivalent to *strong capacity*).

The Board believes that this approach to replacing credit ratings is consistent with both the letter and spirit of the Dodd-Frank Act. The legislative history of Dodd-Frank indicates that Congress was concerned not with any particular rating level, or associated narrative standard, but rather, with the NRSROs' failure to apply the narrative standard accurately and consistently to certain securities.[4] The Dodd-Frank Act was intended to reduce over-reliance on ratings and encourage investors to conduct their own analyses.[5] This proposal furthers those aims by requiring that credit unions conduct their own analyses using long-standing, and accepted, narrative standards.

The Board believes that this approach does not present a significant change for most credit unions. NCUA already requires natural person FCUs and corporates to have credit risk management policies that go beyond simple reliance on credit ratings. Section 703.6 requires an FCU to conduct and document a credit analysis on any non-guaranteed or insured investment. 12 CFR 703.6. Section 704.6 requires a corporate to operate according to a credit risk management policy that is commensurate with the investment risks and activities it undertakes, and the corporate's policy must address credit limit approval processes, due diligence analysis requirements, maximum credit limits with each obligor and transaction counterparty, and concentrations of credit risk. 12 CFR 704.6. Accordingly, credit unions that purchase investments with some credit risk should already have in place robust processes—including internal testing and assessment and/or reviewing reports, analyses, opinions, and other assessments issued by third parties—analyzing the risk that an issue or issuer will fail to perform on its obligation. NCUA will provide additional supervisory guidance on the indicators that support a determination that an

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, § 939A (2010).

[2] *Id.*

[3] An NRSRO is an entity registered with the U.S. Securities and Exchange Commission (SEC) under section 15E of the Securities Exchange Act of 1934. See 15 U.S.C. 78o–7, as implemented by 17 CFR 240.17g–1.

[4] With respect to the financial crisis, the Senate Report stated that "erroneous credit ratings" caused serious and far reaching problems. *See* S. Rep. No. 111–176, p. 36 (2010). Report of the Committee on Banking, Housing, and Urban Affairs. The Senate Report attributed the errors to the overreliance by the NRSROs on mathematical risk models and to conflicts of interest in the ratings process, not to incorrect standards. *See* Dodd-Frank Wall Street Reform: Conference Report Summary. Similarly, the House Report on H.R. 3890, the rating agency reform legislation later incorporated into H.R. 4173 as passed by the House, notes that NRSROs issued ratings based upon unsatisfactory credit analyses. *See* H. Rep. No. 111–685, Part I, p. 19 (2010). Report of the Committee on Financial Services.

[5] *http://banking.senate.gov/public/_files/070110_Dodd_Frank_Wall_Street_Reform_comprehensive_summary_Final.pdf.*

issue or issuer has the necessary capacity (*e.g.,* adequate, strong, very strong, *etc.*) to meet its financial commitments.

b. Counterparties

Where the regulations require that a transaction counterparty have a particular rating, the proposed rule substitutes a requirement that the counterparty meet minimum credit quality standards as established by the credit union's board of directors. In developing and applying credit quality standards, the board of directors may incorporate external ratings, reports, analyses, opinions, and other assessments issued by third-parties. Since counterparty risk is more akin to loan than investment risk, a credit union would be expected to document its credit assessment and analysis using a system similar to its internal loan grading system. These internal processes would be subject to examiner review and classification, similar to the process used for credit union loan classification.

Sections 703.6 and 704.6, noted above, also require credit unions to establish appropriate processes to evaluate the creditworthiness of securities counterparties. Any credit union doing business with a counterparty should already consider a counterparty's financial statements, its general reputation, and whether there have been any formal enforcement actions against the counterparty or its affiliates by State or Federal securities regulators. A credit union should know the counterparty's character, integrity of management, activities, and financial markets in which it deals.

c. Removal Without Replacement

Where NCUA has determined that a provision that references NRSRO ratings is no longer necessary, the proposed rule deletes or substantially modifies the provision.

d. Other Approaches

As discussed below, in Section IV, the Board is not wedded to these proposed alternatives to credit ratings in the investment and counterparty contexts. Commenters who believe a different approach (or approaches) is warranted should describe their alternatives and give a supporting justification.

III. Specific Proposed Amendments

a. Part 703—Investment and Deposit Activities

Definitions

Section 703.2 contains definitions of terms related to the investment activities of natural person FCUs. Three of the definitions make reference to credit ratings.

Section 703.2 defines "deposit note" as an obligation of a bank that is similar to a certificate of deposit "but is rated." The NCUA Board is proposing to delete the definition of "deposit note" entirely, as the term is standard in the securities industry.

Part 703 permits FCUs to invest in Collateralized Mortgage Obligations (CMOs), and CMOs are defined in § 703.2 as multiclass mortgage related securities. An FCU's authority to purchase mortgage related securities comes from § 107(15)(b) of the Act, 12 U.S.C. 1757(15)(b), which defines mortgage related security by cross reference to the same phrase in § 3(a)(41) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(41) (Exchange Act). The pre-Dodd-Frank Exchange Act definition included a reference to NRSRO ratings, but Dodd-Frank Act eliminated the NRSRO reference in § 3(a)(41) of the Exchange Act, substituting the language: "meets standards of creditworthiness as established by the [Securities and Exchange] Commission (SEC)."[6] The Dodd-Frank Act requires the SEC to establish those standards by July 21, 2012.[7]

Section 703.2 defines mortgage related security by using the language found in the pre-Dodd Frank Act definition in § 3(a)(41) of the Exchange Act, including the reference to NRSRO ratings. This proposal removes the reference to NRSRO ratings from § 703.2, and replaces it with a short cross reference to § 3(a)(41). Under the proposal, FCUs that wish to purchase mortgage related securities, including CMOs, must determine and document that the security is, in fact, a mortgage related security as defined by the SEC. In the time period before the SEC moves to specify "standards of creditworthiness" for mortgage related securities, an FCU is prohibited from purchasing a CMO or other mortgage related security unless the FCU has specific evidence that the SEC considers that security to meet the requirements of § 3(a)(41).

Similarly, § 703.2 cross-references the definition of "small business related security" with its definition in § 3(a)(53) of the Exchange Act, 15 U.S.C. 78c(a)(53), and then repeats that definition verbatim. Again, this flows from the authority in the FCU Act, 12 U.S.C. 1757(15)(C), and its cross reference to the definition of small business security in the Exchange Act. As with the definition of "mortgage related security," discussed above, the definition of "small business related security" prior to the Dodd-Frank Act included a reference to NRSRO ratings. The Dodd-Frank Act eliminated that reference, substituting instead creditworthiness standards to be established by the SEC, and providing the SEC with two years to establish such standards.[8] This proposed rule removes the language of the former Exchange Act definition and redefines "small business related security" by a short cross-reference to the Exchange Act provision. An FCU wishing to purchase a small business related security must demonstrate that it meets the § 3(a)(53) requirements, as determined by the SEC. The proposed rule retains the exemption for Small Business Administration securities permissible under § 107(7) of the Federal Credit Union Act, 12 U.S.C. 1757(7).

Broker-Dealers and Safekeepers

Sections 703.8(b)(3) and 703.9(d) list a number of factors that FCUs should consider when evaluating the reliability of broker-dealers and investment safekeepers, respectively. One factor is NRSRO reports. The proposed rule replaces the NRSRO reference with "external assessments of creditworthiness." FCUs may obtain these assessments from various sources.

Permissible Investments

Section 703.14 establishes standards for permissible investments for FCUs.

Section 703.14(e) provides that an FCU may purchase a municipal security (muni) that an NRSRO has rated in one of the four highest rating categories. The proposed rule removes the minimum rating requirements, providing instead that for an investment to be permissible, it must be originated by an issuer that has at least an adequate capacity to meet its financial obligations, even under adverse conditions, for the projected life of the security. As noted above, an FCU may evaluate the financial strength of an issuer by conducting internal assessments and/or reviewing assessments issued by third-parties.

To further limit the risk associated with the purchase of munis, the proposal adds new concentration limits on such holdings. Specifically, an FCU must limit its aggregate muni holdings to no more than 75 percent of the credit union's net worth and limit its holdings of munis issued by any single issuer to no more than 25 percent of net worth. Since most munis are exempt from

[6] Dodd-Frank Act, § 939.

[7] *Id.*

[8] *Id.*

income taxation, and FCUs are tax exempt entities that cannot take full advantage of the tax exempt status of munis, it is unlikely that any particular FCU would desire to purchase or hold municipal securities in amounts that would exceed these proposed limits.

Section 703.14(g) permits an FCU to purchase a European financial options contract for the purpose of hedging the risk associated with issuing share certificates with dividends tied to an equity index. Two of the requirements of the current 703.14(g) are that the counterparty meets certain NRSRO ratings requirements and that the aggregate amount of such index-linked certificates not exceed the credit union's net worth. The proposal removes the reference to the NRSRO ratings and instead requires that the counterparty meet credit standards set by the board. To mitigate any risk associated with the removal of credit ratings in this context, the proposal tightens the concentration limit in equity indexed certificates from 100 percent of the credit union's net worth to 50 percent of the credit union's net worth.

Section 703.14(h) permits an FCU to invest in Mortgage note repurchase transactions. Three of the requirements of the current § 703.14(h) are that (1) the counterparty meets certain NRSRO ratings requirements, (2) the aggregate amount of the investments with any one counterparty be limited to 25 percent of the credit union's net worth, and (3) the aggregate amount of the investments with all counterparties be limited to 100 percent of net worth. The proposal removes the reference to the NRSRO ratings and instead requires that the counterparty meet credit standards set by the board. To mitigate any risk associated with the removal of credit ratings in this context, the proposal tightens the aggregate concentration limit from 100 percent of net worth to 50 percent of net worth.

b. Part 704—Corporate Credit Unions

Definitions

Section 704.2 contains definitions of terms related to the investment activities of corporate credit unions. Four of the definitions refer to credit ratings.

The proposed rule eliminates the definition of "NRSRO" as irrelevant, given that the proposed rule eliminates references to NRSROs.

The definition of "asset-backed commercial paper (ABCP) program" states that it is a program that has received a credit rating from an NRSRO. The proposed rule deletes that element of the definition as unnecessary. A corporate that is authorized to invest in ABCPs is expected to conduct due diligence on an ABCP investment just as any other investment.

The definition of "eligible ABCP liquidity facility" provides that if the assets that the facility is required to fund against have received an NRSRO rating at the time of the inception of the facility, the facility can be used to fund only those assets that are rated investment grade by an NRSRO at the time of funding. The proposed rule removes the NRSRO references, providing instead that a facility can be used to fund only those assets or exposures that demonstrate adequate capacity to meet their financial obligations, even under adverse economic conditions, for the projected life of the asset or exposure. A corporate may base its evaluation of the financial strength of an asset or exposure on internal and external assessments.

The definition of "small business related security" in § 704.2 is different from that in § 703.2, discussed above. When NCUA comprehensively revised part 704 in September 2010, the Board noted that Congress had already passed the Dodd-Frank Act, amending the Exchange Act's definition of small business related security.[9] The Board stated that it wanted to continue to use the old Exchange Act definition and therefore retained the description of the security[10] while removing the reference to the Exchange Act. The definition retained an NRSRO reference, however, and the proposed rule removes that reference. As is the case with § 703.2, the proposed rule retains the exemption for Small Business Administration securities permissible under § 107(7) of the Federal Credit Union Act, 12 U.S.C. 1757(7).

Credit Risk Management

Section 704.6(f) establishes minimum credit quality standards for corporate credit union investments. 12 CFR 704.6(f). The standards include that each investment must have an NRSRO rating and that at least 90 percent of a corporate's investment portfolio must have at least two such ratings. The standards further require that long-term investments be rated at least AA- (or equivalent) and short-term investments be rated at least A- (or equivalent). Finally, § 704.6(f) requires a corporate to monitor NRSRO ratings as long as it holds a rated investment and to develop an action plan, pursuant to § 704.10, for any investment subject to a ratings downgrade below AA- for a long-term investment or A- for a short-term investment.

The proposed rule removes the minimum rating requirements, providing instead that for an investment to be permissible, it must be originated by an issuer that has at least a very strong capacity to meet its financial obligations, even under adverse conditions, for the projected life of the security. This standard would apply to both long-term and short-term investments. As discussed above, a corporate may base its evaluation of the financial strength of an issuer on internal and external assessments. Under the proposed rule, a corporate must monitor any changes in credit quality of the investment as long as it owns the investment and develop an action plan, under § 704.10, if there is reason to believe that the obligor no longer has a very strong capacity to meet its financial obligations for the remaining projected life of the security.

Section 704.6(g) requires a corporate credit union to maintain documentation for each credit limit with each obligor or transaction counterparty, including rating agency information. The proposed rule deletes the reference to rating agency information.

Expanded Authorities

Appendix B to Part 704 sets out expanded authorities for corporates that have met certain requirements.

Part I of Appendix B authorizes corporates to purchase investments with long-term ratings no lower than A- (or equivalent) and short-term ratings no lower than A–2 (or equivalent). The proposed rule removes the rating requirements, providing instead that for an investment to be permissible, it must be originated by an issuer that has at least a strong capacity to meet its financial obligations, even under adverse economic conditions, for the projected life of the security. Again, this standard would apply to both long-term and short-term investments. As in other parts of the proposed rule that substitute ratings with multi-faceted issuer evaluations, a corporate may consider a variety of sources in making that evaluation.

Part II of Appendix B authorizes a corporate to purchase a foreign

[9] 75 FR 64786, 64789 (Oct. 20, 2010).

[10] Prior to the Dodd-Frank Act, Section 3(a)(53) of the Exchange Act defined a "small business related security" as "a security that is rated in 1 of the 4 highest rating categories by at least one nationally recognized statistical rating organization and represents an interest in one or more promissory notes or leases of personal property evidencing the obligation of a small business concern and originated by an insured depository institution, insured credit union, insurance company, or similar institution which is supervised and examined by a Federal or State authority, or a finance company or leasing company."

investment provided, among other things, that the sovereign issuer, and/or the country in which the obligor is organized, has a long-term foreign currency debt rating no lower than AA- (or equivalent). The proposed rule deletes the NRSRO reference, providing instead that a corporate may purchase a foreign investment only pursuant to an explicit policy established by the board of directors. Further, any foreign issue or issuer must have a very strong capacity to meet its financial obligations, even under adverse economic conditions, for the projected life of the security.

Part III of Appendix B provides that, for derivative transactions, domestic counterparties must be rated at least A- (or equivalent). Part III also requires a corporate to monitor the ratings as long as a contract remains open and to develop an action plan, pursuant to § 704.10, for any counterparty downgraded below the minimum rating requirements. The proposed rule removes the rating requirements, mandating instead that the counterparty meet minimum credit quality standards as established by the corporate's board of directors. A corporate must identify the criteria relied upon to determine that the standards are met at the time the transaction is entered into and monitor those criteria for as long as the contract remains open. Finally, a corporate must develop a § 704.10 action plan if the credit quality of the counterparty deteriorates below the standards established by the corporate's board.

Risk-Based Capital

Appendix C to Part 704 explains how a corporate must compute its risk-weighted assets for purposes of determining its capital ratios. Appendix C contains several references to NRSRO ratings.

In the definitions section of Appendix C, "traded position" is defined with reference to an NRSRO rating. The proposed rule removes the definition of "traded position," as the term is used only in paragraphs II(c)(3) and (4), which are proposed to be deleted, as discussed below.

Paragraph II(a)(2)(viii) provides that claims on qualifying securities firms, if rated in one of the three highest investment grade categories by an NRSRO, may be risk-weighted at 20 percent. The proposed rule removes the ratings references, requiring instead that, for a 20 percent risk weighting, a qualifying securities firm must either meet minimum credit quality standards as established by the corporate credit union's board of directors or demonstrate at least a strong capacity to meet its financial obligations, even under adverse economic conditions, for the projected life of the exposure. The corporate will use whichever requirement is more stringent. The board of directors must explicitly accept the regulatory minimum credit quality standard or establish a higher standard to be applied by management.

Paragraph II(a)(2)(viii) also provides that a qualifying securities firm may rely on the rating of its parent consolidated company if the parent consolidated company guarantees the claim. The proposed rule removes the rating reference, providing instead that a qualifying securities firm may rely on the creditworthiness of its parent consolidated company if the parent consolidated company guarantees the claim. The parent company's creditworthiness is measured by the same standards as that of the qualifying securities firm.

Paragraph II(b) addresses the risk-weighting of off-balance sheet assets. Certain assets relating to asset backed commercial paper (ABCP) facilities are weighted "based on the assets of the obligor, after considering any collateral or guarantees, or external credit ratings under paragraph II(c)(3)." *See* paragraphs II(b)(1)(iv), II(b)(2)(ii), and II(b)(4). The proposed rule also deletes the phrase "or external credit ratings under paragraph II(c)(3)" for each of these three paragraphs, as paragraph II(c)(3) itself will be deleted under this proposal.

Paragraphs II(c)(1) and (c)(2) provide a general approach to risk-weighting recourse obligations, direct credit substitutes, and residual interests. Paragraphs II(c)(3) and (c)(4) provide alternative methods for calculating the risk weights of certain recourse obligations, direct credit substitutes, and residual interests. Since these alternative methods involve reliance on NRSRO ratings, the proposed rule deletes these paragraphs. The proposed rule adds a new paragraph II(c)(3) which allows a corporate with advanced risk management and reporting systems to seek NCUA approval to use an internal ratings-based approach to risk-weight those positions.[11]

c. Part 709—Involuntary Liquidation of Federal Credit Unions and Adjudication of Creditor Claims Involving Federally Insured Credit Unions in Liquidation

Part 709 governs the involuntary liquidation of FCUs and the adjudication of creditor claims involving federally insured credit unions (FICUs). Section 709.10(b) provides that NCUA will not use its authority to repudiate contracts under 12 U.S.C. 1787(c) to reclaim, recover, or recharacterize financial assets transferred by a FICU in connection with a securitization or in the form of a participation. Section 709.10(f) provides that NCUA will not attempt to avoid an otherwise legally enforceable securitization or participation agreement solely because the agreement does not meet the contemporaneous requirement of sections 207(b)(9) and 208(a)(3) of the FCU Act.

Section 709.10(a)(5) includes a definition of "securitization" that includes a reference to NRSRO ratings. The proposed rule deletes the definition of securitization in paragraph (a)(5) and the references to securitization in paragraphs (b), (f), and (g), as credit unions do not securitize assets within the meaning of Part 709. In addition, the proposal deletes the definition of "special purpose entity" in paragraph (a)(6), as this phrase is only used in the definition of "securitization."

d. Part 742—Regulatory Flexibility Program

Part 742 provides an exemption from certain regulatory restrictions for credit unions that have demonstrated sustained superior performance. Pursuant to § 742.4(a)(9) a credit union is exempt from the prohibition in § 703.13(d)(3) against the purchase of a commercial mortgage related security provided, among other things, that the security is rated in one of the two highest rating categories by at least one NRSRO. The proposed rule removes the NRSRO requirement, replacing it with the requirement that the issuer have very strong capacity to meet its financial obligations, even under adverse

[11] Acceptable internal credit risk rating systems typically: (1) Are an integral part of the corporate's risk management system that explicitly incorporates the full range of risks arising from the corporate's participation in securitization activities; (2) link internal credit ratings to measurable outcomes; (3) separately consider the risk associated with the underlying loans or borrowers and the risk associated with the structure of the particular securitization transaction; (4) identify gradations of risk; (5) use clear, explicit criteria to classify assets into each internal rating grade; (6) employ independent credit risk management or loan review personnel to assign or review the credit risk ratings; (7) include an internal audit procedure to periodically verify that internal risk ratings are assigned in accordance with the corporate's established criteria; (8) monitor the performance of the assigned internal credit risk ratings over time to determine the appropriateness of the initial credit risk rating assignment, and adjust individual credit risk ratings or the overall internal credit risk rating system, as needed; and (9) make credit risk rating assumptions that are consistent with, or more conservative than, the credit risk rating assumptions and methodologies of NRSROs.

economic conditions, for the projected life of the security.

IV. Request for Comment

As discussed above, this proposal removes the references to NRSRO credit ratings from NCUA regulations. In some places, the proposal replaces these references with alternative standards of creditworthiness. In other places, the Board believes that no alternative is necessary.

The Board realizes there are many possible alternative standards of creditworthiness, including some alternatives not used by the Board in this proposal. For example, some other banking regulators, and third-party commenters on proposals published by those regulators, have suggested alternatives based on criteria such as macro-economic factors, minimum probabilities of defaults, permitting the purchase of only high quality and highly liquid investments, and other criteria.[12]

NCUA is open to the use of alternatives other than those contained in this proposal. Accordingly, commenters are encouraged to address the specific questions set forth below in addition to providing general comments.

Are there some other alternative standards of creditworthiness that are better, or more appropriate, than those proposed by NCUA? If so, please specify:

What the alternative standards are;

The sections(s) of NCUA regulations in which the alternative(s) should be employed; and Why the alternative(s) are better than the standards used in this proposal.

In proposing alternative standards of creditworthiness, please specifically address whether and how the standards:

Provide for a reasonable and objective assessment of the likelihood of full repayment of principal and interest over the life of the security and in stressed market and economic scenarios;

Foster prudent risk management;

Are transparent, replicable, and well defined;

Allow for supervisory review;

Differentiate among investments in the same asset class with different credit risk;

Provide for the timely and accurate measurement of negative and positive changes in investment quality over time, to the extent practicable;

Strike the appropriate balance between the cost of the credit risk assessment, the risk of an incorrect assessment, and the burden of the assessment; and

Provide for a lesser burden (if appropriate), on smaller credit unions.

V. Regulatory Procedures

a. Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small entities (those under $10 million in assets). The proposed rule would remove NRSRO ratings from NCUA's regulations. Generally, credit unions with under $10 million in assets do not engage in investment activities that are affected by those portions of the NCUA rules that refer to NRSRO ratings. Accordingly, the proposed amendments will not have a significant economic impact on a substantial number of small credit unions and, therefore, a regulatory flexibility analysis is not required.

b. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or modifies an existing burden. 44 U.S.C. 3507(d); 5 CFR part 1320. For purposes of the PRA, a paperwork burden may take the form of a reporting, recordkeeping, or disclosure requirement, each referred to as an information collection. The Office of Management and Budget (OMB) has approved the current information collection requirements in part 703 and assigned them control number 3133–0133. OMB has approved the current information collection requirements in part 704 and assigned them control number 3133–0129.

The proposed rule would potentially modify credit unions' existing practices to impose record-keeping burdens. The proposed amendments would replace NRSRO ratings-based criteria for evaluating creditworthiness with new subjective standards based on the credit union's own evaluation of creditworthiness. The credit union would have to be able to explain how the securities it purchased or counterparties with which it did business meet the standards set forth in the proposed amendments. As such, we believe that some credit unions may be required to develop additional criteria for assessing the creditworthiness of securities and counterparties and apply those criteria.

We believe that all of the corporate credit unions already have policies and procedures in place for evaluating the credit risk of securities activities, but the proposed amendments may require additional analysis of credit risk and thus result in additional burdens on some natural person FCUs. We estimate that approximately 750 natural person FCUs may need to develop or augment a system for evaluating creditworthiness. We estimate that, on average, the FCUs will spend 20 hours on such a system, resulting in an initial aggregate burden of 15,000 hours. This estimate is based on our belief that many of these FCUs already have some criteria in place for evaluating creditworthiness.

We further estimate that, on average, each of those FCUs will spend an additional 10 hours each year reviewing, adjusting, and applying its system for evaluating creditworthiness, for a total of 7,500 hours across the industry. Once again, this estimate reflects our belief that many of these FCUs already are applying a system of evaluating creditworthiness.

As required by the PRA, NCUA is submitting a copy of this proposal to OMB for its review and approval. Persons interested in submitting comments with respect to the information collection aspects of the proposed rule should submit them to OMB at the address noted below.

The NCUA considers comments by the public on this proposed collection of information in:

Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the NCUA, including whether the information will have a practical use;

Evaluating the accuracy of the NCUA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

Enhancing the quality, usefulness, and clarity of the information to be collected; and

Minimizing the burden of 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

[12] See Advanced Notice of Proposed Rulemaking on Alternatives to the Use of External Credit Ratings in the Regulations of the OCC, issued by the Office of the Comptroller of the Currency, 75 FR 49423 (Aug. 13, 2010); Advanced Notice of Proposed Rulemaking on Alternatives to the Use of External Credit Ratings in the Regulations of the OTS, issued by the Office of Thrift Supervision, 75 FR 63107 (Oct. 14, 2010);*http://www.regulations.gov/#!searchResults;dct=PS;rpp=10;so=DESC;sb=postedDate;po=0;s=OCC-2010-0017; http://www.regulations.gov/#!searchResults;dct=PS;rpp=10;so=DESC;sb=postedDate;po=0;s=OTS-2010-0029*

information technology; *e.g.,* permitting electronic submission of responses.

The Paperwork Reduction Act requires OMB to make a decision concerning the collection of information contained in the proposed regulation between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the NCUA on the proposed regulation.

Comments on the proposed information collection requirements should be sent to: Office of Information and Regulatory Affairs, OMB, New Executive Office Building, Washington, DC 20503; Attention: NCUA Desk Officer, with a copy to Mary Rupp, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

c. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on State and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order.

The proposed rule would not have substantial direct effects on the States, on the connection between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this proposal does not constitute a policy that has federalism implications for purposes of the executive order.

d. The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this proposed rule will not affect family well-being within the meaning of § 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

List of Subjects

12 CFR Part 703

Credit unions, Investments, Reporting and recordkeeping requirements.

12 CFR Part 704

Credit unions, Investments, Reporting and recordkeeping requirements.

12 CFR Part 709

Bank deposit insurance, Credit unions.

12 CFR Part 742

Credit unions, Investments, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on February 17, 2011.

Mary F. Rupp,

Secretary of the Board.

For the reasons stated in the preamble, the National Credit Union Administration proposes to amend 12 CFR parts 703, 704, 709, and 742 as set forth below:

PART 703—INVESTMENTS AND DEPOSIT ACTIVITIES

1. The authority citation for part 703 continues to read as follows:

Authority: 12 U.S.C. 1757(7), 1757(8), 1757(15).

2. In § 703.2 remove the definition of *Deposit note,* and revise the definitions of *Mortgage related security* and *Small business related security* to read as follows:

§ 703.2 Definitions.

* * * * *

Mortgage related security means a security as defined in Section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41)).

* * * * *

Small business related security means a security as defined in Section 3(a)(53) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(53)). This definition does not include Small Business Administration securities permissible under § 107(7) of the Act.

* * * * *

3. In § 703.8, revise paragraph (b)(3) to read as follows:

§ 703.8 Broker-dealers.

* * * * *

(b) * * *

(3) If the broker-dealer is acting as the Federal credit union's counterparty, the ability of the broker-dealer and its subsidiaries or affiliates to fulfill commitments, as evidenced by capital strength, liquidity, and operating results. The Federal credit union should consider current financial data, annual reports, external assessments of creditworthiness, relevant disclosure documents, and other sources of financial information.

* * * * *

4. In § 703.9, revise paragraph (d) to read as follows:

§ 703.9 Safekeeping of investments.

* * * * *

(d) Annually, the Federal credit union must analyze the ability of the safekeeper to fulfill its custodial responsibilities, as evidenced by capital strength, liquidity, and operating results. The Federal credit union should consider current financial data, annual reports, external assessments of creditworthiness, relevant disclosure documents, and other sources of financial information.

5. In § 703.14, revise paragraphs (e), (g)(9), (g)(11), (h)(1) and (h)(2) to read as follows:

§ 703.14 Permissible investments.

* * * * *

(e) *Municipal security.* A Federal credit union may purchase and hold a municipal security, as defined in Section 107(7)(K) of the Act, only if the issuer has at least adequate capacity to meet its financial obligations, even under adverse economic conditions, for the projected life of the security. The credit union must prepare and document an internal analysis that evaluates the capacity of the issuer to meet its financial obligations, assuming adverse conditions, for the projected life of the security. The credit union must also limit its aggregate municipal securities holdings to no more than 75 percent of the credit union's net worth and limit its holdings of municipal securities issued by any single issuer to no more than 25 percent of the credit union's net worth.

* * * * *

(g) * * *

(9) The counterparty to the transaction meets the minimum credit quality standards as established by the Federal credit union's board of directors.

* * * * *

(11) The aggregate amount of equity-linked member share certificates does not exceed 50 percent of the credit union's net worth;

* * * * *

(h) * * *

(1) The aggregate of the investments with any one counterparty is limited to 25 percent of the credit union's net worth and 50 percent of its net worth with all counterparties;

(2) At the time the Federal credit union purchases the securities, the counterparty, or a party fully guaranteeing the counterparty, must meet the minimum credit quality standards as established by the Federal credit union's board of directors.

* * * * *

PART 704—CORPORATE CREDIT UNIONS

6. The authority citation for part 704 continues to read as follows:

Authority: 12 U.S.C. 1762, 1766(a), 1772a, 1781, 1789, and 1795e.

7. In § 704.2:

a. Remove the definition of *Nationally Recognized Statistical Rating Organization;*

b. Revise the definition of *Asset-backed commercial paper program* as revised on October 20, 2010, at 75 FR 64829, effective October 20, 2011; and

c. Revise the definitions for *Eligible ABCP liquidity facility*, and *Small business related security* as added and revised, respectively, on October 20, 2010, at 75 FR 64829, effective October 20, 2011.

The additions and revisions read as follows:

§ 704.2 Definitions.

* * * * *

Asset-backed commercial paper program (ABCP program) means a program that primarily issues commercial paper and that is backed by assets or other exposures held in a bankruptcy-remote special purpose entity. The term *sponsor of an ABCP program* means a corporate credit union that:

(1) Establishes an ABCP program;

(2) Approves the sellers permitted to participate in an ABCP program;

(3) Approves the asset pools to be purchased by an ABCP program; or

(4) Administers the ABCP program by monitoring the assets, arranging for debt placement, compiling monthly reports, or ensuring compliance with the program documents and with the program's credit and investment policy.

* * * * *

Eligible ABCP liquidity facility means a legally binding commitment to provide liquidity support to asset-backed commercial paper by lending to, or purchasing assets from any structure, program or conduit in the event that funds are required to repay maturing asset-backed commercial paper and that meets the following criteria:

(1)(i) At the time of the draw, the liquidity facility must be subject to an asset quality test that precludes funding against assets that are 90 days or more past due or in default; and

(ii) The facility can be used to fund only those assets or exposures that demonstrate adequate capacity to meet their financial obligations, even under adverse economic conditions, for the projected life of the asset or exposure; or

(2) If the assets that are funded under the liquidity facility do not meet the criteria described in paragraph (1) of this definition, the assets must be guaranteed, conditionally or unconditionally, by the United States Government, its agencies, or the central government of an Organization for Economic Cooperation and Development (OECD) country.

* * * * *

Small business related security means a security that represents an interest in one or more promissory notes or leases of personal property evidencing the obligation of a small business concern and originated by an insured depository institution, insured credit union, insurance company, or similar institution which is supervised and examined by a Federal or State authority, or a finance company or leasing company. This definition does not include Small Business Administration securities permissible under § 107(7) of the Act.

* * * * *

8. In § 704.6, revise paragraphs (f) and (g)(2)(iii), to read as follows:

§ 704.6 Credit risk management.

* * * * *

(f) *Credit ratings*—(1) At the time of purchase, each investment must be originated by an issuer that has at least a very strong capacity to meet its financial obligations, even under adverse economic conditions, for the projected life of the security.

(2) A corporate credit union must obtain and retain appropriate documentation supporting the purchase of an investment. This documentation must include the criteria, information, and analysis relied upon to determine the credit quality of the investment, including the capacity of the issuer to meet its obligations under adverse economic conditions. A corporate credit union must identify and monitor any changes in credit quality of the investment and retain appropriate supporting documentation as long as the corporate owns the investment.

(3) An investment is subject to the requirements of § 704.10 if:

(i) There is reason to believe that the obligor no longer has a very strong capacity to meet its financial obligations for the remaining projected life of the security; or

(ii) The investment is part of an asset class or group of investments that exceeds the sector or obligor concentration limits of this section.

(g) * * *

(2) * * *

(iii) The latest available financial reports, industry analyses, and internal and external analyst evaluations sufficient to support each approved credit limit.

9. In Appendix B:

a. Remove Part I(a)(2);

b. Redesignate Part I(a)(3), (4), and (5) as Part I(a)(2), (3), and (4), respectively;

c. Remove Part II(b)(2);

d. Redesignate Part II(b)(3), (4), and (5) as Part II(b)(2), (3), and (4), respectively; and

e. Revise Part I(a)(1), Part II(b)(1), and Part III(b) as follows:

Appendix B to Part 704—Expanded Authorities and Requirements

* * * * *

Part I

* * * * *

(a) * * *

(1) Purchase investments originated by an issuer that has at least a strong capacity to meet its financial obligations, even under adverse economic conditions, for the projected life of the security;

* * * * *

Part II

* * * * *

(b) * * *

(1) Investments must be made pursuant to an explicit policy established by the corporate credit union's board of directors. Any foreign issue or issuer must have at least a very strong capacity to meet its financial obligations, even under adverse economic conditions, for the projected life of the security.

* * * * *

Part III

* * * * *

(b) Credit Quality:

(1) All derivative transactions are subject to the following requirements:

(i) If the intended counterparty is domestic, the counterparty must meet minimum credit quality standards as established by the corporate's board of directors;

(ii) If the intended counterparty is foreign, the corporate must have Part II expanded authority and the counterparty must meet minimum credit quality standards as established by the corporate's board of directors;

(iii) The corporate must identify the criteria relied upon to determine that the counterparty meets the credit quality requirements of this part at the time the transaction is entered into and monitor those criteria for as long as the contract remains open; and

(iv) The corporate must comply with § 704.10 of this part if the credit quality of the counterparty deteriorates below the minimum credit quality standards established by the corporate's board of directors.

* * * * *

10. In Appendix C:

a. Remove the definition of *Traded position* from paragraph I(b);

b. Revise paragraphs II(a)(2)(viii)(A), II(a)(2)(viii)(B) introductory text, II(b)(1)(iv), II(b)(2)(ii), and II(b)(4);

b. Remove paragraph II(c)(3) and remove and reserve paragraph II(c)(4); and

c. Add new paragraph II(c)(3).

The revisions and addition read as follows:

Appendix C to Part 704—Risk-Based Capital Credit Risk-Weight Categories

* * * * *

Part II: Risk-Weightings

(a) * * *

(2) * * *

(viii) * * *

(A) A qualifying securities firm must meet the minimum credit quality standards as established by the corporate credit union's board of directors or demonstrate at least a strong capacity to meet its financial obligations, even under adverse economic conditions, for the projected life of the exposure, whichever requirement is more stringent. Alternatively, a qualifying securities firm may rely on the creditworthiness of its parent consolidated company, if the parent consolidated company guarantees the claim.

(B) A collateralized claim on a qualifying securities firm does not have to comply with the requirements of paragraph (a) if the claim arises under a contract that:

* * * * *

(b) * * *

(1) * * *

(iv) Unused portions of ABCP liquidity facilities that do not meet the definition of an eligible ABCP liquidity facility. The resulting credit equivalent amount is assigned to the risk category appropriate to the assets to be funded by the liquidity facility based on the assets or the obligor, after considering any collateral or guarantees.

* * * * *

(2) * * *

(ii) Unused portions of commitments (including home equity lines of credit and eligible ABCP liquidity facilities) with an original maturity exceeding one year except those listed in paragraph II(b)(5) of this Appendix. For eligible ABCP liquidity facilities, the resulting credit equivalent amount is assigned to the risk category appropriate to the assets to be funded by the liquidity facility based on the assets or the obligor, after considering any collateral or guarantees.

* * * * *

(4) 10 percent credit conversion factor (Group D). Unused portions of eligible ABCP liquidity facilities with an original maturity of one year or less. The resulting credit equivalent amount is assigned to the risk category appropriate to the assets to be funded by the liquidity facility based on the assets or the obligor, after considering any collateral or guarantees.

* * * * *

(c) * * *

(3) Internal ratings-based approach—

(i) Calculation. Corporate credit unions with advanced risk management and reporting systems may seek NCUA approval to use credit risk models to calculate risk-weighted asset amounts for positions described in paragraphs II(c)(1) and (2) of this section. In determining whether to grant approval, NCUA will consider the financial condition and risk management sophistication of the corporate credit union and the adequacy of the corporate's risk models and supporting management information systems.

(ii) Consistent use of internal ratings-based approach. A corporate credit union that has been granted NCUA approval to use an internal ratings-based approach and that has determined to use such an approach must do so in a consistent manner for all securities so rated.

PART 709—INVOLUNTARY LIQUIDATION OF FEDERAL CREDIT UNIONS AND ADJUDICATION OF CREDITOR CLAIMS INVOLVING FEDERALLY INSURED CREDIT UNIONS IN LIQUIDATIONS

11. The authority citation for part 709 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766, 1767, 1786(h), 1787, 1788, 1789, 1789a.

12. In § 709.10, remove paragraphs (a)(5) and (a)(6), and revise the section heading and paragraphs (b), (f), and (g) to read as follows:

§ 709.10 Treatment by conservator or liquidating agent of financial assets transferred in connection with a participation.

* * * * *

(b) The Board, by exercise of its authority to disaffirm or repudiate contracts under 12 U.S.C. 1787(c), will not reclaim, recover, or recharacterize as property of the credit union or the liquidation estate any financial assets transferred to another party by a federally-insured credit union in connection with a participation, provided that the transfer meets all the conditions for sale accounting treatment under generally accepted accounting principles, other than the "legal isolation" condition addressed by this section.

* * * * *

(f) The Board will not seek to avoid an otherwise legally enforceable participation agreement executed by a federally-insured credit union solely because such agreement does not meet the "contemporaneous" requirement of sections 207(b)(9) and 208(a)(3) of the Federal Credit Union Act.

(g) This section may be repealed by the NCUA upon 30 days notice and opportunity for comment provided in the **Federal Register**, but any such repeal or amendment will not apply to any transfers of financial assets made in connection with a participation that was in effect before such repeal or modification. For purposes of this paragraph, a participation would be in effect on the date that the parties executed the participation agreement.

PART 742—REGULATORY FLEXIBILITY PROGRAM

13. The authority citation for part 742 continues to read as follows:

Authority: 12 U.S.C. 1756, 1766.

14. In § 742.4, revise paragraph (a)(6)(i) to read as follows:

§ 742.4 RegFlex relief.

(a) * * *

(6) * * *

(i) The issuer has at least a very strong capacity to meet its financial obligations, even under adverse economic conditions, for the projected life of the security;

* * * * *

[FR Doc. 2011–4070 Filed 2–28–11; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 33

[Docket No. NE131; Notice No. 33–10–02–SC]

Special Conditions: Pratt and Whitney Canada Model PW210S Turboshaft Engine

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for Pratt and Whitney Canada (PWC) model PW210S engines. The engine model will have a novel or unusual design feature which is a 30–Minute All Engines Operating (AEO) power rating. This rating is intended to be used for hovering at increased power for search and rescue missions. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the added safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: We must receive your comments by March 31, 2011.

ADDRESSES: You must mail two copies of your comments to: Federal Aviation Administration, Engine and Propeller

Directorate, Attn: Marc Bouthillier, Rules Docket (ANE–111), Docket No. NE131, 12 New England Executive Park, Burlington, Massachusetts 01803–5299. You may deliver two copies to the Engine and Propeller Directorate at the above address. You must mark your comments: Docket No. NE131. You can inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this proposed rule contact Marc Bouthillier, ANE–111, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, Massachusetts 01803–5299; telephone (781) 238–7120; facsimile (781) 238–7199; e-mail *marc.bouthillier@faa.gov.* For legal questions concerning this proposed rule contact Vincent Bennett, ANE–7 Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, Massachusetts 01803–5299; telephone (781) 238–7044; facsimile (781) 238–7055; e-mail *vincent.bennett@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel about these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

If you want us to let you know we received your comments on this proposal, send us a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On December 5, 2005, PWC applied for type certification for a new model PW210S turboshaft engine. This engine incorporates a two stage compressor driven by a single stage un-cooled turbine and a two stage free power turbine driving a two stage reduction gearbox. The control system includes a dual channel full authority digital electronic control. The engine will incorporate a novel or unusual design feature which is a 30–Minute All Engine Operating (AEO) power rating. This rating was requested by the applicant to support rotorcraft search and rescue missions that require extensive hover operations at high power.

The applicable airworthiness standards do not contain adequate or appropriate airworthiness standards to address this design feature. Therefore a special condition is necessary to apply additional requirements for rating definition, instructions for continued airworthiness (ICA) and endurance testing. The 30 minute time limit applies to each instance the rating is used; however there is no limit to the number of times the rating can be used during any one flight, and there is no cumulative time limitation. The ICA requirement is intended to address the unknown nature of actual rating usage and associated engine deterioration. The applicant is expected to make an assessment of the expected usage and publish ICA's and ALS limits in accordance with those assumptions, such that engine deterioration is not excessive. The endurance test requirement of 25 hours operation at 30 minutes AEO is similar to several special conditions issued over the past 20 years. Because the PWC model PW210S turboshaft engine has a continuous OEI rating and limits equal or higher than the 30 minute AEO rating, the test time performed at the continuous OEI rating may be credited toward the 25 hour requirement. However, test time spent at other rating elements of the test, such as takeoff or other OEI ratings (that may be equal to or higher values), may not be counted toward the 25 hours of required running.

These special conditions contain the additional airworthiness standards necessary to establish a level of safety equivalent to the level that would result from compliance with the applicable standards of airworthiness in effect on the date of application.

Type Certification Basis

Under the provisions of 14 CFR 21.17, PWC must show that the model PW210S turboshaft engine meets the provisions of the applicable regulations in effect on the date of application. The application date is December 5, 2005, which corresponds to 14 CFR part 33 Amendment 20. However, PWC has elected to demonstrate compliance to later amendments of part 33 for this model. Therefore, the certification basis for the PW210S model turboshaft engine will be part 33, effective February 1, 1965, as amended by Amendments 33–1 through 33–24.

If the Administrator finds that the applicable airworthiness regulations in part 33, as amended, do not contain adequate or appropriate safety standards for the PWC model PW210S turboshaft engine, because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

The FAA issues special conditions, as defined by 14 CFR 11.19, in accordance with 14 CFR 11.38, which become part of the type certification basis in accordance with § 21.17(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include another related model that incorporates the same or similar novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same or similar novel or unusual design feature, the special conditions would also apply to the other model.

Novel or Unusual Design Features

The Pratt and Whitney Canada (PWC) model PW210S turbo shaft engine will incorporate a novel or unusual design feature which is a 30-Minute All Engine Operating (AEO) power rating, for use up to 30 minutes at any time between the take-off and landing phases of a flight. Special conditions for a 30-Minute AEO rating are proposed to address this novel and unusual design feature. The special conditions are discussed below.

Discussion

The PWC model PW210S turboshaft engine is a free turbine turboshaft designed for a transport category twin-engine helicopter. The helicopter manufacturer anticipates that for search and rescue, extended hovering maneuvers may require more than maximum continuous power for periods up to 30 minutes. PWC has requested a 30-Minute All Engine Operating (AEO) rating, for use up to 30 minutes at any time between the take-off and landing phases of a flight. PWC has indicated

that the number of times this rating can be used in one flight is not limited.

Applicability

As discussed above, these special conditions are applicable to PWC model PW210S turbo shaft engines. If Pratt and Whitney Canada applies later for a change to the type certificate to include another closely related model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of engine. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the engine.

List of Subjects in 14 CFR Part 33

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Pratt and Whitney Canada (PWC) model PW210S turbo shaft engines.

1. PART 1 DEFINITION. Unless otherwise approved by the Administrator and documented in the appropriate manuals and certification documents, the following definition applies to this special condition: "Rated 30 Minute AEO Power", means the approved brake horsepower developed under static conditions at the specified altitude and temperature, and within the operating limitations established under part 33, and limited in use to periods not exceeding 30 minutes each.

2. PART 33 REQUIREMENTS.

(a) Sections 33.1 Applicability and 33.3 General: As applicable, all documentation, testing and analysis required to comply with the part 33 certification basis, must account for the 30 minute AEO rating, limits and usage.

(b) Section 33.4, Instructions for Continued Airworthiness (ICA). In addition to the requirements of § 33.4, the ICA must:

(1) Include instructions to ensure that in-service engine deterioration due to rated 30 minute AEO power usage will not be excessive, meaning that all other approved ratings, including one engine inoperative (OEI), are available (within associated limits and assumed usage) for each flight; and that deterioration will not exceed that assumed for declaring a time between overhaul (TBO) period.

(i) The applicant must validate the adequacy of the maintenance actions required under paragraph (b)(1) above.

(2) Include in the airworthiness limitations section (ALS), any mandatory inspections and serviceability limits related to the use of the 30-minute AEO rating.

(c) Section 33.87, Endurance Test. In addition to the requirements of §§ 33.87(a) and 33.87(d), the overall test run must include a minimum of 25 hours of operation at 30 minute AEO power and limits, divided into periods of 30 minutes AEO power with alternate periods at maximum continuous power.

(1) Each § 33.87(d) continuous one-engine-inoperative (OEI) rating test period of 30 minutes or longer, run at power and limits equal to or higher then the 30 minute AEO rating, may be credited toward this requirement.

Issued in Burlington, Massachusetts on February 1, 2011.

Peter A. White,

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

[FR Doc. 2011–4570 Filed 2–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0099; Directorate Identifier 2010–SW–085–AD]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Model S–76A, S–76B, and S–76C Helicopters Modified by Supplemental Type Certificate SR09211RC

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Sikorsky Aircraft Corporation (Sikorsky) S–76 model helicopters with a certain life raft deployment system (LRDS) installed per Supplemental Type Certificate (STC) SR09211RC. This proposed AD would require removing and replacing the pilot or co-pilot life raft deployment handle (handle) located on the left side of the "broom closet" of the helicopter. This proposed AD is prompted by an incident that occurred where the handle bent prior to the life raft deploying, and this prohibited the crew from successfully deploying and using the life raft. It was determined that the handle in this incident was not manufactured to the approved Type Design. We are proposing this AD to prevent the bending of the handle, which could result in failure of the life raft to deploy. This failure could lead to loss of access to the life raft after an emergency ditching on water.

DATES: We must receive comments on this proposed AD by May 2, 2011.

ADDRESSES: Use one of the following addresses to comment on this proposed AD:

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

You may get the service information identified in this proposed AD from Aero Seats and Systems, Inc., 340 Thomas Place, Everman, Texas 76140, telephone (817) 551–0818, fax (817) 551–0838, e-mail *rcrouch@aeroseatsandsystems.com.*

You may examine the comments to this proposed AD in the AD docket on the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Martin Crane, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Certification Office, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5170, fax (817) 222–5783.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2011–0099, Directorate Identifier 2010–SW–085–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive concerning this proposed AD. Using the search function of our docket Web site, you can find and read the comments to any of our dockets, including the name of the individual who sent or signed the comment. You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Examining the Docket

You may examine the docket that contains the proposed AD, any comments, and other information in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Operations office (telephone (800) 647–5527) is located in Room W12–140 on the ground floor of the West Building at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

Discussion

We propose to adopt a new AD for the Sikorsky S–76A, S–76B, and S–76C model helicopters with an Aero Seats and Systems, Inc. (ASI) ASI–500 LRDS installed per STC SR09211RC. This proposed AD would require removing and replacing the handle located on the left side of the broom closet. This proposed AD is prompted by an incident that occurred in the United Kingdom (UK), and was reported under the UK Civil Aviation Authority's Mandatory Occurrence Reporting System (MOR ref 200800658). Investigation of this incident determined that the handle bent prior to the life raft deploying, and this prohibited the crew from successfully deploying and using the life raft. It was determined that the installed handle was not manufactured to the approved Type Design, resulting in the handle being under-strength for its intended purpose. The installed handle was a tube handle welded to a machined cam. This condition, if not corrected, could result in failure of the life raft to deploy, which could lead to loss of access to the life raft after an emergency ditching on water.

We have reviewed ASI's Alert Service Bulletin No. 76–500–02, Revision C, dated September 16, 2010 (ASB), which describes procedures for removing the handle (tube handle welded to a machined cam), part number (P/N) ASI–700–45, and replacing it with the handle assembly, P/N ASI–700–49A, which is a one piece machined handle and cam, designed to provide more strength.

We are proposing this AD because we have evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop on other helicopters of the same type design. Therefore, this proposed AD would require the following actions within the next 100 hours time-in-service (TIS), unless previously accomplished:

- Install the safety pins, P/N ASI–625–14, to lock out the raft deployment pods.
- Remove the pad, P/N BA7601.
- Remove the top cover, P/N ASI–700–73.
- Remove the cotter pin, P/N AN381–2–8, from the clevis pin, P/N MS 20392–2C9, located at the crew release handle assembly.
- Remove the washer, P/N AN960–10L, and clevis pin from the cable, P/N 2604750–90.
- Disconnect the cable from the handle, P/N ASI–700–45, and secure the cable to the broom closet to prevent it from falling into the lower cover.
- Remove the handle by removing the bolt, P/N AN4–11; nut, P/N MS20364–428A; and washers, P/N AN960–416L, from the raft deployment handle assembly (handle assembly), P/N ASI–700–41A.
- Remove the safety pin, P/N ASI–700–80.
- Remove and discard any ball bearings, and clean all surfaces of the remaining handle assembly.
- Install the handle, P/N ASI–700–49A.
- Reinstall the bolt, nut, and washers, P/N AN960–416L, and install the washer, P/N ASI–700–44, between the handle and the mount, P/N ASI–700–43, on the left side of the broom closet, and torque to 20 in-lb maximum.
- Reinstall the safety pin.
- Release the cable from the broom closet.
- Reinstall the cable to the handle with the clevis pin.
- Reinstall the washer, P/N AN960–10L, and the cotter pin on to the clevis pin.
- Reinstall the top cover.
- Reinstall the pad.
- Remove the raft deployment pod lock out safety pins.

These proposed actions are intended to prevent the handle from bending during raft deployment, which could lead to loss of access to the life raft after an emergency ditching on water.

Differences Between This Proposed AD and Service Information

This proposed AD differs from the manufacturer's service bulletin by requiring compliance to the actions specified in this AD within 100 hours TIS, unless accomplished previously. The manufacturer's service bulletin states that compliance must occur immediately upon receipt of a new design handle.

Costs of Compliance

We estimate that this proposed AD would affect 65 helicopters on the U.S. registry. We estimate it will take about 4 work-hours per helicopter to accomplish the proposed requirements. The average labor rate is $85 per work-hour. In addition, we estimate the cost of the required parts to be $1,500 per helicopter. Based on these figures, we estimate the cost of the proposed AD to be approximately $1,840 per helicopter and $119,600 total cost for U.S. operators.

Regulatory Findings

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

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

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

We prepared a draft economic evaluation of the estimated costs to comply with this proposed AD. See the AD docket to examine the draft economic evaluation.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that

section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Sikorsky Aircraft Corporation: Docket No. FAA–2011–0099; Directorate Identifier 2010–SW–085–AD.

Applicability: S–76A, S–76B, and S–76C model helicopters with Aero Seats and Systems, Inc. (ASI) ASI–500 Life Raft Deployment System (LRDS) installed per FAA Supplemental Type Certificate SR09211RC, pilot or co-pilot life raft deployment handle (handle), part number (P/N) ASI–700–45, certificated in any category.

Compliance: Required within 100 hours time-in-service, unless accomplished previously.

To prevent the bending of the handle, which could result in failure of the life raft to deploy, resulting in the loss of access to the life raft after an emergency ditching on water, accomplish the following:

(a) Install the safety pins, P/N ASI–625–14, to lock out the raft deployment pods.

(b) Remove the pad, P/N BA7601.

(c) Remove the top cover, P/N ASI–700–73.

(d) Remove the cotter pin, P/N AN381–2–8, from the clevis pin, P/N MS 20392–2C9, located at the crew release handle assembly.

(e) Remove the washer, P/N AN960–10L, and clevis pin from the cable, P/N 2604750–90.

(f) Disconnect the cable from the handle, and secure the cable to the broom closet to prevent it from falling into the lower cover.

(g) Remove the handle by removing the bolt, P/N AN4–11, nut, P/N MS20364–428A, and washers, P/N AN960–416L, from the raft deployment handle assembly (handle assembly), P/N ASI–700–41A.

(h) Remove the safety pin, P/N ASI–700–80.

(i) Remove and discard any ball bearings, and clean all surfaces of the remaining handle assembly.

(j) Install the handle, P/N ASI–700–49A.

(k) Reinstall the bolt, nut, and washers, P/N AN960–416L, and install the washer, P/N ASI–700–44, between the handle and the mount,
P/N ASI–700–43, on the left side of the broom closet, and torque to 20 in-lb maximum.

(l) Reinstall the safety pin.

(m) Release the cable from the broom closet.

(n) Reinstall the cable to the handle with the clevis pin.

(o) Reinstall the washer, P/N AN960–10L, and the cotter pin on to the clevis pin.

(p) Reinstall the top cover.

(q) Reinstall the pad.

(r) Remove the raft deployment pod lock out safety pins.

Note: Aero Seats and Systems, Inc., Alert Service Bulletin No. 76–500–02, Revision C, dated September 16, 2010, which is not incorporated by reference, contains additional information about the subject of this airworthiness directive.

(s) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Rotorcraft Certification Office, FAA, *Attn:* Martin Crane, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Certification Office, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5170, fax (817) 222–5783, e-mail *Martin.R.Crane@faa.gov* for information about previously approved alternative methods of compliance.

(t) The Joint Aircraft System/Component (JASC) Code 2564: is: Life raft.

Issued in Fort Worth, Texas, on January 27, 2011.

Kim Smith,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2011–4477 Filed 2–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. FAA–2011–0045]

Proposed Legal Interpretation

AGENCY: Federal Aviation Administration (FAA).

ACTION: Proposed interpretation.

SUMMARY: The FAA is considering clarifying the application of flight time limitations and rest requirements in 14 CFR 121.481 and 121.483 for pilots operating in flag operations as part of a two-pilot crew and as part of a two-pilot crew and one additional flightcrew member during a seven-day period.

DATES: Comments must be received on or before May 2, 2011.

ADDRESSES: You may send comments identified by Docket Number FAA–2011–0045 using any of the following methods:

Federal eRulemaking Portal: Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.

Mail: Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

Hand Delivery or Courier: Bring comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Fax: Fax comments to Docket Operations at 202–493–2251.

FOR FURTHER INFORMATION CONTACT: Sara Mikolop, Attorney, Regulations Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: 202–267–3073.

SUPPLEMENTARY INFORMATION: The FAA provides flight time and rest requirements for flightcrew members used in flag operations in 14 CFR subpart R. Within subpart R, § 121.481 provides flight time limitations for one- or two-pilot crews and § 121.483 provides flight time limitations for crews of two pilots and one additional flight crewmember.

The flight time limitations are more restrictive for operations under § 121.481 than § 121.483 because the crew size is smaller and thus each pilot must assume responsibilities for more in-flight duties. *See* Legal Interpretation from Donald P. Byrne to James W. Johnson (August 24, 1999). In contrast, when a crew of two pilots and one additional flightcrew member operates under § 121.483, the in-flight duties are divided among more crewmembers and so the overall burden on any one crewmember may be reduced as crewmembers rotate through flight deck duties and may be provided an opportunity for rest. *See* Legal Interpretation from Donald P. Byrne to James W. Johnson (August 24, 1999). Thus, when the number of flightcrew members used in a flag operation increases, Subpart R allows for increased flight time. *Compare* 14 CFR 121.481 *with* 14 CFR 121.483 *and* 14 CFR 121.485.

On July 15, 2010, the FAA received a request for a legal interpretation regarding how to apply flight time limitations and rest requirements for pilots engaged in flag operations when those pilots participate in varying sizes of flightcrews during a seven-day period. Specifically, a pilot labor organization requested a legal interpretation regarding the application 14 CFR 121.481(d), limiting a two-pilot crew to 32 hours of flight time within any seven consecutive days, when that same crew is augmented with an additional pilot during or after the completion of 32 hours of flight time within a seven-day period. We have not previously addressed these questions.

We do not require an air carrier to use a pilot for just one flightcrew complement in flag operations. Air carriers engaged in flag operations are permitted to use the same pilot as part of a crew of two pilots, a crew of two pilots and one additional flightcrew member, or a crew of three pilots and one additional flightcrew member. This flexibility allows certificate holders who use multiple flightcrew complements throughout their operations to use flightcrew members interchangeably.

The FAA's rules have a long history of acknowledging that pilots may be used in flightcrews of varying sizes, in that § 121.487 provides a framework for calculating monthly and quarterly flight time limitations for such pilots. In an early version of the current requirement, Special Civil Air Regulation No. 386F, it was envisioned that this rule would "not allow evasion of the stricter limitations applicable to smaller crew combinations, but will allow assignment of a pilot in any given month to another type of crew combination without additional flight time limitations if he flies not more than 20 hours in the type of crew to which the more restrictive flight time limitations apply and if such assignment is not interrupted more than once during such month." *See* 28 Fed. Reg. 2000, 2000 (1963). Although § 121.487 provides a structure for calculating monthly and quarterly flight time limitations for pilots used in varying sizes of flightcrews, neither the current § 121.487 nor the regulatory history answer the question of how to apply daily and weekly flight time limitations for these same pilots.

We did not intend, however, for this flexibility to be used by a certificate holder to select less restrictive flight time limitations for a flightcrew by augmenting that flightcrew midway or at the completion of a scheduling period. For example, the flight time limits of 14 CFR 121.481(d) would be circumvented if a certificate holder schedules a two-pilot crew for a series of operations and then augments that two-pilot flightcrew during or at the completion of a 32 hours of flight time within any seven-day period, for the purposes of extending the flightcrew's flight time under the less restrictive framework of § 121.483.

Although we have not clarified the effects of augmenting a two-pilot flightcrew within a seven-day period, in a Legal Interpretation issued August 24, 1999, we examined the application of §§ 121.481 and 121.483 when a two-pilot flightcrew is augmented so as to extend the duty times for the original two-pilot flightcrew members within a 24-hour period. *See* Legal Interpretation from Donald P. Byrne to James W. Johnson (August 24, 1999). As previously stated, § 121.481 applies when a certificate holder conducts flag operations with a one- or two-pilot crew. When a certificate holder conducts flag operations with a two-pilot crew with one additional flightcrew member, § 121.483 applies. However, in an August 24, 1999 Legal Interpretation, we stated that once an air carrier conducting flag operations schedules a pilot to fly under § 121.481 and the pilot completes the flight time, it would be contrary to the intent of § 121.481 to then schedule that pilot to fly under § 121.483 without providing the rest required within a 24-hour period as required by §§ 121.481(a) or (b). *See* Legal Interpretation from Donald P. Byrne to James W. Johnson (August 24, 1999) (stating that the regulations prohibit augmenting a two-pilot crew after completing a 55 minute flight, subject to § 121.481, so that those two pilots may then continue on to operate a 9 hour and 50 minute flight subject to § 121.483(b) without providing the rest required by § 121.481(a) or (b)). The August 24, 1999, Legal Interpretation ensures that pilots who have operated as part of a two-pilot crew receive the rest intended by 14 CFR 121.481(a) and (b).

Finally, our knowledge regarding the causes and effects of fatigue has significantly increased since the regulations on flight time limitations were drafted. We now know that the longer one has been awake and the longer one spends on task, the greater the likelihood of fatigue. We also know more about transient and cumulative fatigue. Transient fatigue and cumulative fatigue are conditions brought on by sleep restriction that occurs over one or two days or a series of days respectively, thus making the daily and weekly flight time limitations and rest requirements a significant safeguard to ensure adequately rested pilots.

Therefore, similar to the principle articulated in the August 24, 1999 legal interpretation and considering what we now know about fatigue, to fulfill the intended rest requirements of § 121.481(d), the FAA has tentatively determined that once a flightcrew has completed 32 hours of flight time under 14 CFR 121.481(d), that flightcrew must be provided the rest required by § 121.481(d) before being scheduled under § 121.483. Further, should an air carrier engaged in flag operations use two pilots in both a two-pilot flightcrew and a flightcrew of two pilots and one additional flightcrew member, within any seven consecutive days, then the flight time limitations and rest requirements of § 121.481(d) would apply to the two pilots who have moved between crew complements.[1]

This clarification would fulfill the intent that pilots serving in two-pilot crews in flag operations are afforded the rest contemplated by § 121.481.

Issued in Washington, DC, on February 22, 2011.

Rebecca B. MacPherson,

Assistant Chief Counsel for Regulations, AGC–200.

[FR Doc. 2011–4271 Filed 2–28–11; 8:45 am]

BILLING CODE 4910–13–P

[1] § 121.483 does not contain a provision that is parallel to § 121.481(d). Nevertheless, the flight time limits for 48 and 72 hour periods found in § 121.483(b) are less restrictive than the flight time limitations in § 121.481(d).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket Nos. RM11–7–000; AD10–11–000]

Frequency Regulation Compensation in the Organized Wholesale Power Markets

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to revise its regulations to remedy undue discrimination in the procurement of frequency regulation service in the organized wholesale electricity markets. The emergence of technologies capable of responding more quickly than the generators that have historically provided frequency regulation service has prompted the

Commission to evaluate market rules to ensure that they are not unduly discriminatory or fail to provide just and reasonable compensation for the service being provided. If found, the Commission proposes to remedy the undue discrimination by requiring a uniform price for regulation capacity paid to all cleared resources and a performance payment for the provision of frequency regulation, with such payment reflecting a resource's accuracy of performance. This proposed action helps to ensure that market rules do not present unnecessary barriers to the participation of all resource types in the wholesale ancillary services markets. The Commission seeks comment on the proposed regulations.

DATES: Comments are due May 2, 2011.

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

- *Agency Web Site: http://ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- *Mail/Hand Delivery:* Commenters unable to file comments electronically must mail or hand deliver their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Robert Hellrich-Dawson (Technical Information), Office of Energy Policy & Innovation, 888 First Street, NE., Washington, DC 20426, (202) 502–6360, *bob.hellrich-dawson@ferc.gov.*

Eric Winterbauer (Legal Information), Office of the General Counsel, 888 First Street, NE., Washington, DC 20426, (202) 502–8329, *eric.winterbauer@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking

1. Pursuant to section 206 of the Federal Power Act (FPA),[1] the Commission is proposing to revise its regulations to ensure just, reasonable and not unduly discriminatory or preferential rates in the procurement of frequency regulation in the organized wholesale electric markets. Maintaining the frequency of the transmission system within an acceptable range is critical to reliable operations. Historically, generators have provided the power to regulate or correct frequency deviations. Non-traditional technologies that have the capability to respond quickly and accurately to certain transmission system needs are being deployed in regional transmission organization (RTO) and independent system operator (ISO)[2] markets to varying degrees. Resources such as large-scale battery systems, flywheels, electric vehicle-to-grid (V2G) systems, and demand-side processes have the ability to ramp[3] up or down faster than some traditional resources and, as such, are able to provide frequency regulation services more accurately than traditional resources.[4]

2. Taking advantage of the capabilities of faster-ramping resources can improve the operational and economic efficiency of the transmission system and has the potential to lower costs to consumers in the organized wholesale energy markets.[5] However, current compensation methods for regulation service in ISO and RTO markets may not acknowledge the inherently greater amount of Area Control Error (ACE)[6] correction being provided by faster-ramping resources.[7] Frequency regulation is the tool used to manage ACE. In addition, some RTOs currently provide unit-specific opportunity cost payments to regulating resources rather than incorporate the marginal resource's opportunity cost into the uniform market clearing price, resulting in an economically inefficient economic dispatch.

3. The Commission is concerned that frequency regulation compensation practices may be resulting in rates that are unjust and unreasonable and unduly discriminatory or preferential. Therefore, the Commission proposes to require regional RTOs and ISOs to adopt tariff revisions that will ensure that resources providing frequency regulation service are appropriately compensated.[8] The Commission seeks public comment on these proposed reforms.

I. Background

A. Frequency Regulation Service

4. Frequency regulation service is the injection or withdrawal of real power by facilities capable of responding appropriately to a transmission system's frequency deviations or interchange power imbalance, both measured by the ACE. When generation dispatch does not equal actual load and losses on a moment-by-moment basis, the imbalance will result in the grid's frequency deviating from the standard (60 Hertz). Minor frequency deviations affect energy consuming devices; major deviations cause generation and transmission equipment to separate from the grid, in the worst case leading to a cascading blackout. Frequency regulation service can prevent these adverse consequences by rapidly correcting deviations in the transmission system's frequency to bring it within the acceptable range.[9]

5. Frequency regulation is distinguishable from Frequency response.[10] Frequency response

[1] 16 U.S.C. 824e (2006). *Accord* 16 U.S.C. 824d (providing that rates must be just and reasonable).

[2] The following RTOs and ISOs have organized wholesale electricity markets: PJM Interconnection, LLC (PJM); New York Independent System Operator, Inc. (NYISO); Midwest Independent Transmission System Operator, Inc. (Midwest ISO); ISO New England Inc. (ISO–NE); California Independent System Operator Corp. (CAISO); and Southwest Power Pool, Inc. (SPP).

[3] "Ramping" or the ability to "ramp" is traditionally defined as the ability to change the output of real power from a generating unit per some unit of time, usually measured as MW/minute. A generator ramps up to produce more energy and ramps down to produce less. A storage device ramps up by discharging energy and ramps down by charging. A demand response resource, in the context of the provision of frequency regulation, ramps up by consuming less energy, and ramps down by consuming more.

[4] In this instance, the ability to provide more accurate frequency regulation service means to follow the system operator's dispatch signal more closely.

[5] *See infra* n.32–33 and corresponding text.

[6] ACE comprises two components, one measuring the difference between a balancing authority's scheduled and actual interchange, and another measuring the balancing authority's share in correcting the frequency of the interconnection. In order to keep ACE within acceptable ranges, entities will pre-schedule resources in anticipation of load changes and use frequency regulation resources to make up the difference. The frequency regulation resources are sent a signal to increase or decrease their provision of energy (or discharge or charge in the case of a storage device, or consume more or less energy in the case of a demand response resource). This is done through what is known as Automatic Generation Control (AGC). Because the Balancing Area Authority must respond rapidly to correct ACE deviations, fast responding resources are particularly well-suited to maintaining system frequency.

[7] Both existing market participants and potential entrants are affected by inefficient pricing. It is possible that existing market participants would offer faster ramping capabilities to the system operator in response to a pricing scheme that recognized the service this provides.

[8] This NOPR is limited to the RTOs and ISOs. In an RTO/ISO region (except SPP, which currently does not have a frequency regulation market), the frequency regulation market is designed to select and compensate the resources needed to provide frequency regulation service. The RTO/ISO market design sends a price signal in order to incent particular resource behavior that leads to the reliable, least-cost provision of frequency regulation. By contrast, in non-RTO/ISO regions, frequency regulation is provided by the transmission provider on a cost-of-service basis through Schedule 3, with the transmission provider selecting the mix of resources it uses to provide frequency regulation service.

[9] A balancing authority achieves acceptable ranges by being in compliance with Control Performance Standards 1 and 2 as defined in the Commission-approved Reliability Standard BAL–001–0.1a.

[10] On January 20, 2011, the Commission released for public comment a staff study evaluating the use of frequency response metrics as a tool to assess the

involves the automatic, autonomous and rapid action of turbine governor control to change a generator's output and of technically capable demand response resources that can automatically change consumption to respond to changes in frequency. These changes occur independent of any dispatch signal from a system operator. Frequency regulation service, in contrast, requires a dispatch signal sent by the system operator to those resources capable of and dispatched to provide frequency regulation service.

6. Today, frequency regulation is largely provided by generators (e.g., water, steam and combustion turbines) that are specially equipped for this purpose. Provision by other resources is emerging, as technologies develop and tariff and market rules are appropriately adapted to accommodate new resources. For example, the Electric Reliability Council of Texas (ERCOT) and Midwest ISO currently use controllable demand response in addition to generators to provide frequency regulation service.[11] Such "regulation capable" generation, storage devices, and demand response resources can respond automatically to signals sent by the RTO or ISO, through AGC, to increase or decrease real power injections or withdrawals to correct frequency deviations or interchange schedule imbalance, as measured by the ACE. The faster a resource can ramp up or down, the more accurately it can respond to the AGC, or ACE correction, signal and avoid overshooting ACE correction needs.[12] When a resource ramps too slowly, its ramping limitations may cause it to work against ACE correction needs and force the system operator to commit additional regulation resources to compensate.

B. Current ISO and RTO Practices

7. In the ISO and RTO markets, compensation for frequency regulation service is presently based on several components. Depending on the ISO or RTO, these payments include consideration for capacity set aside to provide the service, as well as some of the following: The net energy the resource injects into the system; accurately following the ISOs or RTOs dispatch signal; and/or the absolute (rather than net) amount of energy injected or withdrawn. These payments are intended to cover the range of costs incurred in order to provide this service: Operation and maintenance costs for providing frequency regulation and loss of potential revenue from foregone sales of electricity.

8. With regard to the payment for capacity set aside, this is essentially an option payment [13] to the resource to keep a certain amount of capacity out of the energy market in order to provide frequency regulation service (based on a market clearing price per MW of capacity sold). ISO–NE, NYISO, Midwest ISO, and PJM incorporate into this payment the opportunity cost of foregone energy sales incurred by a resource that provides frequency regulation service; though in ISO–NE and PJM, opportunity costs are not applied uniformly to all cleared resources.

9. Compensation for regulation service also generally includes payments for the net energy the resource injects into the system. RTOs and ISOs currently provide a payment for the net energy injected by a resource providing regulation service during the operating hour, calculated as the amount of energy injected less energy withdrawn multiplied by the real-time energy price.

10. Accuracy of performance can be incorporated into payments for regulation service. Currently, NYISO incorporates accuracy into its compensation for regulation service through a penalty that reflects the accuracy with which the resource follows its dispatch instruction.[14] This is done through a performance index that tracks how accurately a resource follows the dispatch signal.[15]

11. ISO–NE makes payments for regulation service to reflect the amount of work performed by a resource by reflecting the absolute amount of energy injected and withdrawn. Regulating resources receive a "mileage" payment that reflects the amount of ACE correction provided.[16]

12. In general, when a resource submits its bid, the bid is typically required to include its ramp rate in MW per minute, its cost per MWh of ramping ability, and the total capacity it is offering for frequency regulation.[17] The resource's total amount of capacity is based on and limited by its ability to ramp up or down in 5 minutes.[18] For example, a resource with a relatively large amount of capacity, but a relatively slow ramp rate would be limited in how much capacity it could offer as regulation. If the resource can ramp one MW per minute, it would only be able to offer 5 MW of regulation capacity (for a five minute dispatch) even if it has a total capacity of many hundreds of megawatts. On the other hand, a smaller capacity, fast-ramping resource might not face such a constraint. For instance, a storage device that can hold a 20 MW charge and ramp at 10 MW per minute, could offer its full 20 MW of capacity for five minutes.

13. Some RTOs and ISOs are actively discussing changes to their frequency regulation markets or stated at the technical conference that changes might be appropriate.[19] For example, CAISO has recently approved a new Regulation Energy Management proposal.[20] Likewise, the Commission is aware that ISO–NE is preparing new rules for frequency regulation compensation to formalize the participation of energy

reliability impacts of varying resource mixes on the transmission grid.

[11] In Midwest ISO, Alcoa's Warrick metallurgic induction (smelting) operation provides approximately 70 MW of frequency regulation. Alcoa Comments, Docket AD10–11–000, at 2 (June 16, 2010). In ERCOT's model, controllable loads are a type of Load Acting as a Resource (LaaR) that is capable of reducing or increasing consumption under dispatch control (similar to AGC) and able to immediately respond proportionally to frequency changes (similar to generator governor action) to provide Ancillary Services. *See* Electric Reliability Council of Texas, *Controllable Load Resource Qualification* (2007), *available at http://www.ercot/content/services/programs/load/laar/Controllable%20Load%20Resource%20Qualification.doc.*"

[12] *Frequency Regulation Compensation in the Organized Wholesale Power Markets,* Technical Conference, Beacon Speaker Materials, Docket No. AD10–11–000, at Figure 3 (May 26, 2010), which shows the difference between ISO–NE's ACE control signal, Beacon's flywheel response, and the allowable response rate under current ISO–NE rules. Here, "allowable response rate" means the rate at which the resource must respond to be considered in compliance with the dispatch signal.

[13] This type of capacity payment, based on day-ahead offers to sell ancillary services, is distinguishable from a long-term capacity payment such as provided for in PJM's reliability pricing model or ISO–NE's forward capacity market.

[14] NYISO, Market Services Tariff, § 15.3.5.5.

[15] NYISO uses telemetry data to track how closely a frequency regulation resource's output is to the dispatch signal. NYISO then weights the resource's payments to reflect its accuracy. For example, if the resource's response falls outside an acceptable range 10 percent of the time, for a performance index of 0.9, it will receive 90 percent of its payment.

[16] ISO–NE, Transmission, Markets and Services Tariff, § III.3.5.5.

[17] *See, e.g.,* NYISO, *Ancillary Services Manual, Manual* 2, at 4–8 (Nov. 2010).

[18] A resource's capacity is limited by the amount it can ramp in 5 minutes because the system operator in most RTOs and ISOs dispatch resources every 5 minutes. CAISO dispatches every 10 minutes, and so a frequency regulation resource's capacity in that market is bound by the total capacity it can ramp in 10 minutes.

[19] *See* PJM, *Market and Reliability Committee Meeting Materials,* (Jan. 2011), *http://www.pjm.com/~/media/committees-groups/committees/mrc/20110119/20110119-item-05-regulation-market-performance-incentive-problem-statement-clean.ashx.*

[20] CAISO, Board of Governors, Decision on Regulation Energy Management (Feb. 3, 2011), *available at http://www.caiso.com/2b1a/2b1acd6d20610.pdf.*

storage devices, something that has been only a pilot project to date.[21]

C. Commission Inquiries into Faster-Ramping Resources

14. The Commission began its inquiry into faster-ramping resources in May 2010. On May 26, 2010, the Commission hosted a publicly noticed technical conference[22] inviting various stakeholders, including representatives from the RTOs and ISOs, industry, and academia to share their views on whether current frequency regulation market designs reflect the value of the service provided, and whether the use of faster-ramping resources for frequency regulation has the potential to provide benefits to the organized markets. Interested parties were permitted to file comments after the technical conference. Separately, the Commission on June 11, 2010 issued a request for comments regarding potential approaches to categorizing storage service for compensation purposes.[23]

1. Market Design and the Value of the Service Provided

15. With regard to market designs for frequency regulation service, participants at the technical conference generally agreed that compensation for regulating resources ought to reflect the service they perform for the system operator. However, there was disagreement regarding whether current market designs accomplish this objective. Some current market design features were cited as resulting in efficient price signals and appropriately differentiating between the amount of ACE correction that is provided by different regulating resources,[24] while others were said to be deficient.[25]

16. At the technical conference and in written comments, Beacon Power Corporation (Beacon) provided data on the amount of ACE correction provided by a faster-ramping resource relative to the generator response allowable under the ISO tariff.[26] According to Beacon's analysis of resources performing in the ISO–NE market, it is possible for a faster-ramping resource to provide more frequency regulation service than a slower-ramping resource. Beacon presents data showing, over a one hour period, a faster-ramping resource providing a total of 0.48 MWh of movement in response to the system operator's dispatch signal. If this same signal had been sent to a slower-ramping resource, it could have provided only 0.18 MWh and still been within ISO–NE's allowable response rate.

17. In addition, under certain circumstances a slower-ramping resource could actually be working against the system operator's need for ACE correction, so that only a portion of the energy produced positively contributes to correcting the ACE signal. By contrast, the faster-ramping resource can respond to the system's control needs more exactly. In the example discussed above, the allowed generator response produces 0.18 MWh, but 0.07 MWh of that is working against the system's ACE correction needs because of its slow-ramping capability. Therefore, only 0.11 MWh (61 percent) actually contributes to correcting ACE. At the same time, the fast-ramping resource is being dispatched more often and all of the energy it produces helps to correct ACE. Both resources are considered, from the perspective of ISO–NE's current tariff, to be 100 percent accurate, even though at times the slower-ramping resource is working against the system operator's ACE control needs.

18. In this example, Beacon asserted that the fast-ramping resource actually is providing more than four times as much ACE correction relative to the allowable response from an existing generator providing frequency regulation. With the exception of ISO–NE, the RTOs and ISOs limit compensation to frequency regulation resources to a capacity payment and net energy balancing. ISO–NE includes a payment for the amount of frequency service provided. As a result, these ISOs and RTOs would pay the fast-ramping resource and the slow-ramping resource the same amount, assuming both resources set aside the same amount of capacity to provide the service.

19. During the technical conference, PJM stated that it has no compensation structure for how much it asks a resource to move when providing frequency regulation and, as a result, it is likely under-compensating resources for speed and accuracy.[27]

20. On the other hand, representatives of Midwest ISO and NYISO indicated that they believe their current market designs are sufficient, because the amount of regulating capacity a resource is allowed to sell is based on its ramp rate, so faster-ramping resources are allowed to sell more regulating capacity.[28]

21. Alcoa noted that MISO and NYISO's rationale is only relevant to resources that are ramp constrained. Alcoa stated that its demand response-based regulating resource is capacity constrained, but not ramp constrained. Alcoa added that because Midwest ISO and NYISO both net the regulation up and regulation down that a regulating resource provides, neither compensates for the resource's actual ramping contribution. As a result, Alcoa's fast ramp rate does not allow it to sell any additional regulating capacity, and Alcoa has no incentive to bid into the market its true ability to ramp, instead offering a lower ramp rate.[29]

22. Several entities responding to the June request for comments also addressed market design issues for frequency regulation service.[30] These commenters argue that the market should place a monetary value on the service provided by the speed and accuracy with which certain storage technologies can respond to a regulation signal. Commenters also identified the potential benefits of using faster-ramping resources to provide frequency regulation service.[31]

2. Potential Cost and Reliability Benefits

23. Participants at the technical conference stated that the use of faster-ramping resources for frequency regulation has the potential to provide benefits to the organized markets. These benefits include allowing RTOs and ISOs to use less regulation capacity to meet current NERC standards, thus lowering regulation costs.[32] Further, use of faster-ramping resources frees slower-

[21] ISO–NE, *Report of ISO New England Inc. Regarding the Implementation of Market Rule Changes to Permit Non-Generating Resources to Participate in the Regulation Market,* Docket No. ER08–54–014, at 5 (Dec. 17, 2010).

[22] *See* Final Agenda, *Frequency Regulation Compensation in the Organized Wholesale Power Markets,* Docket No. AD10–11–000 (May 26, 2010).

[23] *Request for Comments Regarding Rates, Accounting and Financial Reporting for Electric Storage Technologies,* Docket No. AD10–13–000 (June 11, 2010).

[24] Tr. 93: 2–5 (Walawalkar); Tr. 103: 6–10 (Capp).

[25] Tr. 72: 1–11 (Ott).

[26] Beacon, Technical Conference Speaker Materials, at 7, Data from 1 MW in ISO–NE Alternative Regulation Pilot (May 26, 2010) (attached hereto as Appendix A).

[27] Tr. 84:9–16 (Ott), 72:1–11 (Ott).

[28] Tr. 72–73 (Ramey); Tr. 132: 8–11 (Ramey); Tr. 75–77 (Pike).

[29] Tr. 68:13–22 (Todd).

[30] Beacon, Comments, Docket No. AD10–13–000, at 8 (Aug. 9, 2010); NEMA, Comments, Docket No. AD10–13–000, at 2 (Aug. 9, 2010); Xtreme Power, Comments, Docket No. AD10–13–000, at 5 (Aug. 9, 2010); A123 Systems, Comments, Docket No. AD10–13–000, at 5–7 (Aug. 9, 2010); ESA, Comments, Docket No. AD10–13–000, at 2 (Aug. 9, 2010); NAATBatt, Comments, Docket No. AD10–13–000, at 4–5 (Aug. 9, 2010).

[31] MegaWatt Storage Farms Comments Docket No. AD10–13–000, at 8–9 (Aug. 9, 2010); Xtreme Power, Comments, Docket No. AD10–13–000, at 2–3 (Aug. 9, 2010); A123 Systems, Comments, Docket No. AD10–13–000, at 4 (Aug. 9, 2010); ESA, Comments, Docket No. AD10–13–000, at 2 (Aug. 9, 2010).

[32] Tr. 35–36 (Ott); Tr. 30–31 (Kathpal); Tr. 37–39 (Ramey).

ramping resources to operate at stable output levels and, therefore, at more efficient heat rates which allows them to submit lower bids into energy markets, thereby lowering energy prices.[33]

24. To illustrate the efficiency of faster-ramping resources, some industry representatives—during the technical conference and in comments—referred to a Pacific Northwest National Laboratory study that examined the ability of faster-ramping resources to replace traditional generation resources in providing frequency regulation service in the CAISO.[34] The study defined an "ideal resource" as one that has a ramp rate equal to its entire capacity in one minute. The study's authors determined the ramping ability for various resource types in the current CAISO generation fleet that provide frequency regulation service, including hydro, combustion turbine, steam turbine, and combined cycle. The authors then estimated how many megawatts of these types of capacity can be replaced by 1 MW from an ideal resource. In one case, the ideal resource was assumed to have no limits on its ability to sustainably provide energy. In a second case, the resource's ability to sustain energy reflects the actual ability of a flywheel, i.e., it reflects an energy-limited resource. In either case, the authors concluded that a faster-responding resource is able to provide more effective regulation capacity than most other resources, including the current generation fleet mix in the CAISO. When replacing these resources for frequency regulation service with an ideal resource, the authors found that 1 MW of an ideal resource with limited energy could replace 1.43 MW of an average hydro unit. The authors state that effectiveness increases as the ideal resource is compared to even slower ramping resources, reaching a maximum when 1 MW of an ideal resource with limited energy replaces more than 24 MW of an average steam turbine. Compared to the current CAISO fleet mix providing frequency regulation, which includes fast-responding hydro units, the authors found that 1 MW of a limited energy ideal resource could replace 1.17 MW of the current generation mix.

25. Representatives from some RTOs and ISOs, however, questioned at the technical conference whether procuring more fast-response resources would materially improve their ability to meet NERC ACE control performance standards.[35] For example, ISO–NE and NYISO acknowledged that using a combination of faster-responding resources has allowed them to meet their NERC standards by procuring relatively less regulation capacity than they would otherwise need.[36]

II. Discussion

A. The Need for Reform

26. The Commission proposes to adopt a frequency regulation compensation mechanism, as set forth below, for compensating regulation providers in organized wholesale electricity markets in order to eliminate undue discrimination and ensure just and reasonable rates. Faster-ramping resources provide more ACE correction to system operators than slower ramping resources and are, at least in some RTOs and ISOs, explicitly given priority in the dispatch order. Yet these resources do not appear to be receiving compensation for all of the service they provide as a result of pricing mechanisms that may be unduly discriminatory. Further, the Commission believes there are market efficiencies to be gained by ensuring efficient price signals for regulation resources that forego the opportunity to earn revenues in the energy markets.

1. Unduly Discriminatory Pricing

27. The Commission is concerned that current rules that govern pricing and compensation for frequency regulation services in RTOs and ISOs may be unjust and unreasonable because faster-ramping resources are compensated at the same level as slower ramping resources, even though they can respond more quickly and provide more ACE correction.[37]

28. Specifically, the Commission is concerned that under some existing frequency regulation compensation methods, a faster-ramping resource may not be compensated for all of the service it provides. For example, CAISO, NYISO, Midwest ISO, and PJM net the regulation up and regulation down provided by resources. This compensation method does not acknowledge the inherently greater amount of ACE correction being provided by faster-ramping resources.[38] As a result, slower-responding resources are compensated as if they are providing the same amount of ACE correction when, in reality, they are not.

29. Some ISOs and RTOs dispatch faster-ramping resources earlier than other resources to take advantage of their enhanced operation capabilities, i.e., their ability to ramp faster, yet pay all resources at the same rate, i.e., the same clearing price for capacity and the same price per MWh of net energy.[39] Again, this could lead to providing different amounts of ACE correction, yet receiving the same compensation due to netting practices.

30. The Commission acknowledges that a resource's ability to sell capacity into the regulation market is dependent on its ramping ability, such that a faster-responding resource is able to offer a relatively greater amount of capacity. This does not, however, alleviate our concerns about potential undue discrimination toward resources that provide more ACE correction. For example, some new market entrants are relatively small in terms of capacity (capacity-constrained), but are capable of responding rapidly to AGC signals (not ramp-constrained), so a compensation scheme that does not reflect work performed will lead to inadequate compensation when compared to larger, slower responding

[33] *Id.*

[34] Makarov, Y.V., Ma, J., Lu, S., and T.B. Nguyen, "Assessing the Value of Regulation Resources Based on Their Time Response Characteristics," Pacific Northwest National Laboratory, PNNL–17632, June 2008.

[35] For example, NERC reliability requirement CPS1 requires each balancing authority to operate within a specific limit, taking into consideration clock-minute averages of ACE, frequency bias, and interconnection frequency error. NERC reliability requirement CPS2 requires each balancing authority to operate such that its average ACE is within a specific limit, during a calendar month, for at least 90 percent of clock-ten-minute periods.

[36] Tr. 49:2–14 (Pike); Tr. 53:24–25 (Potishnak).

[37] *See Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities,* Order No. 888, 61 FR 21540, at 21569 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g,* Order No. 888–A, 62 FR 12274 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 31,048, *order on reh'g,* Order No. 888–B, 81 FERC ¶ 61,248 (1997), *order on reh'g,* Order No. 888–C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group* v. *FERC,* 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York* v. *FERC,* 535 U.S. 1 (2002) ("In the context of an emerging competitive market in generation, discriminatory practices that once did not constitute undue discrimination must be reviewed to determine whether they are being used to prevent the benefits of competition in generation from being achieved.").

[38] A simplified example would be to consider two resources that clear with the same amount of capacity and are directed to provide regulation up and regulation down over the course of a five-minute interval. The fast-ramping resource might be directed, for example, to move around an initial set-point up five MW, then down three MW, up one MW, down ten MW, and finally up nine MW. A netting approach to compensation would determine that the resource provided an additional two MW of energy to the system (+ 5 − 3 + 1 − 10 + 9 = +2) uring that five minute interval. Meanwhile, a slower-ramping resource may be directed to move up three MW and then down one MW for a net of two MW in relation to its set-point. The operator is not able to direct more movement because the slower-ramping resource would not be able to respond in the requisite timeframe. Both resources would receive identical compensation for their movement, despite the first resource providing more ACE correction.

[39] *See, e.g.,* Tr. 83:9–24 (Ramey).

generators.[40] The Commission preliminarily finds that slower, larger resources are being given a compensatory advantage for their size while faster, smaller resources do not similarly receive compensation for their ramping speed. The Commission believes compensation should take into account the greater amount of service that is being provided by faster-ramping resources, through more frequent provision of both up and down regulation; this greater amount of ACE correction is lost when positive and negative contributions to ACE correction are netted and no additional payment is made to reflect performance. Therefore, the Commission proposes to reform current market designs that lack a payment that reflects the amount of ACE correction provided by a resource, thereby under-compensating faster-ramping resources when compared to payments made to slower-ramping resources.

31. Additionally, the Commission believes that the manner in which some resources that provide frequency regulation service are compensated for their opportunity costs may be unjust and unreasonable and unduly discriminatory.[41] For instance, PJM provides ex post "make whole" payments based on individual unit opportunity costs, something that is not reflected in the uniform market clearing price calculation.[42] ISO–NE pays opportunity costs on a resource-specific basis. Both of these methods have the potential to inefficiently select regulating resources and also fail to reflect the marginal unit's full marginal cost (including opportunity cost) that should set the market clearing price that is paid to all cleared suppliers. In addition, as is noted by ISO–NE in comments submitted after the technical conference, failing to pay a uniform clearing price that includes the marginal unit's opportunity costs could result in inefficient price signals being sent that will result in inappropriate long-term investment.[43] Therefore, the Commission proposes to require that all resource bids include opportunity costs and that all cleared frequency regulation resources be paid the single market clearing price, which will reflect the total marginal costs of the marginal cleared unit. We believe that this proposal will result in just and reasonable rates and correct potential undue discrimination.

2. Potential Market Efficiencies

32. The Commission preliminarily finds that the use of faster-ramping resources for frequency regulation has the potential to improve operational and economic efficiency and, in turn, lower costs to consumers in the organized markets. As described above, faster-ramping resources may be able to replace resources that currently provide frequency regulation, so RTOs and ISOs may be able to procure less regulation capacity, thereby lowering costs to load. This can be seen in both ISO–NE and NYISO. Both have a relatively higher concentration of faster-ramping resources, easily meet NERC reliability standards, and yet procure less regulation capacity, as a percentage of peak load, than other RTOs and ISOs.[44] When dispatching faster-ramping resources, the system operator is better able to rely on those resources to quickly and accurately follow the AGC signal, without overshooting, thus avoiding the need for additional regulation resources to compensate.

33. The Commission also anticipates a secondary effect on energy markets: as slower ramping resources move out of the frequency regulation market and are able to focus on providing sustained energy, they should be able to operate at more efficient heat rates.[45] For example, for traditional thermal generators, providing frequency regulation results in both operating at inefficient heat rates and additional wear and tear on equipment.[46] If these modes of operation are avoided, costs can be reduced and lower energy bids offered, thereby lowering prices in the energy market. The Commission notes that, at the May 2010 technical conference, some participants questioned the value of procuring only faster-ramping, but short duration resources, for frequency regulation. Accordingly, the Commission seeks comment on the benefits that faster-ramping resources, no matter their exact type, can and do bring to the RTO and ISO markets. Likewise, the Commission seeks comments on the drawbacks of using faster-ramping resources, if any.[47]

B. Specific Proposals

34. In light of the foregoing concerns the Commission proposes to amend its regulations to provide a frequency regulation compensation mechanism for the RTO and ISO markets to ensure that pricing and compensation of frequency regulation service is just and reasonable and not unduly discriminatory or preferential. Specifically, the Commission proposes to require ISOs and RTOs to change their tariffs so that regulation resources receive a two-part payment. This two-part payment structure is based on what the Commission preliminarily finds are "best practices" used by the RTOs and ISOs. As further described below, the first part of the payment is a capacity, or option, payment to have a certain amount of capacity held in reserve and not participate in the energy market in order to provide frequency regulation service. While all RTOs and ISOs with a centrally-procured frequency regulation market currently provide for a capacity payment to frequency regulation resources, the payment varies by RTO or ISO. To produce the efficient market outcome, this payment must include the marginal regulating resource's opportunity costs. The second part of the payment is a performance payment based on the amount of up and down movement, in megawatts, the resource provides in response to a control signal.[48] This

[40] A resource that is capacity constrained but is able to ramp at a very high rate will clear its relatively small amount of capacity in the regulation market and then be paid for providing regulation service in real-time. But this performance payment does not acknowledge ramping ability due to netting. On the other hand, a ramp constrained resource with a large amount of capacity to sell could clear its relatively large amount of regulation capacity (and, thus, receive a higher capacity payment) and get paid at the same rate for providing regulation service in real-time. Expanding the hypothetical scenario provided above, *see supra* n.37, assume that the first (faster) resource is capacity constrained and can offer only 10 MW of regulation, while the second (slower) resource, while ramp-constrained, can offer 30 MW of regulation. The 30 MW resource will receive a larger capacity payment for offering more regulation, but the two resources will receive identical net payments for their actual movement if they are directed as indicated above. In other words, the slower, larger resource receives a compensatory advantage for its size, but the faster, smaller resource does not similarly receive a compensatory advantage for its ramping speed.

[41] By participating in the regulation market, an energy market resource is dispatched at a set-point below its maximum capacity. Because this amount of capacity is held in reserve to provide regulation, the resource misses the opportunity to provide energy at the current LMP.

[42] PJM, *Manual 18: Operating Agreement Accounting,* at 12–16, *available at http://www.pjm.com/~/media/documents/manuals/m28.ashx.*

[43] ISO–NE Comments at 8.

[44] *See* Tr. 53:24–25 (Potishnak), Tr. 54:1–2 (Potishnak), Tr. 49:6–14 (Pike).

[45] Participants at the May 26, 2010 technical conference noted that it was unlikely that any frequency regulation market would comprise only fast-ramping storage resources due to the need for sustained energy. Tr. 23:8–25 (Pike).

[46] Xcel Energy's Pawnee coal plant shows maintenance and capital costs (i.e., wear and tear) for load following of approximately $1.5k per load following cycle. Aptech Engineering Services, Inc., *Cost of Cycling Analysis for Pawnee Station Unit 1 Phase 1: Top-Down Analysis,* at vii (November 2008), available at *http://www.xcelenergy.com/SiteCollectionDocuments/docs/CRPExhibit4CostofCyclingExecutiveSummary.pdf.*

[47] Tr. 28:13–24 (Potishnak); Tr. 40:9–15 (Ott).

[48] This applies whether an RTO or ISO allows resources to sell regulation up and regulation down

performance payment should also take into consideration a resource's accuracy in providing ACE correction. The Commission preliminarily finds that this compensation structure is necessary to ensure that pricing schemes for frequency regulation service in the organized wholesale electricity markets result in rates that are just and reasonable, and not unduly discriminatory or preferential.

1. Capacity Payment and Opportunity Cost

35. The Commission proposes to require that each regulating resource is paid a uniform capacity payment that includes the opportunity cost of the marginal regulating resource. As discussed above, some ISOs and RTOs currently pay resource-specific opportunity costs in addition to or as part of a capacity payment, while others incorporate the marginal unit's opportunity cost into a uniform frequency regulation market clearing price for capacity. In order to send an efficient price signal to frequency regulation resources, the Commission proposes that RTOs and ISOs base the clearing price for frequency regulation on the marginal resource's marginal cost, including opportunity cost. Paying a unit-specific opportunity cost distorts the market by basing the commitment of regulating units on incomplete market information, potentially leading to committing units with higher costs than other units not committed. Accordingly, the Commission preliminarily finds that a frequency regulation compensation mechanism that includes a uniform clearing price with accurately-determined opportunity costs will reduce errors in selecting the optimal portfolio of regulation suppliers each hour (and each day), which reduces total regulation costs to consumers and ensures that rates are just and reasonable and not unduly discriminatory or preferential.

36. In addition, the Commission preliminarily finds that cross-product opportunity costs [49] should be calculated by the RTO or ISO, as it has the best information to determine a frequency regulation resource's cross-product opportunity cost due to not participating in the energy market. Further, where appropriate, resources should be permitted to include inter-temporal opportunity costs in their capacity bid.[50] The Commission seeks comment on its proposal to require each regulating resource to be paid a uniform capacity payment that includes the opportunity cost of the marginal regulating resource.

2. Payment for Performance with Accuracy Adjustment

37. The Commission preliminarily finds that requiring a component in the frequency regulation compensation mechanism that recognizes the resource's contribution to ACE correction is necessary to remedy undue discrimination and ensure just and reasonable rates in the organized wholesale electricity markets. Resources that provide more value to the grid by doing more of the work to correct ACE deviations should be paid more than resources doing less work. Accordingly, taking performance into consideration is a key element of ensuring that any frequency regulation compensation mechanism is just and reasonable and not unduly discriminatory or preferential. We, therefore, propose to require that all regulating resources be paid for their performance, with this payment taking the form of a payment for each MW, up or down, provided by the resource in response to the system operator's dispatch signal. Specifically, an RTO or ISO would determine the total movement up and down and then multiply that sum by a price-per-MW of ACE correction. We seek comment on the proposed method and whether there are alternative payments for performance that can address our concern about undue discrimination.

38. The Commission proposes that the price-per-MW of ACE correction be market-based. Specifically, resources would specify the capacity (in MW) available to provide regulation, a ramp rate (in MW/minute), and bid into the market a price-per-MWh ramping capability and price-per-MW of ACE correction. The RTO or ISO would then determine the least cost set of resources and set the price-per-MW of ACE correction based on the bid of the marginal regulating resource. We note that there was little discussion at the technical conference about how to design the price-per-MW of ACE correction.[51] The alternative to a market-based price is to use an administratively set price-per-MW of ACE correction. We seek comment on this proposal as well as the alternative of an administratively determined price, including how an administratively determined price could be set. We note that some commenters stressed the importance of the ISO's and RTO's energy and ancillary service co-optimization algorithms in producing the least-cost portfolio of resources.[52] We therefore seek comment on how this proposal will integrate with the ISO's and RTO's existing co-optimization algorithms.

39. The Commission also proposes that the performance payment must reflect the resource's accuracy in following the system operator's dispatch signal. Specifically, we propose that the accuracy be measured by the RTO or ISO using currently available telemetry technology. If an RTO or ISO receives telemetry data every 10 seconds, for instance, it would be able to measure over the course of 5 minutes how often the resource was delivering exactly the megawatts requested. The resource would then be compensated for the fraction of its energy injected or withdrawn that met the dispatch signal. This method accepts as given the resource's stated ramping ability and provides a disincentive to deviate from the dispatch signal, which incorporates actual ramping performance.

40. We note that there was little agreement among the technical conference panelists on how accuracy should be incorporated into the frequency regulation market design.[53] Therefore, we seek comments on alternative methods, including methods to incorporate accuracy into the ACE correction calculation. It is possible to approximate how a resource contributes to correcting ACE by taking the difference between the energy it provides that was in the direction needed to correct ACE at any moment and the energy that was in the direction opposite to what was needed to correct ACE. If ACE indicates that the system requires regulation up, yet a resource is still providing regulation down due to its slow ramping ability, that resource could be considered to not be

separately or requires resources to offer both regulation up and regulation down.

[49] A cross-product opportunity cost, in this case, is the revenue a regulation provider loses because it is on stand-by to provide regulation and is not providing energy.

[50] An inter-temporal opportunity cost represents the foregone value when a resource must operate at one time, and therefore must either forego a profit from selling energy at a later time or incur costs due to consuming at a later time. The trade-off presented to thermal storage provides an example of inter-temporal opportunity costs. A thermal storage operator would prefer to "charge" (heat bricks or freeze water) when prices are low. If such a resource were to provide frequency regulation, it could be asked to stop charging during low price periods and then be forced to charge during high price periods.

[51] *See, e.g.,* Tr.124:10–131:19.

[52] EPSA Comments at 9–10 ("Going forward co-optimizaton and how that is evaluated will be important to generation resources because the rules that result will play an important role in determining whether and when the resource will provide energy or ancillary services.").

[53] *See* Tr. 85–86 (Potishnak) and Tr. 117–118 (Ott).

contributing to ACE correction. Thus, its payment for ACE correction would only include the MWh that were actually correcting ACE. The Commission seeks comments on how to structure payments for frequency regulation that compensate a resource for its contribution to ACE correction. We seek comment on whether this method could result in a resource being penalized through lower measured ACE correction even when it is following the system operator's dispatch signal.

3. Net Energy

41. Currently, regulating resources receive a payment (or charge) for the net energy injected (or withdrawn) as a result of providing regulation service in every RTO and ISO market. The Commission seeks comment on the appropriateness of retaining net energy payments in light of the two-part payment proposed here. Specifically, the Commission seeks comment on whether the provisions in existing tariffs for net energy payments are redundant given the proposed requirement discussed herein that all RTOs and ISOs must pay regulating resources a mileage payment for the ACE correction they provide, or whether this payment is a necessary, appropriate feature of day-ahead and real-time energy account balancing and settlement.

III. Information Collection Statement

42. The following collection of information contained in this Proposed Rule are subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995.[54] OMB's regulations require approval of certain information collection requirements imposed by agency rules.[55] The Commission solicits comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

43. Additionally, the Commission encourages comments regarding the time burden expected to be required to comply with the proposed rule regarding the requirement for ISOs and RTOs to change their tariffs so that the regulation resources receive just and reasonable compensation for the services provided, and the potential time burden on regulation resources to conform to new or modified bidding requirements. Specifically, the Commission seeks comment on: (1) The additional burden and cost (human, hardware and software) associated with implementation, operation and maintenance of this new provision in ISO/RTO tariffs; and (2) the additional burden and cost (human, hardware and software) on regulation resources, if any, associated with changes to the type of information submitted in the bid or the manner in which the bid is submitted.

Burden Estimate: The additional estimated public reporting burdens for the proposed reporting requirements in this rule are as follows.

Data collection FERC 516	Number of respondents [56] [1]	Number of responses [2]	Hours per response [3]	Total annual hours [1 × 2 × 3]
Conforming tariff changes (18 CFR 35.28(g)(3)). One time burden	5	1	100	500
Totals				500 one time burden.

Cost to Comply: The Commission has projected the cost of compliance to be $57,000. Total Annual Hours for Collection in initial year (500 hours) @ $114 an hour [average cost of attorney ($200 per hour), consultant ($150), technical ($80), and administrative support ($25)] = $57,000

Title: FERC–516, Electric Rate Schedules and Tariff Filings.

Action: Proposed Collection.

OMB Control No. 1902–0096.

Respondents for this Rulemaking: Businesses or other for profit and/or not-for-profit institutions.

Frequency of Information: As indicated in the table.

Necessity of Information: The Federal Energy Regulatory Commission is proposing to require ISOs and RTOs to change their tariffs to provide for compensation of frequency regulation in a manner that remedies undue discrimination in the procurement of such service in the organized wholesale electricity markets.

Internal Review: The Commission has reviewed the proposed changes and has determined that the changes are necessary. These requirements conform to the Commission's need for efficient information collection, communication, and management within the energy industry. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information collection requirements.

44. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director], e-mail: *DataClearance@ferc.gov,* Phone: (202) 502–8663, fax: (202) 273–0873.

45. Comments on the collections of information and the associated burden estimates in the proposed rule should be sent to the Commission in this docket and may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments to OMB should be submitted by e-mail to: *oira_submission@omb.eop.gov*. Comments submitted to OMB should include Docket Number RM11–7 and OMB Control Number 1902–0096.

IV. Environmental Analysis

46. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[57] The Commission has

[54] 44 U.S.C. 3507(d) (2006).

[55] 5 CFR 1320.11 (2010).

[56] SPP is not included in the respondents because they currently do not have a frequency regulation compensation mechanism in their tariff and independent of this proceeding they have indicated that they are already planning to implement such a mechanism. Therefore, it is expected that any additional burden on SPP due to this proceeding is expected to be de minimus.

[57] *Regulations Implementing the National Environmental Policy Act,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶ 30,783 (1987).

categorically excluded certain actions from this requirement as not having a significant effect on the human environment.[58] The proposed regulations are categorically excluded as they address rate filings submitted under section 206 of the FPA and the establishment of just and reasonable rates, terms and conditions of jurisdictional service under this section of the FPA.[59] Accordingly, no environmental assessment is necessary and none has been prepared for this NOPR.

V. Regulatory Flexibility Act

47. The Regulatory Flexibility Act of 1980 (RFA)[60] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and that minimize any significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[61] The SBA has established a size standard for electric utilities, stating that a firm is small if, including its affiliates, it is primarily engaged in the transmission, generation and/or distribution of electric energy for sale and its total electric output for the preceding twelve months did not exceed four million megawatt hours.[62] Five ISOs and RTOs, not small entities, are impacted directly by this rule.

48. CAISO is a non-profit organization with over 54,000 megawatts of capacity and over 25,000 circuit miles of power lines.

49. NYISO is a non-profit organization that oversees wholesale electricity markets, dispatches over 500 generators, and manages a nearly 11,000-mile network of high-voltage lines.

50. PJM is comprised of more than 600 members including power generators, transmission owners, electricity distributors, power marketers, and large industrial customers, serving 13 states and the District of Columbia.

51. Midwest ISO is a non-profit organization with over 145,000 megawatts of installed generation. Midwest ISO has over 57,000 miles of transmission lines and serves 13 states and one Canadian province.

52. ISO–NE is a regional transmission organization serving six states in New England. The system is comprised of more than 8,000 miles of high-voltage transmission lines and over 350 generators.

53. The Commission certifies this rule will not have a significant economic impact on a substantial number of small entities, and therefore no initial regulatory flexibility analysis is required.

VI. Comment Procedures

54. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due 60 days from publication in the **Federal Register**. Comments must refer to Docket No. RM11–7–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

55. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

56. Commenters that are not able to file comments electronically must send an original to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

57. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VII. Document Availability

58. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

59. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

60. User assistance is available for eLibrary and the Commission's Web site during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or e-mail at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. E-mail the Public Reference Room at *public.referenceroom@ferc.gov.*

List of Subjects in 18 CFR Part 35

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

By direction of the Commission. Commissioner Spitzer dissenting in part with a separate statement attached.

Kimberly D. Bose,

Secretary.

In consideration of the foregoing, the Commission proposes to amend Part 35 Chapter I, Title 18 of the Code of Federal Regulations as follows:

PART 35—FILING OF RATE SCHEDULES AND TARIFFS

1. The authority citation for Part 35 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

2. Amend § 35.2 by adding a new paragraph (g) to read as follows:

§ 35.2 Definitions.

* * * * *

(g) *Frequency regulation.* The term *frequency regulation* as used in this part will mean the capability to inject or withdraw real power by resources capable of responding to a balancing area's frequency deviations or interchange power imbalance, measured by the Area Control Error.

3. Amend § 35.28 by adding a new paragraph (g)(3) to read as follows:

§ 35.28 Non-discriminatory open access transmission tariff.

* * * * *

(g) * * *

(3) Frequency regulation compensation in ancillary services markets. Each Commission-approved independent system operator or regional transmission organization that has a tariff that provides for the compensation of frequency regulation must provide such compensation based on the actual service provided, including a capacity

[58] 18 CFR 380.4.

[59] *See* 18 CFR 380.4(a)(15).

[60] 5 U.S.C. 601–612.

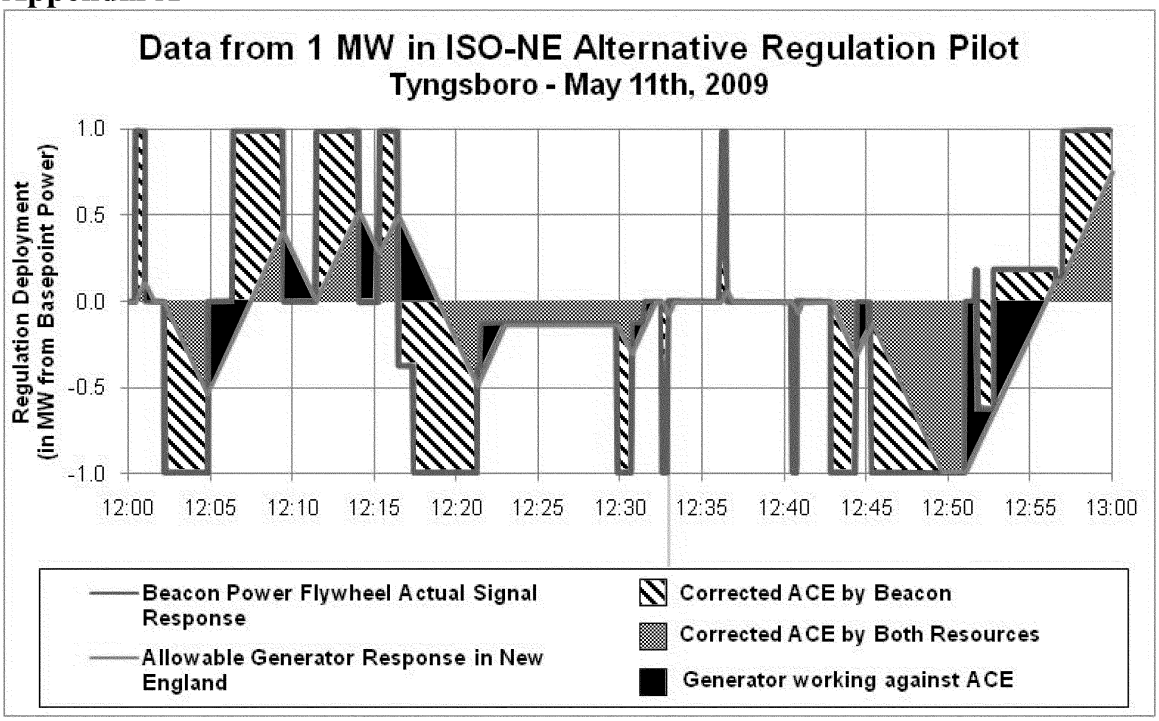
[61] 13 CFR 121.101.

[62] 13 CFR 121.201, Sector 22, Utilities & n.1.

payment that includes the marginal unit's opportunity costs and a payment for performance that reflects a frequency regulating resource's contribution to correcting the relevant balancing area's Area Control Error (when the resource is accurately following the dispatch signal) when providing regulation service.

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

Appendix A



Source: Beacon, technical Conference Speaker Materials, at 7 (May 26, 2010).

SPITZER, Commissioner, *dissenting in part:*

In the Notice of Proposed Rulemaking, the majority is concerned that current mechanisms for compensating frequency regulation service in regional transmission organization (RTO) and independent system operator (ISO) regions may not adequately compensate for the true value of the frequency regulation service provided. I share the majority's concern. Resources that have faster-ramping capability have the potential to respond quicker and more accurately to certain transmission system needs.

However, the majority concludes, based on the existing record, that the Commission should require a standard formula through which all RTO/ISO regions must compensate frequency regulation service. I believe the record is not adequate to propose a specific proposal at this time. Accordingly, I believe the Commission should have taken a preliminary step (such as the issuance of a Notice of Inquiry or Advanced Notice of Proposed Rulemaking) before moving forward with the specific proposal in a Notice of Proposed Rulemaking.

I disagree with the majority that the record is sufficiently robust to make a specific proposal at this time to change our regulations. Although the record provides some data regarding potential reliability and efficiency benefits of faster-ramping resources providing frequency regulation service, I am concerned this evidence may be incomplete.[1] In the existing record, several commenters raise concerns about the lack of hard data; these commenters argue that more study is needed to demonstrate incremental value.[2] Even RTO/ISOs examining these issues express reservations that the evidence may be inadequate to support the conclusions asserted in the NOPR.[3]

The May 26, 2010 Staff Technical Conference and subsequent outreach provided some feedback on these issues. However, I am concerned that the limited participation from entities other than the RTOs/ISOs and non-traditional technologies undermines the record on which to base a change to our regulations. There are "traditional" resources, such as pumped-storage hydro and certain combustion turbine resources that provide this type of "faster-ramping" service,[4] but we have received only limited feedback from these types of resources so far. In addition, there may be proponents of new technologies that we have not heard from whose role with regard to frequency regulation may warrant a different change to our regulations than proposed in the Notice of Proposed Rulemaking. Initiation of a Notice of Inquiry or Advanced Notice of Proposed Rulemaking may better allow evidence regarding those technologies.

Appropriately, the Notice of Proposed Rulemaking asks questions to develop a more complete record. However, the nature of the questions posed is an indication that we should do more prior to issuing a specific proposal. While the Notice of Proposed Rulemaking asks some generic questions in this regard, the majority fails to address the concerns already in the record about co-

[1] *Compare* Notice of Proposed Rulemaking at P 16–18, P 24 with Transcript of May 26, 2010 Technical Conference (Transcript) at 24:2–16 (Pike); Transcript at 18:13–25 and 29–1–21 (Potishnak).

[2] Electric Power Supply Association (EPSA) June 16, 2010 Comments at 2; Xcel Energy Services Inc. (XES) June 16, 2010 Comments at 3, 5–7; Transcript at 59:15–24 (Lowell); Transcript at 124:4–9 (Pike).

[3] Notice of Proposed Rulemaking at P 25; ISO New England Inc. (ISO–NE) June 16, 2010 Comments at 5–6; California Independent System Operator Corporation (CAISO) June 16, 2010 Comments at 2–3.

[4] ISO–NE June 16, 2010 Comments at 4–6; Transcript at 14:18–22 (Masiello); Transcript at 49:3–14 (Pike).

optimization,[5] sustainability[6] and potential limitations of faster-ramping resources.[7]

Moreover, I believe there is no basis to propose a single, one-size-fits-all approach for frequency regulation compensation. In fact, several commenters caution specifically against such an approach.[8] In addition, I have concerns that the majority decision could detract from, or otherwise delay, efforts ongoing at the RTO/ISO stakeholder level.[9]

It is essential that this Commission address frequency regulation compensation to ensure appropriate compensation for service provided. Moreover, new technologies could offer substantial benefits. While I recognize the majority's desire to move quickly, I believe it is more important to "measure twice, cut once." Accordingly, I believe the Commission should have taken a preliminary step (such as the issuance of a Notice of Inquiry or Advanced Notice of Proposed Rulemaking) before moving forward with the specific proposal in a Notice of Proposed Rulemaking. For these reasons, I respectfully dissent in part from this Order.

Marc Spitzer,
Commissioner.

[FR Doc. 2011–4267 Filed 2–28–11; 8:45 am]

BILLING CODE 6717–01–P

[5] Notice of Proposed Rulemaking at P 38; EPSA June 16, 2010 Comments at 9–10; Southern Company Services, Inc. (Southern) June 16, 2010 Comments at 6–8; Southern California Edison Company (SCE) June 16, 2010 Comments at 3.

[6] Notice of Proposed Rulemaking at P 33; ISO–NE June 16, 2010 Comments at 5; EPSA June 16, 2010 Comments at 6–8; XES June 16, 2010 Comments at 5; Transcript at 15:13–15 (Potishnak); Transcript at 18:18–25 and 19:1–5 (Ramey); Transcript at 23:18–25 and 24:1 (Pike); Transcript at 75:15–25 and 76:4 (Pike); Transcript at 86:18–20 (Potishnak).

[7] Notice of Proposed Rulemaking at P 33, n.51; ISO–NE June 16, 2010 Comments at 5; EPSA June 16, 2010 Comments at 8–9; Transcript at 17:20–25 (Ramey); Transcript at 73:4–16 (Ramey).

[8] ISO–NE June 16, 2010 Comments at 7–8; SCE June 16, 2010 Comments at 2,5; Southern June 16, 2010 Comments at 3.

[9] Notice of Proposed Rulemaking at P 13; SCE June 16, 2010 Comments at 3–4; CAISO June 16, 2010 Comments at 1–2.

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

RIN 1219–AB75

Examinations of Work Areas in Underground Coal Mines for Violations of Mandatory Health or Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Mine Safety and Health Administration (MSHA) is extending the comment period on the proposed rule addressing Examinations of Work Areas in Underground Coal Mines for Violations of Mandatory Health or Safety Standards. It proposed revising MSHA requirements for preshift, supplemental, and on-shift, and weekly examinations of underground coal mines. This extension gives commenters an additional 30 days to comment on the proposed rule.

DATES: The comment period for the proposed rule published December 27, 2010, at 75 FR 81165, is extended. All comments must be received or postmarked by 12 midnight Eastern Daylight Savings Time, March 28, 2011.

ADDRESSES: All submissions must be clearly identified and reference MSHA and RIN 1219–AB75. Comments may be submitted by any of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Electronic mail: zzMSHA-comments@dol.gov*. Include "RIN 1219–AB75" in the subject line of the message.
- *Facsimile:* (202) 693–9441. Include "RIN 1219–AB75" in the subject line of the message.
- *Regular Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, Virginia 22209–3939.
- *Hand Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, Virginia 22209–3939. Sign in at the receptionist's desk on the 21st floor.

MSHA will post all comments on the Internet without change, including any personal information provided. Comments can be accessed electronically at *http://www.msha.gov* under the "Rules & Regs" link. Comments may also be reviewed in person at the Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia. Sign in at the receptionist's desk on the 21st floor.

MSHA maintains a list that enables subscribers to receive e-mail notification when the Agency publishes rulemaking documents in the **Federal Register**. To subscribe, go to *http://www.msha.gov/subscriptions/subscribe.aspx.*

- *Information Collection Requirements:* Comments concerning the information collection requirements of this proposed rule must be clearly identified with "RIN 1219–AB75" and sent to both the Office of Management and Budget (OMB) and MSHA. Comments to OMB may be sent by mail addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503, *Attn:* Desk Officer for MSHA. Comments to MSHA may be transmitted by any of the methods listed above in this section.

SUPPLEMENTARY INFORMATION: On December 27, 2010 (75 FR 81165), MSHA published a proposed rule, Examinations of Work Areas in Underground Coal Mines for Violations of Mandatory Health or Safety Standards. The proposal would require operators to examine for violations of mandatory health or safety standards in addition to hazardous conditions, and take corrective actions if violations are found. It would also require that operators review with mine examiners on a quarterly basis all citations and orders issued in areas where examinations are required. The proposal would require that underground coal mine operators find and fix violations of mandatory health or safety standards, thereby improving health and safety for miners. The proposed rule is available on MSHA's Web site at *http://www.msha.gov/REGS/FEDREG/PROPOSED/2010PROP/2010-32410.pdf*.

In response to a request from the public and to provide the opportunity for additional public participation in this rulemaking, MSHA is extending the comment period from February 25, 2011, to March 28, 2011. All comments and supporting documentation must be received or postmarked by 12 midnight Eastern Daylight Savings Time, March 28, 2011.

Dated: February 24, 2011.

Joseph A. Main,
Assistant Secretary of Labor for Mine Safety and Health.

[FR Doc. 2011–4592 Filed 2–25–11; 4:15 pm]

BILLING CODE 4510–43–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 59

RIN 2900–AN77

Due Date of Initial Application Requirements for State Home Construction Grant

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs (VA) regulation concerning the calendar date that VA must receive an initial application for a State Home Construction Grant in order for the application to be included on the

priority list for the award of grants during the next fiscal year. We propose to require that initial application materials must be received by VA on April 15, and not August 15, of the year before the fiscal year in which the application would be considered for inclusion on the priority list for the award of grants. Similarly, we propose to require that a State make its matching funds for a project available by April 15, and not August 15, in order for the project to be placed in priority group 1 of the priority list for the next fiscal year. The purpose of these changes is to ensure that VA has sufficient time to process all applications received and timely prepare the priority list. We also propose technical revisions to conform with these proposed revisions.

DATES: Comments must be received on or before May 2, 2011.

ADDRESSES: Written comments may be submitted by email through *http://www.regulations.gov;* by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to "RIN 2900–AN77–Due Date of Initial Application Requirements for State Home Construction Grant." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Tom Graves, Director (114), State Home Construction, 810 Vermont Ave., NW., Washington, DC 20420, (202) 461–6084. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Under 38 U.S.C. 8131 through 8138, VA is authorized to award grants to assist States in constructing, remodeling, altering, or expanding State home facilities that will furnish specified types of care to veterans. VA has implemented this statutory authority at 38 CFR part 59.

Under 38 U.S.C. 8135, States that wish to receive assistance for a State home construction project (or acquisition of an existing facility to be used as a State home facility) must submit an application that includes certain information and documentation described in the statute. VA has implemented the application requirement in current § 59.20(a), which requires that applicants seeking inclusion on the priority list for grants awarded during the next fiscal year submit to VA an original and one copy of a completed VA Form 10–0388–1 and all information, documentation, and other forms specified by VA Form 10–0388–1. Under current § 59.20(c), VA encourages the submission of the application by April 15 but considers any application submitted before August 16. VA maintains the "priority list" pursuant to current 38 CFR 59.50.

We propose to revise § 59.20(c) to improve the clarity and efficacy of the application process and to address certain administrative challenges presented by the current rule. We also propose to make technical revisions to related provisions in part 59.

First, we propose to change the phrase at the beginning of the first sentence of § 59.20(c) from "[t]he information requested under paragraph (a) of this section" to "[t]he items requested under paragraph (a) of this section". Paragraph (a) requires the submission of forms and documentation as well as information, and all of the items described in paragraph (a) must be timely submitted in order for VA to consider the project for inclusion on the priority list for the next fiscal year. Yet, the current rule could be misinterpreted to require timely submission of only the "information" described in paragraph (a), and not the "documentation, and other forms specified." This is a technical, clarifying change.

Next, we propose to change the date that initial applications must be received by VA. Current § 59.20(c) states that applications "should be submitted to VA by April 15," but "must be received by VA by August 15" in order for VA to consider the application on the next year's priority list. The regulation does not address the distinction between submission and receipt and does not explain the four-month gap between the two dates. As a practical matter, this often results in the items not being received by VA until August 15. At the same time, current 38 CFR 59.20(d), 59.50(a), and 59.70(b) use the August 15 date without mentioning the April 15 date, which leads to further confusion as to which date actually applies.

A U.S. Government fiscal year begins on October 1 of a calendar year and extends through September 30 of the next calendar year. A fiscal year carries the date of the calendar year in which it ends. For example, if a State seeks assistance for a Fiscal Year 2012 construction project, the State's application must be received by VA, under the current rule, on or before August 15, 2011, so that the application can be on the priority list for the next fiscal year, which begins on October 1, 2011. As a matter of custom and practice, and to ensure the quick and efficient distribution of funds to States that need VA's assistance, VA seeks to issue the priority list shortly after the beginning of the fiscal year to which it applies. Under current § 59.20(c), we have from August 16 to September 30, before the beginning of the fiscal year, to analyze and process the applications. We need more time to evaluate all of the applications so that we can make fully-informed decisions concerning the allocation of grant money to the States. For Fiscal Year 2011, VA had to evaluate 111 applications in order to prepare the priority list before October 1, 2010. Therefore, we propose to revise § 59.20(c) to require that all initial applications be received by VA no later than April 15, and also to amend §§ 59.20(d) and 59.50(a) in accordance with the April 15 requirement.

We recognize that this will require some States to submit their initial applications up to 4 months earlier than has been their custom in the past. However, the April 15 submission date is already encouraged in current § 59.20(c) and implies that States should submit applications to VA as soon as possible before the current August 15 deadline. The proposed revision to § 59.20(c) would prescribe only one date, the date that the application must be received by VA. This revision would clarify the regulation. We note that the proposal does not otherwise expand the application requirements or in any way change the nature of the items submitted.

Consistent with our need to and proposal for amending § 59.20(c), we also propose to amend § 59.70(b). Specifically, we propose to amend the date, from August 15 to April 15, by which a State must commit funds for a project in order for that project to be eligible for inclusion in priority group 1 of the priority list for the next fiscal year. (Priority group 1 projects are projects that have State matching funds. State matching funds are not required to be placed in priority groups 2–7 on the priority list.) Paragraph (b) of § 59.70 requires that, as a condition of receiving a grant for a project, a State must make sufficient funds available for the project so that the project may proceed upon approval of the grant without further action required by the State to make the funds available. An authorized State

budget official must certify that the State funds are, or will be, available for the project, so that if VA awards the grant, the project may proceed without further State action. That certification must be updated each year by every State with a priority group 1 project. Under the current rule, a State must make such funds available by August 15 of the year prior to the fiscal year for which the grant is requested to be eligible for inclusion in priority group 1. Under the proposed amendment of § 59.70(b), a State would be required to make the funds available by April 15 of the year prior to the fiscal year for which the grant is requested. We recognize that the budgetary deadlines for the States differ and that the revision will result in some projects being excluded from priority group 1 of the priority list for a given fiscal year. However, VA's need to have sufficient time to prepare the priority list before the beginning of an upcoming fiscal year necessitates this change.

As a result of the change, projects in States that obtain funding before April 15 would be eligible for priority group 1 for the upcoming fiscal year, and projects in States that obtain funding after April 15 would not be eligible. In any given year, the only impact of the change will be realized for projects funded by States after April 15 and before August 16. As mentioned above, projects that are not eligible for inclusion in priority group 1 because funds are unavailable would still be eligible for inclusion in priority groups 2–7 because the initial application does not require the commitment of funds. For all of the priority groups, the date on which an application for a project is received by VA affects the position of the project on the priority list (the earlier the application was received, the higher the priority given within a specific priority group or, where relevant, subpriority group). *See* 38 CFR 59.50.

Finally, we are making a technical amendment to add, after the authority citation for § 59.20, a parenthetical noting that the Office of Management and Budget (OMB) has approved the information collection required by that regulation. It is VA's practice to include notations concerning the information collection approval number at the end of regulations containing information collections, and the omission here was an oversight.

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 proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

Although this document contains provisions constituting collections of information, at 38 CFR 59.20, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), no new or proposed revised collections of information are associated with this proposed rule. The information collection requirements for § 59.20 are currently approved by OMB and have been assigned OMB control number 2900–0661.

Executive Order 12866

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

The economic, interagency, budgetary, legal, and policy implications of this proposed 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 proposed 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. The rule affects States and has no impact on any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program numbers and titles for this rule are as follows: 64.005, Grants to States for Construction of State Home Facilities; 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem Program.

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 8, 2011, for publication.

List of Subjects in 38 CFR Part 59

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

Dated: February 23, 2011.

Robert C. McFetridge,

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

For the reasons set forth in the preamble, VA proposes to amend 38 CFR part 59 as follows:

PART 59—GRANTS TO STATES FOR CONSTRUCTION OR ACQUISITION OF STATE HOMES

1. Revise the authority citation for part 59 to read as follows:

Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137.

2. Amend § 59.20 by:

a. Revising paragraph (c).

b. Removing "August" from paragraph (d) and adding, in its place, "April".

c. Adding an information collection approval parenthetical after the authority citation at the end of the section.

The revision and addition read as follows:

§ 59.20 Initial application requirements.

* * * * *

(c) The items requested under paragraph (a) of this section must be received by VA no later than April 15 in order for VA to include the application on the priority list for the award of grants during the next fiscal year. *See* § 59.50, Priority List.

* * * * *

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0661.)

§ 59.50 [Amended]

3. Amend § 59.50 by removing "August" from the introductory text of paragraph (a) and adding, in its place, "April".

§ 59.70 [Amended]

4. Amend § 59.70 by removing "August" from paragraph (b) and adding, in its place, "April".

[FR Doc. 2011–4431 Filed 2–28–11; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2010–0168; FRL–9271–4]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Missouri to add two new rules which implement restrictions on the idling of heavy duty diesel vehicles in the Kansas City Metropolitan Area and in the St. Louis Ozone Nonattainment Area. EPA is proposing this revision because the standards and requirements set by the rules will strengthen the Missouri SIP. EPA's approval of this SIP revision is being done in accordance with the requirements of the Clean Air Act (CAA).

DATES: Comments on this proposed action must be received in writing by March 31, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2010–0168, by mail to Amy Bhesania, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Amy Bhesania at (913) 551–7147, or by e-mail at *bhesania.amy@epa.gov*.

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: February 16, 2011.

Karl Brooks,

Regional Administrator, Region 7.

[FR Doc. 2011–4371 Filed 2–28–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 211, 212, and 252

RIN 0750–AG83

Defense Federal Acquisition Regulation Supplement; Reporting of Government-Furnished Property (DFARS Case 2009–D043)

AGENCY: Defense Acquisition Regulations System; Department of Defense (DoD).

ACTION: Notice of public meeting on proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to revise and expand reporting requirements for Government-furnished property to include items uniquely and non-uniquely identified, and to clarify policy for contractor access to Government supply sources.

DATES: *Public Meeting:* DoD is hosting a public meeting to discuss the proposed rule on March 18, 2011, from 1 p.m. to 4 p.m. DST. Attendees should register for the public meeting at least one week in advance to ensure adequate room accommodations. Registrants will be given priority if room constraints require limits on attendance. To register, please go to *http://www.acq.osd.mil/dpap/dars/Government-furnished property.html* and submit the following information:

(1) Company or organization name;

(2) Names of persons attending;

(3) Identity if desiring to speak; limit to a 10-minute presentation per company or organization.

FOR FURTHTER INFORMATION CONTACT: Send questions about registration or the submission of comments to the e-mail address identified at *http://www.acq.osd.mil/dpap/dars/Government-furnished property.html*. Please cite "Public Meeting, DFARS Case 2009–D043" in the subject line of the e-mail.

ADDRESSES: *Public Meeting:* The public meeting will be held in the General Services Administration multipurpose room, 2nd floor, One Constitution Square, 1275 First Street, NE., Washington, DC 20417.

Interested parties are encouraged to arrive at least 30 minutes early. Government ID holders (PIV Cards) will be able to scan their cards to enter the building. Other visitors will be able to enter the building by entering through the Visitors' Center, and will require a

driver's license or other form of picture identification. If you wish to make a presentation, please contact and submit a copy of your presentation by March 11, 2011, to Ms. Clare Zebrowski, OUSD (AT&L) DPAP (DARS), 3060 Defense Pentagon, Room 3B855, Washington, DC 20302–3060; facsimile 703–602–0350. Please cite "Public Meeting, DFARS Case 2009–D043" in all correspondence related to this public meeting. The submitted presentations will be the only record of the public meeting. If you intend to have your presentation considered as a public comment to be considered in the formation of a final rule, the presentation must be submitted separately as a written comment as instructed below.

Special Accommodations: The public meeting is physically accessible to people with disabilities.

FOR FURTHER INFORMATION CONTACT: Ms. Clare Zebrowski, Telephone 703–602–0289; facsimile 703–602–0350. Please cite DFARS Case 2009–D043.

SUPPLEMENTARY INFORMATION:

A. Background

DoD published a proposed rule in the **Federal Register** on December 22, 2010 (75 FR 80427). DoD published an extension of the public comment period on February 18, 2011 (75 FR 9527). The public comment period ends on April 8, 2011.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2011–4524 Filed 2–28–11; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 171, 173, 178, and 180

[Docket Number PHMSA–2010–0019 (HM–241)]

RIN 2137–AE58

Hazardous Materials: Adoption of ASME Code Section XII and the National Board Inspection Code

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

ACTION: Advance notice of proposed rulemaking; document availability and extension of comment period.

SUMMARY: PHMSA is notifying the public of the electronic availability of the American Society of Mechanical Engineers' (ASME) *Boiler and Pressure Vessel Code, Section XII* (2010 Edition) and the National Board of Boiler and Pressure Vessel Inspectors' *National Board Inspection Code* (2007 Edition). Further, PHMSA is extending the comment period for the ANPRM published on December 23, 2010 (ANPRM; 75 FR 80765). The ASME *Boiler and Pressure Vessel Code, Section XII* is now available on PHMSA's Web site for public review at: *http://phmsa.dot.gov/hazmat.* In addition, the National Board of Boiler and Pressure Vessel Inspectors have voluntarily posted, for public review, the relevant parts of the *National Board Inspection Code* at *http://www.nationalboard.org.*

DATES: The comment period for the ANPRM published on December 23, 2010, closing on March 23, 2011, is extended until May 23, 2011.

ADDRESSES: You may submit comments identified by the docket number (PHMSA–2010–0130) by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Operations, U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* To Docket Operations, Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the agency name and docket number for this notice at the beginning of the comment. Note that all comments received will be posted without change to the docket management system, including any personal information provided.

Docket: For access to the dockets to read background documents or comments received, go to *http://www.regulations.gov,* or DOT's Docket Operations Office (*see* **ADDRESSES**).

FOR FURTHER INFORMATION CONTACT: Mr. Kurt Eichenlaub, Standards and Rulemaking Division, (202) 366–8553, Pipeline and Hazardous Materials Safety Administration.

Privacy Act: Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, 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) or you may visit *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On December 23, 2010, PHMSA published an advance notice of proposed rulemaking (ANPRM; 75 FR 80765) seeking public comment on the possible incorporation of the most recent edition of the ASME's *Boiler and Pressure Vessel Code, Section XII* for the design, construction, and certification of cargo tank motor vehicles, cryogenic portable tanks and multi-unit-tank car tanks (ton tanks) and the National Board of Boiler and Pressure Vessel Inspectors' (National Board) *National Board Inspection Code* as it applies to the continuing qualification and maintenance of ASME stamped cargo tank motor vehicles, portable tanks, and multi-unit-tank car tanks (ton tanks) constructed to standards in ASME Section VIII or ASME Section XII. PHMSA received comments regarding the availability of the consensus standards referenced in the ANPRM and requesting a comment period extension.

II. Availability of Consensus Standards

Several commenters (National Tank Truck Carriers (NTTC), C & R Fleet Services, and WRD, Inc.) requested that PHMSA make the consensus standards referenced in the ANPRM available to the public electronically. The commenters cited costs to purchase and review the copyrighted documents as barriers to informed public comment on issues presented in the ANPRM. PHMSA agrees. PHMSA understands the costs of purchasing copyrighted consensus standards can create an unnecessary burden on interested parties and potentially limit public participation in the rulemaking process. This was not PHMSA's intent.

In response to commenter requests, PHMSA has obtained permission from ASME to post an electronic version of the 2010 edition of the ASME *Boiler and Pressure Vessel Code, Section XII* (ASME Section XII) on PHMSA's website. The electronic version of ASME Section XII will be available for the duration of the comment period (through May 23, 2011) at the following URL: *http://phmsa.dot.gov/hazmat.* Further, in response to commenter requests, the National Board has voluntarily posted copies of the relevant

sections (NBIC Part 2, Section 6, Supplement 6, "Continued Service and Inspection of DOT Transport Tanks," and NBIC Part 3, Section 6, Supplement 6, "Repair, Alteration, and Modification of DOT Transport Tanks") of the 2007 edition of the *National Board Inspection Code* for public review at *www.nationalboard.org*. Both documents are available electronically for review and comment, free of charge. However, PHMSA reminds the public that the documents are copyrighted and any reproduction of the documents without the permission of ASME or the National Board is prohibited.

III. Comment Period Extension

Several commenters to the December 23, 2011 ANPRM request a comment period extension (NTTC, C & R Fleet Services, Compressed Gas Association, and WRD, Inc.). Commenters cite difficulties in obtaining and reviewing copies of the referenced consensus standards, technical nature of the subject matter, and a wide range of potential burdens as reasons PHMSA should provide commenters with additional time to review the consensus standards and generate informed comment submissions to the docket. PHMSA agrees. Therefore, the comment period for the December 23, 2010 ANPRM is extended from March 23, 2011 until May 23, 2011.

IV. Conclusion

PHMSA believes the electronic availability of the referenced consensus standards and the extension of the comment period will provide commenters with sufficient time to review the consensus standards and generate informed comments on the December 23, 2010 ANPRM.

Issued in Washington, DC, on February 22, 2011 under authority delegated in 49 CFR part 106.

Billy C. Hines, Jr.,

Acting Associate Administrator for Hazardous Materials Safety.

[FR Doc. 2011–4543 Filed 2–28–11; 8:45 am]

BILLING CODE 4910–60–P

Notices

Federal Register
Vol. 76, No. 40
Tuesday, March 1, 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.

DEPARTMENT OF AGRICULTURE

Forest Service

Sequoia National Forest; California; Piute Mountains Travel Management Plan; Correction

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement; Correction.

SUMMARY: The Forest Service published a document in the **Federal Register** on February 18, 2011, concerning a notice of intent to prepare an environmental impact statement for the Piute Mountains Travel Management Plan.

FOR FURTHER INFORMATION CONTACT: Warren L. Niemi, 559–784–1500, extension 1137.

Correction

In the **Federal Register** of February 18, 2011, in FR Doc. 2011–3698, on page 9539, in the third column, delete item No. 12.

Dated: February 23, 2011.

Debra L. Whitman,

Acting Forest Supervisor.

[FR Doc. 2011–4464 Filed 2–28–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Superior Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Superior Resource Advisory Committee will meet in Duluth, Minnesota. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act. The purpose of the meeting is to review and make decisions on proposals requesting funds from Title II of the Secure Rural School Act. The schedule for soliciting the next round of proposals will be set.

DATES: The meeting will be held on Thursday, March 17, 2011, at 9:45 a.m.

ADDRESSES: The meeting will be held at the EPA office, 6201 Congdon Blvd., Duluth, MN 55804. Written comments should be sent to Superior National Forest, RAC, 8901 Grand Ave. Place, Duluth, MN 55808. Comments may also be sent via e-mail to *Lradosevichcraig@fs.fed.us,* or via facsimile to 218–626–4312.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Superior National Forest Headquarters. This meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Lisa Radosevich-Craig, Partnership Coordinator & Tribal Liaison, Superior National Forest Headquarters, 218–626–4336, *Lradosevichcraig@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: Review of Secure Rural Schools Title II Rules and Operational Guidelines; Review and Selection of Proposals; Project Update; and a Public Forum, The agenda and any applicable documents may be previewed at *http://WWW.fs.fed.us/R9/superior.* Persons who wish to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. A public input session will be provided and individuals who made written requests by Monday, March 14, 2011 will have the opportunity to address the Committee at those sessions.

Dated: February 23, 2011.

James W. Sanders,

Forest Supervisor, Superior National Forest, Duluth, Minnesota.

[FR Doc. 2011–4472 Filed 2–28–11; 8:45 am]

BILLING CODE 3410–DT–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of a Project Waiver of Section 1605 (Buy American Requirements) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the Drew County, AR, Memorial Hospital Renovation and Expansion Project

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture (“USDA”) grants a project waiver of the Buy American Requirements [manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality] of ARRA to Drew County, Arkansas, (“County”) for the purchase of foreign manufactured Heating, Ventilation, Air Conditioning (HVAC) equipment for a hospital renovation and expansion project. This is a project specific waiver under section 1605 (b)(2) of ARRA. This waiver 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. The County-proposed HVAC improvements were selected to address the unique conditions presented by the existing building. Based upon information submitted by the County and its consultants, it was determined that the HVAC equipment that will meet the County’s design and performance specifications is manufactured only by Daikin and SkyAir of Japan and Thailand, respectively. This determination is based on the review and recommendations of the Rural Development Buy American Coordinator. The County, through its design engineer, has provided sufficient documentation to support its request. The Under Secretary for Rural Development has concurred in this decision to waive Section 1605 of ARRA. This action permits the purchase of a Daikin RXS/FTXS (wall mounted indoor unit) HVAC unit and SkyAir FCQ/RZQ (cassette-style, ceiling mounted indoor unit). These units address the operational requirement to heat and cool simultaneously, perform very efficiently, and are compatible and

adaptable to the space restrictions created by the existing facility.

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

ADDRESSES: Dallas Tonsager, Under Secretary, Rural Development, U.S. Department of Agriculture, 1400 Independence Avenue, Room 205–W, Washington, DC 20250–0107, (202) 720–4581.

FOR FURTHER INFORMATION CONTACT: William Downs, Senior Architect, Program Support Staff, (202) 720–1499, Rural Housing Service, Stop 0761, U. S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250–0761.

SUPPLEMENTARY INFORMATION: In accordance with ARRA Section 1605(c) and pursuant to Section 1605(b)(2), USDA hereby provides notice that it is granting a project specific waiver of the Buy American Requirements of ARRA to Drew County, Arkansas, for the purchase of HVAC equipment, manufactured by Daikin of Japan and SkyAir of Thailand for the hospital renovation and expansion project.

I. Background

Section 1605(a) of 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 department or agency, here the Secretary of USDA. According to section 1605(b) of ARRA, a waiver may be granted if the Secretary determines that (1) applying these requirements would be inconsistent with public interest; (2) iron, steel, and 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 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 Requirement for the purchase of HVAC equipment suitable for the conditions of the existing facility and the expansion area.

The purchase of the new HVAC equipment is intended to provide the specified air conditioning for the existing hospital renovation and expansion. The estimated cost of the HVAC equipment improvements to Drew County's hospital is $12,000. In designing the HVAC equipment the designers of record evaluated the various technologies based on the following factors:

- The project requirements include addressing the limitations of space for HVAC equipment and the associated accessories.
- The project requires a very high efficiency performance for the conditions presented by the region and the requirement for simultaneous heating and cooling.
- The project requires a frost resistant operating system.

As part of an exhaustive review and search for potentially viable HVAC units, the County and their consultants determined that there is no domestic manufacturer of HVAC equipment that provides the specified performance and technical features required for this project.

According to the County, the only HVAC equipment that meets the technical specifications is not manufactured in the United States. As a result, the County requested a waiver of the ARRA Buy American provisions on the basis of nonavailability of a United States manufactured product that will meet the design and performance criteria specified for this HVAC system.

II. Nonavailability Finding

The evaluation by USDA's technical review team and architect supports the County's claim that a suitable HVAC system which meets the specifications for this project is not available in sufficient and reasonably available commercial quantities of a satisfactory quality that is manufactured in the United States. USDA's technical review team and architects reviewed a memorandum submitted by the County describing the foreign equipment that fits the technical specifications for the HVAC equipment and the process the County followed in adopting the HVAC design. USDA's technical review team and architects conducted a nationwide review of equipment vendors, manufacturers' representatives, and associated resources typically relied on by designers of HVAC equipment. The purpose of USDA's review process was to determine whether there was any HVAC equipment manufactured in the United States that meets the County's design specifications and performance requirements. As a result of its review, the Secretary has determined that based on the information available and to the best of USDA's knowledge, there is no HVAC equipment manufactured in the United States that meets the County's design specifications and performance requirements for the County's Memorial Hospital renovation and expansion project.

The Rural Development Buy American Coordinator has reviewed this waiver request and has determined that the supporting documentation provided by the County established a proper basis that the manufactured good was not available from a producer in the United States able to meet the design specifications and performance requirements for the proposed project.

III. Waiver

Having established a proper basis that this manufactured good was not available from a producer in the United States, the County is hereby granted a waiver from the Buy American requirements. This waiver permits use of ARRA funds for the purchase of the specified Daikin VRV III heat recovery system and SkyAir FCQ/RZQ documented in the County's waiver request submittal dated November 1, 2010, as part of its hospital renovation and expansion project. This supplementary information constitutes the detailed written justification required by Section 1605(c) of ARRA for waivers "based on a finding under subsection (b)."

IV. Equal Opportunity and Non-Discrimination Requirements

U.S. Department of Agriculture prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250–9410, or call (800) 795–3272 (voice), or (202) 720–6382 (TDD). "USDA is an equal opportunity provider, employer, and lender."

Authority: Public Law 111–5, Section 1605.

Dated: February 17, 2011.

Thomas J. Vilsack,

Secretary of Agriculture.

[FR Doc. 2011–4482 Filed 2–28–11; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Request for Nominations of Members To Serve on the Census Scientific Advisory Committee

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of request for nominations.

SUMMARY: The Bureau of the Census (Census Bureau) is requesting nominations of individuals and organizations to the Census Scientific Advisory Committee. The Census Bureau will consider nominations received in response to this notice, as well as from other sources. The **SUPPLEMENTARY INFORMATION** section of this notice provides committee and membership criteria.

DATES: Please submit nominations by March 31, 2011.

ADDRESSES: Please submit nominations to Jeri Green, Chief, Census Advisory Committee Office, Census Bureau, Room 8H182, 4600 Silver Hill Road, Washington, DC 20233. Nominations also may be submitted via fax at 301–763–8609, or by e-mail to *jeri.green @census.gov*.

FOR FURTHER INFORMATION CONTACT: Jeri Green, Chief, Census Advisory Committee Office, Census Bureau, Room 8H182, 4600 Silver Hill Road, Washington, DC 20233, telephone (301) 763–2070.

SUPPLEMENTARY INFORMATION: The Committee was established in accordance with the Federal Advisory Committee Act (Title 5, United States Code, Appendix 2). The following provides information about the committee, membership, and the nomination process.

Objectives and Duties

1. The Advisory Committee advises the Director of the Census Bureau on the uses of scientific developments in statistical data collection, statistical analysis, survey methodology, geospatial analysis, econometrics, cognitive psychology, and computer science as they pertain to the full range of Census Bureau programs and activities (including: communications, decennial, demographic, economic, field operations, geographic, information technology, and statistics).

2. The Advisory Committee provides scientific and technical expertise from the following disciplines: demography, economics, geography, psychology, statistics, survey methodology, social and behavioral sciences, Information Technology and computing, marketing, communications and other fields of expertise, as appropriate, to address Census Bureau program needs and objectives. This expertise is necessary to ensure that the Census Bureau continues to provide relevant and timely statistics used by federal, state, and local governments as well as business and industry in an increasingly technologically-oriented society.

3. The Advisory Committee functions solely as an advisory body under the Federal Advisory Committee Act.

4. The Advisory Committee reports to the Director of the Census Bureau.

Membership

1. The Advisory Committee will consist of no more than 20 members and one Chair appointed by the Director of the Census Bureau.

2. Members are appointed for a two or three year term with staggered term-end dates.

3. Members shall serve as either Special Government Employees (SGEs) or Representatives. Committee membership will be reevaluated at the conclusion of the two or three-year term with the prospect of member renewal, pending meeting attendance, administrative compliance, Census Bureau needs and the Director's concurrence.

4. Committee members are selected in accordance with applicable Department of Commerce guidelines. The Advisory Committee aims to have balanced representation, considering such factors as geography, technical and scientific expertise. The Advisory Committee will include members from diverse backgrounds, including academia and private enterprise which are further diversified by business type or industry, geography, and other factors.

5. No employee of the federal government can serve as a member of the Advisory Committee. Meeting attendance and active participation in the activities of the Advisory Committee are essential for sustained Advisory Committee membership as well as submission of required annual financial disclosure statements by those who serve as Special Government Employees.

Miscellaneous

1. Members of the Advisory Committee serve without compensation, but receive reimbursement for committee-related travel and lodging expenses.

2. The Advisory Committee meets at least once a year, budget permitting, but additional meetings may be held as deemed necessary by the Census Director or Designated Federal Official. All Advisory Committee meetings are open to the public in accordance with the Federal Advisory Committee Act.

Nomination Information

1. Nominations are requested as described above.

2. Nominees must have scientific and technical expertise in such areas as demography, economics, geography, psychology, statistics, survey methodology, social and behavioral sciences, Information Technology, computing or marketing. Such knowledge and expertise are needed to provide advice and recommendations to the Director of the Census Bureau on the trends, uses and application of scientific innovations and developments in relation to the full range of Census Bureau programs and activities.

3. Individuals, groups, and/or organizations may submit nominations on behalf of an individual candidate. A summary of the candidate's qualifications (resumé or curriculum vitae) *must* be included along with the nomination letter. Nominees must be able to actively participate in the tasks of the Advisory Committee, including, but not limited to regular meeting attendance, committee meeting discussant responsibilities, and review of materials, as well as participation in conference calls, webinars, working groups, and special committee activities.

4. Nominations of organizations may come from individuals or organizations. Organizations also may self-nominate. A summary of the organization's qualifications and the experience that qualifies it for membership should be included in the nomination letter. Nominated organizations must be able to actively participate in the tasks of the Advisory Committee, including, but not limited to regular meeting attendance, review of materials, and participation in conference calls, webinars, working groups, and special committee activities.

5. The Department of Commerce is committed to equal opportunity in the workplace and seeks diverse Advisory Committee membership.

Dated: February 22, 2011.

Robert M. Groves,

Director, Bureau of the Census.

[FR Doc. 2011–4478 Filed 2–28–11; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 14–2011]

Foreign-Trade Zone 158—Vicksburg/Jackson, MS, Application for Expansion of Manufacturing Authority, Subzone 158D, Nissan North America, Inc. (Motor Vehicles)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by Nissan North America, Inc. (NNA), operator of FTZ 158D, NNA plant, Canton, Mississippi, requesting authority to expand the scope of FTZ manufacturing authority. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and section 400.28(a)(2) of the Board's regulations (15 CFR part 400). It was formally filed on February 22, 2011.

Subzone 158D was approved by the Board in 2002 with authority granted for the manufacture of up to 250,000 light-duty passenger vehicles at the NNA plant (4,417 employees/1,350 acres) located at 300 Nissan Drive in Canton, Mississippi (Board Order 1212, 67 FR 11091, 3–12–2002). In 2005 the Board approved an expansion of NNA's scope of authority to include additional production capacity (authorized level of production increased to 400,000 vehicles annually) (Board Order 1367, 70 FR 6616, 2–8–2005). Components and materials sourced from abroad (representing 20 percent of the finished vehicles' value) that are currently within NNA's existing scope of authority include: gasoline and diesel engines and parts of such engines, labels, body parts and trim, fasteners, catalytic converters, parts of steering systems, brake fittings, half shafts, transmissions and parts thereof, differentials, bearings and bearing housings, flywheels/pulleys, wiring harnesses, handles/knobs, gaskets, fasteners, windshields and windows, springs, relays, and switches (duty rate range: free—8.6%).

The applicant now seeks to expand the scope of authority to include light commercial passenger vans as an additional finished product to be manufactured under FTZ procedures. The applicant also requests that the scope of authority be expanded to include the following additional foreign-origin components: hoses, fan belts, caps/lids, floor mats, mirrors, locks, tool sets, reservoir tanks, fans, air-conditioner components, filters, valves, thermostats, door roller assemblies, windshield wiper assemblies, batteries, electrical components, lighting/signaling equipment, horns, sensors, telephonic equipment, audio speakers, audio systems, video cameras, navigation systems, antennas, cables, connectors, brake parts, shock absorbers, radiators, exhaust components, speedometers, tachometers, electronic controllers, seats, and cigarette lighter cases (duty rate range: free—12.0%). The application also requests approval from the FTZ Board for flexibility to shift production between Subzone 158D and Subzone 78A (NNA's facilities in Smyrna and Decherd, Tennessee) as needed, provided that NNA's activity globally at the two subzones remains consistent with the products, components and production capacity authorized for Subzone 158D and Subzone 78A.

Expanded FTZ procedures could continue to exempt NNA from customs duty payments on the foreign-origin components used in light commercial passenger vans manufactured for export (20% of shipments). On its domestic shipments, NNA would be able to choose the duty rate during customs entry procedures that applies to light commercial passenger vans (duty rate—2.0%) for the foreign inputs noted above. Subzone status would further allow NNA to realize logistical benefits through the use of weekly customs entry procedures. Customs duties also could possibly be deferred or reduced on foreign status production equipment. NNA would also be exempt from duty payments on foreign inputs that become scrap during the production process.

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

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the following address: Office of the Executive Secretary, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230–0002. The closing period for receipt of comments is May 2, 2011. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to May 16, 2011.

A copy of the application will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the address listed above and in the "Reading Room" section of the Board's Web site, which is accessible via *http://www.trade.gov/ftz.*

For further information, contact Pierre Duy at *Pierre.Duy@trade.gov* or (202) 482–1378.

Dated: February 22, 2011.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2011–4510 Filed 2–28–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor; Correction to Request for Comment

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

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

FOR FURTHER INFORMATION CONTACT: Christopher Mutz, (202) 482–0235, Office of Policy, Import Administration, Julia Hancock, (202) 482–1394, Office of Antidumping and Countervailing Duty Operations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC, 20230.

Correction:

On February 18, 2011, the Department of Commerce ("the Department") published in the **Federal Register** a notice requesting public comment on the means by which it can best capture the cost of labor in its wage rate methodology in antidumping proceedings involving non-market economy ("NME") countries. *See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor; Request for Comment,* 76 FR 9544 (February 18, 2011) ("*Labor Comment Notice*"). As part of this process, the Department invited comments on the interim methodology for determining a surrogate value for wage rates that is currently being applied in antidumping proceedings for companies in NME countries.

Subsequent to the issuance of the *Labor Comment Notice,* we identified an error in the docket number through which comments must be submitted. All comments must be submitted through the Federal eRulemaking Portal at *http://www.regulations.gov,* Docket No. ITA–2011–0002, unless the commenter does not have access to the internet. Commenters that do not have access to

the internet may submit the original and two copies of each set of comments by mail or hand delivery/courier. All comments should be addressed to the Secretary of Commerce, Attention: Christopher Mutz, Office of Policy, Room 1870, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. *See Labor Comment Notice,* 76 FR at 9547. To be assured of consideration, comments must be received no later than March 21, 2011.

Dated: February 23, 2011.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011–4532 Filed 2–28–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

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

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

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

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended ("the Act"), may request, in accordance with 19 CFR 351.213, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

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

Respondent Selection

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

Opportunity To Request a Review: Not later than the last day of March 2011,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in March for the following periods:

	Period of review
Antidumping Duty Proceeding	
Brazil: Certain Hot-Rolled Carbon Steel Flat Products, A–351–828	3/1/10–2/28/11
Brazil: Orange Juice, A–351–840	3/1/10–2/28/11
Canada: Iron Construction Castings, A–122–503	3/1/10–2/28/11
France: Brass Sheet & Strip, A–427–602	3/1/10–2/28/11
Germany: Brass Sheet & Strip, A–428–602	3/1/10–2/28/11
India: Sulfanilic Acid, A–533–806	3/1/10–2/28/11
Italy: Brass Sheet & Strip, A–475–601	3/1/10–2/28/11
Japan: Stainless Steel Butt-Weld Pipe Fittings, A–588–702	3/1/10–10/19/10
Russia: Silicon Metal, A–821–817	3/1/10–2/28/11
Spain: Stainless Steel Bar, A–469–805	3/1/10–2/28/11
Taiwan: Light-Walled Rectangular Welded Carbon Steel Pipe and Tube, A–583–803	3/1/10–2/28/11
Thailand: Welded Carbon Steel Pipe and Tube, A–549–502	3/1/10–2/28/11
The People's Republic of China: Circular Welded Austenitic Stainless Pressure Pipe, A–570–930	3/1/10–2/28/11
The People's Republic of China: Chloropicrin, A–570–002	3/1/10–2/28/11
The People's Republic of China: Glycine, A–570–836	3/1/10–2/28/11
The People's Republic of China: Sodium Hexametaphosphate, A–570–908	3/1/10–2/28/11
The People's Republic of China: Tissue Paper Products, A–570–894	3/1/10–2/28/11
Countervailing Duty Proceeding	
India: Sulfanilic Acid, C–533–807	1/1/10–12/31/10
Iran: In-Shell Pistachio Nuts, C–507–501	1/1/10–12/31/10
The People's Republic of China: Circular Welded Austenitic Stainless Pressure Pipe, C–570–931	1/1/10–12/31/10
Turkey: Welded Carbon Steel Pipe and Tube, C–489–502	1/1/10–12/31/10

Suspension Agreements

None.

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic

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

interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters.[2] If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Please note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

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

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Operations, Attention: Sheila Forbes, in room 3508 of the main Commerce Building. Further, in accordance with 19 CFR 351.303(f)(3)(ii), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

The Department will publish in the **Federal Register** a notice of "Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation" for requests received by the last day of March 2011. If the Department does not receive, by the last day of March 2011, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

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

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

Dated: February 18, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–4530 Filed 2–28–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

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

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

Background

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

Upcoming Sunset Reviews for April 2011

The following Sunset Reviews are scheduled for initiation in April 2011 and will appear in that month's Notice of Initiation of Five-Year Sunset Reviews.

	Department Contact
Antidumping Duty Proceedings	
Carbon & Alloy Seamless Standard, Line & Pressure Pipe (Over 4½ Inches) from Japan (A–588–850) (2nd Review)	David Goldberger (202) 482–4136.
Carbon & Alloy Seamless Standard, Line & Pressure Pipe (Under 4½ Inches) from Japan (A–588–851) (2nd Review)	David Goldberger (202) 482–4136.
Carbon & Alloy Seamless Standard, Line & Pressure Pipe (Under 4½ Inches) from Romania (A–485–805) (2nd Review)	Dana Mermelstein (202) 482–1391.
Sulfanilic Acid from the People's Republic of China (A–570–815) (3rd Review)	Julia Hancock (202) 482–1394.
Sulfanilic Acid from India (A–533–806) (3rd Review)	Julia Hancock (202) 482–1394.
Countervailing Duty Proceedings	
Sulfanilic Acid from India (C–533–807) (3rd Review)	David Goldberger (202) 482–4136.

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

	Department Contact

Suspended Investigations

No Sunset Review of suspended investigations are scheduled for initiation in April 2011.

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

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

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

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

Dated: February 16, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–4523 Filed 2–28–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Public Law 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before March 21, 2011. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. at the U.S. Department of Commerce in Room 3720.

Docket Number: 10–045. *Applicant:* Battelle Memorial Institute, Pacific Northwest Division, Pacific Northwest National Laboratory, 3335 Q Ave., Richland, WA 99354. *Instrument:* Electron Microscope. *Manufacturer:* FEI Company, the Netherlands. *Intended Use:* This instrument will be used as an analytical tool for doing serial sectioning and producing 3D analytical analysis for both geological and material science samples. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: February 2, 2011.

Docket Number: 10–072. *Applicant:* University of Puerto Rico, Institute of Neurobiology, PO Box 365067, San Juan, Puerto Rico 00936–5067. *Instrument:* Electron Microscope. Manufacturer: JEOL Ltd., Japan. *Intended Use:* The instrument will be used to reconstruct the remodeling synapses in the regenerating tectum, quantify the numbers and types of synapses, and quantify the effect that changes in brain-derived neurotrophic factors have on these synapses made by regenerated axons in the brain. The instrument will also enable the unequivocal identification of synapses made by Engrailed-expressing neurons, something that is impossible to do any other way. Additionally, the instrument will be used to study the location of aminergic receptors and transporter molecules in specific areas of the central nervous systems of freshwater prawns. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: December 22, 2010.

Docket Number: 10–076. *Applicant:* Regents of the University of Minnesota, 12 Shepherd Labs 100 Union St, SE., Minneapolis, MN 55455. *Instrument:* Electron Microscope. *Manufacturer:* FEI Inc., Czech Republic. *Intended Use:* The instrument will support structural study of the mechanisms of virus assembly and infection, kidney structure and function in disease, bacterial infection and host response, and other applications. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* December 29, 2010.

Docket Number: 11–002. *Applicant:* Weill Cornell Medical College of Cornell University, 1300 York Avenue, New York, NY 10065. *Instrument:* Electron Microscope. Manufacturer: JEOL Ltd., Japan. *Intended Use:* The instrument will allow users to acquire well focused, high contrast, high quality images through the full range of magnifications, from 50x to 1,200,000x. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: January 11, 2011.

Docket Number: 11–003. Applicant: Armed Forces Institute of Pathology, Department of Veterinary Pathology, Bldg. 54, Room G111, 6825 16th St., NW., Washington, DC 20306–6000. *Instrument:* Electron Microscope. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument will be used to examine tissue specimens to identify and characterize pathologic tissue changes, determine disease diagnosis and severity, and aid in prognosis and treatment of patients as applicable. The required capabilities that this instrument provides are a voltage range between 40kV and 120 kV, a resolution of 0.2nm line and 0.38nm point, and a magnification of x50 to 600,000, among other requirements. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* January 11, 2011.

Docket Number: 11–004. *Applicant:* San Diego State University, 5500 Campanile Drive, San Diego, CA 92182. *Instrument:* Electron Microscope. *Manufacturer:* FEI Inc., Czech Republic. *Intended Use:* The instrument will be used for many applications including

the study of unicellular photosynthetic cells, arachnid systematics, and geochronology and provenance studies. The instrument will allow high quality, high throughput flow with a scope of advanced capability. It will also allow uncoated museum samples to be viewed without damage. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: January 13, 2011.

Docket Number: 11–005. *Applicant:* National Institute of Standards and Technology, DOC, 325 Broadway, Boulder, Colorado 80305–3328. Instrument: Electron Microscope. Manufacturer: JEOL Ltd., Japan. *Intended Use:* The instrument will be used to study semiconductor, metallic magnetic and nanostructured materials' structure and composition, with nanoscale and atomic level resolution. The required capabilities that the instrument provides include high resolution energy filtered and scanning transmission electron miscroscopy, convergent beam and selected area electron diffraction, and electron energy loss and energy dispersive X-ray spectroscopy. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* January 14, 2011.

Docket Number: 11–006. *Applicant:* University of Vermont, 19 Roosevelt Hwy., Suite 120 Colchester, Vermont 65446. *Instrument:* Electron Microscope. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument will be used to investigate advanced glycation end product localization using post-embedding immunoelectron microscopy techniques on thin sections from human cardiac biopsies. Required characteristics of the instrument include 120 kV accelerating voltage, and an electron gun assembly with Cool Beam Illumination System—LaB6 filament standard. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* January 19, 2011.

Docket Number: 11–007. *Applicant:* University of Arkansas, Office of Business Affairs, ADMN 321 Physics Fayetteville, AR 72701. *Instrument:* Electron Microscope. *Manufacturer:* FEI Inc., the Netherlands. *Intended Use:* The instrument will be used to complement the FEI instruments already installed at the facility, and be used to provide high-resolution imaging, spectroscopy, and sample preparation capabilities. The instrument has a unique 5-axis motorized eucentric specimen stage which reads out and displays all 5 axes with an accuracy of 0.01 microns and 0.01 degrees. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* January 24, 2011.

Docket Number: 11–015. *Applicant:* The Regents of the University of California, Lawrence Berkeley National Laboratory, 1 Cyclotron Road, M/S 71R0259, Berkeley, CA 94720. *Instrument:* Electron Microscope. *Manufacturer:* Carl Zeiss SMT, Inc., Germany. *Intended Use:* The instrument will be used to investigate the structure and composition of inorganic, polymer and biological nano-materials. The instrument allows for the employment of transmission microscopy techniques, such as high-resolution imaging and tomography, cryo-imaging, energy-filtered imaging, energy loss spectroscopy and selected-area diffraction. It meets the necessary specifications of the research, including stability of sample stage and image with respect to thermal drift and external vibration, flexibility of stage motions, flexibility of software for signal acquisition and image processing, overall system stability, and ease of use. *Justification for Duty-Free Entry:* There are no instruments of the same general category being manufactured in the United States. *Application accepted by Commissioner of Customs:* December 7, 2010.

Dated: February 23, 2011.

Gregory Campbell,

Director, IA Subsidies Enforcement Office.

[FR Doc. 2011–4515 Filed 2–28–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before March 21, 2011. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. at the U.S. Department of Commerce in Room 3720.

Docket Number: 10–034. *Applicant:* University of Colorado, 12801 E. 17th Ave., RC1 South, Rm 10101, Box 6511, Mailstop 8101, Aurora, CO 80045. *Instrument:* Singer MSM System 300TSA. *Manufacturer:* Singer Instrument Co. Ltd., United Kingdom. *Intended Use:* The instrument will be used to manipulate yeast cells and spores for genetic analysis and construction of strains with particular mutations, pedigree analysis, cell and zygote isolation and cell cycle and cell aging studies. The instrument consists of a micromanipulator device attached to a microscope with a computerized stage that allows the user to keep track of the position. It also has a CCD camera video monitor that reduces the eye strain caused by prolonged peering through microscope objectives. The components of this instrument are specifically designed for work with yeast cells. This instrument is unique because it has a motorized stage, which can be programmed to automatically move to predetermined positions, and the joystick electronic. *Justification for Duty-Free Entry:* There are no instruments of the same general category being manufactured in the United States. *Application accepted by Commissioner of Customs:* January 12, 2011.

Docket Number: 10–077. *Applicant:* University of Chicago LLC, Operators of Argonne National Laboratory, 9700 South Cass Ave., Lemont, IL 60439. *Instrument:* Batch Furnace. *Manufacturer:* NGK Insulators Ltd., Japan. *Intended Use:* The instrument will be used in the synthesis of cathode materials for lithium ion batteries. In particular, the instrument will be applied during the last step of the synthesis—the calcination of the cathode material. The techniques used in calcinations are very dependent on the calcination furnace. This instrument's furnace allows for heating in oxygen flow. The uniformity of heating and oxygen flow is critical to obtain the cathode material because the temperature, together with the oxygen flow, ensures the removal of aqueous residues on the material. The material must be free of water because lithium and water can react and have fatal consequences. This batch furnace includes high distribution of the sample (multiple trays), which allows for faster drying and greater uniformity than a

conventional furnace. This batch furnace also has an oxygen control system that has a 10kg batch size. *Justification for Duty-Free Entry:* There are no instruments of the same general category being manufactured in the United States. *Application accepted by Commissioner of Customs:* October 14, 2010.

Docket Number: 11–001. *Applicant:* Michigan State University, 2555 Engineering Building, Department of Mechanical Engineering, East Lansing, MI 48824–1226. *Instrument:* Diode Pumped High Speed Nd: YAG laser system. *Manufacturer:* Edgewave GmbH, Germany. *Intended Use:* The instrument will be used as a diagnostics equipment to study high temperature combustion occurring in a rotary type engine called a "wave disk engine." The laser will be used to pump a dye laser to generate ultra-violet light which can be used to track chemical species during combustion. The main diagnostics technique will be planar laser fluorescence (PLIF) imaging where the laser light is used to excite target gas species, which can then be imaged using an intensified CCD camera. The main feature of the laser, which is particularly suited for the necessary application, is the beam profile (M^2<2) and energy stability over lengthy operation times, which is critical when quantifying combustion species using PLIF over different operation modes. This is the only laser that can do sub 10 ns pulses with all the different specifications. *Justification for Duty-Free Entry:* There are no instruments of the same general category being manufactured in the United States. *Application accepted by Commissioner of Customs:* December 2, 2010.

Docket Number: 11–009. *Applicant:* UChicago Argonne LLC, 9700 South Cass Ave., Lemont, IL 60439–4873. Instrument: Electrode Coater. *Manufacturer:* A–Pro Co., Ltd, South Korea. *Intended Use:* The instrument will be used to aid the development of novel lithium-ion battery materials. The experiments to be conducted with this instrument involve making electrodes for lithium-ion cells with varying amounts and types of active materials in the electrodes and electrolytes. The cells are then subjected to electrochemical performance testing to determine the influence of the active materials under test. The objective is to make lithium-ion cells in a rigid cylindrical (18650) format and compare the results against lithium-ion cells made in a flexible (pouch) format. Key to this research is the ability to make high quality electrodes that can be used in either the 18650 cell or pouch cells. These electrodes are made with an electrode coating machine that needs to be semi-automated and suitable for a laboratory environment, and specially tailored for lithium-ion electrodes. *Justification for Duty-Free Entry:* There are no instruments of the same general category being manufactured in the United States. *Application accepted by Commissioner of Customs:* January 24, 2011.

Docket Number: 11–010. *Applicant:* University of Wisconsin—Madison Materials Science Center, 1509 University Avenue Madison, WI 53706. *Instrument:* Vitrobot Mark IV. *Manufacturer:* FEI Company, the Netherlands. *Intended Use:* The instrument will be used to directly obtain real-space images of native surfactant nanostrutctures in aqueous solutions. Typical materials include samples of a poly(vinyl-alcohol)-derived block copolymer surfactant in aqueous solution, beta-peptide nanorods, and highly ordered lyotropic liquid crystalline aggregates. The experiments to be conducted are to make various combinations of the basic molecules in aqueous solution, and vitrify the samples so they can be placed in an electron microscope to study how the mixtures choose to self-assemble. The specific features that make this instrument unique include the folllowing: instrumental parameters must be computer controlled and enable storing of parameter protocols, including humidity, blotting time and pressure, and equilibration time; mitigation of errors must be derived from the handling of TEM grids including loading, application of sample, plunging, and transfer to storage by automating some of these tasks; and sample blotting must be done automatically with user controlled programmable blot times and pressures. *Justification for Duty-Free Entry:* There are no instruments of the same general category being manufactured in the United States. *Application accepted by Commissioner of Customs:* January 21, 2011.

Docket Number: 11–011. *Applicant:* National Superconducting Cyclotron Laboratory (NSCL) at Michigan State University, 1 Cyclotron Laboratory South Shaw Lane East Lansing, MI 48824–1321. *Instrument:* Differential Plunger Device. *Manufacturer:* Institut fur Kernphysik—Universitat zu koln (Cologne Univ.), Germany. *Intended Use:* The instrument will be used to measure lifetimes of bound and unbound states in rare isotopes with rare isotope beams. Collective motions of nuclei and nuclear reactions will be studied using rare isotope beams. Rare isotopes will be produced using nuclear reactions of stable isotopes accelerated by the existing coupled cyclotron facility. The instrument is specific to the research in level lifetime measurements of rare isotopes. *Justification for Duty-Free Entry:* There are no instruments of the same general category being manufactured in the United States. *Application accepted by Commissioner of Customs:* January 25, 2011.

Docket Number: 11–014. *Applicant:* Purdue University, Herrick Laboratories, 140 S. Martin Jischke Drive, West Lafayette, IN 47907. *Instrument:* Vibration Test System—Shaker in Trunion with Matching Amplifier and Cooling Blower. *Manufacturer:* TIRA, Germany. *Intended Use:* The instrument will be used to look at the dynamic response of flexible structures. It is a general purpose electrodynamic vibration exciter that will facilitate projects involving phenomenon such as near-resonant linear and nonlinear behaviors, structural health monitoring, vibration amplification and attenuation, and energy harvesting. Features of the instrument include its arbitrary excitation angle, large frequency, force, displacement range and spectral output purity. This instrument was unique in that it included the ability to rotate to varying degrees. *Justification for Duty-Free Entry:* There are no instruments of the same general category being manufactured in the United States. *Application accepted by Commissioner of Customs:* January 7, 2011.

Docket Number: 11–017. *Applicant:* UChicago Argonne, LLC, 9700 S. Cass Ave., Lemont, IL 60439. *Instrument:* Electron Guns for Caribu EBIS Charge Breeder. *Manufacturer:* Budker Institute of Nuclear Physics, Russia. *Intended Use:* The instrument will be used to study and optimize parameters of the Electron Beam Ion Source (EBIS) charge breeder for effective further acceleration of rare isotope ion beams by the Argonne Tandem Linear Accelerator System (ATLAS). The experiments conducted will include off-line optimization of EBIS charge breeder efficiency by optimization of ion beam injection and extraction optics. The main requirement to the EBIS charge breeder is its high efficiency and long maintenance free operational period. *Justification for Duty-Free Entry:* There are no instruments of the same general category being manufactured in the United States. *Application accepted by Commissioner of Customs:* February 2, 2011.

February 23, 2011.

Gregory Campbell,

Acting Director, IA Subsidies Enforcement Office.

[FR Doc. 2011–4517 Filed 2–28–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year ("Sunset") Review

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

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

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

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

SUPPLEMENTARY INFORMATION:

Background

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

Initiation of Review

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

DOC Case No.	ITC Case No.	Country	Product	Department contact
A–427–602	731–TA–313	France	Brass Sheet & Strip (3rd Review)	David Goldberger (202) 482–4136.
A–428–602	731–TA–317	Germany	Brass Sheet & Strip (3rd Review)	David Goldberger (202) 482–4136.
A–475–601	731–TA–314	Italy	Brass Sheet & Strip (3rd Review)	David Goldberger (202) 482–4136.
A–588–704	731–TA–379	Japan	Brass Sheet & Strip (3rd Review)	David Goldberger (202) 482–4136.
A–580–839	731–TA–825	South Korea	Polyester Staple Fiber (2nd Review)	Dana Mermelstein (202) 482–1391.
A–583–833	731–TA–826	Taiwan	Polyester Staple Fiber (2nd Review)	Dana Mermelstein (202) 482–1391.
A–821–811	731–TA–856	Russia	Ammonium Nitrate (2nd Review)	Sally Gannon (202) 482–0162.

Filing Information

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

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

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

Information Required From Interested Parties

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

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

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

countervailing duty proceedings at the Department.

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

Date: February 18, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–4520 Filed 2–28–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–886]

Polyethylene Retail Carrier Bags From the People's Republic of China: Rescission of Antidumping Duty Administrative Review

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

SUMMARY: In response to a request from interested parties, the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on polyethylene retail carrier bags (PRCBs) from the People's Republic of China (PRC) with respect to Dongguan Nozawa Plastics Products Co., Ltd., and United Power Packaging, Ltd. (collectively Nozawa). The period of review is August 1, 2009, through July 31, 2010. The Department is rescinding the administrative review.

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

FOR FURTHER INFORMATION CONTACT: Catherine Cartsos or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1757 or (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 9, 2004, we published in the **Federal Register** an antidumping duty order on PRCBs from the PRC. See *Antidumping Duty Order: Polyethylene Retail Carrier Bags From the People's Republic of China,* 69 FR 48201 (August 9, 2004). On August 2, 2010, we published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on PRCBs from the PRC. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 75 FR 45094 (August 2, 2010). On August 31, 2010, pursuant to section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), the petitioner, the Polyethylene Retail Carrier Bag Committee and its individual members, Hilex Poly Co., LLC, and Superbag Corporation, requested an administrative review of the order with respect to Nozawa, an exporter of PRCBs from the PRC. On September 29, 2010, in accordance with section 751(a) of the Act and 19 CFR 351.221(c)(1)(i), we published a notice of initiation of an administrative review of the order. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 75 FR 60076 (September 29, 2010).

Rescission of Review

In accordance with 19 CFR 351.213(d)(1), the Department will rescind an administrative review, "in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review." We received a notice of withdrawal from the petitioner with respect to the review requested of Nozawa within the 90-day time limit. See letter from the petitioner dated December 22, 2010. Because we received no other requests for review of Nozawa and no other requests for the review of the order on PRCBs from the PRC with respect to other companies subject to the order, we are rescinding the administrative review of the order in full. This rescission is in accordance with 19 CFR 351.213(d)(1).

The Department intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice.

Notification to Importer

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice is published in accordance with section 777(i)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: February 17, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–4508 Filed 2–28–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Water Technology Trade Mission to India

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Mission Description

The United States Department of Commerce, International Trade Administration, U.S. and Foreign Commercial Service (CS), is organizing a Water Technology Trade Mission to India from February 28 to March 4, 2011. The purpose of the mission is to expose U.S. firms to India's rapidly expanding water and waste water market and to assist U.S. companies to seize export opportunities in this sector. The trade mission participants will be comprised of representatives from leading U.S. companies that provide state-of-the-art water and waste water technologies ranging from hydropower and desalination plants to appliances and purification systems. The mission will visit two cities: Bangalore and Mumbai, where participants will receive market briefings and meet with key government decisions makers and prospective private sector partners on a one-on-one basis. During the Mumbai portion of the mission delegates will use Aquatech India 2011, a leading international water technology show, as a platform for business meetings and networking with the option to exhibit either on their own or in a shared CS exhibition area that will be offered separately as a supplemental service to Trade Mission participants.

Commercial Setting

India faces a critical shortage of reliable, safe water for personal consumption and for industrial use. In recent years rapid industrialization and a growing population have placed increasing demands on the country's limited water resources. Although India receives substantial amounts of annual rainfall, the monsoon season is unpredictable and much of the rainfall is not captured. Furthermore, most of India's water resources are allocated to the agricultural sector, leaving little or

no resources for other uses. To address this issue, the government of India and the private sector have made commitments to invest in water and wastewater treatment technologies. To explore these and other opportunities, the trade mission will visit two cities: Bangalore and Mumbai.

• The city of Bangalore, located in the state of Karnataka, receives 70 percent of its water supply (714 million liters per day) from two rivers: The Cauvery and the Arkavati rivers, and the balance from groundwater systems (bore wells, lakes, etc.), yet demand still outstrips supply. The Bangalore Water Supply and Sewerage Board (BWSSB) and the Karnataka Water Supply and Sewerage Board (KWSSB) are the two main government agencies that provide drinking water and sewerage disposal systems to Bangalore and other villages throughout the state. The BWSSB and KWSSB are looking to the private sector to initiate projects on a public-private partnership basis to conserve, recycle, improve operation and maintenance of water treatment plants, and to improve management of water and wastewater utilities. In addition, private real estate developers are creating small residential/commercial townships and are looking for water technologies for conservation and reuse.

Mumbai, in the state of Maharashtra, is the commercial capital of India and a rapidly growing metropolis with a population nearing 20 million people. Mumbai has six lakes serving as freshwater resources, yet the city faces a chronic water shortage. The city does not have adequate supplies of safe drinking water as much of the groundwater is polluted due to sewage and industrial waste. Furthermore, given the Mumbai region's position as an industrial hub, industry needs for highly purified water are large and growing.

The Municipal Corporation of Greater Mumbai (MCGM) is responsible for water purification, supply, sewage treatment and disposal. The MCGM has proposed two recycling plants to be constructed to recycle 250 million liters of water every day. Also, the MCGM is exploring the feasibility of establishing a desalination plant with a capacity of 100 million liters. Private sector water players are looking for community-based wastewater treatment systems that would allow them to bypass the inadequate municipal system. Efforts are also underway to improve citywide rainwater harvesting systems, which creates opportunities for U.S. companies that have expertise in these technologies.

Mission Goals

The goals of the Water Technology Trade Mission to India are to help U.S. water and waste water technology companies initiate and/or expand their exports to India by providing introductions to industry representatives and potential partners, networking opportunities, current market information and a platform for policy discussions with the local Municipal Corporations. U.S. companies will find the best opportunities in sanitation, urban water supply improvement, rainwater capture, and municipal waste treatment. Additional opportunities exist in providing consulting and design services to the Indian water industry.

Mission Scenario

The mission will start in Bangalore, where participants will meet with officials from the state of Karnataka, the local Municipal Corporation and potential private sector partners. Next, the participants will visit Mumbai where they will meet with private water companies and officials from the state of Maharashtra. In Mumbai the participants will have the option to attend Aquatech India 2011, a leading international water technology show in India. The participants will also attend policy, market and commercial briefings by the U.S. Commercial Service as well as networking events offering further opportunities to speak with local business and government representatives. U.S. participants will be counseled before and after the mission by CS India staff. Participation in the mission will include the following:

• Pre-travel briefings on subjects ranging from business practices in India to security;

• Pre-scheduled meetings with potential partners, distributors, end users, or local industry contacts in Bangalore and Mumbai;

• Airport transfers in Bangalore and Mumbai;

• Meetings with state government and local Municipal officials; and,

• Participation in a networking reception in Bangalore.

For trade mission recruitment efforts CS India will work in conjunction with the Global Environmental Team, which will serve as a key facilitator in establishing strong commercial ties to the U.S. water industry. The Global Environmental Team will play an active role in promoting U.S. water technology exports, broadening the identification of NTE/NTM clients, deepening internal CS industry expertise, and contributing to relevant commercial diplomacy successes.

Timetable

Sunday, February 27, 2011	Bangalore Delegates arrive in Bangalore/check-in and rest overnight.
Monday, February 28, 2011	Bangalore. Briefing. Meetings with State Government officials. Meetings with local Municipal officials. Business matchmaking sessions. Networking reception.
Tuesday, March 1, 2011	Bangalore/Mumbai. Site visit. Travel to Mumbai. Arrive in Mumbai/check-in and rest overnight.
Wednesday, March 2, 2011	Mumbai. CS Mumbai briefing. Aquatech India 2011 inauguration and exhibition (optional). Business matchmaking sessions.
Thursday, March 3, 2011	Mumbai. Meetings with State Government officials. Meetings with local Municipal officials. Business matchmaking sessions. Aquatech India 2011—conference and exhibition (optional). Delegates may depart for U.S. or stay for optional Friday activities.
Friday, March 4, 2011	Mumbai.

	Site visit (optional). Aquatech India 2011—conference and exhibition (optional). Departure for the U.S.

Participation Requirements

All parties interested in participating in the Water Technology Trade Mission to India must complete and submit an application package for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. The mission will open on a first come first served basis for up to 15 qualified U.S. companies.

Fees and Expenses

After a company has been selected to participate in the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee will be $3,000 for large firms and $2,400 for a small- or medium-sized enterprise (SME), which includes one representative.* The fee for each additional firm representative (large firm or SME) is $250. Expenses for travel, lodging, most meals, and incidentals will be the responsibility of each mission participant.

Conditions for Participation

- An applicant must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services, primary market objectives, and goals for participation.
- Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content.

Selection Criteria for Participation

- Suitability of the company's products or services to the market or markets targeted by the mission.
- Consistency of the applicant's goals and objectives with the scope and design of the mission.
- Applicant's potential for business [in the target markets/in the mission country(ies)], including likelihood of exports resulting from the mission.

Diversity of company size, sector or subsector, and location may also be considered during the review process.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*http://www.ita.doc.gov/doctm/tmcal.html*) and other Internet web sites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. Recruitment for the mission will begin immediately and conclude no later than January 15, 2011. The mission will be open on a first come first served basis. Applications received after that date will be considered only if space and scheduling constraints permit.

Information can also be obtained by contacting the mission contacts listed below.

Contacts

U.S. Commercial Services India, Mr. Kamal Vora, U.S. Commercial Services, Mumbai, Tel: 91–22–22652511, E-mail: *Kamal.Vora@trade.gov.*

Mr. Leonard Roberts, U.S. Commercial Services, Bangalore, Tel: 91–80–2220–6403, E-mail: *Leonard.Roberts@trade.gov.* U.S. Commercial Services Export Assistance Centers, Ms. Julia Rauner Guerrero, Senior International Trade Specialist. U.S. Commercial Service, San Diego, Tel: 858–467–7038, E-mail: *Julia.Rauner@trade.gov.*

Mr. Bill Cline, Director, U.S. Commercial Service, Reno, Tel: 775–784–5203, E-mail: *Bill.Cline@trade.gov.*

Lisa Huot,

Trade Promotion Programs, International Trade Specialist, U.S. Commercial Service.

[FR Doc. 2011–4555 Filed 2–28–11; 8:45 am]

BILLING CODE 3510–FP–P

* An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (*see http://www.sba.gov/services/contracting opportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (*see http://www.export.gov/newsletter/march2008/initiatives.html for additional information*).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA254

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Construction and Operation of a Liquefied Natural Gas Deepwater Port in the Gulf of Mexico

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

ACTION: Notice; receipt of application for letter of authorization; request for comments and information.

SUMMARY: NMFS has received a request from Port Dolphin Energy LLC (Port Dolphin) for authorization for the take, by Level B harassment, of marine mammals incidental to construction and operation of the Port Dolphin Deepwater Port (Port) off the Gulf coast of Florida for the period June 2012–June 2017. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of Port Dolphin's request for the development and implementation of 5-year regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on Port Dolphin's application and request.

DATES: Comments and information must be received no later than March 31, 2011.

ADDRESSES: Comments on the application 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. The mailbox address for providing e-mail comments is *ITP.Nachman@noaa.gov.* NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail,

including all attachments, must not exceed a 10-megabyte file size.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.nmfs.noaa.gov/pr/permits/incidental.htm* 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.

FOR FURTHER INFORMATION CONTACT: Candace Nachman, Office of Protected Resources, NMFS, (301) 713–2289, ext. 156.

SUPPLEMENTARY INFORMATION:

Availability

A copy of Port Dolphin's application may be obtained by writing to the address specified above (**ADDRESSES**), calling the contact listed above (**FOR FURTHER INFORMATION CONTACT**), or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* The U.S. Coast Guard's and U.S. Maritime Administration's Final Environmental Impact Statement was made available to the public on July 9, 2009.

Background

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

Authorization for incidental takings 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 (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as ". . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as:

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

Summary of Request

On February 1, 2011, NMFS received a complete application from Port Dolphin requesting authorization for the take of two marine mammal species incidental to construction and operation of a liquefied natural gas (LNG) deepwater port off the Gulf coast of Florida over the course of 5 years, which would necessitate the promulgation of 5-year regulations. Port Dolphin plans to build the LNG Port off the western coast of Florida, approximately 42 mi (68 km) from Port Manatee, Florida. Once built, Port Dolphin anticipates up to 46 shuttle regasification vessel (SRV) unloadings per year during the first several years of operation. Noise produced during Port installation and construction activities and Port operations have the potential to take marine mammals. Port Dolphin requests authorization to take two cetacean species by Level B harassment only: Atlantic spotted dolphin and bottlenose dolphin. Injury or mortality is unlikely during the proposed activities, and take by Level A harassment (including injury) or mortality is not requested in Port Dolphin's application.

Specified Activities

In the application submitted to NMFS, Port Dolphin requests authorization to take marine mammals incidental to construction and operation of the LNG Port off the Gulf coast of Florida. Construction activities, which would take approximately 11 months to complete, include: buoy installation; offshore hammering; horizontal directional drilling (HDD); HDD vibratory; pipeline laying offshore; pipeline laying inshore; offshore plowing; and inshore plowing. Operational activities include: SRV maneuvering and docking and regasification. Sections 1 and 2 of Port Dolphin's application describe the full suite of activities, as well as the location and duration of activity.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning Port Dolphin's request (*see* **ADDRESSES**). All information, suggestions, and comments related to Port Dolphin's request and NMFS' potential development and implementation of regulations governing the incidental taking of marine mammals by Port Dolphin's activities will be considered by NMFS in developing, if appropriate, the most effective regulations governing the issuance of letters of authorization.

Dated: February 23, 2011.

James H. Lecky,

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

[FR Doc. 2011–4539 Filed 2–28–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Proposed Collection; Patent Examiner Employment Application

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the revision of a currently approved collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 2, 2011.

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

- *E-mail: InformationCollection@uspto.gov.* Include "0651–0042 comment" in the subject line of the message.
- *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal Rulemaking Portal: http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of LaRita Jones, Chief of the Workforce Employment Division, Office of Human Resources, United States Patent and Trademark Office (USPTO), P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–6196; or by e-mail to *larita.jones@uspto.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The USA Staffing system provided by the Office of Personnel Management (OPM) is an automated online system that allows the USPTO to rapidly review applications for employment of entry-level patent examiners. The Office of Human Resources (OHR), armed with a recommendation from a Supervisory Patent Examiner (SPE), can use the system to rapidly make an offer of employment and take the necessary administrative action to support the hiring process. In FY 2010 and FY 2011, USA Staffing enabled the Patent Corps to hire more than 1,000 entry-level patent examiners.

Since the inception of USA Staffing in January 2007, the hiring process has become more effective and compliant with the examining requirements established by OPM. In the current employment environment, information technology professionals and engineering graduates are in great demand. The USPTO is in direct competition with private industry for the same caliber of candidates with the requisite knowledge and skills to perform patent examination work. Consequently, it is imperative that every available technology be employed if the USPTO is to remain competitive, meet hiring goals, and fulfill the agency's Congressional commitment to reduce the pendency rate for the examination of patent applications. The information supplied by an applicant seeking a patent examiner position with the USPTO assists the Human Resources Specialists and hiring managers in determining whether an applicant possesses the basic qualification requirements for the patent examiner position.

USA Staffing provides the USPTO with a user-friendly online employment application process for applicants and enables the USPTO to process hiring actions in an efficient and timely manner. The online application creates an electronic real-time candidate inventory that allows the USPTO to review applications from potential applicants almost instantaneously. Given the immediate hiring need of the Patent Examining Corps, time consumed in the mail distribution system or paper review of applications delays the decision-making process by several weeks. The USA Staffing system results in increased speed and accuracy in the employment process, in addition to streamlining labor and reducing costs.

The use of the USA Staffing online application fully complies with 5 U.S.C. 2301, which requires adequate public notice to assure open competition by guaranteeing that necessary employment information will be accessible and available to the public on inquiry. It is also fully compliant with Section 508 (29 U.S.C. 794(d)), which requires agencies to provide disabled employees and members of the public access to information that is comparable to the access available to others.

II. Method of Collection

With the use of USA Staffing, the application information is collected electronically from the applicant. Applicants contact the OPM USA Jobs Web site where they will find the online job announcement that links them to the application. The application is completed online and then transmitted to the USPTO via the Internet. For those applicants who do not have access to a personal computer, applications may be faxed to the OPM computer facility for processing.

III. Data

OMB Number: 0651–0042.

Form Number(s): N/A.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 10,000 responses per year.

Estimated Time per Response: The USPTO estimates that it will take the public approximately 30 minutes (0.5 hours) to complete the employment application, depending upon the situation.

Estimated Total Annual Respondent Burden Hours: 5,000 hours per year.

Estimated Total Annual Respondent Cost Burden: $230,350. Using the median hourly rate for scientists and engineers of $46.07 as listed by the Bureau of Labor Statistics, the USPTO estimates $230,350 per year in cost burden associated with respondents. This is a fully loaded hourly rate.

Item	Estimated time for response (minutes)	Estimated annual responses	Estimated annual burden hours
Patent Examiner Employee Application	30	10,000	5,000
Total		10,000	5,000

Estimated Total Annual (Non-hour) Respondent Cost Burden: $9,700. There are no maintenance or record keeping costs, as well as no filing fees associated with this information collection. However there are annual (non-hour) costs in the form of postage costs.

Not every applicant can supply all of the required information electronically. The applicant does have the option to submit a "Paper Qualifications Questionnaire" and any supporting documents, such as resumes) to the USPTO either by fax, mail or in person. The transcripts and other supporting materials are submitted to the USPTO the same way. These additional documents may be submitted to the USPTO by first-class mail through the United States Postal Service. The USPTO estimates that the average first-class postage is 97 cents. Therefore the USPTO estimates that it will receive 10,000 responses per year, for a total of $9,700 (10,000 × $0.97) in postage costs.

IV. Request for Comments

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

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

Dated: February 24, 2011.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer.

[FR Doc. 2011–4458 Filed 2–28–11; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Proposed Collection; Substantive Submissions Made During Prosecution of the Trademark Application

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the revision of a continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 2, 2011.

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

- *E-mail: InformationCollection@uspto.gov.* Include "0651–0054 comment" in the subject line of the message.
- *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal Rulemaking Portal: http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Catherine Cain, Attorney Advisor, Office of the Commissioner for Trademarks, United States Patent and Trademark Office, P.O. Box 1451, Alexandria, VA 22313–1451, by telephone at 571–272–8946, or by e-mail to *Catherine.Cain@uspto.gov.*

SUPPLEMENTARY INFORMATION

I. Abstract

The United States Patent and Trademark Office (USPTO) administers the Trademark Act, 15 U.S.C. 1051 *et seq.,* which provides for the Federal registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register their marks with the USPTO.

Such individuals and businesses may also submit various communications to the USPTO, including requests to amend their registrations to delete goods or services that are no longer being used by the registrant. Registered marks remain on the register for ten years and can be renewed, but will be cancelled unless the owner files with the USPTO a declaration attesting to the continued use (or excusable non-use) of the mark in commerce within specific deadlines. Applicants may also surrender a registration and, in limited situations, petition the Director to reinstate a registration that has been cancelled.

The rules implementing the Act are set forth in 37 CFR part 2. These rules mandate that each register entry include the mark, the goods and/or services in connection with which the mark is used, ownership information, dates of use, and certain other information. The USPTO also provides similar information concerning pending applications. The register and pending application information may be accessed by an individual or by businesses to determine the availability of a mark. By accessing the USPTO's information, parties may reduce the possibility of initiating use of a mark previously adopted by another. The Federal trademark registration process may thereby lessen the filing of papers in court and between parties.

The USPTO is proposing to include six new items in the inventory at this time to take into account a new method of electronic submission of information for which a dedicated TEAS form is not yet available (*i.e.,* "Global Forms"). The new items are: Response to Intent-to-Use (ITU) Divisional Unit Office Action, Response to Petition to Revive Deficiency Letter, Petition to the Director Under Trademark Rule 2.146, Due Diligence Petition Under Trademark Rule 2.66, Petition to Revive With Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA, and Request to Divide Application. Corresponding paper submissions for these six new items are also included in this collection.

II. Method of Collection

Electronically if applicants submit the information using the forms available through the Trademark Electronic Application System (TEAS). By mail or hand delivery if applicants choose to submit the information in paper form.

III. Data

OMB Number: 0651–0054.

Form Number(s): PTO Forms 1553, 1581, 2194, 2195, 2200, and 2202.

Type of Review: Revision of a currently approved collection.

Affected Public: Primarily business or other for-profit organizations.

Estimated Number of Respondents: 289,519 per year.

Estimated Time per Response: The USPTO estimates that it will take approximately 5 minutes (0.08 hours) to 20 minutes (0.33 hours) to complete this information. This includes the time to gather the necessary information, create the documents, and submit the completed request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 48,469.

Estimated Total Annual Respondent Cost Burden: $15,752,425. The USPTO believes that attorneys will complete this information. The estimated hourly rate for attorneys in private firms is $325. Using this hourly rate, the USPTO estimates that the total respondent cost burden for this collection is $15,752,425 per year. This is a fully loaded hourly rate.

Item	Estimated time for response (minutes)	Estimated annual responses	Estimated annual burden hours
Trademark/Service Mark Allegation of Use (Statement of Use/Amendment to Allege Use) (Paper)	20	4,361	1,439
Trademark/Service Mark Allegation of Use (Statement of Use/Amendment to Allege Use) (TEAS)	15	73,525	18,381
Request for Extension of Time to File a Statement of Use (Paper)	10	4,531	770
Request for Extension of Time to File a Statement of Use (TEAS)	8	176,715	22,973
Petition to Revive Abandoned Application—Failure to Respond Timely to Office Action (Paper)	15	810	203

Item	Estimated time for response (minutes)	Estimated annual responses	Estimated annual burden hours
Petition to Revive Abandoned Application—Failure to Respond Timely to Office Action (TEAS)	12	15,396	3,079
Petition to Revive Abandoned Application—Failure to File Timely Statement of Use or Extension Request (Paper)	12	43	9
Petition to Revive Abandoned Application—Failure to File Timely Statement of Use or Extension Request (TEAS)	10	810	138
Request to Delete Section 1(b) Basis, Intent to Use (Paper)	10	69	12
Request to Delete Section 1(b) Basis, Intent to Use (TEAS)	5	1,380	110
Request for Express Abandonment (Withdrawal) of Application (Paper)	10	277	47
Request for Express Abandonment (Withdrawal) of Application (TEAS)	5	5,548	444
Request to Divide Application (Paper)	10	261	44
Request to Divide Application (TEAS Global)	8	5,211	677
Response to Intent-to-Use (ITU) Divisional Unit Office Action (Paper)	10	0	0
Response to Intent-to-Use (ITU) Divisional Unit Office Action (TEAS Global)	8	2	1
Response to Petition to Revive Deficiency Letter (Paper)	15	5	1
Response to Petition to Revive Deficiency Letter (TEAS Global)	12	100	20
Petition to the Director Under Trademark Rule 2.146 (Paper)	20	16	5
Petition to the Director Under Trademark Rule 2.146 (TEAS Global)	15	310	78
Due Diligence Petition Under Trademark Rule 2.66 (Paper)	20	7	2
Due Diligence Petition Under Trademark Rule 2.66 (TEAS Global)	15	140	35
Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA (Paper)	12	0	0
Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA (TEAS Global)	10	2	1
Totals		289,519	48,469

Estimated Total Annual Non-Hour Respondent Cost Burden (includes postage costs and filing fees): $37,280,667. This collection has no operating or maintenance costs.

Applicants incur postage costs when submitting non-electronic information to the USPTO by mail through the United States Postal Service. The USPTO estimates that the majority of the paper forms are submitted to the USPTO via first-class mail at a rate of 44 cents per ounce. Therefore, the USPTO estimates that the postage costs for the paper submissions in this collection will be $4,567.

Item	Responses (yr) (a)	Postage Costs (b)	Total cost (yr) (a × b)
Trademark/Service Mark Allegation of Use (Statement of Use/Amendment to Allege Use)	4,361	$0.44	$1,919.00
Request for Extension of Time to File a Statement of Use	4,531	0.44	1,994.00
Petition to Revive Abandoned Application—Failure to Respond Timely to Office Action	810	0.44	356.00
Petition to Revive Abandoned Application—Failure to File Timely Statement of Use or Extension Request	43	0.44	19.00
Request to Delete Section 1(b) Basis, Intent to Use	69	0.44	30.00
Request for Express Abandonment (Withdrawal of Application)	277	0.44	122.00
Request to Divide Application	261	0.44	115.00
Response to Intent-to-Use (ITU) Divisional Unit Office Action	0	0.44	0.00
Response to Petition to Revive Deficiency Letter	5	0.44	2.00
Petition to the Director Under Trademark Rule 2.146	16	0.44	7.00
Due Diligence Petition Under Trademark Rule 2.66	7	0.44	3.00
Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA	0	0.44	0.00
Totals	10,380		$4,567.00

Filing fees are based on per class filing of goods and services; therefore, the total filing fees can vary depending on the number of classes. The total filing fees of $37,276,100 shown here are the minimum fees associated with this information collection.

Item	Responses (yr) (a)	Filing fees (b)	Total cost (yr) (a x b)
Trademark/Service Mark Allegation of Use (Statement of Use/Amendment to Allege Use) (Paper)	4,361	$100.00	$436,100.00

Item	Responses (yr) (a)	Filing fees (b)	Total cost (yr) (a x b)
Trademark/Service Mark Allegation of Use (Statement of Use/Amendment to Allege Use) (TEAS)	73,525	100.00	7,352,500.00
Request for Extension of Time to File a Statement of Use (Paper)	4,531	150.00	679,650.00
Request for Extension of Time to File a Statement of Use (TEAS)	176,715	150.00	26,507,250.00
Petition to Revive Abandoned Application—Failure to Respond Timely to Office Action (Paper)	810	100.00	81,000.00
Petition to Revive Abandoned Application—Failure to Respond Timely to Office Action (TEAS)	15,396	100.00	1,539,600.00
Petition to Revive Abandoned Application—Failure to File Timely Statement of Use or Extension Request (Paper)	43	100.00	4,300.00
Petition to Revive Abandoned Application—Failure to File Timely Statement of Use or Extension Request (TEAS)	810	100.00	81,000.00
Request to Delete Section 1(b) Basis, Intent to Use (Paper)	69	0.00	0.00
Request to Delete Section 1(b) Basis, Intent to Use (TEAS)	1,380	0.00	0.00
Request for Express Abandonment (Withdrawal) of Application (Paper)	277	0.00	0.00
Request for Express Abandonment (Withdrawal) of Application (TEAS)	5,548	0.00	0.00
Request to Divide Application (Paper)	261	100.00	26,100.00
Request to Divide Application (TEAS Global)	5,211	100.00	521,100.00
Response to Intent-to-Use (ITU) Divisional Unit Office Action (Paper)	0	0.00	0.00
Response to Intent-to-Use (ITU) Divisional Unit Office Action (TEAS Global)	2	0.00	0.00
Response to Petition to Revive Deficiency Letter (Paper)	5	0.00	0.00
Response to Petition to Revive Deficiency Letter (TEAS Global)	100	0.00	0.00
Petition to the Director Under Trademark Rule 2.146 (Paper)	16	100.00	1,600.00
Petition to the Director Under Trademark Rule 2.146 (TEAS Global)	310	100.00	31,000.00
Due Diligence Petition Under Trademark Rule 2.66 (Paper)	7	100.00	700.00
Due Diligence Petition Under Trademark Rule 2.66 (TEAS Global)	140	100.00	14,000.00
Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA (Paper)	0	100.00	0.00
Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA (TEAS Global)	2	100.00	200.00
Totals	289,519	.....	37,276,100.00

***Note:** All filing fees are based on per class filing.

IV. Request for Comments

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

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

Dated: February 24, 2011.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer.

[FR Doc. 2011–4457 Filed 2–28–11; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday March 25, 2011.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance and Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202–418–5084.

Sauntia S. Warfield,

Assistant Secretary of the Commission.

[FR Doc. 2011–4681 Filed 2–25–11; 4:15 pm]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday March 18, 2011.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance and Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202–418–5084.

Sauntia S. Warfield,

Assistant Secretary of the Commission.

[FR Doc. 2011–4683 Filed 2–25–11; 4:15 pm]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday March 11, 2011.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance and Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202–418–5084.

Sauntia S. Warfield,

Assistant Secretary of the Commission.

[FR Doc. 2011–4704 Filed 2–25–11; 4:15 pm]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday March 4, 2011.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance and Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202–418–5084.

Sauntia S. Warfield,

Assistant Secretary of the Commission.

[FR Doc. 2011–4705 Filed 2–25–11; 3:15 pm]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Department Advisory Committee on Women in the Services (DACOWITS)

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: On February 14, 2011 (76 FR 8351), the Department of Defense published a notice of a meeting of the Defense Department Advisory Committee on Women in the Services (DACOWITS). The following information contains updates to the agenda.

Pursuant to Section 10(a), Public Law 92–463, as amended, notice is hereby given of a forthcoming meeting of the DACOWITS. The purpose of the meeting is for the Committee to approve and finalize the 2010 report. The Committee will also review and finalize the protocol questions for the 2011 report and discuss installation visits. The Committee will receive a briefing and have a discussion on sexual assault prevention. Finally, the Committee will recognize departing members. The meeting is open to the public, subject to the availability of space.

Interested persons may submit a written statement for consideration by the Defense Department Advisory Committee on Women in the Services. Individuals submitting a written statement must submit their statement to the Point of Contact listed below at the address detailed below NLT 5 p.m., Wednesday, March 2, 2011. If a written statement is not received by Wednesday, March 2, 2011, prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Defense Advisory Committee on Women in the Services until its next open meeting. The Designated Federal Officer will review all timely submissions with the Defense Advisory Committee on Women in the Services Chairperson and ensure they are provided to the members of the Defense Advisory Committee on Women in the Services. If members of the public are interested in making an oral statement, a written statement must be submitted as above. After reviewing the written comments, the Chairperson and the Designated Federal Officer will determine who of the requesting persons will be able to make an oral presentation of their issue during an open portion of this meeting or at a future meeting. Determination of who will be making an oral presentation will depend on time available and if the topics are relevant to the Committee's activities. Two minutes will be allotted to persons desiring to make an oral presentation. Oral presentations by members of the public will be permitted only on Friday March 4, 2011 from 1:45 p.m. to 2:15 p.m. before the full Committee. Number of oral presentations to be made will depend on the number of requests received from members of the public.

Dates & Times: March 4, 2011, 8 a.m.–2:30 p.m.

Location: Residence Inn Marriott, 550 Army Navy Dr., Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: MSgt Robert Bowling, USAF, or DACOWITS, 4000 Defense Pentagon, Room 2C548A, Washington, DC 20301–4000. *Robert.bowling@osd.mil* Telephone (703) 697–2122. Fax (703) 614–6233.

Meeting agenda:

Friday, March 4, 2011, 8 a.m.–2:30 p.m.

—Welcome, introductions, and announcements
—Finalize the 2010 report
—Receive briefing and open discussion on sexual assault prevention
—Finalize 2011 protocol questions and installation/site visits
—Public Forum

Dated: February 23, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–4432 Filed 2–28–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Advisory Council on Dependents' Education

AGENCY: Department of Defense Education Activity (DoDEA), DoD.

ACTION: Notice of open meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the following Federal advisory committee meeting of the Advisory Council on Dependents' Education will take place:

DATES: Thursday, April 21, 2011, 6 p.m. to 11 p.m. Eastern Standard Time via Video-teleconference (VTC) Friday, April 22, 2011, 7 a.m. to 12 p.m. Japan Standard Time.

ADDRESSES: Yokota Air Base, Japan, VTC, 4040 North Fairfax Drive, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Dr. Steve Schrankel at (703) 588–3109 or *Steve.Schrankel@hq.dodea.edu*.

SUPPLEMENTARY INFORMATION: *Purpose of the Meeting:* Recommend to the Acting Director DoDEA, general policies for the operation of the Department of Defense Dependents Schools (DoDDS); to provide the Acting Director with information about effective educational programs and practices that should be considered by DoDDS; and to perform other tasks as may be required by the Secretary of Defense.

Agenda: The meeting agenda will reflect current DoDDS schools operational status, educational practices, and other educational matters that come before the council.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165 and the availability of space, this meeting is open to the public. Seating is on a first-come basis. The purpose of the VTC meeting on April 21, 2011 at 6 p.m. Eastern Daylight Time is to provide the public in the United States access to the meeting held in Japan on April 22, 2011 at 7 a.m. Japan Standard Time.

Committee's Point of Contact: Dr. Steve Schrankel at (703) 588–3109, 4040

North Fairfax Drive, Arlington, VA 22203 or *Steve.Schrankel@hq.dodea.edu.*

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact Dr. Schrankel at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements to the Advisory Council on Dependents' Education about its mission and functions. Written statements may be submitted at any time or in response to the stated agendas of the planned meeting of the Advisory Council on Dependents' Education.

All written statements shall be submitted to the Designated Federal Officer (DFO) for the Advisory Council on Dependents' Education, Dr. Patrick A. Dworakowski, 4040 North Fairfax Drive, Arlington, VA 22203; *Patrick.Dworakowski@hq.dodea.edu.*

Statements being submitted in response to the agendas mentioned in this notice must be received by the DFO at the address listed above at least fourteen calendar days prior to the meeting, which is the subject of this notice. Written statements received after this date may not be provided to or considered by the Advisory Council on Dependents' Education until its next meeting.

The DFO will review all timely submissions with the Advisory Council on Dependents' Education Chairpersons and ensure they are provided to all members of the Advisory Council on Dependents' Education before the meeting that is the subject of this notice.

Oral Statements by the Public to the Membership: Pursuant to 41 CFR 102–3.140(d), time will be allotted for public comments to the Advisory Council on Dependents' Education. Individual comments will be limited to a maximum of five minutes duration. The total time allotted for public comments will not exceed thirty minutes.

Dated: February 23, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–4434 Filed 2–28–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Uniform Formulary Beneficiary Advisory Panel

AGENCY: Department of Defense, Assistant Secretary of Defense (Health Affairs).

ACTION: Notice of meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (Title 5, United States Code (U.S.C.), Appendix, as amended) and the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended) the Department of Defense announces the following Federal Advisory Committee Meeting of the Uniform Formulary Beneficiary Advisory Panel (hereafter referred to as the Panel).

DATES: March 24, 2011, from 9 a.m.–1 p.m.

ADDRESSES: Naval Heritage Center Theater, 701 Pennsylvania Avenue, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Stacia Spridgen, Designated Federal Officer, Uniform Formulary Beneficiary Advisory Panel, 4130 Stanley Road, Suite 208, Ft. Sam Houston, TX 78234–6102, Telephone: (210) 295–1271, Fax: (210) 295–2789. E-mail Address: *Baprequests@tma.osd.mil.*

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: The Panel will review and comment on recommendations made to the Director, TRICARE Management Activity, by the Pharmacy and Therapeutics Committee regarding the Uniform Formulary.

Meeting Agenda:

1. Sign-In.
2. Welcome and Opening Remarks.
3. Public Citizen Comments.
4. Scheduled Therapeutic Class Reviews (Comments will follow each agenda item).

a. Pancreatic Enzymes.

b. Inflammatory Bowel Syndrome (IBS)/Inflammatory Bowel Disease (IBD).

c. Antilipidemics—Lip-2.

d. Designated Newly Approved Drugs in Already-Reviewed Classes.

e. Pertinent Utilization Management Issues.

f. Drugs Recommended for Non-Formulary Placement Due to Non-Compliance with the National Defense Authorization Act for Fiscal Year 2008, Section 703.

5. Panel Discussions and Vote.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended, and Title 41, Code of Federal Regulations (CFR), Section 102–3.140 through 102–3.165, and the availability of space this meeting is open to the public. Seating is limited and will be provided only to the first 220 people signing-in. All persons must sign-in legibly.

Administrative Work Meeting: Prior to the public meeting, the Panel will conduct an Administrative Work Meeting from 7:30 a.m. to 9 a.m. to discuss administrative matters of the Panel. The Administrative Work Meeting will be held at the Naval Heritage Center, 701 Pennsylvania Avenue, NW., Washington, DC 20004. Pursuant to 41 CFR 102–3.160, the Administrative Work Meeting will be closed to the public.

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the membership of the Panel at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Panel's Designated Federal Officer (DFO). The DFO's contact information can be obtained from the General Services Administration's Federal Advisory Committee Act Database—*https://www.fido.gov/facadatabase/public.asp.*

Written statements that do not pertain to the scheduled meeting of the Panel may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than five business days prior to the meeting in question. The DFO will review all submitted written statements and provide copies to all the committee members.

Public Comments: In addition to written statements, the Panel will set aside one hour for individuals or interested groups to address the Panel. To ensure consideration of their comments, individuals and interested groups should submit written statements as outlined in this notice; but if they still want to address the Panel, then they will be afforded the opportunity to register to address the Panel. The Panel's DFO will have a "Sign-Up Roster" available at the Panel meeting, for registration on a first-come, first-serve basis. Those wishing to address the Panel will be given no more than five minutes to present their comments, and at the end of the one hour time period, no further public comments will be accepted. Anyone who signs up to address the Panel, but is unable to do so due to the time limitation, may submit their comments in writing; however, they must

understand that their written comments may not be reviewed prior to the Panel's deliberation. Accordingly, the Panel recommends that individuals and interested groups consider submitting written statements instead of addressing the Panel.

Dated: February 23, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–4436 Filed 2–28–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2011–OS–0025]

Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice to delete a system of records.

SUMMARY: The Defense Logistics Agency proposes to delete a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on March 31, 2011 unless comments are received which result in a contrary determination.

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

- *Federal Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Mailroom 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: Jody Sinkler at (703) 767–5045, or Chief Privacy and FOIA Officer, Headquarters Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the **FOR FURTHER INFORMATION CONTACT** address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendment is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports.

Dated: February 23, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Deletion:

SYSTEM IDENTIFIER AND NAME:

S200.20 CAH, Active Duty Military Personnel Data Bank System (July 19, 1999, 64 FR 38661).

REASON:

Records are being consolidated into S310.07, entitled "Military Personnel System."

[FR Doc. 2011–4437 Filed 2–28–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2011–OS–0017]

Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice to delete a system of records.

SUMMARY: The Defense Logistics Agency proposes to delete a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on March 31, 2011 unless comments are received which result in a contrary determination.

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

- *Federal Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Mailroom 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 of 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: Jody Sinkler at (703) 767–5045, or Chief Privacy and FOIA Officer, Headquarters Defense Logistics Agency, *Attn:* DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the **FOR FURTHER INFORMATION CONTACT** address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendment is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports.

Dated: February 23, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETION:

SYSTEM IDENTIFIER AND NAME:

S400.05, Official Personnel Files for Non-Appropriated Fund Employees January 22, 2009, 74 FR 3998.

REASON FOR DELETION:

Non-appropriated fund employees are considered federal employees as defined in 5 U.S.C. 2105, and are therefore covered by the Office of Personnel Management government-wide Privacy Act systems of records.

[FR Doc. 2011–4433 Filed 2–28–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2011–0006]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Air Force proposes to alter a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on March 31, 2011 unless comments are received which result in a contrary determination.

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

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Mailroom 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: Mr. Charles J. Shedrick, 703–696–6488, or Department of the Air Force Privacy Office, Air Force Privacy Act Office, Office of Warfighting Integration and Chief Information Officer, ATTN: SAF/CIO A6, 1800 Air Force Pentagon, Washington, DC 20330–1800.

SUPPLEMENTARY INFORMATION: The Department of the Air Force's notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are 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, were submitted on (DPCLO enter date submitted) to the House Committee on Oversight and Government Reform, 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 Individuals," dated February 8, 1996, (February 20, 1996, 61 FR 6427).

Dated: February 17, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F036 AF PC I

SYSTEM NAME:

Incoming Clearance Records (June 11, 1997, 62 FR 31793).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Military Processing Sections at Air Force installations. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices."

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Records contain individual's name, Social Security Number (SSN), home of record, member's selected separation or retirement location other than home of record, home address, character of service: honorable, general/under honorable conditions, under other than honorable conditions, bad conduct, uncharacterized, Certificate of Release or Discharge from Active Duty, Correction to Certificate of Release or Discharge from Active Duty and retirement/separation notification, orders, relocation in-processing documents received by the processing unit prior to member's arrival."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 8013, Secretary of the Air Force; 10 U.S.C. 8032, The Air Staff: general duties; Air Force Instruction 36–2102, Base-Level Relocation Procedures; and E.O. 9397 (SSN), as amended."

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete and replace with "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 be specifically disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system."

* * * * *

STORAGE:

Delete entry and replace with "Maintained in binders/cabinets.

RETRIEVABILITY:

Delete entry and replace with "Retrieved by name and/or Social Security Number (SSN)."

SAFEGUARDS:

Delete entry and replace with "Records are accessed by custodian of the records and by person(s) responsible for servicing the record in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms."

RETENTION AND DISPOSAL:

Delete entry and replace with "Records are retained 3 months after reporting, and then destroyed by tearing into small bits, pulping, shredding, burning, or macerating."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Headquarters Air Force Personnel Center, Total Service Center Directorate Field Activities Branch (HQ AFPC/DPTSF), 550 C Street West, Suite 6, Randolph Air Force Base, TX 78150–4737."

NOTIFICATION PROCEDURES:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to or visit the Headquarters Air Force Personnel Center, Total Service Center Directorate Field Activities Branch (HQ AFPC/DPTSF), 550 C Street West, Suite 6, Randolph Air Force Base, TX 78150–4737.

For verification purposes, individuals should provide their full name, Social Security Number (SSN), any details which may assist in locating records, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained

in this system of records should address written inquiries to or visit the Headquarters Air Force Personnel Center, Total Service Center Directorate Field Activities Branch (HQ AFPC/DPTSF), 550 C Street West, Suite 6, Randolph Air Force Base, TX 78150–4737.

For verification purposes, individuals should provide their full name, Social Security Number (SSN), any details which may assist in locating records, and their signature.

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If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 33–332, Privacy Act Program; CFR part 806b; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Special Orders and information extracted from Personnel Data System (automated record system) and Unit Personnel Record Group from Military Personnel Record System."

* * * * *

F036 AF PC I

SYSTEM NAME:

Incoming Clearance Records.

SYSTEM LOCATION:

Military Processing Sections at Air Force installations. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Record is established for each Active Duty Air Force member projected for arrival at a new duty location.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain individual's name, Social Security Number (SSN), home of record, member's selected separation or retirement location other than home of record, home address, character of service: honorable, general/under honorable conditions, under other than honorable conditions, bad conduct, uncharacterized, Certificate of Release or Discharge from Active Duty, Correction to Certificate of Release or Discharge from Active Duty and retirement/separation notification, orders, relocation in-processing documents received by the processing unit prior to member's arrival.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; 10 U.S.C. 8032, The Air Staff: general duties; Air Force Instruction 36–2102, Base-Level Relocation Procedures; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

To provide a central location for retaining documents received prior to a member's physical arrival at joining installation of assignment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES 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 be specifically disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in binders/cabinets.

RETRIEVABILITY:

Retrieved by name and/or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the records and by person(s) responsible for servicing the records in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Records are retained 3 months after reporting, and then destroyed by tearing into small bits, pulping, shredding, burning, or macerating.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters Air Force Personnel Center, Total Service Center Directorate Field Activities Branch (HQ AFPC/DPTSF), 550 C Street West, Suite 6, Randolph Air Force Base, TX 78150–4737.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to or visit the Headquarters Air Force Personnel Center, Total Service Center Directorate Field Activities Branch (HQ AFPC/DPTSF), 550 C Street West, Suite 6, Randolph Air Force Base, TX 78150–4737.

For verification purposes, individuals should provide their full name, Social Security Number (SSN), any details, which may assist in locating records, and their signature.

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If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to or visit the Headquarters Air Force Personnel Center, Total Service Center Directorate Field Activities Branch (HQ AFPC/DPTSF), 550 C Street West, Suite 6, Randolph Air Force Base, TX 78150–4737.

For verification purposes, individuals should provide their full name, Social Security Number (SSN), any details, which may assist in locating records, and their signature.

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If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify,

verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 33–332, Privacy Act Program; CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Special Orders and information extracted from Personnel Data System (automated record system) and Unit Personnel Record Group from Military Personnel Record System.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2011–4435 Filed 2–28–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Inland Waterways Users Board

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

ACTION: Notice of open meeting.

SUMMARY: In Accordance with 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the forthcoming meeting.

Name of Committee: Inland Waterways Users Board (Board).

Date: April 1, 2011.

Location: The Westin New Orleans Canal Place, 100 Rue Iberville, New Orleans, Louisiana 70130 at 504–566–7006 or 1–888–627–8180.

Time: Registration will begin at 8:30 a.m. and the meeting is scheduled to adjourn at approximately 1 p.m.

Agenda: The Board will be provided the status of the funding for inland navigation projects and studies and the status of the Inland Waterways Trust Fund, the funding status for Fiscal Year (FY) 2011 and the FY 2012 budget, consider the implementation of the Inland Marine Transportation System (IMTS) Investment Strategy report recommendations, as well as be updated on the work being performed by the Hurricane Projection Office.

FOR FURTHER INFORMATION CONTACT: Mr. Mark R. Pointon, Headquarters, U.S. Army Corps of Engineers, CECW–ID, 441 G Street, NW., Washington, DC 20314–1000; Ph: 202–761–4691.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee.

Dated: February 24, 2011.

David B. Olson,

Federal Register Liaison Officer, U.S. Army Corps of Engineers.

[FR Doc. 2011–4499 Filed 2–28–11; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Public Meetings for the Draft Environmental Impact Statement for Land Acquisition and Airspace Establishment at Marine Corps Air Ground Combat Center Twentynine Palms, CA

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to section (102)(2)(c) of the National Environmental Policy Act (NEPA) of 1969, and regulations implemented by the Council on Environmental Quality (40 Code of Federal Regulations [CFR] parts 1500–1508), Department of Navy (DoN) NEPA regulations (32 CFR part 775) and U.S. Marine Corps (USMC) NEPA directives (Marine Corps Order P5090.2A, changes 1 and 2), the DoN has prepared and filed with the U.S. Environmental Protection Agency (EPA) a Draft Environmental Impact Statement (EIS) that evaluates potential environmental impacts associated with the proposed establishment of a large-scale training range at the Marine Corps Air Ground Combat Center ("Combat Center") at Twentynine Palms, California. This proposed action would accommodate sustained, combined-arms, live-fire and maneuver training exercises for all elements of a Marine Expeditionary Brigade (MEB).

With the filing of the Draft EIS, the DoN is initiating a 90-day public comment period and has scheduled three public open house meetings to receive oral and written comments on the Draft EIS. Federal, state and local agencies and interested parties are encouraged to provide comments in person at any of the public open house meetings, or in writing anytime during the public comment period. This notice announces the dates and locations of the public meetings and provides supplementary information about the environmental planning effort.

DATES: The Draft EIS public review period will begin February 25, 2011, and end on May 26, 2011. The USMC is holding three informational open house style public meetings to inform the public about the proposed action and the alternatives under consideration, and to provide an opportunity for the public to comment on the proposed action, alternatives, and the adequacy and accuracy of the Draft EIS. USMC representatives will be on hand to discuss and answer questions on the proposed action, the NEPA process and the findings presented in the Draft EIS. Public open house meetings will be held:

(1) Tuesday, April 12, 2011, 5 p.m. to 9 p.m., at Copper Mountain College, Bell Center Gym, 6162 Rotary Way, Joshua Tree, CA 92252.

(2) Wednesday, April 13, 2011, 5 p.m. to 9 p.m., at Ontario High School Gym, 901 W. Francis St., Ontario, CA 91762.

(3) Thursday, April 14, 2011, 5 p.m. to 9 p.m., at Hilton Garden Inn, Mirage/Sahara Conference Center, 12603 Mariposa Road, Victorville, CA 92395.

Attendees will be able to submit written comments at the public meetings. A stenographer will be present to transcribe oral comments. Equal weight will be given to oral and written statements. All statements, oral transcription and written, submitted during the public review period will become part of the public record on the Draft EIS and will be responded to in the Final EIS. Comments may also be submitted by U.S. mail or electronically via the project Web site provided below.

ADDRESSES: A copy of the Draft EIS is available at the project Web site, *http://www.marines.mil/unit/29palms/las,* and at the local libraries identified at the end of this notice. Comments on the Draft EIS can be submitted via the project Web site or submitted in writing to: Naval Facilities Engineering Command Southwest, ATTN: 29Palms EIS Project Manager, 1220 Pacific Highway, San Diego, CA 92132–5190. All comments must be postmarked or received by May 26, 2011, to ensure they become part of the official record. All timely comments will be responded to in the Final EIS.

FOR FURTHER INFORMATION CONTACT: Chris Proudfoot, Program Manager Land Acquisition at 760–830–3764 or *SMBPLMSWEBPAO@usmc.mil.*

SUPPLEMENTARY INFORMATION: A Notice of Intent (NOI) to prepare the EIS was published in the **Federal Register** on October 30, 2008 (Vol. 73, No. 211, p. 64604), and a correction notice was published in the **Federal Register** on November 21, 2008 (Vol. 73, No. 226, p. 70626), to correct an error in the original October 30, 2008, NOI regarding the

scheduled dates for the public scoping meetings.

Proposed Action

The proposed action includes three fundamental and interrelated components: Acquisition of Land contiguous to the existing Combat Center to provide a sufficient area for realistic MEB-sized sustained, combined-arms, live-fire, and maneuver training that meets at least a minimum threshold level of MEB training requirements within appropriate margins of safety.

Modification and Establishment of Special Use Airspace to enable full integration of MEB-sized Aviation Combat Element operations and both air- and ground-delivered live-fire ordnance use within appropriate margins of safety.

Expanded Training implemented as a full-scale MEB Exercise conducted twice per year for 24 continuous days each. Current levels of proficiency training (Building Block training) may be conducted (up to a single battalion in size) when MEB Exercises are not being conducted.

Purpose and Need

The proposed action is needed for the USMC to conduct sustained, combined-arms live-fire and maneuver field training exercises for a MEB-sized Marine Air Ground Task Force (MAGTF) consisting of three battalion task forces and associated command, aviation and combat logistics support elements. These training requirements, drawn from a November 2006 Marine Requirements Oversight Council decision to validate the need for a MEB-sized MAGTF training area, stem from the USMC Strategy 21 commitment to increasingly employ MEBs as the primary contingency response force. Marine Expeditionary Brigades must be capable of performing a variety of missions throughout the spectrum of conflict because they will encounter complex situations containing asymmetric threats, nonlinear battlefields, and unclear delineation between combatants and noncombatants. To overcome these challenges and operate effectively, MEBs must be able to conduct maneuver-intensive operations over extended distances, supported by closely coordinated precision fires, aviation-delivered ordnance, and sustained, focused logistical support. The proposed action is needed because existing training bases, facilities, ranges, and live-fire ground and air maneuver areas are inadequate to support MEB-sized training exercises. An effective MEB-sized exercise requires live-fire and maneuver training space (and associated airspace) for three battalions, while the USMC's largest training site (the Combat Center) can only accommodate live-fire and maneuver training for up to two battalions. Current training capabilities and methods offer only limited practical experience and cannot provide realistic training opportunities that enhance the capability to rapidly and effectively integrate all elements of the large-scale MAGTF into a single cohesive force. In addition, because most of the training areas aboard the Combat Center are fully committed during traditional combined arms training (which occurs over 250 days per year), Building Block training for home station and external units are sometimes diminished in scope, forcing units to add remediation events to combat pre-deployment training to satisfy prerequisites for combat certification. The proposed action is needed to resolve training range deficiencies so that MEB training can be accommodated in accordance with the 2006 Marine Requirements Oversight Council decision and the pre-deployment readiness directives of USMC Order 3502.6, and so that Marines are able to train as they will fight.

Alternatives Considered in the Draft EIS

The Draft EIS examines six action alternatives and the No-Action Alternative. The six action alternatives all have the same three fundamental components: acquisition of additional training land, establishment and modification of airspace, and a new field exercise program of sustained, combined-arms, live-fire and maneuver training that meets at least the minimum threshold requirements for training a MEB. Under all alternatives, acquired airspace would be returned to Federal Aviation Administration (FAA) control to be made available for commercial and general aviation when not being used by the USMC. In addition, three of the action alternatives (Alternatives 4, 5 and 6) would allow for restricted public access for recreational use on a portion of the acquired land in the west study area (Johnson Valley) when military training activities are not being conducted.

Each of the six action alternatives would involve limited construction activities, including: installation of up to three communications towers (similar to existing towers located within the Combat Center); periodic placement and redistribution of temporary target arrays; temporary ground excavation associated with normal vehicle and infantry maneuver operations (*e.g.,* for trenches, fighting positions, etc.); some re-grading or other improvement/maintenance of existing unpaved access roads; and the development of up to 35 miles of new unpaved access roads. Under Alternative 3 only, four concrete tank crossings would be constructed across North Amboy Road. No other permanent fixtures or infrastructure would be constructed, demolished or modified under any of the six action alternatives.

Additional personnel would be required to manage the land/airspace areas and expanded training capability under each action alternative. The increase in military and civilian personnel would vary by alternative, and are estimated to be between 59 and 77 additional personnel. In addition, during each proposed MEB Exercise, an estimated 10,000 to 15,000 Marines would reside at the existing Exercise Support Base within the Combat Center.

Alternative 1 would add approximately 201,657 acres to the existing Combat Center (180,353 acres to the west of the base and 21,304 acres to the south of the base). This alternative would establish new Restricted Area airspace over the acquired lands to the west to accommodate live-fire from aviation and surface units, establish new Military Operations Area airspace, and modify lateral and vertical dimensions of existing Military Operations Areas in other parts of the project area.

Alternative 2 would add approximately 134,863 acres to the existing Combat Center (113,558 acres to the west of the base and the same 21,304 acres to the south as in Alternative 1). Proposed training activities and airspace requirements would be similar to Alternative 1 but would align with the smaller acquisition area of Alternative 2.

Alternative 3 would add approximately 198,580 acres to the existing Combat Center (177,276 acres to the east of the base and the same 21,304 acres to the south as in Alternative 1). This alternative would establish new Restricted Area airspace over the acquired lands to the east to accommodate live-fire from aviation and surface units, establish new Military Operations Area airspace, and modify lateral and vertical dimensions of existing Military Operations Areas in other parts of the project area.

Alternative 4 would add approximately 201,657 acres to the existing Combat Center (180,353 acres to the west of the base and the same 21,304 acres to the south as in Alternative 1) and accompanying Special Use Airspace. Proposed training activities

and airspace requirements would be similar to Alternative 1. The western expansion area would be a Restricted Public Access Area, available to the public for 10 months of the year when not used by the USMC.

Alternative 5 would add the same 180,353 acres of land to the west of the base as in Alternatives 1 and 4 but no additional land to the south. Proposed training activities and airspace requirements would be similar to Alternative 1 and 4. The western expansion area would be a Restricted Public Access Area, available to the public for 10 months of the year when not used by the USMC.

Alternative 6 (Preferred Alternative) would add approximately 167,971 acres to the existing Combat Center (146,667 acres to the west of the base and the same 21,304 acres to the south as in Alternative 1) and accompanying Special Use Airspace. Of the western land acquisition, approximately 108,530 acres would be exclusive USMC Use, while the remaining 38,137 acres would be a Restricted Public Access Area, available to the public 10 months per year when it is not being used by the USMC. Proposed training activities and airspace requirements would otherwise be similar to Alternative 1.

The No Action Alternative would seek no additional lands and no additions or changes to Special Use Airspace associated with the Combat Center's current range complex.

Environmental Effects Identified in Draft EIS

Potential impacts were evaluated in the Draft EIS under all alternatives for the following resources: land use, recreation, socioeconomics and environmental justice, public health and safety, visual resources, transportation and circulation, airspace management, air quality, noise, biological resources, cultural resources, geological resources and water resources.

The Draft EIS includes mitigation measures, special conservation measures, and features of project design to avoid or minimize potential impacts. The proposed action would fully comply with regulatory requirements for the protection of environmental resources. A Biological Assessment has been prepared for submittal to the U.S. Fish & Wildlife Service in compliance with Section 7 of the Endangered Species Act. In addition, the USMC is coordinating with the California State Historic Preservation Office on Section 106 of the National Historic Preservation Act, and with the Mojave Desert Air Quality Management District on the Clean Air Act.

The proposed action would result in unavoidable impacts related to land use (due to inconsistencies with federal and local land use plans and policies, incompatibility with mining claims and leases, and the acquisition of privately-owned land), recreation (due to the loss of recreational use of the Johnson Valley Off-Highway Vehicle [OHV] Area), socioeconomics (due to decreased spending and income from OHV and other recreational activities, and impacts to existing commercial and private aircraft flight routes), public health and safety (due to potential public contact with munitions constituents or other hazards under Alternatives 4, 5 and 6), air quality (due to air emissions from construction and training activities), biological resources (due to the likelihood of training exercise-related incidental take of desert tortoises), cultural resources (due to the potential loss of archeological sites, even if mitigated through data recovery), geological resources (due to compaction of soils, disruption of surface crust, shearing of soil profiles, and soil particle dispersion as dust due to military activities), and water resources (due to increased demand for potable groundwater supplies).

Schedule: The Notice of Availability (NOA) publication in the **Federal Register** and local print media starts the 90-day public comment period for the Draft EIS. The DoN will consider and respond to all written, oral and electronic comments, submitted as described above, in the Final EIS. The DoN intends to issue the Final EIS in November 2011, at which time an NOA will be published in the **Federal Register** and local print media. A Record of Decision is expected to be published in April 2012.

Copies of the Draft EIS can be found on the project Web site, *http://www.marines.mil/unit/29palms/*las or at the following locations:

(1) Newton T. Bass Apple Valley Branch Library, 14901 Dale Evans Parkway, Apple Valley, CA 92307.

(2) Barstow Branch Library, 304 E. Buena Vista St., Barstow, CA 92311.

(3) Joshua Tree Library, 6465 Park Blvd., Joshua Tree, CA 92252.

(4) Lucerne Valley Janice Horst Branch Library, 33103 Old Woman Springs Road, Lucerne Valley, CA 92356.

(5) Needles Branch Library, 1111 Bailey Ave., Needles, CA 92363.

(6) Ovitt Family Community Library, 215 E. C St., Ontario, CA 91764.

(7) Sacramento Public Library Central Branch, 828 I Street, Sacramento, CA 95814.

(8) San Bernardino County Library, 104 W. Fourth St., San Bernardino, CA 92415.

(9) Twentynine Palms Library, 6078 Adobe Road, Twentynine Palms, CA 92277.

(10) Victorville City Library, 15011 Circle Drive, Victorville, CA 92395.

(11) Yucca Valley Branch Library, 57098 29 Palms Highway, Yucca Valley, CA 92284.

Dated: February 18, 2011.

D. J. Werner,

Lieutenant Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2011–4461 Filed 2–28–11; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Training and Information for Parents of Children With Disabilities Office of Special Education and Rehabilitative Services; Overview Information; Training and Information for Parents of Children With Disabilities; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2011.

Catalog of Federal Domestic Assistance (CFDA) Numbers: 84.328C and 84.328M.

Note: This notice invites applications for two separate competitions. For key dates, contact person information, and funding information regarding each competition, see the chart in the *Award Information* section of this notice.

Dates:

Applications Available: See chart.

Deadline for Transmittal of Applications: See chart.

Deadline for Intergovernmental Review: See chart.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of this program is to ensure that parents of children with disabilities receive training and information to help improve results for their children.

Priorities: In accordance with 34 CFR 75.105(b)(2)(iv) and (v), these priorities are from allowable activities specified in the statute, or otherwise authorized in the statute (see sections 671, 672 and 681(d) of the Individuals with Disabilities Education Act (IDEA)). Each of the absolute priorities announced in this notice corresponds to a separate competition as follows:

Absolute priority	Competition CFDA No.
Community Parent Resource Centers	84.328C

Absolute priority	Competition CFDA No.
Parent Training and Information Centers	84.328M

Absolute Priorities: For FY 2011 and any subsequent year in which we make awards from the list of unfunded applicants from these competitions, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3), for each competition, we consider only applications that meet the absolute priority for that competition.

The priorities are:

Absolute Priority 1—Community Parent Resource Centers (84.328C)

Background:

Almost 30 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home (see section 601(c)(5)(B) of IDEA).

This priority supports Community Parent Resource Centers (CPRCs) in targeted communities that will provide underserved parents of children with disabilities, including low-income parents, parents of limited English proficient children, and parents with disabilities in that community, with the training and information they need to enable them to participate cooperatively and effectively in helping their children with disabilities to—

(a) Meet developmental and functional goals, and challenging academic achievement standards that have been established for all children; and

(b) Be prepared to lead productive, independent adult lives, to the maximum extent possible.

The following Web site provides further information on the work of previously funded centers: *http://www.parentcenternetwork.org.*

Priority:

To be considered for funding under the CPRCs absolute priority, applicants must meet the application requirements contained in the priority. All projects funded under the absolute priority also must meet the programmatic and administrative requirements specified in the priority.

Application Requirements. An applicant must include in its application—

(a) A plan to implement the activities described in the *Project Activities* section of this priority; and

(b) A budget for attendance at the following:

(1) A three-day National Technical Assistance for Parent Centers Conference in Washington, DC during each year of the project period.

(2) A two-day Regional Technical Assistance for Parent Centers Conference, in the region in which the CPRC is located, during each year of the project period. Applicants should refer to *http://www.parentcenternetwork.org* for a list of regions.

Project Activities. To meet the requirements of this priority, the CPRC, at a minimum, must—

(a) Maintain a Web site that meets government or industry-recognized standards for accessibility;

(b) Provide training and information that meets the training and information needs of parents of children with disabilities within the proposed targeted community to be served by the CPRC, particularly underserved parents and parents of children who may be inappropriately identified as having disabilities;

Note: For purposes of this priority, "targeted community to be served" refers to a geographically defined, local community whose members experience significant isolation from available sources of information and support as a result of cultural, economic, linguistic, or other circumstances deemed appropriate by the Secretary.

(c) Carry out the following activities required of parent training and information centers:

(1) Serve the parents of infants, toddlers, and children, from ages birth through 26, with the full range of disabilities described in section 602(3) of IDEA.

(2) Ensure that the training and information provided meet the needs of low-income parents and parents of limited English proficient children.

(3) Assist parents to—

(i) Better understand the nature of their children's disabilities and their educational, developmental, and transitional needs;

(ii) Communicate effectively and work collaboratively with personnel responsible for providing special education, early intervention services, transition services, and related services;

(iii) Participate in decision-making processes, including those regarding participation in State and local assessments, and the development of individualized education programs under Part B of IDEA and individualized family service plans under Part C of IDEA;

(iv) Obtain appropriate information about the range, type, and quality of—

(A) Options, programs, services, technologies, practices, and interventions based on scientifically based research, to the extent practicable; and

(B) Resources available to assist children with disabilities and their families in school and at home, including information available through the Office of Special Education Programs' (OSEP) technical assistance and dissemination centers (*http://www.tadnet.org*), and communities of practice (*http://www.tacommunities.org*);

(v) Understand the requirements of IDEA related to the provision of education and early intervention services to children with disabilities;

(vi) Participate in activities at the school level that benefit their children; and

(vii) Participate in school reform activities.

(4) In States where the State elects to contract with the CPRCs, contract with the State educational agencies (SEAs) to provide, consistent with paragraphs (B) and (D) of section 615(e)(2) of IDEA, individuals to meet with parents in order to explain the mediation process.

(5) Assist parents in resolving disputes in the most expeditious and effective way possible, including encouraging the use and explaining the benefits of alternative methods of dispute resolution, such as the mediation process described in section 615(e) of IDEA.

(6) Assist parents and students with disabilities to understand their rights and responsibilities under IDEA, including those under section 615(m) of IDEA upon the student's reaching the age of majority (as appropriate under State law).

(7) Assist parents to understand the availability of, and how to effectively use, procedural safeguards under IDEA.

(8) Assist parents in understanding, preparing for, and participating in, the resolution session described in section 615(f)(1)(B) of IDEA;

(d) Establish cooperative partnerships with any Parent Training and Information Centers (PTIs) and any other CPRCs funded in the State under sections 671 and 672 of IDEA, respectively;

(e) Be designed to meet the specific needs of families who experience significant isolation from available sources of information and support;

(f) Be familiar with the provision of special education, related services, and early intervention services in the CPRC's targeted community to be served to help ensure that children with

disabilities are receiving appropriate services;

(g) Annually report to the Department on—

(1) The number and demographics of parents to whom the CPRC provided information and training in the most recently concluded fiscal year, including additional information regarding the parents' unique needs and the levels of service provided to them; and

(2) The effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities, by providing evidence of how those parents were served effectively;

(h) Respond to requests from the OSEP-funded National and Regional Parent Technical Assistance Centers (PTACs), and use the technical assistance services of the National and Regional PTACs in order to serve the families of infants, toddlers, and children with disabilities as efficiently as possible. Regional PTACs are charged with assisting parent centers with administrative and programmatic issues;

(i) In collaboration with OSEP and the National PTAC participate in an annual collection of program data for the PTIs and CPRCs funded under sections 671 and 672 of IDEA, respectively; and

(j) Maintain ongoing communication with the OSEP Project Officer through phone conversations and email communication.

In addition, the CPRC's board of directors must meet not less than once in each calendar quarter to review the activities for which the award was made and submit to the Secretary a written review of the CPRC's activities conducted during the preceding fiscal year.

Competitive Preference Priority: Within this absolute priority, we give competitive preference to applications that meet the following priority. For FY 2011 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is a competitive preference priority.

Competitive Preference Priority: Under 34 CFR 75.105(c)(2)(i) we award an additional 5 points to an application that meets this priority.

This priority is:

Applicants that propose to design a program with specific activities and services focused on meeting the unique needs of parents who have children enrolled in either high-poverty schools [1] or persistently lowest-achieving schools [2] within the area served by the CPRC.

Note: The 5 points an applicant can earn under this competitive preference priority is in addition to those points awarded under the selection criteria for this competition (*see Selection Criteria* in section V in this notice). That is, an applicant meeting the competitive preference priority could earn a maximum total of 105 points.

Absolute Priority 2—Parent Training and Information Centers (84.328M)

Background:

Almost 30 years of research and experience have demonstrated that the education of children with disabilities can be made more effective by strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home (*see* section 601(c)(5)(B) of IDEA).

This priority supports Parent Training and Information Centers (PTIs) in the areas to be served by the centers that will provide parents of children with disabilities, including low-income parents, parents of limited English proficient children, and parents with disabilities, with the training and information they need to enable them to participate cooperatively and effectively in helping their children with disabilities to—

(a) Meet developmental and functional goals, and challenging academic achievement standards that have been established for all children; and

(b) Be prepared to lead productive, independent adult lives, to the maximum extent possible.

The following Web site provides more information on the work of previously funded centers: *http://www.parentcenternetwork.org.*

Priority:

To be considered for funding under the PTIs absolute priority, applicants must meet the application requirements contained in the priority. All projects funded under the absolute priority also must meet the programmatic and administrative requirements specified in the priority.

Application Requirements. An applicant must include in its application—

(a) A logic model that depicts, at a minimum, the goals, activities, outputs, and outcomes of the proposed project. A logic model communicates how a project will achieve its outcomes and provides a framework for both the formative and summative evaluations of the project;

Note: The following Web site provides more information on logic models: *http://www.tadnet.org/model_and_performance.*

(b) A plan to implement the activities described in the *Project Activities* section of this priority;

(c) A plan, linked to the proposed project's logic model, for a formative evaluation of the proposed project's activities. The plan must describe how the formative evaluation will use clear performance objectives to ensure continuous improvement in the operation of the proposed project, including objective measures of progress in implementing the project and ensuring the quality of products and services;

(d) A budget for attendance at the following:

(1) A three-day National Technical Assistance for Parent Centers Conference in Washington, DC during each year of the project period.

(2) A two-day Regional Technical Assistance for Parent Centers Conference, in the region in which the PTI is located, during each year of the project period. Applicants should refer to *http://www.parentcenternetwork.org* for a list of regions; and

(e) A description specifying the special efforts the PTI will make to:

[1] For the purposes of this priority, the term *high-poverty school* means a school in which at least 50 percent of students are eligible for free or reduced-price lunches under the Richard B. Russell National School Lunch Act or in which at least 50 percent of students are from low-income families as determined using one of the criteria specified under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965, as amended. For middle and high schools, eligibility may be calculated on the basis of comparable data from feeder schools. Eligibility as a high-poverty school under this definition is determined on the basis of the most currently available data.

[2] For purposes of this priority, the term *persistently lowest-achieving schools* means, as determined by the State—(i) Any Title I school in improvement, corrective action, or restructuring that (a) Is among the lowest-achieving five percent of Title I schools in improvement, corrective action, or restructuring or the lowest-achieving five Title I schools in improvement, corrective action, or restructuring in the State, whichever number of schools is greater; or (b) Is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years; and (ii) Any secondary school that is eligible for, but does not receive, Title I funds that—(a) Is among the lowest-achieving five percent of secondary schools or the lowest-achieving five secondary schools in the State that are eligible for, but do not receive, Title I funds, whichever number of schools is greater; or (b) Is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years.

To identify the persistently lowest-achieving schools, a State must take into account both—(i) The academic achievement of the "all students" group in a school in terms of proficiency on the State's assessments under section 1111(b)(3) of the ESEA in reading/language arts and mathematics combined; and (ii) The school's lack of progress on those assessments over a number of years in the "all students" group.

(1) Ensure that the needs for training and information of underserved parents of children with disabilities in the area to be served, including parents of children attending high-poverty schools [3] and the State's persistently lowest-achieving schools,[4] are effectively met; and

(2) Work with community-based organizations, including those that work with low-income parents and parents of limited English proficient children.

Project Activities. To meet the requirements of this priority, the PTI, at a minimum, must—

(a) Maintain a Web site that meets government or industry-recognized standards for accessibility;

(b) Provide training and information that meets the training and information needs of parents of children with disabilities living in the area served by the PTI, particularly underserved parents and parents of children who may be inappropriately identified as having disabilities, including parents of children attending high-poverty schools and the State's persistently lowest-achieving schools;

(c) Serve the parents of infants, toddlers, and children from ages birth through 26, with the full range of disabilities described in section 602(3) of IDEA;

(d) Ensure that the training and information provided meets the needs of low-income parents and parents of limited English proficient children;

(e) Assist parents to—

(1) Better understand the nature of their children's disabilities and their educational, developmental, and transitional needs;

(2) Communicate effectively and work collaboratively with personnel responsible for providing special education, early intervention services, transition services, and related services;

(3) Participate in decision-making processes, including those regarding participation in State and local assessments, and the development of individualized education programs under Part B of IDEA and individualized family service plans under Part C of IDEA;

(4) Obtain appropriate information about the range, type and quality of—

(i) Options, programs, services, technologies, practices, and interventions that are based on scientifically based research, to the extent practicable; and

(ii) Resources available to assist children with disabilities and their families in school and at home, including information available through the Office of Special Education Programs' (OSEP) technical assistance and dissemination centers (*http://www.tadnet.org*), and communities of practice (*http://www.tacommunities.org*);

(5) Understand the requirements of IDEA related to the provision of education and early intervention services to children with disabilities;

(6) Participate in activities at the school level that benefit their children; and

(7) Participate in school reform activities;

(f) In States where the State elects to contract with the PTIs, contract with the State educational agencies (SEAs) to provide, consistent with paragraphs (B) and (D) of section 615(e)(2) of IDEA, individuals to meet with parents in order to explain the mediation process;

(g) Assist parents in resolving disputes in the most expeditious and effective way possible, including encouraging the use and explaining the benefits of alternative methods of dispute resolution, such as the mediation process described in section 615(e) of IDEA;

(h) Assist parents and students with disabilities to understand their rights and responsibilities under IDEA, including those under section 615(m) of IDEA upon the student's reaching the age of majority (as appropriate under State law);

(i) Assist parents to understand the availability of, and how to effectively use, procedural safeguards under IDEA;

(j) Assist parents in understanding, preparing for, and participating in, the resolution session described in section 615(f)(1)(B) of IDEA;

(k) Establish cooperative partnerships with any CPRCs and any other PTIs funded in the State under sections 672 and 671 of IDEA, respectively;

(l) Network with appropriate clearinghouses, including organizations conducting national dissemination activities under section 663 of IDEA and the Department's Institute of Education Sciences, and with other national, State, and local organizations and agencies, such as protection and advocacy agencies that serve parents and families of children with the full range of disabilities described in section 602(3) of IDEA;

(m) Annually report to the Department on—

(1) The number and demographics of parents to whom the PTI provided information and training in the most recently concluded fiscal year, including additional information regarding the parents' unique needs and the levels of service provided to them; and

(2) The effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities such as parents of children attending high-poverty schools and the State's persistently lowest achieving schools, by providing evidence of how those parents were served effectively;

(n) Respond to requests from the OSEP-funded National Parent Technical Assistance Center and Regional Parent Technical Assistance Centers (PTACs), and use the technical assistance services of the National and Regional PTACs in order to serve the families of infants, toddlers, and children with disabilities as efficiently as possible. Regional PTACs are charged with assisting parent centers with administrative and programmatic issues;

(o) In collaboration with OSEP and the National PTAC, participate in an annual collection of program data for the PTIs and CPRCs funded under sections 671 and 672 of IDEA, respectively; and

(p) Maintain ongoing communication with the OSEP Project Officer through phone conversations and email communication.

In addition, the PTI's board of directors must meet not less than once

[3] For the purposes of this priority, the term *high-poverty school* means a school in which at least 50 percent of students are eligible for free or reduced-price lunches under the Richard B. Russell National School Lunch Act or in which at least 50 percent of students are from low-income families as determined using one of the criteria specified under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965, as amended. For middle and high schools, eligibility may be calculated on the basis of comparable data from feeder schools. Eligibility as a high-poverty school under this definition is determined on the basis of the most currently available data.

[4] For purposes of this priority, the term *persistently lowest-achieving schools* means, as determined by the State—(i) Any Title I school in improvement, corrective action, or restructuring that (a) Is among the lowest-achieving five percent of Title I schools in improvement, corrective action, or restructuring or the lowest-achieving five Title I schools in improvement, corrective action, or restructuring in the State, whichever number of schools is greater; or (b) Is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years; and (ii) Any secondary school that is eligible for, but does not receive, Title I funds that—(a) Is among the lowest-achieving five percent of secondary schools or the lowest-achieving five secondary schools in the State that are eligible for, but do not receive, Title I funds, whichever number of schools is greater; or (b) Is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years.

To identify the persistently lowest-achieving schools, a State must take into account both—(i) The academic achievement of the "all students" group in a school in terms of proficiency on the State's assessments under section 1111(b)(3) of the ESEA in reading/language arts and mathematics combined; and (ii) The school's lack of progress on those assessments over a number of years in the "all students" group.

in each calendar quarter to review the activities for which the award was made and submit to the Secretary a written review of the PTI's activities conducted during the preceding fiscal year.

Competitive Preference Priority: Within this absolute priority, we give competitive preference to applications that meet the following priority. For FY 2011 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is a competitive preference priority.

Competitive Preference Priority: Under 34 CFR 75.105(c)(2)(i) we award an additional 5 points to an application that meets this priority.

This priority is:

Applicants that propose to use technology to enhance communication with, and services provided to, parents of children with disabilities, particularly underserved and hard-to-reach families in order to improve the project's management efficiency and productivity. Applicants must include in the project narrative a sustainable plan for how they will use technology efficiently and innovatively in carrying out project goals and objectives.

Note: The 5 points an applicant can earn under this competitive preference priority is in addition to those points awarded under the selection criteria for this competition (*see Selection Criteria* in section V in this notice). That is, an applicant meeting the competitive preference priority could earn a maximum total of 105 points.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities and requirements. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priorities in this notice.

Program Authority: 20 U.S.C. 1472, 1473 and 1481.

Applicable Regulations: The Education Department General Administrative Regulations in 34 CFR parts 74, 75, 77, 79, 81, 82, 84, 85, 97, 98, and 99.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

II. Award Information

Type of Awards: Discretionary grants.

Estimated Available Funds: $6,384,325. Please refer to the "Estimated Available Funds" column of the chart in this section for the estimated dollar amounts for individual competitions. Information concerning funding amounts for individual States and target populations for the 84.328M competition is provided in the "Maximum Award" column of the chart in this section of this notice.

Estimated Average Size of Awards: See chart.

Maximum Award: See chart.

Estimated Number of Awards: See chart.

Project Period: See chart.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT TRAINING AND INFORMATION FOR PARENTS OF CHILDREN WITH DISABILITIES PROGRAM APPLICATION NOTICE FOR FISCAL YEAR 2011

CFDA No. and name	Applications available	Deadline for transmittal of applications	Deadline for intergovernmental review	Estimated available funds (see Note 2)	Estimated average size of awards (see Note 2)	Maximum award (see Note 1)	Estimated number of awards (see Note 2)	Project period	Page limit	Contact person
84.328C Community Parent Resource Centers.	March 1, 2011.	April 15, 2011.	June 14, 2011.	$1,000,000	$100,000	$100,000	10	Up to 60 mos..	50	Lisa Gorove (202) 245–7357 PCP–4060
84.328M Parent Training and Information Centers.	March 1, 2011.	April 15, 2011.	June 14, 2011.	5,384,325	283,386	.....	19	Up to 48 mos. (see Note 3).	70	Carmen Sanchez (202) 245–6595 PCP–4055
Alabama	.....	.....	.....	.....	.....	291,281	.....	.....	.....	
Alaska	.....	.....	.....	.....	.....	263,115	.....	.....	.....	
Colorado	.....	.....	.....	.....	.....	279,445	.....	.....	.....	
Florida	.....	.....	.....	.....	.....	.....	.....	.....	.....	
Region 1	.....	.....	.....	.....	.....	169,645	.....	.....	.....	
Region 2	.....	.....	.....	.....	.....	491,973	.....	.....	.....	
Region 3	.....	.....	.....	.....	.....	330,801	.....	.....	.....	
Kentucky	.....	.....	.....	.....	.....	258,607	.....	.....	.....	
Maine	.....	.....	.....	.....	.....	188,545	.....	.....	.....	
Maryland	.....	.....	.....	.....	.....	319,295	.....	.....	.....	
Nebraska	.....	.....	.....	.....	.....	224,894	.....	.....	.....	
Nevada	.....	.....	.....	.....	.....	205,054	.....	.....	.....	
New York	.....	.....	.....	.....	.....	.....	.....	.....	.....	
Region 1	.....	.....	.....	.....	.....	632,439	.....	.....	.....	
Region 2	.....	.....	.....	.....	.....	524,874	.....	.....	.....	
North Dakota	.....	.....	.....	.....	.....	204,947	.....	.....	.....	
Puerto Rico	.....	.....	.....	.....	.....	271,950	.....	.....	.....	
Vermont	.....	.....	.....	.....	.....	189,052	.....	.....	.....	
Wisconsin	.....	.....	.....	.....	.....	438,408	.....	.....	.....	
Outlying Areas.	.....	.....	.....	.....	.....	.....	.....	.....	.....	
American Samoa.	.....	.....	.....	.....	.....	50,000	.....	.....	.....	

INDIVIDUALS WITH DISABILITIES EDUCATION ACT TRAINING AND INFORMATION FOR PARENTS OF CHILDREN WITH DISABILITIES PROGRAM APPLICATION NOTICE FOR FISCAL YEAR 2011—Continued

CFDA No. and name	Applications available	Deadline for transmittal of applications	Deadline for intergovernmental review	Estimated available funds (see Note 2)	Estimated average size of awards (see Note 2)	Maximum award (see Note 1)	Estimated number of awards (see Note 2)	Project period	Page limit	Contact person
Commonwealth of the Northern Marianas.	.....	.....	.....	.....	.....	50,000	.....	.....	.....	

Note 1: We will reject any application that proposes a budget exceeding the maximum award for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Note 2: The Department is not bound by any estimates in this notice.

Note 3: For the *Parent Training and Information Centers,* CFDA Number 84.328M competition: *Project Period:* In order to allocate resources equitably, create a unified system of service delivery, and provide the broadest coverage for the parents and families in every State, the Assistant Secretary is making awards to PTIs in four-year cycles for each State. In FY 2011, applications for 4-year awards will be accepted for the following States: Alabama, Arizona, Colorado, Florida, Kentucky, Maine, Maryland, Nebraska Nevada, New York, North Dakota, Vermont, and Wisconsin, as well as the Commonwealth of Puerto Rico. Awards also may be made to eligible applicants in American Samoa and the Commonwealth of the Northern Mariana Islands. These projects will be funded for a period up to 48 months.

Estimated Project Awards: Project award amounts are for a single budget period of 12 months. To ensure maximum coverage for this competition, the Assistant Secretary has adopted regional designations established within Florida and New York and has identified corresponding maximum award amounts for each region. Florida and New York applicants must complete a separate application for each region.

The Assistant Secretary took into consideration current funding levels, population distribution, poverty rates, and low-density enrollment when determining the award amounts for grants under this competition. In the following States, one award may be made for up to the amounts listed in the chart to a qualified applicant for a PTI Center to serve the entire State or Commonwealth of Puerto Rico.

Alabama	$291,281
Alaska	263,115
Colorado	279,445
Kentucky	258,607
Maine	188,545
Maryland	319,295
Nebraska	224,894
Nevada.	205,054
North Dakota	204,947
Puerto Rico	271,950
Vermont	189,052
Wisconsin	438,408

In Florida one award up to the amount listed will be made to a qualified applicant for a PTI Center to serve each identified region. A list of the counties that are included in each region also follows.

Region 1 (Alachua, Baker, Bay, Bradford, Calhoun, Columbia, Dixie, Escambia, Franklin, Gadsden, Gilchrist Gulf, Hamilton, Holmes, Jackson, Jefferson, Lafayette, Leon, Liberty, Madison, Okaloosa, Santa Rosa, Suwannee, Taylor, Union, Wakulla, Walton, and Washington Counties) $169,645.

Region 2 (Brevard, Charlotte, Citrus, Clay, DeSoto, Duval, Flagler, Hardee, Hernando, Highlands, Hillsborough, Indian River, Lake, Levy, Manatee, Marion, Nassau, Okeechobee, Orange, Osceola, Pasco, Pinellas, Polk, Putnam, Sarasota, Seminole, St. Johns, St. Lucie, Sumpter, and Volusia Counties) $491,973.

Region 3 (Broward, Collier, Glades Hendry, Lee, Martin, Miami-Dade, Monroe, and Palm Beach Counties) $330,801.

In New York, up to three awards will be made to qualified applicants for a PTI Center to serve Region 1 (the 5 Boroughs of New York City) and one award will be made to a qualified applicant for a PTI Center to serve Region 2 (the remainder of the State, including Nassau and Suffolk Counties on Long Island) in the following amounts:

Region 1—$632,439.

Region 2—$524,874.

One award up to the amount listed may be made to a qualified applicant from the outlying areas as follows:

American Samoa	$50,000
Commonwealth of the Northern Mariana Islands	$50,000

Consistent with 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year.

III. Eligibility Information

1. *Eligible Applicants:*

Absolute priority	Eligible applicants
Community Parent Resource Centers (84.328C).	Local parent organizations.
Parent Training and Information Centers (84.328M).	Parent organizations.

Note: Under section 672(a)(2) of IDEA, a "local parent organization" is a parent organization (as that term is defined in section 671(a)(2) of IDEA) that—

(a) Has a board of directors, the majority of whom are parents of children with disabilities ages birth through 26 from the community to be served.

(b) Has as its mission serving parents of children with disabilities from that community who (1) are ages birth through 26, and (2) have the full range of disabilities as defined in section 602(3) of IDEA.

Section 671(a)(2) of IDEA defines a "parent organization" as a private nonprofit organization (other than an institution of higher education) that—

(a) Has a board of directors—

(1) The majority of whom are parents of children with disabilities ages birth through 26;

(2) That includes—

(i) Individuals working in the fields of special education, related services, and early intervention;

(ii) Individuals with disabilities; and

(iii) The parent and professional members of which are broadly

representative of the population to be served, including low-income parents and parents of limited English proficient children; and

(b) Has as its mission serving families of children with disabilities who are ages birth through 26, and have the full range of disabilities described in section 602(3) of IDEA.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Other: General Requirements*—(a) The projects funded under this program must make positive efforts to employ and advance in employment qualified individuals with disabilities (*see* section 606 of IDEA).

(b) Applicants and grant recipients funded under this program must involve individuals with disabilities or parents of individuals with disabilities ages birth through 26 in planning, implementing, and evaluating the projects (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet, from the Education Publications Center (ED Pubs), or from the program office.

To obtain a copy via the Internet, use the following address: *http://www.ed.gov/fund/grant/apply/grantapps/index.html*. To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *http://www.EDPubs.gov* or at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application package from ED Pubs, be sure to identify the competition to which you want to apply, as follows: CFDA Number 84.328C or 84.328M.

To obtain a copy from the program office, contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for each competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to the equivalent of no more than the number of pages listed under "Page Limit" for that competition in the chart under II. *Award Information,* using the following standards:

- A "page" is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, the references, or the letters of support. However, the page limit does apply to all of the application narrative section (Part III).

We will reject your application if you exceed the page limit; or if you apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:*

Applications Available: See chart.

Deadline for Transmittal of Applications: See chart.

Applications for grants under each competition may be submitted electronically using the Grants.gov Apply site (Grants.gov), or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: See chart.

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 each competition.

5. *Funding Restrictions:* We reference 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 (*see http://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf*).

7. *Other Submission Requirements:* Applications for grants under each competition announced in this notice may be submitted electronically or in paper format by mail or hand delivery.

a. *Electronic Submission of Applications.*

We are participating as a partner in the Governmentwide Grants.gov Apply site. The Training and Information for Parents of Children with Disabilities Program competitions, CFDA numbers 84.328C and 84.328M, are included in this project. We request your participation in Grants.gov.

If you choose to submit your application electronically, you must use the Governmentwide Grants.gov Apply site at *http://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.

You may access the electronic grant application for the Training and Information for Parents of Children with Disabilities Program competitions, CFDA numbers 84.328C and 84.328M at *http://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 84.328, not 84.328M).

Please note the following:

- Your participation in Grants.gov is voluntary.
- 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 submit your application in paper format.
- If you submit your application electronically, 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.
- If you submit your application electronically, 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 a .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 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.

b. *Submission of Paper Applications by Mail.*

If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education,
Application Control Center,
Attention: (CFDA Number 84.328C or 84.328M), LBJ Basement Level 1, 400 Maryland Avenue, SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

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

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education,
Application Control Center,
Attention: (CFDA Number 84.328C or 84.328M), 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 notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 75.210 and are listed in the application package.

2. *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, 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).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The Standing Panel requirements under IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that, for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers, by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications. However, if the Department decides to select an equal number of applications in each group for funding, this may result in different cut-off points for fundable applications in each group.

4. *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.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (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. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993, the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Training and Information for Parents of Children with Disabilities program. The measures focus on the extent to which projects provide high-quality materials, the relevance of project products and services to educational and early intervention policy and practice, and the usefulness of products and services to improve educational and early intervention policy and practice.

Grantees will be required to provide information related to these measures in annual reports submitted to the Department.

Grantees also will be required to report information on their projects'

performance in annual reports to the Department (34 CFR 75.590).

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: See the chart in the II.

Award Information section in this notice for the name, room number, and telephone number of the contact person for each competition. You can write to the contact person at the following address: U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center Plaza (PCP), Washington, DC 20202–2550.

If you use a TDD, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

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 24, 2011.

Alexa Posny,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2011–4553 Filed 2–28–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

President's Advisory Commission on Asian Americans and Pacific Islanders

AGENCY: President's Advisory Commission on Asian Americans and Pacific Islanders, U.S. Department of Education.

ACTION: Notice of an open meeting.

SUMMARY: The notice sets forth the schedule and agenda of the meeting of the President's Advisory Commission on Asian Americans and Pacific Islanders (Commission). The notice also describes the functions of the Commission. Notice of the meeting is required by section 10(a)(2) of the Federal Advisory Committee Act and intended to notify the public of its opportunity to attend.

Date: March 14, 2011.

Time: 1:30 p.m.–5:30 p.m. EDT.

Address: U.S. Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590, Phone: 202–453–7277.

Date: March 15, 2011.

Time: 9 a.m.–5:30 p.m. EDT.

Address: GE Environmental Programs, 1299 Pennsylvania Ave., NW., #900, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Shelly W. Coles, White House Initiative on Asian Americans and Pacific Islanders, 400 Maryland Avenue, SW., Washington, DC 20202; telephone: (202) 453–7277, fax: 202–453–5632.

SUPPLEMENTARY INFORMATION: The President's Advisory Commission on Asian Americans and Pacific Islanders is established under Executive Order 13515, dated October 14, 2009. Per E.O. 13515, the Commission shall provide advice to the President, through the Secretaries of Education and Commerce, as Co-Chairs of the Initiative, on: (i) The development, monitoring, and coordination of executive branch efforts to improve the quality of life of AAPIs through increased participation in Federal programs in which such persons may be underserved; (ii) the compilation of research and data related to AAPI populations and subpopulations; (iii) the development, monitoring, and coordination of Federal efforts to improve the economic and community development of AAPI businesses; and (iv) strategies to increase public and private-sector collaboration, and community involvement in improving the health, education, environment, and well-being of AAPIs.

Agenda

The purpose of the meeting is to discuss strategic planning; establish sub-committees of the Commission to help facilitate and focus its work; review the work of the White House Initiative on Asian Americans and Pacific Islanders; and determine key strategies to help meet the Commission's charge as established in E.O. 13515.

Additional Information

Individuals who will need accommodations for a disability in order to attend the meeting (*e.g.,* interpreting services, assistive listening devices, or material in alternative format) should notify Shelly Coles at (202) 453–7277, no later than Friday, March 4, 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. Due to time constraints, there will not be a public comment period at this meeting, However, individuals wishing to provide comment(s) about the AAPI WHI or the Commission may contact Shelly Coles via e-mail at *shelly.coles@ed.gov.* Please include in the subject line, the wording, "Public Comment".

Records are kept of all Commission proceedings and are available for public inspection at the office of the White House Initiative on Asian Americans and Pacific Islanders, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202, Monday–Friday during the hours of 8:30 a.m. to 5 p.m.

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 1–866–512–1800; or in the Washington, DC area at 202–512–0000.

Martha Kanter,

Under Secretary.

[FR Doc. 2011–4551 Filed 2–28–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, March 17, 2011; 6 p.m.

ADDRESSES: Barkley Centre, 111 Memorial Drive, Paducah, Kentucky 42001.

FOR FURTHER INFORMATION CONTACT: Reinhard Knerr, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001 (270) 441–6825.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management and related activities.

Tentative Agenda:

- Call to Order, Introductions, Review of Agenda.
- Deputy Designated Federal Officer's Comments.
- Federal Coordinator's Comments.
- Liaisons' Comments.
- Presentation by Kentucky Research Consortium for Energy and Environment (KRCEE): Update on Future Use Study.
- Administrative Issues.
  - Discussion on Top 3 Issues, Accomplishment, and Major Board Activity.
  - Discussion on Recommendation 11–2: Potential Moderating Criteria for Waste Disposal Options.
- Subcommittee Chairs' Comments.
- Public Comments.
- Final Comments.
- Adjourn.

Breaks Taken As Appropriate.

Public Participation: The EM SSAB, Paducah, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Reinhard Knerr as soon as possible in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Reinhard Knerr at the telephone number listed above. Requests must be received as soon as possible prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Reinhard Knerr at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.pgdpcab.energy.gov/2011Meetings.html.*

Issued at Washington, DC on February 24, 2011.

LaTanya Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2011–4488 Filed 2–28–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. CW–018]

Energy Conservation Program for Consumer Products: Notice of Petition for Waiver of LG Electronics USA, Inc. From the Department of Energy Residential Clothes Washer Test Procedure, and Grant of Interim Waiver

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

ACTION: Notice of petition for waiver and application for interim waiver, notice of grant of interim waiver, and request for comments.

SUMMARY: This notice announces receipt of and publishes the LG Electronics USA, Inc. (LG) petition for waiver and application for interim waiver (hereafter, "petition") from specified portions of the U.S. Department of Energy (DOE) test procedure for determining the energy consumption of clothes washers. Today's notice also grants an interim waiver of the clothes washer test procedure. Through this notice, DOE also solicits comments with respect to the LG petition.

DATES: DOE will accept comments, data, and information with respect to the LG petition until, but no later than March 31, 2011.

ADDRESSES: You may submit comments, identified by case number CW–018, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: AS_Waiver_Requests@ee.doe.gov* Include "Case No. CW–018" in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J/1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. Please submit one signed original paper copy.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza, SW., Suite 600, Washington, DC 20024. Please submit one signed original paper copy.

Instructions: All submissions received should include the agency name and case number for this proceeding. Submit electronic comments in WordPerfect, Microsoft Word, Portable Document Format (PDF), or text (American Standard Code for Information Interchange (ASCII)) file format and avoid the use of special characters or any form of encryption. Wherever possible, include the electronic signature of the author. DOE does not accept telefacsimiles (faxes).

Any person submitting written comments must also send a copy to the petitioner, pursuant to 10 CFR 430.27(d). The contact information for the petitioner is: John I. Taylor, Vice President, Government Relations and Communications, LG Electronics USA, Inc., 1776 K Street, NW., Washington, DC 20006; (202) 719–3490; Email: *john.taylor@lge.com.*

According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies to DOE: one copy of the document including all the information believed to be confidential, and one copy of the document with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) a date upon which such information might lose its confidential nature due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

Docket: For access to the docket to review the background documents relevant to this matter, you may visit the U.S. Department of Energy, 950 L'Enfant Plaza, SW., (Resource Room of the Building Technologies Program), Washington, DC, 20024; (202) 586–2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Available documents include the following items: (1) This notice; (2) public comments received; (3) the petition for waiver and application for interim waiver; and (4) prior DOE waivers and rulemakings regarding similar clothes washer products. Please call Ms. Brenda Edwards at the above telephone number for additional information regarding visiting the Resource Room.

FOR FURTHER INFORMATION CONTACT:

Dr. Michael G. Raymond, U.S. Department of Energy, Building Technologies Program, Mail Stop EE–2J, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–9611. E-mail: *Michael.Raymond@ee.doe.gov.*

Ms. Jennifer Tiedeman, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–71, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0103. Telephone: (202) 287–6111. E-mail: *Jennifer.Tiedeman@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Background and Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94–163 (42 U.S.C. 6291–6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances, which includes the clothes washers that are the focus of this notice.[1] Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results which measure energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)). The test procedure for automatic and semi-automatic clothes washers is contained in 10 CFR part 430, subpart B, appendix J1.

The regulations set forth in 10 CFR part 430.27 contain provisions that enable a person to seek a waiver from the test procedure requirements for covered consumer products. A waiver will be granted by the Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) if it is determined that the basic model for which the petition for waiver was submitted contains one or more design characteristics that prevents testing of the basic model according to the prescribed test procedures, or if the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(l). Petitioners must include in their petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption. 10 CFR 430.27(b)(1)(iii). The Assistant Secretary may grant the waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(l). Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(m).

The waiver process also allows the Assistant Secretary to grant an interim waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 10 CFR 430.27(a)(2). An interim waiver remains in effect for 180 days or until DOE issues its determination on the petition for waiver, whichever is sooner. DOE may extend an interim waiver for an additional 180 days. 10 CFR 430.27(h).

On December 23, 2010, DOE issued enforcement guidance on the application of recently granted waivers for large-capacity clothes washers and announced steps to improve the waiver process and refrain from certain enforcement actions. This guidance can be found on DOE's Web site at *http://www.gc.energy.gov/1661.htm*.

II. Application for Interim Waiver and Petition for Waiver

On September 24, 2010, LG filed an initial petition for waiver and application for interim waiver from the test procedure applicable to automatic and semi-automatic clothes washers set forth in 10 CFR part 430, subpart B, appendix J1. In particular, LG requested a waiver to test its clothes washers with basket volumes greater than 3.8 cubic feet on the basis of the aforementioned residential test procedures, using a revised Table 5.1 which extends the range of container volumes beyond 3.8 cubic feet. This petition was granted on November 24, 2010. 75 FR 71680. On January 19, 2011, LG filed the instant petition for waiver and application for interim waiver to expand the number of models subject to the alternative test procedure set forth in the company's September 2010 petition for waiver.

LG's current petition seeks a waiver from the DOE test procedure because the mass of the test load used in the procedure, which is based on the basket volume of the test unit, is currently not defined for basket sizes greater than 3.8 cubic feet. LG manufactures basic models with capacities greater than 3.8 cubic feet, and it is for these basic models that LG seeks a waiver from DOE's test procedure.

Table 5.1 of Appendix J1 defines the test load sizes used in the test procedure as linear functions of the basket volume. LG requests that DOE grant a waiver for testing and rating based on a revised Table 5.1, the same table as set forth in the interim waiver granted to LG on November 24, 2010. 75 FR 71680. The table is identical to the Table 5.1 found in DOE's recently published clothes washer test procedure Notice of Proposed Rulemaking (NOPR). 75 FR 57556 (September 21, 1010).

An interim waiver may be granted if it is determined that the applicant will experience economic hardship if the application for interim waiver is denied, if it appears likely that the petition for waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination of the petition for waiver. (10 CFR 430.27(g)). DOE has determined that LG's application for interim waiver does not provide sufficient market, equipment price, shipments, and other manufacturer impact information to permit DOE to evaluate the economic hardship LG

[1] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

might experience absent a favorable determination on its application for interim waiver. Previously, however, DOE granted an interim test procedure waiver to Whirlpool for three of Whirlpool's clothes washer models with container capacities greater than 3.8 cubic feet. 71 FR 48913 (August 22, 2006). The notice contained an alternate test procedure, which extended the linear relationship between maximum test load size and clothes washer container volume in Table 5.1 to include a maximum test load size of 15.4 pounds (lbs) for clothes washer container volumes of 3.8 to 3.9 cubic feet. On September 16, 2010, DOE granted interim waivers to General Electric (75 FR 57915 (September 23, 2010)) and Samsung (75 FR 57937 (September 23, 2010)) for similar products. GE's waiver was granted on December 10, 2010. 75 FR 76968. As stated above, DOE granted a previous interim waiver to LG on November 24, 2010.

The current DOE test procedure specifies test load sizes only for machines with capacities up to 3.8 cubic feet, and DOE believes that extending the linear relationship between test load size and container capacity to larger capacities is valid. In addition, testing a basic model with a capacity larger than 3.8 cubic feet using the current procedure could evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Based on these considerations, and the interim waivers granted to LG, Whirlpool, Samsung and GE, it appears likely that the petition for waiver will be granted. As a result, DOE grants an interim waiver to LG for of the basic models of clothes washers with container volumes greater than 3.8 cubic feet specified in its petition for waiver, pursuant to 10 CFR 430.27(g). DOE also provides for the use of an alternative test procedure extending the linear relationship between test load size and container capacity, described below. Therefore, *it is ordered that:*

The application for interim waiver filed by LG is hereby granted for the specified LG clothes washer basic models, subject to the specifications and conditions below.

1. LG shall not be required to test or rate the specified clothes washer products on the basis of the test procedure under 10 CFR part 430 subpart B, appendix J1.

2. LG shall be required to test and rate the specified clothes washer products according to the alternate test procedure as set forth in section IV, "Alternate Test Procedure."

The interim waiver applies to the following basic model groups:

Model	Brand
WM3360H***	LG
WM3550H***	LG
WM3150H**	LG
WM3975H***	LG
WM3985H***	LG
WT4901C*	LG
2947#00#	Kenmore

DOE makes decisions on waivers and interim waivers for only those models specifically set out in the petition, not future models that may or may not be manufactured by the petitioner. LG may submit a new or amended petition for waiver and request for grant of interim waiver, as appropriate, for additional models of clothes washers for which it seeks a waiver from the DOE test procedure. In addition, DOE notes that grant of an interim waiver or waiver does not release a petitioner from the certification requirements set forth at 10 CFR 430.62.

III. Alternate Test Procedure

EPCA requires that manufacturers use DOE test procedures to make representations about the energy consumption and energy consumption costs of products covered by the statute. (42 U.S.C. 6293(c)) Consistent representations are important for manufacturers to use in making representations about the energy efficiency of their products and to demonstrate compliance with applicable DOE energy conservation standards. Pursuant to its regulations applicable to waivers and interim waivers from applicable test procedures at 10 CFR 430.27, DOE will consider setting an alternate test procedure for LG in a subsequent Decision and Order.

The alternate procedure approved today is intended to allow LG to make valid representations regarding its clothes washers with basket capacities larger than provided for in the current test procedure. This alternate test procedure is based on the expanded Table 5.1 of Appendix J1 submitted by LG. As noted above, the Table 5.1 submitted by LG in its petition is the same Table 5.1 that appears in DOE's clothes washer test procedure NOPR. 75 FR 57556 (September 21, 1010). The NOPR Table 5.1 uses the accurate conversion factor 0.45359237 employed by LG and Samsung to convert test loads from pounds to kilograms. The rounding errors contained in earlier LG petitions for waiver are not present in LG's current petition.

During the period of the interim waiver granted in this notice, LG shall test its clothes washer basic models according to the provisions of 10 CFR part 430 subpart B, appendix J1, except that the expanded Table 5.1 below shall be substituted for Table 5.1 of appendix J1.

TABLE 5.1—TEST LOAD SIZES

Container volume		Minimum load		Maximum load		Average load	
cu. ft.	liter	lb	kg	lb	kg	lb	kg
≥ <	≥ <						
0–0.8	0–22.7	3.00	1.36	3.00	1.36	3.00	1.36
0.80–0.90	22.7–25.5	3.00	1.36	3.50	1.59	3.25	1.47
0.90–1.00	25.5–28.3	3.00	1.36	3.90	1.77	3.45	1.56
1.00–1.10	28.3–31.1	3.00	1.36	4.30	1.95	3.65	1.66
1.10–1.20	31.1–34.0	3.00	1.36	4.70	2.13	3.85	1.75
1.20–1.30	34.0–36.8	3.00	1.36	5.10	2.31	4.05	1.84
1.30–1.40	36.8–39.6	3.00	1.36	5.50	2.49	4.25	1.93
1.40–1.50	39.6–42.5	3.00	1.36	5.90	2.68	4.45	2.02
1.50–1.60	42.5–45.3	3.00	1.36	6.40	2.90	4.70	2.13
1.60–1.70	45.3–48.1	3.00	1.36	6.80	3.08	4.90	2.22
1.70–1.80	48.1–51.0	3.00	1.36	7.20	3.27	5.10	2.31
1.80–1.90	51.0–53.8	3.00	1.36	7.60	3.45	5.30	2.40
1.90–2.00	53.8–56.6	3.00	1.36	8.00	3.63	5.50	2.49

TABLE 5.1—TEST LOAD SIZES—Continued

Container volume		Minimum load		Maximum load		Average load	
cu. ft.	liter	lb	kg	lb	kg	lb	kg
≥ <	≥ <						
2.00–2.10	56.6–59.5	3.00	1.36	8.40	3.81	5.70	2.59
2.10–2.20	59.5–62.3	3.00	1.36	8.80	3.99	5.90	2.68
2.20–2.30	62.3–65.1	3.00	1.36	9.20	4.17	6.10	2.77
2.30–2.40	65.1–68.0	3.00	1.36	9.60	4.35	6.30	2.86
2.40–2.50	68.0–70.8	3.00	1.36	10.00	4.54	6.50	2.95
2.50–2.60	70.8–73.6	3.00	1.36	10.50	4.76	6.75	3.06
2.60–2.70	73.6–76.5	3.00	1.36	10.90	4.94	6.95	3.15
2.70–2.80	76.5–79.3	3.00	1.36	11.30	5.13	7.15	3.24
2.80–2.90	79.3–82.1	3.00	1.36	11.70	5.31	7.35	3.33
2.90–3.00	82.1–85.0	3.00	1.36	12.10	5.49	7.55	3.42
3.00–3.10	85.0–87.8	3.00	1.36	12.50	5.67	7.75	3.52
3.10–3.20	87.8–90.6	3.00	1.36	12.90	5.85	7.95	3.61
3.20–3.30	90.6–93.4	3.00	1.36	13.30	6.03	8.15	3.70
3.30–3.40	93.4–96.3	3.00	1.36	13.70	6.21	8.35	3.79
3.40–3.50	96.3–99.1	3.00	1.36	14.10	6.40	8.55	3.88
3.50–3.60	99.1–101.9	3.00	1.36	14.60	6.62	8.80	3.99
3.60–3.70	101.9–104.8	3.00	1.36	15.00	6.80	9.00	4.08
3.70–3.80	104.8–107.6	3.00	1.36	15.40	6.99	9.20	4.17
3.80–3.90	107.6–110.4	3.00	1.36	15.80	7.16	9.40	4.26
3.90–4.00	110.4–113.3	3.00	1.36	16.20	7.34	9.60	4.35
4.00–4.10	113.3–116.1	3.00	1.36	16.60	7.53	9.80	4.45
4.10–4.20	116.1–118.9	3.00	1.36	17.00	7.72	10.00	4.54
4.20–4.30	118.9–121.8	3.00	1.36	17.40	7.90	10.20	4.63
4.30–4.40	121.8–124.6	3.00	1.36	17.80	8.09	10.40	4.72
4.40–4.50	124.6–127.4	3.00	1.36	18.20	8.27	10.60	4.82
4.50–4.60	127.4–130.3	3.00	1.36	18.70	8.46	10.80	4.91
4.60–4.70	130.3–133.1	3.00	1.36	19.10	8.65	11.00	5.00
4.70–4.80	133.1–135.9	3.00	1.36	19.50	8.83	11.20	5.10
4.80–4.90	135.9–138.8	3.00	1.36	19.90	9.02	11.40	5.19
4.90–5.00	138.8–141.6	3.00	1.36	20.30	9.20	11.60	5.28
5.00–5.10	141.6–144.4	3.00	1.36	20.70	9.39	11.90	5.38
5.10–5.20	144.4–147.2	3.00	1.36	21.10	9.58	12.10	5.47
5.20–5.30	147.2–150.1	3.00	1.36	21.50	9.76	12.30	5.56
5.30–5.40	150.1–152.9	3.00	1.36	21.90	9.95	12.50	5.65
5.40–5.50	152.9–155.7	3.00	1.36	22.30	10.13	12.70	5.75
5.50–5.60	155.7–158.6	3.00	1.36	22.80	10.32	12.90	5.84
5.60–5.70	158.6–161.4	3.00	1.36	23.20	10.51	13.10	5.93
5.70–5.80	161.4–164.2	3.00	1.36	23.60	10.69	13.30	6.03
5.80–5.90	164.2–167.1	3.00	1.36	24.00	10.88	13.50	6.12
5.90–6.00	167.1–169.9	3.00	1.36	24.40	11.06	13.70	6.21

Notes: (1) All test load weights are bone dry weights.
(2) Allowable tolerance on the test load weights are ±0.10 lbs (0.05 kg).

IV. Summary and Request for Comments

Through today's notice, DOE announces receipt of LG's petition for waiver from certain parts of the test procedure that apply to clothes washers and grants an interim waiver to LG. DOE is publishing LG's petition for waiver in its entirety pursuant to 10 CFR 430.27(b)(1)(iv). The petition contains no confidential information. The petition includes a suggested alternate test procedure to measure the energy consumption of clothes washers with capacities larger than the 3.8 cubic feet specified in the current DOE test procedure. DOE is interested in receiving comments from interested parties on all aspects of the petition, including the suggested alternate test procedure and any other alternate test procedure.

Pursuant to 10 CFR 430.27(b)(1)(iv), any person submitting written comments to DOE must also send a copy to the petitioner, whose contact information is included in the **ADDRESSES** section above.

Issued in Washington, DC, on February 23, 2011.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

LG Electronics U.S.A., Inc., 1000 Sylvan Avenue, Englewood Cliffs, NJ 07632

January 19, 2011

The Honorable Catherine Zoi, Assistant Secretary, Energy Efficiency and Renewable Energy, United States Department of Energy, Mail Station EE–10, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585

Re: Petition for Waiver and Application for Interim Waiver, *Test Procedure for Clothes Washers*

Dear Assistant Secretary Zoi: LG Electronics, Inc. (LG) respectfully submits this Petition for Waiver and Application for Interim Waiver, pursuant to 10 C.F.R. § 430.27, as related to DOE's test procedure for clothes washers. DOE has already granted LG an interim waiver relating to testing of certain models. 75 Fed. Reg. 71680 (Nov. 24, 2010). The current Petition and Application would expand the number of models subject to the grant of a waiver. *LG requests expedited treatment of the Petition and Application.*

LG is a manufacturer of clothes washers and other products sold worldwide, including in the United States. LG's U.S. operations are LG Electronics USA, Inc., with headquarters at 1000 Sylvan Avenue, Englewood Cliffs, NJ 07632 (tel. 201–816–2000). Its worldwide headquarters are located at LG Twin Towers 20, Yoido-dong, Youngdungpo-gu Seoul, Korea 150–721; (tel. 011–82–2–3777–1114); URL: http.www.LGE.com. LG's principal brands include LG® and OEM brands, including GE® and Kenmore®.

The test procedure under the Energy Policy and Conservation Act (EPCA), 42 U.S.C. § 6291 et seq., provides for clothes washers to be tested with specified allowable test load sizes. See 10 C.F.R. Pt. 430, Subpt. B, App. J1, Table 5.1. The largest average load under Table 5.1 is 9.20 lbs. LG believes that it is appropriate for DOE to grant a waiver that would allow for testing and rating of specified models (see Appendix 1 hereto) with larger test loads where the model has a container volume that is greater than the largest volume shown on Table 5.1.

DOE has already granted waivers and/or interim waivers to a number of manufacturers, including LG, Whirlpool, General Electric, Samsung, and Electrolux for testing with larger test loads for specified models with container volumes in excess of 3.8 cubic feet. 75 Fed. Reg. 71680 (Nov. 24, 2010) (LG); id. 57915 (Sept. 23, 2010) (GE); id. 57937 (Sept. 23, 2010) (Samsung); id. 69653 (Nov. 15, 2010) (Whirlpool); id. 76962 (Dec. 10, 2010) (Electrolux); id. 76968 (Dec. 10, 2010) (GE); id. 81258 (Dec. 27, 2010) (Electrolux); 71 Fed. Reg. 48913 (Aug. 22, 2006) (Whirlpool). The Association of Home Appliance Manufacturers (AHAM) has submitted comments to DOE suggesting that the DOE test procedure be amended to provide for testing with loads in excess of those shown in Table 5.1 when testing is done on clothes washers with volumes in excess of 3.8 cubic feet. See AHAM Comments on the Framework Document for Residential Clothes Washers; EERE–2008–BT–STD–0019; RIN 1904–AB90, at Appendix B—AHAM Proposed Changes to J1 Table 5.1 (Oct. 2, 2009). In addition, DOE has issued a Notice of Proposed Rulemaking proposing to amend the DOE test procedure to adopt the AHAM proposed Table 5.1. 75 Fed. Reg. 57556 (Sept. 21, 2010). Further, DOE has issued a guidance document indicating the appropriateness of waivers for testing with larger test loads for clothes washers with volumes in excess of 3.8 cubic feet. DOE, GC Enforcement Guidance on the Application of Waivers and on the Waiver Process (Dec. 23, 2010), at *http://www.gc.energy.gov/documents/LargeCapacityRCW_guidance_22210.pdf.*

LG requests that DOE grant a waiver for testing and rating based on the revised Table 5.1 in Appendix 2 hereto. This is the Table 5.1 as already set forth in the interim waiver granted to LG for certain models. See 75 Fed. Reg. 71680 (Nov. 24, 2010). The revised Table 5.1 should be applied to LG's testing and rating of other models as specified in Appendix 1 hereto.[1]

The waiver should continue until DOE adopts an applicable amended test procedure.

LG also requests an interim waiver for its testing and rating of the foregoing models. The petition for waiver is likely to be granted, as evidenced not only by its merits, but also because DOE has granted waivers and/or interim waivers to LG, Whirlpool, GE, Samsung, and Electrolux and has proposed a corresponding amendment to its test procedure. Hence, grant of an interim waiver for LG is appropriate.

We would be pleased to discuss this request with DOE and provide further information as needed.

LG requests expedited treatment of the Petition and Application. In that regard, DOE has stated in its December 23, 2010 Enforcement Guidance (supra) that it "commits to act promptly on waiver requests." LG appreciates this commitment by DOE.

We hereby certify that all manufacturers of domestically marketed units of the same product type have been notified by letter of this petition and application, copies of which letters are set forth in Appendix 3 hereto.

Sincerely,

John I. Taylor,

Vice President, Government Relations and Communications, LG Electronics USA, Inc., 1776 K Street, NW., Washington, DC 20006, Phone: 202–719–3490, Fax: 847–941–8177, Email: john.taylor@lge.com

Of counsel: John A. Hodges, Wiley Rein LLP, 1776 K Street, NW., Washington, DC 20006, Phone: 202–719–7000, Fax: 202–719–7049, Email: jhodges@wileyrein.com

Appendix 1

The waiver and interim waiver requested herein should apply to testing and rating of the following model series of LG-manufactured clothes washers. Please note that the actual model numbers will vary to account for such factors as year of manufacture, product color, or other features. Nonetheless, they will always have volumes in excess of 3.8 cubic feet.

(In the chart below, " # " represents a number; "*" represents a letter.)

Model	Brand
WM3360H***	LG.
WM3550H***	LG.
WM3150H**	LG.
WM3975H***	LG.
WM3985H***	LG.
WT4901C*	LG.
2947#00#	Kenmore.

Appendix 2

TABLE 5.1—TEST LOAD SIZES

Container volume		Minimum load		Maximum load		Average load	
cu. ft. ≥ <	liter ≥ <	lb	kg	lb	kg	lb	kg
0–0.8	0–22.7	3.00	1.36	3.00	1.36	3.00	1.36
0.80–0.90	22.7–25.5	3.00	1.36	3.50	1.59	3.25	1.47
0.90–1.00	25.5–28.3	3.00	1.36	3.90	1.77	3.45	1.56
1.00–1.10	28.3–31.1	3.00	1.36	4.30	1.95	3.65	1.66
1.10–1.20	31.1–34.0	3.00	1.36	4.70	2.13	3.85	1.75
1.20–1.30	34.0–36.8	3.00	1.36	5.10	2.31	4.05	1.84
1.30–1.40	36.8–39.6	3.00	1.36	5.50	2.49	4.25	1.93
1.40–1.50	39.6–42.5	3.00	1.36	5.90	2.68	4.45	2.02
1.50–1.60	42.5–45.3	3.00	1.36	6.40	2.90	4.70	2.13
1.60–1.70	45.3–48.1	3.00	1.36	6.80	3.08	4.90	2.22
1.70–1.80	48.1–51.0	3.00	1.36	7.20	3.27	5.10	2.31

[1] All LG models are measured in accordance with DOE's final guidance for measuring clothes container capacity under the test procedure in 10 CFR part 430, Subpart B, Appendix J1.

TABLE 5.1—TEST LOAD SIZES—Continued

Container volume		Minimum load		Maximum load		Average load	
cu. ft. ≥ <	liter ≥ <	lb	kg	lb	kg	lb	kg
1.80–1.90	51.0–53.8	3.00	1.36	7.60	3.45	5.30	2.40
1.90–2.00	53.8–56.6	3.00	1.36	8.00	3.63	5.50	2.49
2.00–2.10	56.6–59.5	3.00	1.36	8.40	3.81	5.70	2.59
2.10–2.20	59.5–62.3	3.00	1.36	8.80	3.99	5.90	2.68
2.20–2.30	62.3–65.1	3.00	1.36	9.20	4.17	6.10	2.77
2.30–2.40	65.1–68.0	3.00	1.36	9.60	4.35	6.30	2.86
2.40–2.50	68.0–70.8	3.00	1.36	10.00	4.54	6.50	2.95
2.50–2.60	70.8–73.6	3.00	1.36	10.50	4.76	6.75	3.06
2.60–2.70	73.6–76.5	3.00	1.36	10.90	4.94	6.95	3.15
2.70–2.80	76.5–79.3	3.00	1.36	11.30	5.13	7.15	3.24
2.80–2.90	79.3–82.1	3.00	1.36	11.70	5.31	7.35	3.33
2.90–3.00	82.1–85.0	3.00	1.36	12.10	5.49	7.55	3.42
3.00–3.10	85.0–87.8	3.00	1.36	12.50	5.67	7.75	3.52
3.10–3.20	87.8–90.6	3.00	1.36	12.90	5.85	7.95	3.61
3.20–3.30	90.6–93.4	3.00	1.36	13.30	6.03	8.15	3.70
3.30–3.40	93.4–96.3	3.00	1.36	13.70	6.21	8.35	3.79
3.40–3.50	96.3–99.1	3.00	1.36	14.10	6.40	8.55	3.88
3.50–3.60	99.1–101.9	3.00	1.36	14.60	6.62	8.80	3.99
3.60–3.70	101.9–104.8	3.00	1.36	15.00	6.80	9.00	4.08
3.70–3.80	104.8–107.6	3.00	1.36	15.40	6.99	9.20	4.17
3.80–3.90	107.6–110.4	3.00	1.36	15.80	7.16	9.40	4.26
3.90–4.00	110.4–113.3	3.00	1.36	16.20	7.34	9.60	4.35
4.00–4.10	113.3–116.1	3.00	1.36	16.60	7.53	9.80	4.45
4.10–4.20	116.1–118.9	3.00	1.36	17.00	7.72	10.00	4.54
4.20–4.30	118.9–121.8	3.00	1.36	17.40	7.90	10.20	4.63
4.30–4.40	121.8–124.6	3.00	1.36	17.80	8.09	10.40	4.72
4.40–4.50	124.6–127.4	3.00	1.36	18.20	8.27	10.60	4.82
4.50–4.60	127.4–130.3	3.00	1.36	18.70	8.46	10.80	4.91
4.60–4.70	130.3–133.1	3.00	1.36	19.10	8.65	11.00	5.00
4.70–4.80	133.1–135.9	3.00	1.36	19.50	8.83	11.20	5.10
4.80–4.90	135.9–138.8	3.00	1.36	19.90	9.02	11.40	5.19
4.90–5.00	138.8–141.6	3.00	1.36	20.30	9.20	11.60	5.28
5.00–5.10	141.6–144.4	3.00	1.36	20.70	9.39	11.90	5.38
5.10–5.20	144.4–147.2	3.00	1.36	21.10	9.58	12.10	5.47
5.20–5.30	147.2–150.1	3.00	1.36	21.50	9.76	12.30	5.56
5.30–5.40	150.1–152.9	3.00	1.36	21.90	9.95	12.50	5.65
5.40–5.50	152.9–155.7	3.00	1.36	22.30	10.13	12.70	5.75
5.50–5.60	155.7–158.6	3.00	1.36	22.80	10.32	12.90	5.84
5.60–5.70	158.6–161.4	3.00	1.36	23.20	10.51	13.10	5.93
5.70–5.80	161.4–164.2	3.00	1.36	23.60	10.69	13.30	6.03
5.80–5.90	164.2–167.1	3.00	1.36	24.00	10.88	13.50	6.12
5.90–6.00	167.1–169.9	3.00	1.36	24.40	11.06	13.70	6.21

Notes:
(1) All test load weights are bone dry weights.
(2) Allowable tolerance on the test load weights are ± 0.10 lbs (0.05 kg).

[FR Doc. 2011–4485 Filed 2–28–11; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. CW–016]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to LG From the Department of Energy Residential Clothes Washer Test Procedure

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

ACTION: Decision and Order.

SUMMARY: The U.S. Department of Energy (DOE) gives notice of the decision and order (Case No. CW–016) that grants to LG Electronics U.S.A., Inc. (LG) a waiver from the DOE clothes washer test procedure for determining the energy consumption of clothes washers. Under today's decision and order, LG shall be required to test and rate its clothes washers with larger clothes containers using an alternate test procedure that takes the larger capacities into account when measuring energy consumption.

DATES: This Decision and Order is effective March 1, 2011.

FOR FURTHER INFORMATION CONTACT:

Dr. Michael G. Raymond, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121. *Telephone:* (202) 586–9611, *E-mail:* mail to: *Michael.Raymond@ee.doe.gov.*

Jennifer Tiedeman, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–71, 1000 Independence Avenue, SW., Washington, DC 20585–0103. *Telephone:* (202) 287–6111, *E-mail:* mail to: *Jennifer.Tiedeman@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: In accordance with Title 10 of the Code of Federal Regulations (10 CFR 430.27(l)), DOE gives notice of the issuance of its decision and order as set forth below. The decision and order grants LG a waiver from the applicable clothes washer test procedure in 10 CFR part

430, subpart B, appendix J1 for certain basic models of clothes washers with capacities greater than 3.8 cubic feet, provided that LG tests and rates such products using the alternate test procedure described in this notice. Today's decision prohibits LG from making representations concerning the energy efficiency of these products unless the product has been tested consistent with the provisions of the alternate test procedure set forth in the decision and order below, and the representations fairly disclose the test results. Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products. 42 U.S.C. 6293(c).

Issued in Washington, DC, on February 23, 2011.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Decision and Order

In the Matter of: LG Electronics U.S.A., Inc. (Case No. CW–016)

I. Background and Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94–163 (42 U.S.C. 6291–6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances, which includes the residential clothes washers that are the focus of this notice.[1] Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results which measure energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for automatic and semi-automatic clothes washers is contained in 10 CFR part 430, subpart B, appendix J1.

DOE's regulations for covered products contain provisions allowing a person to seek a waiver for a particular basic model from the test procedure requirements for covered consumer products when (1) the petitioner's basic model for which the petition for waiver was submitted contains one or more design characteristics that prevent testing according to the prescribed test procedure, or (2) when prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). Petitioners must include in their petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption characteristics. 10 CFR 430.27(b)(1)(iii).

The Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(l). Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(m).

Any interested person who has submitted a petition for waiver may also file an application for interim waiver of the applicable test procedure requirements. 10 CFR 430.27(a)(2). The Assistant Secretary will grant an interim waiver request if it is determined that the applicant will experience economic hardship if the interim waiver is denied, if it appears likely that the petition for waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. 10 CFR 430.27(g).

On December 23, 2010, DOE issued enforcement guidance on the application of recently granted waivers for large-capacity clothes washers and announced steps to improve the waiver process and refrain from certain enforcement actions. This guidance can be found on DOE's Web site at *http://www.gc.energy.gov/1661.htm.*

II. LG's Petition for Waiver: Assertions and Determinations

On September 24, 2010, LG filed a petition for waiver from the test procedure applicable to automatic and semi-automatic clothes washers set forth in 10 CFR part 430, subpart B, appendix J1. In particular, LG requested a waiver to test its clothes washers on the basis of the test procedure contained in 10 CFR part 430, Subpart B, Appendix J1, with a revised Table 5.1 extended to larger container volumes. LG's petition was published in the **Federal Register** on November 24, 2010. 75 FR 71680. There was one comment on the LG petition, from Whirlpool Corporation. Whirlpool urged that DOE process the LG waiver expeditiously, so that clothes washers with larger clothes containers can be tested and rated on a comparable basis.

LG's petition seeks a waiver from the DOE test procedure because the mass of the test load used in the procedure, which is based on the basket volume of the test unit, is currently not defined for basket sizes greater than 3.8 cubic feet. LG manufactures basic models with capacities greater than 3.8 cubic feet, and it is for these basic models that LG seeks a waiver from DOE's test procedure. In addition, if the current maximum test load mass is used to test these products, the tested energy use would be less than the actual energy usage, and could evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data.

Table 5.1 of Appendix J1 defines the test load sizes used in the test procedure as linear functions of the basket volume. LG has submitted a proposed revised table to extend the maximum basket volume from 3.8 cubic feet to 5.1 cubic feet, a table similar to one developed by the Association of Home Appliance Manufacturers (AHAM) and provided to DOE in comments on a recently published proposed DOE residential clothes washer test procedure Notice of Proposed Rulemaking (NOPR). 75 FR 57556 (September 21, 2010). When this rulemaking process is complete, any amended test procedure will supersede the alternate test procedure approved in this waiver. AHAM provided calculations to extrapolate Table 5.1 of the current DOE test procedure to larger container volumes. DOE believes that this is a reasonable procedure because the DOE test procedure defines test load sizes as linear functions of the basket volume. AHAM's extrapolation was performed on the load weight in pounds, and AHAM appears to have used the conversion formula of $1/2.2$ (or 0.45454545) to convert pounds to kilograms. LG and Samsung submitted a table similar to the table proposed by AHAM, rounding the results in kilograms to two decimal places, but with a more accurate conversion factor of 0.45359237. However, Samsung and LG's table does contain small rounding errors which were corrected in the table proposed in DOE's clothes washer test procedure NOPR. The Table 5.1 values presented below in the alternate test procedure approved today are taken from DOE's NOPR.

As DOE has stated in the past, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis. Previously, DOE granted a test procedure waiver to Whirlpool for three of Whirlpool's clothes washer models with container capacities greater than

[1] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

3.8 cubic feet. 75 FR 69653 (November 15, 2010). This notice contained an alternate test procedure, which extended the linear relationship between maximum test load size and clothes washer container volume in Table 5.1 to include a maximum test load size of 15.4 pounds (lbs) for clothes washer container volumes of 3.8 to 3.9 cubic feet. DOE has also granted interim waivers to the General Electric Company (GE) (75 FR 57915 (September 23, 2010)) and to Samsung (75 FR 57937 (September 23, 2010)) for similar products. GE subsequently was granted a waiver in a decision and order published on December 10, 2010. 75 FR 76968. All decision and orders for this type of product use the Table 5.1 values taken from DOE's NOPR.

III. Consultations With Other Agencies

DOE consulted with the Federal Trade Commission (FTC) staff concerning the LG petition for waiver. The FTC staff did not have any objections to granting a waiver to LG.

IV. Conclusion

After careful consideration of all the material that was submitted by LG, the waivers granted to Whirlpool, GE and Samsung, the clothes washer test procedure rulemaking, and consultation with the FTC staff, it is ordered that:

(1) The petition for waiver submitted by the LG Corporation (Case No. CW–016) is hereby granted as set forth in the paragraphs below.

(2) LG shall not be required to test or rate the following LG models on the basis of the current test procedure contained in 10 CFR part 430, subpart B, appendix J1. Instead, it shall be required to test and rate such products according to the alternate test procedure as set forth in paragraph (3) below:

Model	Brand
WT5001C*	LG.
WT5101H*	LG.
LSWF388H**	LG.
WM3875H***	LG.
WM3885H***	LG.
WM2701H*	LG.
WM2801H***	LG.
WM3001H***	LG.
4219#90#	Kenmore.
4102#90#	Kenmore.
4051#90#	Kenmore.
4172#00#	Kenmore.
2927#00#	Kenmore.
2900#00#	Kenmore.

(3) LG shall be required to test the products listed in paragraph (2) above according to the test procedures for clothes washers prescribed by DOE at 10 CFR part 430, appendix J1, except that, for the LG products listed in paragraph (2) only, the expanded Table 5.1 below shall be substituted for Table 5.1 of appendix J1.

TABLE 5.1—TEST LOAD SIZES

Container volume		Minimum load		Maximum load		Average load	
cu. ft	liter	lb	kg	lb	kg	lb	kg
≥ <	≥ <						
0–0.8	0–22.7	3.00	1.36	3.00	1.36	3.00	1.36
0.80–0.90	22.7–25.5	3.00	1.36	3.50	1.59	3.25	1.47
0.90–1.00	25.5–28.3	3.00	1.36	3.90	1.77	3.45	1.56
1.00–1.10	28.3–31.1	3.00	1.36	4.30	1.95	3.65	1.66
1.10–1.20	31.1–34.0	3.00	1.36	4.70	2.13	3.85	1.75
1.20–1.30	34.0–36.8	3.00	1.36	5.10	2.31	4.05	1.84
1.30–1.40	36.8–39.6	3.00	1.36	5.50	2.49	4.25	1.93
1.40–1.50	39.6–42.5	3.00	1.36	5.90	2.68	4.45	2.02
1.50–1.60	42.5–45.3	3.00	1.36	6.40	2.90	4.70	2.13
1.60–1.70	45.3–48.1	3.00	1.36	6.80	3.08	4.90	2.22
1.70–1.80	48.1–51.0	3.00	1.36	7.20	3.27	5.10	2.31
1.80–1.90	51.0–53.8	3.00	1.36	7.60	3.45	5.30	2.40
1.90–2.00	53.8–56.6	3.00	1.36	8.00	3.63	5.50	2.49
2.00–2.10	56.6–59.5	3.00	1.36	8.40	3.81	5.70	2.59
2.10–2.20	59.5–62.3	3.00	1.36	8.80	3.99	5.90	2.68
2.20–2.30	62.3–65.1	3.00	1.36	9.20	4.17	6.10	2.77
2.30–2.40	65.1–68.0	3.00	1.36	9.60	4.35	6.30	2.86
2.40–2.50	68.0–70.8	3.00	1.36	10.00	4.54	6.50	2.95
2.50–2.60	70.8–73.6	3.00	1.36	10.50	4.76	6.75	3.06
2.60–2.70	73.6–76.5	3.00	1.36	10.90	4.94	6.95	3.15
2.70–2.80	76.5–79.3	3.00	1.36	11.30	5.13	7.15	3.24
2.80–2.90	79.3–82.1	3.00	1.36	11.70	5.31	7.35	3.33
2.90–3.00	82.1–85.0	3.00	1.36	12.10	5.49	7.55	3.42
3.00–3.10	85.0–87.8	3.00	1.36	12.50	5.67	7.75	3.52
3.10–3.20	87.8–90.6	3.00	1.36	12.90	5.85	7.95	3.61
3.20–3.30	90.6–93.4	3.00	1.36	13.30	6.03	8.15	3.70
3.30–3.40	93.4–96.3	3.00	1.36	13.70	6.21	8.35	3.79
3.40–3.50	96.3–99.1	3.00	1.36	14.10	6.40	8.55	3.88
3.50–3.60	99.1–101.9	3.00	1.36	14.60	6.62	8.80	3.99
3.60–3.70	101.9–104.8	3.00	1.36	15.00	6.80	9.00	4.08
3.70–3.80	104.8–107.6	3.00	1.36	15.40	6.99	9.20	4.17
3.80–3.90	107.6–110.4	3.00	1.36	15.80	7.16	9.40	4.26
3.90–4.00	110.4–113.3	3.00	1.36	16.20	7.34	9.60	4.35
4.00–4.10	113.3–116.1	3.00	1.36	16.60	7.53	9.80	4.45
4.10–4.20	116.1–118.9	3.00	1.36	17.00	7.72	10.00	4.54
4.20–4.30	118.9–121.8	3.00	1.36	17.40	7.90	10.20	4.63
4.30–4.40	121.8–124.6	3.00	1.36	17.80	8.09	10.40	4.72
4.40–4.50	124.6–127.4	3.00	1.36	18.20	8.27	10.60	4.82
4.50–4.60	127.4–130.3	3.00	1.36	18.70	8.46	10.80	4.91
4.60–4.70	130.3–133.1	3.00	1.36	19.10	8.65	11.00	5.00

TABLE 5.1—TEST LOAD SIZES—Continued

Container volume		Minimum load		Maximum load		Average load	
cu. ft	liter	lb	kg	lb	kg	lb	kg
≥ <	≥ <						
4.70–4.80	133.1–135.9	3.00	1.36	19.50	8.83	11.20	5.10
4.80–4.90	135.9–138.8	3.00	1.36	19.90	9.02	11.40	5.19
4.90–5.00	138.8–141.6	3.00	1.36	20.30	9.20	11.60	5.28
5.00–5.10	141.6–144.4	3.00	1.36	20.70	9.39	11.90	5.38
5.10–5.20	144.4–147.2	3.00	1.36	21.10	9.58	12.10	5.47
5.20–5.30	147.2–150.1	3.00	1.36	21.50	9.76	12.30	5.56
5.30–5.40	150.1–152.9	3.00	1.36	21.90	9.95	12.50	5.65
5.40–5.50	152.9–155.7	3.00	1.36	22.30	10.13	12.70	5.75
5.50–5.60	155.7–158.6	3.00	1.36	22.80	10.32	12.90	5.84
5.60–5.70	158.6–161.4	3.00	1.36	23.20	10.51	13.10	5.93
5.70–5.80	161.4–164.2	3.00	1.36	23.60	10.69	13.30	6.03
5.80–5.90	164.2–167.1	3.00	1.36	24.00	10.88	13.50	6.12
5.90–6.00	167.1–169.9	3.00	1.36	24.40	11.06	13.70	6.21

Notes: (1) All test load weights are bone dry weights.
(2) Allowable tolerance on the test load weights are ±0.10 lbs (0.05 kg).

(4) Representations. LG may make representations about the energy use of its clothes washer products for compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions outlined above and such representations fairly disclose the results of such testing.

(5) This waiver shall remain in effect consistent with the provisions of 10 CFR 430.27(m).

(6) This waiver is issued on the condition that the statements, representations, and documentary materials provided by the petitioner are valid. DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

(7) Grant of this waiver does not release a petitioner from the certification requirements set forth at 10 CFR 430.62.

Issued in Washington, DC, on February 23, 2011.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy

[FR Doc. 2011–4486 Filed 2–28–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings No. 1

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP11–1777–000.
Applicants: El Paso Natural Gas Company.
Description: El Paso Natural Gas Company submits tariff filing per 154.204: Revise Grandfathered Receipt Pts Puckett/Sterling to be effective 4/1/2011.
Filed Date: 02/15/2011.
Accession Number: 20110215–5017.
Comment Date: 5 p.m. Eastern Time on Monday, February 28, 2011.

Docket Numbers: RP11–1778–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Gulf South Pipeline Company, LP submits tariff filing per 154.204: ETC Amendment to Negotiated Rate Agreement to be effective 2/1/2011.
Filed Date: 02/15/2011.
Accession Number: 20110215–5047.
Comment Date: 5 p.m. Eastern Time on Monday, February 28, 2011.

Docket Numbers: RP11–1779–000.
Applicants: B–R Pipeline Company.
Description: B–R Pipeline Company submits tariff filing per 154.204: RTF file correction to be effective 11/1/2010.
Filed Date: 02/15/2011.
Accession Number: 20110215–5090.
Comment Date: 5 p.m. Eastern Time on Monday, February 28, 2011.

Docket Numbers: RP11–1780–000.
Applicants: USG Pipeline Company.
Description: USG Pipeline Company submits tariff filing per 154.204: RTF file correction to be effective 11/1/2010.
Filed Date: 02/15/2011.
Accession Number: 20110215–5104.
Comment Date: 5 p.m. Eastern Time on Monday, February 28, 2011.

Docket Numbers: RP11–1781–000.
Applicants: Northern Natural Gas Company.
Description: Northern Natural Gas Company submits tariff filing per 154.204: 20110215 Recoupment of Kansas Ad Valorem Tax Refunds to be effective 3/18/2011.
Filed Date: 02/15/2011.
Accession Number: 20110215–5118.
Comment Date: 5 p.m. Eastern Time on Monday, February 28, 2011.

Docket Numbers: RP11–1782–000.
Applicants: Questar Overthrust Pipeline Company.
Description: Questar Overthrust Pipeline Company submits tariff filing per 154.204: Negotiated-Rate Filing for K4229 to be effective 3/31/2011.
Filed Date: 02/16/2011.
Accession Number: 20110216–5022.
Comment Date: 5 p.m. Eastern Time on Monday, February 28, 2011.

Docket Numbers: RP11–1783–000.
Applicants: Golden Triangle Storage, Inc.
Description: Golden Triangle Storage, Inc. submits tariff filing per 154.203: GTS Compliance Filing in Docket No. CP07–414–002, to be effective 2/28/2011.
Filed Date: 02/16/2011.
Accession Number: 20110216–5084.
Comment Date: 5 p.m. Eastern Time on Monday, February 28, 2011.

Docket Numbers: RP11–1784–000.
Applicants: Millennium Pipeline Company, LLC.
Description: Millennium Pipeline Company, LLC submits tariff filing per 154.204: FT–2 Minimum Commodity to be effective 3/21/2011.
Filed Date: 02/17/2011.
Accession Number: 20110217–5023.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 01, 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 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.

Dated: February 17, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–4470 Filed 2–28–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings No. 2

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP10–1400–002.

Applicants: Chandeleur Pipe Line Company.

Description: Chandeleur Pipe Line Company submits tariff filing per 154.203: Order No. 714 Compliance Filing to be effective 11/1/2010.

Filed Date: 02/10/2011.

Accession Number: 20110210–5128.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 22, 2011.

Docket Numbers: RP11–24–001.

Applicants: Columbia Gulf Transmission Company.

Description: Columbia Gulf Transmission Company submits tariff filing per 154.203: SVS Compliance to be effective 4/1/2011.

Filed Date: 02/16/2011.

Accession Number: 20110216–5046.

Comment Date: 5 p.m. Eastern Time on Monday, February 28, 2011.

Docket Numbers: RP11–1521–001.

Applicants: Discovery Gas Transmission LLC.

Description: Discovery Gas Transmission LLC submits tariff filing per 154.203: NAESB V1.9—3rd Compliance to be effective 11/1/2010.

Filed Date: 02/11/2011.

Accession Number: 20110211–5057.

Comment Date: 5 p.m. Eastern Time on Wednesday, February 23, 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.

Dated: February 17, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–4469 Filed 2–28–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP11–1785–000.

Applicants: Dominion Cove Point LNG, LP.

Description: Dominion Cove Point LNG, LP submits tariff filing per 154.204: DCP—February 18, 2011 Non-Conforming Service Agreement to be effective 3/1/2011.

Filed Date: 02/18/2011.

Accession Number: 20110218–5107.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 02, 2011.

Docket Numbers: RP11–1786–000.

Applicants: Dominion Transmission, Inc.

Description: Dominion Transmission, Inc. submits tariff filing per 154.204: DTI—February 18, 2011 Non-Conforming Service Agreements to be effective 3/1/2011.

Filed Date: 02/18/2011.

Accession Number: 20110218–5110.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 02, 2011.

Docket Numbers: RP11–1787–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: Transcontinental Gas Pipe Line Company, LLC submits tariff filing per 154.403(d)(2): Annual Fuel Tracker Filing to be effective 4/1/2011.

Filed Date: 02/18/2011.

Accession Number: 20110218–5117.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 02, 2011.

Docket Numbers: RP11–1788–000.

Applicants: Freebird Gas Storage, L.L.C.

Description: Freebird Gas Storage, L.L.C. submits tariff filing per 154.203:

Freebird Gas Storage Baseline Tariff Filing to be effective 2/25/2011.

Filed Date: 02/18/2011.

Accession Number: 20110218–5118.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 02, 2011.

Docket Numbers: RP11–1789–000.

Applicants: Portland Natural Gas Transmission System.

Description: Portland Natural Gas Transmission System submits tariff filing per 154.203: Contract Compliance Filing—RP10–758 to be effective 12/1/2010.

Filed Date: 02/18/2011.

Accession Number: 20110218–5141.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 02, 2011.

Docket Numbers: RP11–1790–000.

Applicants: Kern River Gas Transmission Company.

Description: Kern River Gas Transmission Company submits tariff filing per 154.204: 2011 Daggett Surcharge to be effective 4/1/2011.

Filed Date: 02/22/2011.

Accession Number: 20110222–5092.

Comment Date: 5 p.m. Eastern Time on Monday, March 07, 2011.

Docket Numbers: RP11–1791–000.

Applicants: Duke Energy Ohio, Inc., Duke Energy Hanging Rock II, LLC, Duke Energy Fayette II, LLC.

Description: Duke Energy Ohio, Inc. Duke Energy Fayette II, LLC and Duke Energy Hanging Rock II, LLC Request for Temporary Waiver of Capacity Release Regulations, Expedited Action, and Shortened Notice Period.

Filed Date: 02/22/2011.

Accession Number: 20110222–5241.

Comment Date: 5 p.m. Eastern Time on Tuesday, March 01, 2011.

Docket Numbers: RP11–1792–000.

Applicants: Dominion Transmission, Inc.

Description: Dominion Transmission, Inc. submits tariff filing per 154.204: DTI—Form of Service Agreement Revisions to be effective 3/28/2011.

Filed Date: 02/23/2011.

Accession Number: 20110223–5026.

Comment Date: 5 p.m. Eastern Time on Monday, March 07, 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.

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Dated: February 23, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–4471 Filed 2–28–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Technical Conference

	Docket No.
Priority Rights to New Participant-Funded Transmission	AD11–11–000
Alta Wind I, LLC	EL10–62–000
Alta Wind II, LLC	
Alta Wind III, LLC	
Alta Wind IV, LLC	
Alta Wind V, LLC	
Alta Wind VI, LLC	
Alta Wind VII, LLC	
Alta Wind VIII, LLC	
Alta Windpower Development, LLC	
TGP Development Company, LLC	
Puget Sound Energy, Inc	EL10–72–001
Terra-Gen Dixie Valley, LLC, TGP Dixie Development Company, LLC, and New York Canyon, LLC	EL10–29–002
Green Borders Geothermal, LLC v. Terra-Gen Dixie Valley, LLC	EL10–36–002
Terra-Gen Dixie Valley, LLC	ER11–2127–001
Northern Pass Transmission, LLC	ER11–2377–000
Milford Wind Corridor Phase I, LLC	RC11–2–000
Cedar Creek Wind Energy, LLC	RC11–1–000

Take notice that Commission Staff will convene a technical conference in the above-referenced proceeding on Tuesday, March 15, 2011, from 9:30 a.m. to 4 p.m. (EST), in the Commission Meeting Room at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Members of the Commission may attend the conference which will also be open for the public to attend. Advance registration is not required.

Those interested in speaking at the conference should notify the Commission by close of business February 28, 2011 by completing an online form describing the topics that they wish to address: *https://www.ferc.gov/whats-new/registration/rights-03-15-speaker-form.asp.* Due to time constraints, we may not be able to accommodate all those interested in speaking. The Commission will issue a subsequent notice that will provide the detailed agenda, including panel speakers.

The purpose of the conference is to consider issues related to the ownership of and priority access rights to new transmission projects. The electric industry has evolved since Order No. 888 was adopted. New business models in addition to traditional vertically-integrated utilities have emerged for developing, owning, and operating electric transmission infrastructure. Several of these models have been the subject of petitions before the Commission. For example, one such model entails the owner of the project seeking priority access to the transmission capacity it develops. The Commission would like to explore issues related to these new transmission infrastructure ownership models. Conference participants should be prepared to address the topic in at least one of two contexts: independent and/or merchant transmission,[1] and generator lead lines.[2]

With respect to independent and/or merchant transmission, participants should be prepared to address how the economics of a proposed project are affected by the Commission's current affiliate rules and pricing structures (*e.g.,* cost-based or negotiated rates). Participants also should be prepared to address: the need for and appropriate application of priority access mechanisms, such as open seasons and anchor shipper/tenant arrangements; how these can be designed consistent with the Commission's open access principles; and whether alternative mechanisms should be considered.

With respect to generator lead lines, participants should be prepared to address the nature of these lines and the application of the Commission's open access policies as they relate to these lines.

In either context, participants should be prepared to address the Commission's policies with respect to the treatment of affiliates, the implications of various project ownership structures, and the criteria employed for justifying priority allocation of capacity in new or expanded transmission facilities.

Further, participants should be prepared to identify and discuss what an appropriate balance is between the Commission's policies on open access and non-discriminatory treatment, on the one hand, and the needs of developers of the facilities on the other hand. Participants are encouraged to come prepared to propose and discuss regulatory alternatives that are consistent with the Commission's statutory responsibility to ensure that rates, terms, and conditions of service are just and reasonable and not unduly discriminatory.

The discussions at the conference may address matters at issue in the following Commission proceedings that are either pending or within their rehearing period:

Alta Wind I, LLC *et al.,* Docket No. EL10–62–000;

Puget Sound Energy, Inc.; EL10–72–001;

Terra-Gen Dixie Valley, LLC, Docket No. EL10–29–002;

Green Borders Geothermal, LLC v. *Terra-Gen Dixie Valley, LLC,* Docket No. EL10–36–002;

Terra-Gen Dixie Valley, LLC, Docket No. ER11–2127–001;

Northern Pass Transmission, LLC, Docket No. ER11–2377–000;

Milford Wind Corridor Phase I, LLC, Docket No. RC11–2–000;

Cedar Creek Wind Energy, LLC, Docket No. RC11–1–000.

This conference will be transcribed. Transcripts will be available immediately for a fee from Ace Reporting Company (202–347–3700 or 1–800–336–6646). A free Webcast of the technical conference in this proceeding is also available. Anyone with Internet access interested in viewing this conference can do so by navigating to www.ferc.gov's Calendar of Events and locating this event in the Calendar. The event will contain a link to its Webcast. The Capitol Connection provides technical support for the Webcasts and offers the option of listening to the conferences via phone-bridge for a fee. If you have any questions, visit *http://www.CapitolConnection.org* or call (703) 993–3100.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or (202) 502–8659 (TTY), or send a fax to (202) 208–2106 with the requested accommodations.

For further information please contact Becky Robinson at (202) 502–8868 or *Becky.Robinson@ferc.gov;* or Pierson Stoecklein at (202) 502–6372 or *Pierson.Stoecklein@ferc.gov.*

Dated: February 22, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–4416 Filed 2–28–11; 8:45 am]

BILLING CODE 6717–01–P

[1] *See, e.g., Chinook Power Transmission, LLC,* 126 FERC ¶ 61,134 (2009).

[2] *See, e.g., Milford Wind Corridor, LLC,* 129 FERC ¶ 61,149 (2009).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL11–23–000]

EnerNOC, Inc.; Notice of Petition for Declaratory Order

Take notice that on February 22, 2011, pursuant to Rule 207(a)(2) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.207(a)(2) (2010), EnerNOC, Inc. (EnerNOC) filed a petition for declaratory order seeking clarification that EnerNOC may continue to manage its portfolio of PJM Interconnection, LLC (PJM) demand response resources as it has in the past and continue to receive settlement in accordance with the PJM tariff on file with the Commission without enforcement action being threatened or taken on account thereof. EnerNOC also requests that the clarification is without prejudice to the right of PJM or any other party to seek amendment to the PJM tariff prospectively pursuant to section 205 or 206 of the Federal Power Act.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically

should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on Tuesday, March 1, 2011.

Dated: February 22, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–4417 Filed 2–28–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13870–000]

Qualified Hydro 34, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On October 15, 2010, Qualified Hydro 34, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Foster Joseph Sayers Dam Hydroelectric Project to be located on Bald Eagle Creek in the vicinity of Liberty Township in Centre County, Pennsylvania. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would utilize the existing U.S. Army Corps of Engineers' Foster Joseph Sayers Dam and would consist of the following: (1) One vertical Kaplan turbine and generator unit rated at 25-megawatts; (2) a 40- by 50-foot powerhouse; (3) a 100-foot-long steel-lined penstock; (4) a 6,600-foot-long transmission line; and (5) appurtenant facilities. The estimated annual generation of the Foster Joseph Sayers Dam Hydroelectric Project would be 12 gigawatt-hours.

Applicant Contact: Ramya Swaminathan, Chief Operating Officer, Free Flow Power, 33 Commercial Street, Gloucester, MA 01930; phone: (978) 283–2822.

FERC Contact: Brandi Sangunett (202) 502–8393.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13870–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: February 22, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–4415 Filed 2–28–11; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2011–0175; FRL–9274–5]

Human Studies Review Board (HSRB); Notification of a Public Teleconference To Review a Draft Report From HSRB Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U. S. Environmental Protection Agency (EPA) Office of the Science Advisor (OSA) announces a public teleconference of the HSRB to discuss its draft report from the January 26, 2011 HSRB meeting.

DATES: The teleconference will be held on Thursday, March 17, 2011 from approximately 1 p.m. to approximately 3 p.m. Eastern Time.

ADDRESSES: Submit your written comments, identified by Docket ID No. EPA–HQ–ORD–2011–0175, by one of the following methods:

Internet: http://www.regulations.gov: Follow the on-line instructions for submitting comments.

E-mail: ORD.Docket@epa.gov.

Mail: Environmental Protection Agency, EPA Docket Center (EPA/DC), ORD Docket, Mail Code 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

Hand Delivery: The EPA/DC Public Reading Room is located in the EPA Headquarters Library, Room Number 3334 in the EPA West Building, located at 1301 Constitution Avenue, NW., Washington, DC 20460. The hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Time, Monday through Friday, excluding Federal holidays. Please call (202) 566–1744 or e-mail the ORD Docket at *ord.docket@epa.gov* for instructions. Updates to Public Reading Room access are available on the Web site (*http://www.epa.gov/epahome/dockets.htm*).

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2011–0175. 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 comments includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is

an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comments 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 FURTHER INFORMATION CONTACT: Any members of the public who wish to receive further information should contact Jim Downing at telephone number: (202) 564–2468; fax: (202) 564–2070; e-mail address: *downing.jim@epa.gov,* or Lu-Ann Kleibacker at telephone number: (202) 564–7189; fax: (202) 564–2070; e-mail address: *kleibacker.lu-ann@epa.gov;* mailing address: Environmental Protection Agency, Office of the Science Advisor, 8105R, 1200 Pennsylvania Ave., NW., Washington, DC 20460. General information concerning the EPA HSRB can be found on the EPA Web site at *http://www.epa.gov/osa/hsrb/.*

SUPPLEMENTARY INFORMATION:

Location: The meeting will take place via telephone only.

Meeting access: For information on access or services for individuals with disabilities, please contact Lu-Ann Kleibacker at least ten business days prior to the meeting using the information under **FOR FURTHER INFORMATION CONTACT**, so that appropriate arrangements can be made.

Procedures for providing public input: Interested members of the public may submit relevant written or oral comments for the HSRB to consider during the advisory process. Additional information concerning submission of relevant written or oral comments is provided in section I, "Public Meeting," under subsection D, "How May I Participate in this Meeting?" of this notice.

I. Public Meeting

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of particular interest to persons who conduct or assess human studies, especially studies on substances regulated by EPA, or to persons who are, or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult Jim Downing or Lu-Ann Kleibacker listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I access electronic copies of this document and other related information?

In addition to using regulations.gov, you may access this Federal Register document electronically through the EPA Internet under the **Federal Register** listings at *http://www.epa.gov/fedrgstr/.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the ORD Docket, EPA/DC Public Reading Room. The EPA/DC Public Reading Room is located in the EPA Headquarters Library, Room Number 3334 in the EPA West Building, located at 1301 Constitution Avenue, NW., Washington, DC 20460. The hours of operation are 8:30 a.m to 4:30 p.m. Eastern Time, Monday through Friday, excluding Federal holidays. Please call (202) 566–1744, or e-mail the ORD Docket at *ord.docket@epa.gov* for instructions. Updates to the Public Reading Room access are available on the Web site (*http://www.epa.gov/epahome/dockets.htm*).

C. What should I consider as 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.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you use that support your views.
4. Provide specific examples to illustrate your concerns and suggest alternatives.
5. 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.

D. How may I participate in this meeting?

You may participate in this meeting by following the instructions in this section. To ensure proper receipt by EPA, it is imperative that you identify docket ID number EPA–HQ–ORD–2011–0175 in the subject line on the first page of your request.

1. *Oral comments.* Requests to present oral comments will be accepted up to March 10, 2011. To the extent that time permits, interested persons who have not pre-registered may be permitted by the Chair of the HSRB to present oral comments at the meeting. Each individual or group wishing to make brief oral comments to the HSRB is strongly advised to submit their request (preferably via e-mail) to Jim Downing or Lu-Ann Kleibacker under **FOR FURTHER INFORMATION CONTACT** no later than noon, Eastern Time, March 10, 2011, in order to be included on the meeting agenda and to provide sufficient time for the HSRB Chair and HSRB Designated Federal Official (DFO) to review the meeting agenda to provide an appropriate public comment period. The request should identify the name of the individual making the presentation and the organization (if any) the individual will represent. Oral comments before the HSRB are generally limited to five minutes per individual or organization. Please note that this includes all individuals appearing either as part of, or on behalf of, an organization. While it is our intent to hear a full range of oral comments on the science and ethics issues under discussion, it is not our intent to permit organizations to expand the time limitations by having numerous individuals sign up separately to speak on their behalf. If additional time is available, further public comments may be possible.

2. *Written comments.* Submit written comments prior to the meeting. For the HSRB to have the best opportunity to review and consider your comments as it deliberates on its report, you should submit your comments at least five business days prior to the beginning of this teleconference. If you submit comments after this date, those comments will be provided to the Board members, but you should recognize that

the Board members may not have adequate time to consider those comments prior to making a decision. Thus, if you plan to submit written comments, the Agency strongly encourages you to submit such comments no later than noon, Eastern Time, March 10, 2011. You should submit your comments using the instructions in section I, under subsection C, "What Should I Consider as I Prepare My Comments for EPA?". In addition, the Agency also requests that persons submitting comments directly to the docket also provide a copy of their comments to Jim Downing or Lu-Ann Kleibacker listed under **FOR FURTHER INFORMATION CONTACT.** There is no limit on the length of written comments for consideration by the HSRB.

E. Background

The HSRB is a Federal advisory committee operating in accordance with the Federal Advisory Committee Act (FACA) 5 U.S.C. App.2 § 9. The HSRB provides advice, information, and recommendations to EPA on issues related to scientific and ethical aspects of human subjects research. The major objectives of the HSRB are to provide advice and recommendations on: (1) Research proposals and protocols; (2) reports of completed research with human subjects; and (3) how to strengthen EPA's programs for protection of human subjects of research. The HSRB reports to the EPA Administrator through EPA's Science Advisor.

1. *Topics for Discussion.* The HSRB will be reviewing its draft report from the January 26, 2011 HSRB meeting. The Board may also discuss planning for future HSRB meetings. Background on the January 26, 2011 HSRB meeting can be found at [**Federal Register** Volume 76, Number 8 (Wednesday, January 12, 2011)] [Notices] [pages 2107–2109] and at the HSRB Web site *http://www.epa.gov/osa/hsrb/.* The January 26, 2011 meeting draft report is now available. You may obtain electronic copies of this document and certain other related documents that might be available electronically from the *http://www.regulations.gov* website and the HSRB Internet home page at *http://www.epa.gov/osa/hsrb/.* For questions on document availability or if you do not have access to the Internet, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

Dated: February 25, 2011.

Paul T. Anastas,

EPA Science Advisor.

[FR Doc. 2011–4633 Filed 2–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9273–2]

Science Advisory Board Staff Office; Notification of a Public Teleconference of the Environmental Economics Advisory Committee Augmented for Valuing Mortality Risk Reductions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public teleconference of the Environmental Economics Advisory Committee Augmented for Mortality Risk Valuation to review its draft Advisory on EPA's White Paper "Valuing Mortality Risk Reduction for Environmental Policy" (December 10, 2010).

DATES: The public teleconference will be held on Monday, March 14, 2011 from 12 p.m. to 3 p.m. Eastern time.

ADDRESSES: The teleconference will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants further information concerning the teleconference may contact Dr. Holly Stallworth, Designated Federal Officer (DFO), EPA Science Advisory Board (1400R), U.S. Environmental Protection Agency, 1300 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail (202) 564–2073; fax (202) 565–2098; or e-mail at *stallworth.holly@epa.gov.* General information concerning the SAB can be found on the EPA Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Background: 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, a subcommittee of the SAB, will hold a public meeting to discuss a draft advisory report. The SAB Dioxin Review Panel and the SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background for this project may be found in 75 FR 80048–80049 describing the history of the SAB EEAC's advice to EPA on its guidelines for valuing mortality risk reduction. As announced in that notice, the SAB EEAC held a face-to-face meeting on January 20–21 2011 to discuss charge questions related to the EPA White Paper "Valuing Mortality Risk Reductions for Environmental Policy" (December 10, 2010) posted at *http://yosemite.epa.gov/sab/sabproduct.nsf/0/34D7008FAD7FA8AD8525750400712AEB/?OpenDocument.*

The March 14, 2011 teleconference will be used to discuss the EEAC's draft report to the Administrator. This draft report will respond to charge questions posted at *http://yosemite.epa.gov/sab/sabproduct.nsf/MeetingCal/A36589D46F1D2C8F852577C7004D376E?OpenDocument.*

Technical Contacts: Any questions concerning EPA's White Paper should be directed to Dr. Nathalie Simon, NCEE at 202–566–2347 or *simon.nathalie@epa.gov.*

Availability of Meeting Materials: A meeting agenda and draft report from the EEAC Augmented for Mortality Risk Valuation and other materials for the meeting will be placed on the SAB Web site at *http://www.epa.gov/sab.*

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for consideration on the topics included in this advisory activity. *Oral Statements:* To be placed on the public speaker list for the March 14, 2011 meeting, interested parties should notify Dr. Holly Stallworth, DFO, by e-mail no later than March 7, 2011. Individuals making oral statements will be limited to three minutes per speaker. *Written Statements:* Written statements for the meeting should be received in the SAB Staff Office by March 7, 2011 so that the information may be made available to the SAB Panel for its consideration prior to this meeting. Written statements should be supplied to the DFO via e-mail (acceptable file format: Adobe Acrobat PDF, MS Word, WordPerfect, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format).

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Stallworth at the phone number or e-mail address noted above, preferably at

least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: February 16, 2011.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2011–4502 Filed 2–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9272–4]

Farm, Ranch, and Rural Communities Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Meeting.

SUMMARY: Under the Federal Advisory Committee Act, Public Law 92–463, EPA gives notice of a meeting of the Farm, Ranch, and Rural Communities Committee (FRRCC). The FRRCC is a policy-oriented committee that provides policy advice, information, and recommendations to the EPA Administrator on a range of environmental issues and policies that are of importance to agriculture and rural communities.

The purpose of this meeting is to advance discussion of specific topics of unique relevance to agriculture such as effective approaches to addressing water quality issues associated with agricultural production, in such a way as to provide thoughtful advice and useful insights to the Agency as it crafts environmental policies and programs that affect and engage agriculture and rural communities. A copy of the meeting agenda will be posted at *http://epa.gov/ofacmo/frrcc/meetings.htm.*

DATES: The Farm, Ranch, and Rural Communities Committee will hold an open meeting on Tuesday, March 29, 2011 from 8:30 a.m. (registration at 8 a.m.) until 8 p.m. and on Wednesday, March 30, 2011 from 8:30 a.m. until 2 p.m. Eastern Daylight Time.

ADDRESSES: The meeting will be held at the Sheraton National Hotel, 900 South Orme Street, Arlington, VA 22204, *Telephone:* (703) 521–1900. The meeting is open to the public, with limited seating on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Alicia Kaiser, Designated Federal Officer, *kaiser.alicia@epa.gov,* 202–564–7273, US EPA, Office of the Administrator (1101A), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Requests to make brief oral comments or provide written statements to the FRRCC should be sent to Alicia Kaiser, Designated Federal Officer, at the contact information above. All requests must be submitted no later than March 18, 2011.

Meeting Access: For information on access or services for individuals with disabilities, please contact Alicia Kaiser at 202–564–7273 or *kaiser.alicia@epa.gov.* To request accommodation of a disability, please contact Alicia Kaiser, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: February 10, 2011.

Alicia Kaiser,

Designated Federal Officer.

[FR Doc. 2011–4501 Filed 2–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2011–0185; FRL–9273–7]

Solicitation of Input From Stakeholders To Inform the National Framework for Electronics Stewardship

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA), General Services Administration (GSA), and Council on Environmental Quality (CEQ) are requesting written stakeholder input to inform the national framework for electronics stewardship that is being developed by the Interagency Task Force on Electronics Stewardship. On November 15, 2010, President Obama signed a presidential proclamation celebrating the strides the country has made in recycling, while also highlighting the need for greater attention on used electronics management throughout the product lifecycle. CEQ Chair Nancy Sutley established an interagency task force on November 8, 2010 to provide a national strategy and recommendations for areas of Federal agency operational and managerial improvement associated with electronics stewardship. The Task Force is scheduled to deliver to CEQ a national framework for electronics stewardship by May 6, 2011. By this notice, the Environmental Protection Agency, on behalf of the Task Force, is soliciting public comment from interested parties regarding the national framework.

DATES: All comments must be received on or before March 11, 2011.

ADDRESSES: You may submit your comments, identified by EPA–HQ–RCRA–2011–0185, using one of the following methods:

http://www.regulations.gov: Follow the on-line instructions for submitting comments. Note, while this request is not a federal regulation, input on the plan can be submitted through this federal Web site.

E-mail: Comments may be sent by electronic mail (e-mail) to *rcra.docket@epamail.epa.gov,* Attention Docket ID No. EPA–HQ–RCRA–2011–0185.

Mail: Comments may be submitted by mail to: OSWER Docket, Office of Resource Conservation and Recovery, U.S. Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–RCRA–2011–0185. Please include a total of two copies of your comments.

Hand Delivery: Deliver two copies of your comments to: EPA Docket Center, Public Reading Room, Room 3334, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–RCRA–2011–0185. Such deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4:30 p.m.), Monday through Friday, excluding legal holidays and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–RCRA–2011–0185. All comments must be in English or be accompanied by an English translation. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov,* including any personal information provided. The 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your

comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the OSWER Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20460. The Public Meeting Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the OSWER Docket and the Public Reading Room is (202) 566–1744. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: Shayla Powell, Resource Conservation and Sustainability Division (5306P), Office of Resource Conservation and Recovery, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; *telephone number:* (703) 308–0319; e-*mail address: powell.shayla@epa.gov* or visit *http://www.epa.gov/wastes/conserve/materials/ecycling/taskforce/.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be interested in providing input if you manufacture, distribute, sell, label, certify, verify, refurbish, recycle, purchase or use consumer, commercial, or industrial electronics, or conduct research in any of these areas. Potentially interested entities may include, but are not limited to:

- Manufacturing (NAICS code 33).
- Wholesale trade (NAICS code 42).
- Electronics and Appliance Stores (NAICS code 443).
- Consumer Goods Rental (NAICS code 5322).
- Computer System Design and Related Services (NAICS code 5415)
- Waste Management and Remediation Services (NAICS code 562)
- Electronic and Precision Equipment Repair and Maintenance (NAICS code 8112).
- Public Administration (NAICS code 92).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be interested in this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this applies to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What should I consider as I prepare my comments for EPA?

1. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Submit all comments in English or have them be accompanied by an English translation.

iii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iv. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

v. Describe any assumptions and provide any technical information and/or data that you used.

vi. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vii. Explain your views as clearly as possible.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

The increased use of electronics and technology in society brings the challenge of protecting human health and the environment from potentially harmful effects of the improper handling and disposal of these products. Discarded electronics comprise a small, but rapidly growing part of our municipal waste.

Currently, there are no federal mandates that require electronics recycling or restrict unwanted electronics equipment from solid waste landfills in the United States. EPA does, however, control how cathode ray tube (CRT) monitors (*e.g.,* from TV and computers) that are subject to hazardous waste regulation are managed domestically and requires notifications if CRT monitors are exported for recycling. A growing number of states are mandating collection and recycling of used electronics. In addition, there are now two electronics recycling standards and accredited certification programs that address the handling of used electronics throughout the recycling chain. (Basel Action Network; e-Stewards Certification; *http://e-stewards.org/.* R2 Solutions; R2 certification; *http://www.r2solutions.org/.*)

Unwanted or discarded electronics not reused or recycled represents a lost opportunity to reuse functioning electronic equipment and components, such as cell phone and computers/laptops or recover valuable resources, such as precious metals, plastics or minerals that are found in scarce or critical supply. Additionally, used electronics may be exported to developing countries that lack capacity to manage them appropriately and result in negative impacts to human health and the environment. The majority of electronics recyclers in the United States refurbish, repair, or pre-process (demanufacture, shred, sort) used electronics to prepare them for the final recovery step. Facilities that further recover raw materials, through smelting and refining (end-processing), are mostly located outside the United States. These facilities convert electronics scrap into: (1) High grade copper and precious metals (*e.g.,* gold, silver, and palladium); (2) new CRTs; or (3) new plastics, all materials that can be reused in the marketplace.

To address the problems related to used electronics both here and abroad, American businesses, government, and citizens must work together to manage these electronics throughout the product lifecycle—from design and manufacturing through their use and eventual recycling, recovery, and disposal. On November 8, 2010, CEQ Chair Nancy Sutley established an interagency working group that is co-chaired by EPA, GSA and CEQ to develop a national strategy and recommendations for improving Federal

stewardship of used electronics. By May 6, 2011, the Task Force will deliver to CEQ a national framework for:

1. Directing Federal agencies to exercise all appropriate authorities to achieve the electronic stewardship goals, consistent with domestic and international law;
2. Developing a system-based approach to the long-term design, management and disposal of Federal used electronics;
3. Information gathering and tracking, regulatory options, and best management practices for used electronics that can be used by the Federal agencies and leveraged to the private sector;
4. Building partnerships in the public and private sector for sustainable electronics management nationwide;
5. Reducing exports of used electronics to developing countries that lack the capacity to properly manage them, and assess how federal agencies can improve their ability to deter these exports; and,
6. Building capacity within and share best practices with developing countries, so they can improve their ability to safely handle used electronics, while promoting economic development.

A. What action is the Agency taking?

EPA and the Interagency Task Force are soliciting input from individuals and organizations to inform the electronics stewardship national framework. More specifically, EPA and the Interagency Task Force would appreciate your individual views regarding the following questions:

1. What actions should the federal government take to further encourage the design, manufacture, procurement, and use of greener electronics?
2. What are the challenges to designing and manufacturing products in which rare and valuable materials are 100% recyclable, and are recycled at end of product life? What can the federal government do to help address those challenges?
3. What are best practices for used electronics management that the federal government should adopt? What examples of best management practices of used electronics have been implemented in your community, organization or institution?
4. How can the amount of electronics that are recycled in the United States be increased, while ensuring that they are managed safely and properly?
5. What additional infrastructure is needed, and what can be done to encourage its development, in the United States to responsibly reuse and recycle used electronics from governments, businesses and private consumers?
6. What innovations in electronic design exist that would enable electronics to be tracked until disposal?
7. What information would be most helpful to you when deciding how to dispose of used electronics?
8. What projects, practices or efforts, are you aware of that addresses the problem of used electronics from the United States being exported and being handled in a way that causes harm to health and the environment?
9. How could public-private partnerships help resolve any or all the questions above?

The framework that is released on May 6, 2011 will include additional follow on steps to engage all stakeholders.

For your convenience the questions above are also available for viewing at *http://www.epa.gov/wastes/conserve/materials/ecycling/taskforce/.*

B. What is the Agency's authority for taking this action?

Executive Order (E.O.) 13514 specifies Federal Leadership in Environmental, Energy, and Economic Performance. An overall goal of EO 13514 is "to establish an integrated strategy towards sustainability in the Federal Government." Section 2(i) of E.O. 13514 establishes electronics stewardship goals. In the spirit of E.O. 13514, the government will lead by example in this effort by ensuring that the departments and agencies of the federal government, some of the largest consumers of electronics in the country, are also the most responsible consumers.

Comments Consideration

The EPA and the Interagency Task Force on Electronics Stewardship will consider stakeholder input received from written comments in developing the Framework. There will be another opportunity to comment on the Framework developed by the Task Force after it is delivered to the Council on Environmental Quality.

List of Subjects

Environmental protection, Electronics stewardship, Sustainability, E-waste.

Dated: February 23, 2011.

Lisa Feldt,

Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 2011–4505 Filed 2–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9273–3]

Science Advisory Board Staff Office; Notification of Two Public Teleconferences of the Science Advisory Board Ecological Processes and Effects Committee Augmented for Ballast Water

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces two public teleconferences of the SAB Ecological Processes and Effects Committee (EPEC). The SAB EPEC, augmented with other experts, will discuss their draft advisory report about the effectiveness of shipboard ballast water treatment processes and ways to improve future assessments of ballast water treatment systems to minimize the impacts of invasive species in vessel ballast water discharge.

DATES: The teleconference dates are Tuesday, March 15, 2011 from 12 p.m. to 3 p.m. and Wednesday, March 16, 2011 from 12 p.m. to 3 p.m. (Eastern Time).

ADDRESSES: The public teleconferences will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain further information about this meeting may contact Ms. Iris Goodman, Designated Federal Officer (DFO). Ms. Goodman may be contacted at the EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or via telephone/voice mail; (202) 564–2164 fax, (202) 265–2098; or e-mail at *goodman.iris@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 by 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), as amended, 5 U.S.C., App. 2. Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the SAB EPEC augmented with other experts will hold a public meeting to discuss their

draft advisory report that responds to charge questions about the effectiveness and reliability of ballast water treatment technologies and ways to improve future assessments of ballast water treatment systems in order to protect waters from the risk of invasive species and to be protective of Clean Water Act standards. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: Vessel ballast water discharges are a major source of nonidigenous species introductions to marine, estuarine, and freshwater ecosystems of the United States. Ballast water discharges are regulated by EPA under authority of the Clean Water Act (CWA) and the U.S. Coast Guard under authority of the Nonindigenous Aquatic Nuisance Prevention and Control Act, as amended (NANPCA).

EPA's Office of Water (OW) requested that the SAB review technical documents and available data on the effectiveness of ballast water treatment systems and provide advice on improving the performance of such systems. The SAB EPEC previously met on July 29–30, 2010; held public teleconferences on October 26, and November 4, 2010; and met on Jan. 25–26, 2011. Additional information about this advisory activity may be found on the SAB Web site at *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/BW%20discharge?OpenDocument.* The purpose of the two teleconferences on March 15, 2011 and March 16, 2011 is for the Committee to discuss their draft advisory report.

Availability of Teleconference Materials: The teleconference agenda and other materials in support of the meeting will be posted on the SAB Web site at *http://www.epa.gov/sab* in advance of the meeting.

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 five minutes per speaker. Interested parties should contact Ms. Goodman, DFO, in writing (preferably via e-mail) at the contact information noted above by March 7, 2011, to be placed on a list of public speakers for the meeting. *Written Statements:* Written statements should be received in the SAB Staff Office no later than March 7, 2011 so that the information may be made available to the SAB Committee members for their consideration. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format). Submitters are requested to provide two versions of each document 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 Ms. Goodman at the phone number or e-mail address noted above, preferably at least ten days prior to the meeting to give EPA as much time as possible to process your request.

Dated: February 16, 2011.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2011–4503 Filed 2–28–11; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Public Availability of Equal Employment Opportunity Commission (EEOC) FY 2010 Service Contract Inventory

AGENCY: Equal Employment Opportunity Commission.

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), Equal Employment Opportunity Commission is publishing this notice to advise the public of the availability of the 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). OFPP's guidance is available at *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-ontract-nventories-guidance-11052010.pdf.* The Equal Employment Opportunity Commission has posted its inventory and a summary of the inventory on the EEOC homepage at the following link: Doing Business with EEOC.

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Doreen Starkes in the Acquisition Services Division at (202) 663–4240 or *DOREEN.STARKES@EEOC.GOV.*

Dated: February 23, 2011.

Doreen Starkes,

Contracting Officer, Acquisition Services Division.

[FR Doc. 2011–4554 Filed 2–28–11; 8:45 am]

BILLING CODE 6570–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: *Background.* On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for Comment on Information Collection Proposal

The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

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.

DATES: Comments must be submitted on or before May 2, 2011.

ADDRESSES: You may submit comments, identified by Reg DD 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.

Additionally, commenters should send a copy of their comments to the OMB Desk Officer 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: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/boarddocs/reportforms/review.cfm* or may be requested from the agency clearance officer, whose name appears below.

Cynthia Ayouch, Acting Federal Reserve Board Clearance Officer (202–452–3829), Division of Research and Statistics, 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.

Proposal to approve under OMB delegated authority the extension for three years, without revision of the following report:

Report title: The Disclosure Requirements in Connection with Regulation DD (Truth in Savings).

Agency form number: Reg. DD.

OMB control number: 7100–0271.

Frequency: Monthly.

Reporters: State member banks, branches & agencies of foreign banks, commercial lending companies, and Edge Act or agreement corporations.

Annual reporting hours: 166,050.

Estimated average hours per response: Account disclosures: 1 hour; Change in terms notices: 1.5 hours; Notices prior to maturity: 1.5 hours; Periodic statement disclosure: 8 hours; and Advertising: 30 minutes.

Number of respondents: 1,107.

General description of report: This information collection is mandatory (12 U.S.C. 4308)). The Federal Reserve does not collect any information; therefore, no issue of confidentiality arises.

Abstract: The Truth in Savings Act (TISA) and Regulation DD require depository institutions to disclose yields, fees, and other terms concerning deposit accounts to consumers at account opening, upon request, and when changes in terms occur. Depository institutions that provide periodic statements are required to include information about fees imposed, interest earned, and the annual percentage yield earned during those statement periods. TISA and Regulation DD mandate the methods by which institutions determine the account balance on which interest is calculated. They also contain rules about advertising deposit accounts and overdraft services.

Board of Governors of the Federal Reserve System, February 24, 2011.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2011–4484 Filed 2–28–11; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 16, 2011.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President), 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *M.S.B. Corporation,* Central City, Iowa; to engage *de novo* through its subsidiary, BORE Properties, Inc., Central City, Iowa, in extending credit and servicing loans, pursuant to section 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, February 24, 2011.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2011–4487 Filed 2–28–11; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Secretary's Advisory Committee on Human Research Protections; Notice of Meeting

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of the Assistant Secretary for Health, Office for Human Research Protections.

ACTION: Notice.

SUMMARY: Pursuant to Section 10(a) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App.), notice is hereby given that the Secretary's Advisory Committee on Human Research Protections (SACHRP) will hold its twenty-fourth meeting. The meeting will be open to the public. Information about SACHRP and the meeting agenda will be posted on the SACHRP Web site at: *http://www.dhhs.gov/ohrp/sachrp/mtgings/index.html.*

DATES: The meeting will be held on Tuesday, March 8, 2011 from 8:30 a.m. until 5 p.m. and Wednesday, March 9, 2011 from 8:30 a.m. until 5 p.m.

ADDRESSES: U.S. Department of Health and Human Services, 200 Independence Avenue, SW., Hubert H. Humphrey Building, Room 800, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Jerry Menikoff, M.D., J.D., Director, Office for Human Research Protections, or Julia Gorey, J.D., Executive Director, SACHRP; U.S. Department of Health and Human Services, 1101 Wootton Parkway, Suite 200, Rockville, Maryland 20852; 240–453–6900, fax: 240–453–6909; e-mail address: *Julia.Gorey@hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the authority of 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended, SACHRP was established to provide expert advice and recommendations to the Secretary of Health and Human Services and the Assistant Secretary for Health on issues and topics pertaining to or associated with the protection of human research subjects.

On March 8, 2011, SACHRP will hear a panel presentation on the work of the Federal Demonstration Partnership, followed by discussion. This will be followed by the report of the Subpart A Subcommittee (SAS), focusing on improvements to the informed consent process. SAS is charged with developing recommendations for consideration by SACHRP about the application of subpart A of 45 CFR part 46 in the current research environment. This subcommittee was established by SACHRP at its October 2006 meeting. The afternoon will close with a panel presentation on the reporting and return of individual research results, including issues associated with the Clinical Laboratory Improvement Amendments.

On March 9, 2011, the morning will open with a panel discussion on the reporting and return of aggregate research results, including a report on the status of ClinicalTrials.gov. The Subcommittee on Harmonization (SOH) will end the meeting with a report on their work to date. The SOH was established by SACHRP at its July 2009 meeting, and is charged with identifying and prioritizing areas in which regulations and/or guidelines for human subjects research adopted by various agencies or offices within HHS would benefit from harmonization, consistency, clarity, simplification and/or coordination. Public comment will be heard on both days. Public attendance at the meeting is limited to space available. Individuals who plan to attend the meeting and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact persons. Members of the public will have the opportunity to provide comments on both days of the meeting. Public comment will be limited to five minutes per speaker. Any members of the public who wish to have printed materials distributed to SACHRP members for this scheduled meeting should submit materials to the Executive Director, SACHRP, prior to the close of business on March 4, 2011.

An unforeseen administrative matter delayed this notice being submitted to the **Federal Register** for publication.

Dated: February 23, 2011.

Jerry Menikoff,

Director, Office for Human Research Protections, Executive Secretary, Secretary's Advisory Committee on Human Research Protections.

[FR Doc. 2011–4473 Filed 2–28–11; 8:45 am]

BILLING CODE 4150–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–R–185, CMS–10303 and CMS–10379]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of currently approved collection; *Title of Information Collection:* Granting and Withdrawal of Deeming Authority to Private Nonprofit Accreditation Organizations and of State Exemption Under State Laboratory Programs and Supporting Regulations; *Form No.:* CMS–R–185 (OMB#: 0938–0686); *Use:* The information required is necessary to determine whether a private accreditation organization/State licensure program standards and accreditation/licensure process is at least equal to or more stringent than those of the Clinical Laboratory Improvement Amendments of 1988 (CLIA). If an accreditation organization is approved, the laboratories that it accredits are "deemed" to meet the CLIA requirements based on this accreditation. Similarly, if a State licensure program is determined to have requirements that are equal to or more stringent than those of CLIA, its laboratories are considered to be exempt from CLIA certification and requirements. The information collected will be used by HHS to: determine comparability/equivalency of the accreditation organization standards

and policies or State licensure program standards and policies to those of the CLIA program; to ensure the continued comparability/equivalency of the standards; and to fulfill certain statutory reporting requirements; *Frequency:* Occasionally; *Affected Public:* Private Sector: Business or other for-profits, Not-for-profit institutions; *Number of Respondents:* 8; *Total Annual Responses:* 96; *Total Annual Hours:* 384. (For policy questions regarding this collection contact Minnie Christian at 410–786–3339. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* Revision of currently approved collection; *Title of Information:* Medicare Gainsharing Demonstration Evaluation: Physician Focus Groups; *Use:* The proposed physician focus groups are part of the evaluation of the Centers for Medicare and Medicaid Services (CMS)'s Medicare Physician Hospital Collaboration Demonstration. The Congress, under Section 646 of the Medicare Modernization Act (MMA) of 2003 permitted CMS to conduct demonstrations to test methods for the provision of incentives for improving the quality and safety of care and achieving the efficient allocation of resources. The primary goal of the demonstration is to evaluate gainsharing as means to align physician and hospital incentives to improve quality and efficiency. This demonstration plans to use the physician focus group protocols approved by OMB for the DRA 5007 Gainsharing Demonstration. *Form Number:* CMS–10303 (OMB#: 0938–1103); *Frequency:* Once; *Affected Public:* Private Sector, Business or other for profits; *Number of Respondents:* 288; *Total Annual Responses:* 144; *Total Annual Hours:* 144 (For policy questions regarding this collection contact William Buczko at 410–786–6593. For all other issues call 410–786–1326.)

3. *Type of Information Collection Request:* New Collection; *Title of Information Collection:* Rate Increase Disclosure and Review Reporting Requirements (45 CFR Part 154) *Use:* Under the Section 1003 of the Affordable Care Act (Section 2794 of the Public Health Service Act), the Secretary, in conjunction with the States, is required to establish a process for the annual review, beginning with the 2010 plan year, of unreasonable increases in premiums for health insurance coverage. Section 2794 directs the Secretary to ensure the public disclosure of information of unreasonable rate increases and justification for those increases.

General Information

On December 23, 2010, HHS published a proposed regulation in the **Federal Register** defining the unreasonable rate review process and issuer reporting and disclosure requirements (Rate Increase Disclosure and Review Proposed Rule, 75 FR 81004). The proposed regulation establishes the following reporting requirements:

- The Preliminary Justification: This data collection is required of all health insurance issuers for all rate increases that exceed the "subject to review"' reporting threshold as defined in the proposed rule. This information will be posted on an HHS Web site.
- Rate Review Final Determination: This data collection requires States with effective rate review programs and HHS to report their review findings and unreasonable rate increase determinations on all rate increases that are subject to review. This information will be posted on an HHS Web site.
- The Final Justification for an Unreasonable Rate Increase: This data collection is required of health insurance issuers that elect to implement a rate increase that is determined to be unreasonable based on State or HHS review. This information will be posted on the Health Insurance Issuer's Web site and on an HHS Web site.

Preliminary Justification

CCIIO is also requesting comments on the presentation and content of the consumer information contained in Parts I and II of the Preliminary Justification. Specifically, CCIIO would like comments on the usefulness and clarity of this information for consumers. Additionally, the Preliminary Justification is designed to limit burden on health insurance issuers by collecting data that most issuers should have readily available either through their State rate filing requirements or internal rate making analysis. CCIIO is requesting comments on the extent to which the data elements and definitions utilized in the Preliminary Justification align with current industry data collection and reporting standards.

The Preliminary Justification consists of three parts, Part I: Rate Increase Summary, Part II: Written Explanation of the Rate Increase, and Part III: Rate Filing Documentation. Issuers must complete Parts I and II for all rate increases that exceed the reporting threshold as defined in the proposed rule. As described in the preamble of the proposed rule, this information would be collected to provide consumers with basic information on all rate increases that are subject to review under the rate review program. Under the proposed rule, "subject to review" rate increases would be reviewed by either States or HHS, depending on whether a State has an effective rate review program. Issuers would only be required to submit Part III of the Preliminary Justification when HHS is conducting the review of a "subject to review" rate increase. Accordingly, Part III requires health insurance issuers to provide detailed rate data that would be used for the purposes of conducting thorough actuarial reviews and for making determinations about whether rate increases are unreasonable. This Notice contains the following information about the Preliminary Justification:

- Preliminary Justification Issuer Instructions: Health insurance issuer instructions for completing all three parts of the Preliminary Justification.
- Part I Worksheet: A standardized Excel worksheet that must be used to complete Part I of the Preliminary Justification.
- Sample internet display of the Rate Review Consumer Disclosure: Information provided in the Preliminary Justification would be posted on an HHS Web site. This sample display shows how the information contained in the Part I Worksheet would be displayed to consumers.

Rate Review Final Determination

Under the proposed rule States and HHS would have to provide a Rate Review Final Determination at the close of their review of all "subject to review" rate increases. The Rate Review Final Determination must provide the State's or HHS' determination on whether a rate increases is 'unreasonable'. Section 154.301(a)(3) of the proposed rule provides a list of actuarial review elements that must be taken into account as part of the rate review process. The Final Determination must provide a brief statement explaining how the review of elements set forth in § 154.301(a)(3) caused the State or HHS to arrive at its determination that the rate is unreasonable.

The Rate Review Final Determination will be entered into a data entry text box in the Rate Review Data Collection System. HHS is estimating that this statement would be approximately a paragraph in length. There is no specific form or set of instructions associated with this reporting requirement, apart from the reporting requirements provided in the proposed rule. The information provided in the Rate

Review Final Determination will be posted as part of the rate review consumer disclosure information on an HHS Web site.

Final Justification for an Unreasonable Rate Increase

The proposed rule states that if a health insurance issuer implements a rate increase determined by HHS or a State to be unreasonable, the health insurance issuer must provide a Final Justification for an Unreasonable Rate Increase. In the Final Justification, issuers would have to provide a short statement about why they are electing to implement an unreasonable rate increase. This statement would be entered into a data entry text box in the Rate Review Data Collection System and would not need to be more than a paragraph or two in length. There is no form or instructions associated with this statement apart from the requirements provided in the proposed regulation.

The Final Justification Statement will be posted on an HHS Web site in the same location as the Preliminary Justification and Rate Review Final Determination. Additionally, health insurance issuers implementing rate increases that were determined to be unreasonable, must post all of this information—the Preliminary Justification, the Rate Review Final Determination, and the Final Justification Statement on their Web sites for a period of 3 years.

Form Number: CMS–10379; (OMB Control No. 0938–NEW) *Frequency:* Annually; *Affected Public:* Private Sector; *Number of Respondents:* 1,543 *Number of Responses:* 1,546; *Total Annual Hours:* 8,418. (For policy questions regarding this collection, contact Sally McCarty at (301) 492–4489 or RateReview@hhs.gov. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office at 410–786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by *May 2, 2011:*

1. Electronically. You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) accepting comments.

2. By regular mail. You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 23, 2011.

Martique Jones,

Director, Regulations Development Group, Division B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2011–4552 Filed 2–25–11; 11:15 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Child Care and Development Fund Tribal Plan Preprint—ACF–118–A.

OMB No.: 0970–0198.

Description: The Child Care and Development Fund (CCDF) Plan (the Plan) for Tribes (Indian Tribes, Tribal consortia and Tribal organizations) is required from each CCDF Lead agency in accordance with Section 658E of the Child Care and Development Block Grant Act of 1990, as amended (Pub. L. 101–508, Pub. L. 104–193, and 42 U.S.C. 9858). The implementing regulations for the statutorily required Plan are set forth at 45 CFR 98.10 through 98.18. The Plan, submitted on the ACF 118–A, is required biennially, and remains in effect for two years. The Plan provides ACF and the public with a description of, and assurance about, the Tribal child care program. The ACF 118–A is currently approved through September 30, 2011, making it available to Tribes needing to submit Plan Amendments through the end of the FY 2011 Plan Period. However, on July 1, 2011, Tribes will be required to submit their FY 2012–2013 Plans for approval by September 30, 2011. Consistent with the statute and regulations, ACF requests revision of the ACF 118–A with minor corrections and modifications.

The Office of Child Care(OCC) has given thoughtful consideration to the comments received from the 1st Public Notice. OCC has revised the document to reflect some of the changes made to minimize the burden of the collection of information on respondents. The revised document contains revisions to improve the accuracy and clarity of questions in order to improve the quality of information that is collected. This second Public Comment Period provides an opportunity for the public to submit comments to the Office of Management and Budget (OMB).

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.*

Respondents:

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
CCDF Tribal Plan	257	0.5	120	15,420

Estimated Total Annual Burden Hours: 15,420.

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.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2011–4418 Filed 2–28–11; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0099]

Agency Information Collection Activities; Proposed Collection; Comment Request; Followup Study for Infant Feeding Practices Study II

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 study entitled "Followup Study for Infant Feeding Practices Study II."

DATES: Submit either electronic or written comments on the collection of information by May 2, 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: Denver Presley, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3793.

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.

Followup Study for Infant Feeding Practices Study II (OMB Control Number 0910–NEW)

I. Background

FDA is planning to conduct a survey of the mothers who participated in the Infant Feeding Practices Study II (IFPS II) (Ref. 1). The IFPS II sample was drawn from a commercial consumer opinion panel, and so participants are expected to be easier to re-contact than would be the case for a random sample of the population. Some participants will still be panel members. The purpose of the study is to enhance FDA's understanding of the associations between infant feeding practices and diet quality, food allergy, overweight and obesity, and other health and development outcomes in young children.

The study results will be used to help the Agency to understand the possible role of infant feeding practices in the development and progression of food allergy and childhood overweight and obesity, in addition to resistance to infection and other health and development outcomes. The results of the study will not be used to develop population estimates.

The data will be collected by a mailed questionnaire from most respondents and by telephone from those who do not respond to the mailed questionnaire. The study will focus on the following types of information: The child's consumption of various food groups; the child's other consumption practices (such as how often the child eats dinner with a parent and how often the child eats from fast food restaurants); the mother's control over the child's eating patterns; the child's physical activity and time spent watching a screen (TV or computer); the child's sleep patterns; extent of the child's cognitive stimulation at home; the child's height, weight, and waist circumference; the child's visits to a dentist and number of cavities; number of the child's recent physician visits; number of various types of infections the child had in the past year; whether the child has various health conditions including digestive problems, eczema, food allergy, respiratory allergy, attention deficit disorder, developmental delay, anxiety problems, depression, or asthma; the child's social development; the child's family medical history; the mother's height and weight, physical activity, depression, pregnancies subsequent to the sample child and whether subsequent children were breastfed, and employment conditions; the mother or child's participation in certain government programs; and the child's potential exposure to certain environmental contaminants including cigarette smoke and pesticides. A demographic questionnaire will also be mailed to respondents for whom current information is not available through the consumer opinion panel. Participation in the study is voluntary.

To refine the questionnaire used in the study, a pretest will be conducted with 100 participants, 91 by mailed questionnaire and 9 by telephone interview. We estimate that it will take a respondent 20 minutes (0.33 hours) to complete the survey and 5 minutes (0.08 hours) to complete debriefing questions for the pretest, for a total of 25 minutes (0.42 hours) per respondent and a total of 38 hours for the mailed and 4 hours for the interview pretest. The sample for the pretest will be panel members who are mothers of children 5 to 7 years old

who did not participate in the IFPS II. All IFPS II participants who completed at least two surveys after their infants were born and for whom current contact information can be found will be sent the mailed questionnaire. This is expected to be about 2,562 participants. We estimate that 1,538 respondents will return it and that it will take a respondent 20 minutes (0.33 hours) to complete the questionnaire, for a total of 513 hours. An additional 522 mothers are expected to complete the telephone interview of 20 minutes (0.33 hours) for a total of 174 hours. An estimated 1,380 participants will return the demographic questionnaire, which will require 5 minutes (0.08 hours) to complete for a total of 110 hours. Thus, the total estimated burden is 839 hours. FDA's burden estimate is based on prior experience with consumer surveys that are similar to this proposed data collection.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Portion of study	No. of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
Pretest mailed questionnaire	91	1	91	0.42	38
Pretest telephone interview	9	1	9	0.42	4
Main study mailed questionnaire	1,538	1	1,538	0.33	513
Main study telephone interview	522	1	522	0.33	174
Demographic questionnaire	1,380	1	1,380	0.08	110
Total					839

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

II. References

The following reference has been placed on display in the Division of Dockets Management (*see* **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Fein, Sara B., Judith Labiner-Wolfe, Katherine Shealy, *et al.*, "Infant Feeding Practices Study II: Study Methods," *Pediatrics* 2008; 122(suppl 2): S28–S35.

Dated: February 22, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–4459 Filed 2–28–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 USC, as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Initial Review Group; Training and Career Development Subcommittee.

Date: March 9–10, 2011.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Eliane Lazar-Wesley, Ph.D., Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4245, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, 301–451–4530, *el6r@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIDA–K Conflicts.

Date: March 9, 2011.

Time: 5 p.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Gerald L. McLaughlin, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4238, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, 301–402–6626, *gml45a@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Pharmacological Development of Treatment Agents and Formulations or Tobacco Dependence.

Date: March 18, 2011.

Time: 1 p.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: Jose F. Ruiz, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, Room 4228, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, (301) 451–3086, *ruizjf@nida.nih.gov*.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; High Throughput Screening for Nicotinic Receptor Subunits.

Date: March 24, 2011.

Time: 2:30 p.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: Gerald L. McLaughlin, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4238, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, 301–402–6626, *gm145a@nih.gov*.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Training in Computational Neuroscience (T90/R90).

Date: March 30, 2011.

Time: 12 p.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: Minna Liang, Ph.D., Scientific Review Officer, Grants Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, Room 4226, MSC 9550, 6001 Executive Blvd.,

Bethesda, MD 20892–9550, 301–435–1432, *liangm@nida.nih.gov*.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Training in Neuroimaging (T90) (RFA DA11–006).

Date: March 31, 2011.

Time: 1 p.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: Scott A Chen, PhD, Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4234, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, 301–443–9511, *chensc@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: February 23, 2011.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–4544 Filed 2–28–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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 Heart, Lung, and Blood Institute Special Emphasis Panel; MAPGen and MAPGenKB studies.

Date: March 16, 2011.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: YingYing Li-Smerin, MD, PhD, Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892–7924, 301–435–0277, *lismerin@nhlbi.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Cardiovascular Integrity and Remodeling.

Date: March 17, 2011.

Time: 9 a.m. to 1:30 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: Giuseppe Pintucci, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892, 301–435–0287, *Pintuccig@nhlbi.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Informatics Tools and Services to Support Data Sharing and Distribution for Cardiovascular, Lung, and Blood Researchers.

Date: March 18, 2011.

Time: 2 p.m. to 4:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Youngsuk Oh, PhD, Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7182, Bethesda, MD 20892–7924, 301–435–0277, *yoh@mail.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Strategy for Finding Cases of Moderate-to-Severe COPD.

Date: March 22, 2011.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Youngsuk Oh, PhD, Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7182, Bethesda, MD 20892–7924, 301–435–0277, *yoh@mail.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Phenotype finder in data resources review meeting.

Date: March 23, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance, Washington, DC Hotel, 999 Ninth Street, NW., Washington, DC 20001–4427.

Contact Person: Keith A. Mintzer, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7186, Bethesda, MD 20892–7924, 301–435–0280, *mintzerk@nhlbi.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: February 23, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–4548 Filed 2–28–11; 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; Diabetes Biomarkers Ancillary Studies.

Date: March 28, 2011.

Time: 10 a.m. to 11 a.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: Paul A. Rushing, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes Of Health, Room 747, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8895, *rushingp@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Ancillary Studies.

Date: March 30, 2011.

Time: 12 p.m. to 1 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: Barbara A Woynarowska, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes Of Health, Room 754, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 402–7172, *woynarowskab@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 23, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–4550 Filed 2–28–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Heart, Lung, and Blood Institute Special Emphasis Panel, New Strategies for Growing 3D Tissues, which was published in the **Federal Register** on February 15, 2011, FR 2011–3373.

The meeting was originally advertised for March 9–10, 2011. The meeting will take place on March 9, 2011 only. The meeting is closed to the public.

Dated: February 23, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–4547 Filed 2–28–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2011–0008]

Submission for Review; Information Collection Extension Request for the DHS S&T First Responders Community of Practice

AGENCY: Science and Technology Directorate, DHS.

ACTION: 60-day notice and request for comment.

SUMMARY: The Department of Homeland Security (DHS) invites the general public to comment on the data collection form for the DHS Science & Technology (S&T) First Responders Community of Practice (FRCoP): User Registration Page (DHS Form 10059 (9/09)). The FRCoP Web based tool collects profile information from first responders and select authorized non-first responder users to facilitate networking and formation of online communities. All users are required to authenticate prior to entering the site. In addition, the tool provides members the capability to create wikis, discussion threads, blogs, documents, etc., allowing them to enter and upload content in accordance with the site's Rules of Behavior. Members are able to participate in threaded discussions and comment on other member's content. DHS S&T FRCoP program is responsible for providing a collaborative environment for the first responder community to share information, best practices, and lessons learned. Section 313 of the Homeland Security Act of 2002 (Pub. L. 107–296) established this requirement. This notice and request for comments is required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

DATES: Comments are encouraged and will be accepted until May 2, 2011.

ADDRESSES: Interested persons are invited to submit comments, identified by docket number DHS–2011–0008, by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Please follow the instructions for submitting comments.
- *E-mail: Michael.Bowerbank@dhs.gov.* Please include docket number DHS–2011–0008 in the subject line of the message.
- *Fax:* (202) 254–6171. (Not a toll-free number).
- *Mail:* Science and Technology Directorate, ATTN: Chief Information Office—Michael Bowerbank, 245 Murray Drive, Mail Stop 0202, Washington, DC 20528.

FOR FURTHER INFORMATION CONTACT: Michael Bowerbank (202) 254–6895 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: DHS S&T currently has approval to collect information utilizing the User Registration Form until July 31, 2011 with OMB approval number 1640–0016. The User Registration Form will be available on the First Responders Community of Practice Web site found at [*https://communities.firstresponder.gov/*]. The user will complete the form online and submit it through the Web site.

Overview of This Information Collection

(1) *Type of Information Collection:* Renewal of information collection.

(2) *Title of the Form/Collection:* First Responders Community of Practice: User Registration Form.

Agency Form Number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection: DHS Science & Technology Directorate, DHS Form 10059 (09/09).

(3) *Affected public who will be asked or required to respond, as well as a brief abstract:* Individuals; the data will be gathered from individual first responders who wish to participate in the First Responders Community of Practice.

(4) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

a. *Estimate of the total number of respondents:* 5,000.

b. *An estimate of the time for an average respondent to respond:* 0.25 burden hours.

c. *Estimate of total number of burden hours:* 2,500 burden hours.

Dated: February 22, 2011.

Tara O'Toole,

Under Secretary for Science and Technology.

[FR Doc. 2011–4516 Filed 2–28–11; 8:45 am]

BILLING CODE 9110–9F–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Declaration of Unaccompanied Articles

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; Extension of an existing collection of information: 1651–0030.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Declaration of Unaccompanied Articles (CBP Form 255). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Written comments should be received on or before May 2, 2011, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street,

NW., 5th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Declaration of Unaccompanied Articles.

OMB Number: 1651–0030.

Form Number: CBP Form 255.

Abstract: CBP Form 255 is completed by travelers arriving in the United States with a parcel or container which is to be sent from an insular possession at a later date. It is the only means whereby the CBP officer, when the person arrives, can apply the exemptions or 5 percent flat rate of duty to all of the traveler's purchases.

A person purchasing articles in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States receives a sales slip, invoice, or other evidence of purchase which is presented to the CBP officer along with the CBP Form 255, which is prepared in triplicate. The CBP officer verifies the information, indicates on the form whether the article or articles were free of duty, or dutiable at the flat rate and validates the form. Two copies of the form are returned to the traveler, who sends one form to the vendor. Upon receipt of the form the vendor places it in an envelope, affixed to the outside of the package, and clearly marks the package "Unaccompanied Tourist Shipment," and sends the package to the traveler, generally via mail, although it could be sent by other means. If sent through the mail, the package would be examined by CBP and forwarded to the Postal Service for delivery. Any duties due would be collected by the mail carrier. If the shipment arrives by means other than through the mail, the traveler would be notified by the carrier when the article arrives. Entry would be made by the carrier or the traveler at the customhouse. Any duties due would be collected at that time.

CBP Form 255 is authorized by Sections 202 & 203 of Public Law 95–410 and provided for 19 CFR 148.110, 148.113, 148.114, 148.115 and 148.116. A sample of this form may be viewed at *http://forms.cbp.gov/pdf/CBP_Form_255.pdf.*

Current Actions: This submission is being made to extend the expiration date of this information collection with no change to the burden hours or to the information being collected.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals.

Estimated Number of Respondents: 7,500.

Estimated Number of Responses: 15,000.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 1,250.

Dated: February 24, 2011.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2011–4476 Filed 2–28–11; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

United States Immigration and Customs Enforcement

Agency Information Collection Activities: Extension of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection for Review; Form G–79A, Information Relating to Beneficiary of Private Bill; OMB Control No. 1653–0026.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (ICE), will be submitted the following information collection request for review and clearance in accordance with 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 May 2, 2011.

Written comments and suggestions regarding items contained in this notice and especially with regard to the estimated public burden and associated response time should be directed to the Office of the Chief Financial Officer/OAA/Records Branch, U.S. Immigration and Customs Enforcement, 500 12th Street, SW., STOP 5705, Washington, DC 20536–5705.

Comments are encouraged and will be accepted for sixty days until May 2, 2011. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection:

(1) *Type of Information Collection:* Extension of currently approved information collection.

(2) *Title of the Form/Collection:* Information Relating to Beneficiary of Private Bill.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form G–79A, U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individual or Households. The information in this collection is taken to compose reports on immigration related private bills to Congress to determine whether the bill is necessary or if the subject is worthy of the proposed relief.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100 responses at 60 minutes (1.0 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 100 annual burden hours.

Comments and/or questions; requests for a copy of the proposed information collection instrument, with instructions; or inquiries for additional information should be directed to: Office of the Chief Financial Officer/OAA/Records Branch, U.S. Immigration and Customs Enforcement, 500 12th Street, SW., STOP 5705, Washington, DC 20536–5705.

Dated: February 23, 2011.

John Ramsay,

Forms Program Manager, Office of Asset Administration, U.S. Immigration and Customs Enforcement.

[FR Doc. 2011–4444 Filed 2–28–11; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5484–N–05]

Notice of Proposed Information Collection: Comment Request Loan Sales Bidder Qualification Statement

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The department is soliciting public comments on the subject proposal.

DATES: *Comment due date:* May 2, 2011.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Office, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, Room 9120 or the number for the Federal Information Relay Service (1–800–877–8339).

FOR FURTHER INFORMATION CONTACT: John Lucey, Deputy Director, Asset Sales Office, Room 3136, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000; telephone 202–708–2625, extension 3927 or Gregory Bolton, Senior Attorney, Office of Insured Housing, Multifamily Division, Room 9230; telephone 202–708–0614, extension 5245. Hearing- or speech-impaired individuals may call 202–708–4594 (TTY). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection 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; (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 the use of appropriate automated collection techniques of other forms of information technology, *e.g.,* permitting electronic submission of responses.

This notice list the following information:

Title of Proposal: HUD Loan Sale Bidder Qualification Statement.

OMB Control Number: 2502–0576.

Agency Form Numbers, if Applicable: None.

Description of the Need for the Information and Proposed Use: The Qualification Statement solicits from Prospective bidders to the HUD Loan Sales the basic qualifications required for bidding including but not limited to, Purchaser Information (Name of Purchaser, Corporate Entity, Address, Tax ID), Business Type, Net Worth, Equity Size, Prior History with HUD Loans and prior sales participation. By executing the Qualification Statement, the purchaser certifies, represents and warrants to HUD that each of the statements included are true and correct as to the purchaser and thereby qualifies them to bid.

The Bidder Qualification Statement is released to a pool of approximately 17,000 potential investors, of which approximately 600 respond annually. The estimated number of burden hours needed to prepare the information collection is 300; the frequency of response is on occasion; and the estimated time needed to prepare the response is near thirty (30) minutes and cost on the respondent to complete the statement is estimated to be close to ten (10) dollars.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: February 23, 2011.

Ronald Y. Spraker,

Associate General Deputy Assistant Secretary for Housing.

[FR Doc. 2011–4411 Filed 2–28–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5503–N–01]

Notice of HUD-Held Healthcare Loan Sale (HCLS 2011–1)

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of sale of mortgage loans.

SUMMARY: This notice announces HUD's sale of certain unsubsidized healthcare mortgage loans, without Federal Housing Administration (FHA) insurance, in a competitive, sealed bid sale (HCLS 2011–1). This notice also describes generally the bidding process used for the sale and certain persons who were ineligible to bid. The Bidder's Information Package (BIP) was made available to qualified bidders late January. Closings are expected to take place by March 10, 2011.

FOR FURTHER INFORMATION CONTACT: John Lucey, Deputy Director, Asset Sales Office, Room 3136, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000; telephone 202–708–2625, extension 3927. Hearing- or speech-impaired individuals may call 202–708–4594 (TTY). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: HUD announces a sale in HCLS 2011–1 of certain unsubsidized mortgage loans (Mortgage Loans) secured by healthcare properties located throughout the United States. The Mortgage Loans were comprised of non-performing mortgage loans. A final listing of the Mortgage Loans was included in the BIP. The Mortgage Loans were sold without FHA insurance and with servicing released. HUD offered qualified bidders an opportunity to bid competitively on the Mortgage Loans.

The Mortgage Loans may be stratified for bidding purposes into several mortgage loan pools. Each pool contained Mortgage Loans that generally had similar performance, property type, geographic location, lien position and other characteristics. Qualified bidders

were able to submit bids on one or more pools of Mortgage Loans or bid on individual loans. A mortgagor who was a qualified bidder was permitted to submit an individual bid on its own Mortgage Loan.

The Bidding Process

The BIP described in detail the procedure for bidding in HCLS 2011–1. The BIP also include a standardized non-negotiable loan sale agreement (Loan Sale Agreement).

As part of its bid, each bidder was required to submit a deposit equal to the greater of $100,000 or 10% of the bid price. In the event the bidder's aggregate bid was less than $100,000.00, the minimum deposit was not less than fifty percent (50%) of the bidder's aggregate bid. HUD evaluated the bids submitted and determined the successful bids in its sole and absolute discretion. If a bidder was successful, the bidder's deposit was non-refundable and applied toward the purchase price. Deposits were returned to unsuccessful bidders. Closings are scheduled to occur by March 10, 2011.

These were the essential terms of sale. The Loan Sale Agreement, which was included in the BIP, contained additional terms and details. To ensure a competitive bidding process, the terms of the bidding process and the Loan Sale Agreement were not subject to negotiation.

Due Diligence Review

The BIP described the due diligence process for reviewing loan files in HCLS 2011–1. Qualified bidders were able to access loan information remotely via a high-speed Internet connection.

Mortgage Loan Sale Policy

HUD reserved the right to add Mortgage Loans to or delete Mortgage Loans from HCLS 2011–1 at any time prior to the Award Date. HUD also reserved the right to reject any and all bids, in whole or in part, without prejudice to HUD's right to include any Mortgage Loans in a later sale. Mortgage Loans will not be withdrawn after the Award Date except as is specifically provided in the Loan Sale Agreement.

This was a sale of unsubsidized mortgage loans, pursuant to Section 204(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act of 1997, 12 U.S.C. 1715z–11a(a).

Mortgage Loan Sale Procedure

HUD selected a competitive sale as the method to sell the Mortgage Loans. This method of sale optimizes HUD's return on the sale of these Mortgage Loans, affords the greatest opportunity for all qualified bidders to bid on the Mortgage Loans, and provides the quickest and most efficient vehicle for HUD to dispose of the Mortgage Loans.

Bidder Eligibility

In order to bid in the sale, a prospective bidder was required to complete, execute and submit both a Confidentiality Agreement and a Qualification Statement acceptable to HUD. The following individuals and entities were ineligible to bid on any of the Mortgage Loans included in HCLS 2011–1:

(1) Any employee of HUD, a member of such employee's household, or an entity owned or controlled by any such employee or member of such an employee's household;

(2) Any individual or entity that is debarred, suspended, or excluded from doing business with HUD pursuant to Title 24 of the Code of Federal Regulations, Part 24, and Title 2 of the Code of Federal Regulations, Part 2424;

(3) Any contractor, subcontractor and/or consultant or advisor (including any agent, employee, partner, director, principal or affiliate of any of the foregoing) who performed services for or on behalf of HUD in connection with HCLS 2011–1;

(4) Any individual who was a principal, partner, director, agent or employee of any entity or individual described in subparagraph 3 above, at any time during which the entity or individual performed services for or on behalf of HUD in connection with HCLS 2011–1;

(5) Any individual or entity that uses the services, directly or indirectly, of any person or entity ineligible under subparagraphs 1 through 4 above to assist in preparing any of its bids on the Mortgage Loans;

(6) Any individual or entity which employs or uses the services of an employee of HUD (other than in such employee's official capacity) who is involved in HCLS 2011–1;

(7) Any mortgagor (or affiliate of a mortgagor) that failed to submit to HUD on or before January 31, 2011, audited financial statements for fiscal years 2005 through 2010 for a project securing a Mortgage Loan;

(8) Any individual or entity and any Related Party (as such term is defined in the Qualification Statement) of such individual or entity that is a mortgagor in any of HUD's multifamily and or healthcare housing programs and that is in default under such mortgage loan or is in violation of any regulatory or business agreements with HUD, unless such default or violation is cured on or before January 31, 2011;

(9) Any entity or individual that serviced or held any Mortgage Loan at any time during the 2-year period prior to February 1, 2011, is ineligible to bid on such Mortgage Loan or on the pool containing such Mortgage Loan, but may bid on loan pools that do not contain Mortgage Loans that they have serviced or held at any time during the 2-year period prior to February 1, 2011; and

(10) Also ineligible to bid on any Mortgage Loan are: (a) Any affiliate or principal of any entity or individual described in the preceding sentence (subparagraph 9); (b) any employee or subcontractor of such entity or individual during that 2-year period; or (c) any entity or individual that employs or uses the services of any other entity or individual described in this subparagraph in preparing its bid on such Mortgage Loan.

Prospective bidders should carefully review the Qualification Statement to determine whether they are eligible to submit bids on the Mortgage Loans in HCLS 2011–1.

Freedom of Information Act Requests

HUD reserves the right, in its sole and absolute discretion, to disclose information regarding HCLS 2011–1, including, but not limited to, the identity of any successful bidder and its bid price or bid percentage for any pool of loans or individual loan, upon the closing of the sale of all the Mortgage Loans. Even if HUD elects not to publicly disclose any information relating to HCLS 2011–1, HUD will have the right to disclose any information that HUD is obligated to disclose pursuant to the Freedom of Information Act and all regulations promulgated thereunder.

Scope of Notice

This notice applies to HCLS 2011–1 and does not establish HUD's policy for the sale of other mortgage loans.

Dated: February 23, 2011.

David Stevens,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2011–4408 Filed 2–28–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2010–N287; 10120–1113–0000–F5]

Endangered Plants; Receipt of Application for Enhancement of Survival Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of a permit application; request for comments.

SUMMARY: In accordance with the requirements of the Endangered Species Act of 1973, as amended (Act), we, the U.S. Fish and Wildlife Service (Service), invite the public to comment on an application for a permit to conduct enhancement of survival activities with an endangered species.

DATES: To ensure consideration, please send your written comments by March 31, 2011.

ADDRESSES: Program Manager, Endangered Species, Ecological Services, U.S. Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, OR 97232–4181.

FOR FURTHER INFORMATION CONTACT: Linda Belluomini, Fish and Wildlife Biologist, at the above address or by telephone (503–231–6131) or fax (503–231–6243).

SUPPLEMENTARY INFORMATION: The following applicant has applied for a recovery permit to conduct certain activities with endangered species under section 10(a)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*). We are soliciting review of and comments on this application by local, State, and Federal agencies and the public.

Permit No. TE–30445A

Applicant: Benjamin Blonder, Tucson, Arizona.

The applicant requests a permit to remove/reduce to possession *Argyroxiphium kauense* (Mauna Loa silversword) at Hawaii Volcanoes National Park, Hawaii Island, Hawaii, in conjunction with scientific studies for the purpose of enhancing its survival.

Public Comments

We are soliciting public review and comment on this recovery permit application. Submit written comments to the Program Manager, Endangered Species (see address above). 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.

Please refer to the permit number for the application when submitting comments. All comments and materials we receive in response to this request will be available for public inspection, by appointment, during normal business hours at the above address.

Dated: January 11, 2011.

Richard R. Hannan,

Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 2011–4521 Filed 2–28–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Tribal—State Class III Gaming Compact taking effect.

SUMMARY: Notice is given that the *Tribal-State Compact for Regulation of Class III Gaming between the Confederated Tribes of the Warm Springs Reservation of Oregon and the State of Oregon* is considered to have been approved and is in effect.

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

FOR FURTHER INFORMATION CONTACT: Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under Section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA) Public Law 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish in the **Federal Register** notice of any compact that is approved, or considered to have been approved, for the purpose of engaging in Class III gaming activities on Indian lands. The compact authorizes up to 2,000 video lottery terminals, up to 70 table games, and establishes the Oregon Benefit Fund to receive payments from the Confederated Tribes of the Warm Springs Reservation based upon certain percentages of net win. The gaming facility authorized by this Compact shall be located on certain lands in Cascade Locks, Oregon, but only if all of the following occur: (1) The Cascade Locks lands are acquired in trust by the Secretary for the tribe; and (2) the Secretary issues a favorable "two-part determination," under Section 20 of IGRA, 25 U.S.C. 2719(b)(1)(A), finding that gaming on the Cascade Locks lands is in the best interest of the tribe and not detrimental to the surrounding community; and (3) the Governor of the State of Oregon concurs with the Secretary's two-part determination within 180 days of receiving the Secretary's request for his concurrence. *See* 25 CFR 292.23. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, did not approve or disapprove the compact within 45 days after the date the compact was received. Therefore, pursuant to 25 U.S.C. 2710(d)(7)(C), the compact is considered to have been approved, but only to the extent it is consistent with IGRA.

Dated: February 17, 2011.

Donald Laverdure,

Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 2011–4522 Filed 2–28–11; 8:45 am]

BILLING CODE 4310–4N–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY922000–L13200000–EL0000; WYW163340]

Notice of Competitive Coal Lease Sale, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Competitive Coal Lease Sale.

SUMMARY: Notice is hereby given that certain coal resources in the West Antelope II North Coal Tract described below in Campbell County, Wyoming, will be offered for competitive lease by sealed bid in accordance with the provisions of the Mineral Leasing Act of 1920, as amended.

DATES: The lease sale will be held at 10 a.m., on Wednesday, May 11, 2011. Sealed bids must be submitted on or before 4 p.m., on Tuesday, May 10, 2011.

ADDRESSES: The lease sale will be held in the First Floor Conference Room (Room 107), of the Bureau of Land Management (BLM) Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003. Sealed bids must be submitted to the Cashier, BLM Wyoming State Office, at the address given above.

FOR FURTHER INFORMATION CONTACT: Mavis Love, Land Law Examiner, or Tyson Sackett, Acting Coal Coordinator,

at 307–775–6258, and 307–775–6487, respectively.

SUPPLEMENTARY INFORMATION: This coal lease sale is being held in response to a lease by application (LBA) filed by Antelope Coal LLC, Gillette, Wyoming. The coal resource to be offered consists of all reserves recoverable by surface mining methods in the following described lands located north of the Campbell/Converse county line approximately 2–5 miles east of State Highway 59 and adjacent to the western and northern lease boundary of the Antelope Mine.

T. 41 N., R. 71 W., 6th Principal Meridian,
Sec. 9, lots 9 through 16 inclusive;
Sec. 10, lots 11 through 16 inclusive;
Sec. 11, lot 13;
Sec. 14, lots 3 and 4;
Sec. 15, lots 1 through 5 inclusive, and lots 12 and 13;
Sec. 20, lots 14 through 16 inclusive;
Sec. 21, lots 1 through 16 inclusive;
Sec. 22, lots 2, 7, 8, and lots 14 through 16 inclusive;
Sec. 27, lots 6 through 11 inclusive;
Sec. 28, lots 1 through 8 inclusive; and
Sec. 29, lots 1 through 3 inclusive, and lots 6 through 8 inclusive.

Containing 2,837.63 acres, more or less in Campbell County, Wyoming.

The tract is adjacent to Federal leases to the east and south and surrounds a State of Wyoming lease, all controlled by the Antelope Mine. It is adjacent to additional unleased Federal coal to the west and north.

All of the acreage offered has been determined to be suitable for mining except for the mainline railroad right-of-way in the far northeast portion of the tract. Features such as utilities and pipelines can be moved to permit coal recovery. A possible alluvial valley floor crosses the tract along Horse Creek, but is unlikely to be significant for farming and so will be available for mining with appropriate reclamation. In addition, numerous producing coal bed natural gas wells have been drilled on the LBA tract. The estimate of the bonus value of the coal lease will include consideration of the future production from these wells. An economic analysis of the future income stream from coal mining will consider reasonable compensation for lost production of coal bed natural gas when the wells are bought out by the coal lessee. Mining will eliminate the gas reservoir. The surface estate of the tract is owned by Antelope Coal Company or private individuals and other entities.

The tract contains surface mineable coal reserves in the Wyodak-Anderson coal zone currently being recovered in the adjacent, existing mine. On the LBA tract, there are generally two recoverable seams, the shallower Anderson and the deeper Canyon. On the LBA tract, both seams are generally continuous although a thin split off the bottom of the Anderson occasionally occurs. This split can usually be recovered with the main Anderson seam. The Anderson seam varies from 35 to 42 feet thick while the Canyon seam varies from 32 to 36 feet thick. The interburden varies significantly and can be as thin as 12 feet to as thick as 95 feet but is usually in the 65 to 75 foot thick range. Overburden depths to the Anderson seam range from about 250 to 440 feet thick on the LBA tract.

The tract contains an estimated 350,263,000 tons of mineable coal. This estimate of mineable reserves includes both of the main seams and the thin split mentioned above, but does not include any tonnage from localized seams or splits where the coal is less than 5 feet thick. It does not include the coal in the State of Wyoming coal lease, although these reserves are expected to be recovered in conjunction with the LBA tract. It also excludes coal within and along the railroad right-of-way since this coal cannot be recovered using typical mining practices. The total mineable stripping ratio of the coal in bank cubic yards per ton is approximately 4.6:1. Potential bidders for the LBA tract should consider the recovery rate expected from thick seam and multiple seam mining. The West Antelope II North LBA coal is ranked as subbituminous C. The overall average quality on an as-received basis is 8,967 British Thermal Units per pound containing approximately 0.23 percent sulfur. The average quality of these coal reserves are equal to some of the best quality coal currently being mined in the Wyoming portion of the Powder River Basin.

The tract in this lease offering contains split estate lands. There are qualified surface owners as defined in the regulations at 43 CFR 3400.0–5. Consent granted by the qualified surface owners has been filed with and verified by the BLM. The LBA tract lands included in the consent documents are:

T. 41 N., R. 71 W., 6th P.M.,
Sec. 9, lots 9 through 16 inclusive;
Sec. 10, lots 11 through 16 inclusive;
Sec. 14, lots 3 and 4;
Sec. 15, lots 1 through 4 inclusive; and
Sec. 21, lots 1through 8 inclusive.

Containing 1147.43 acres, more or less, in Campbell County, Wyoming.

The purchase price of the consent is $10,097,500.

The tract will be leased to the qualified bidder of the highest cash amount provided that the high bid meets or exceeds the BLM's estimate of the fair market value of the tract. The minimum bid for the tract is $100 per acre or fraction thereof. No bid that is less than $100 per acre, or fraction thereof, will be considered. The bids should be sent by certified mail, return receipt requested, or be hand delivered. The BLM Wyoming State Office Cashier will issue a receipt for each hand-delivered bid. Bids received after 4 p.m. local time, on Tuesday, May 10, 2011, will not be considered. The minimum bid is not intended to represent fair market value. The fair market value of the tract will be determined by the Authorized Officer after the sale. The lease issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre, or fraction thereof, and a royalty payment to the United States of 12.5 percent of the value of coal produced by surface mining methods and 8 percent of the value of the coal produced by underground mining methods. The value of the coal will be determined in accordance with 30 CFR 206.250. Bidding instructions for the LBA tract offered and the terms and conditions of the proposed coal lease are available from the BLM Wyoming State Office at the address above. Case file documents, WYW163340, are available for inspection at the BLM Wyoming State Office.

Donald A. Simpson,
State Director.

[FR Doc. 2011–4364 Filed 2–28–11; 8:45 am]
BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLIDI02000.L71220000.EO0000. LVTFD0977370]

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Rasmussen Valley Mine and Reclamation Plan, Caribou County, ID

AGENCIES: Bureau of Land Management, Interior. U.S. Forest Service, Agriculture.

ACTION: Notice of Intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, the Federal Land Policy and Management Act of 1976, and the Mineral Leasing Act of 1920, as amended, notice is hereby given that the

Department of the Interior, Bureau of Land Management (BLM), Pocatello Field Office, and the U.S. Department of Agriculture, Forest Service (USFS), Caribou-Targhee National Forest, will jointly prepare an Environmental Impact Statement (EIS) to determine and analyze the effects of a proposed phosphate mine and reclamation plan. The EIS will also consider the effects of modifying the lease to increase its size.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the scope of the analysis described in this notice by March 31, 2011. The BLM will announce future meetings or hearings and any other public involvement activities at least 15 days in advance through public notices, media news releases, and/or mailings.

Scoping Procedure: The scoping procedure to be used for this EIS will involve notification in the **Federal Register;** a mailing to interested and potentially affected individuals, groups, Federal, State, and local government entities requesting comments, issues and concerns; news releases or legal notices; and public scoping meetings.

Please note that public comments and information submitted, including names, street addresses, and e-mail addresses of respondents, will be available for public review and disclosure at the address listed below during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except holidays.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The BLM and the USFS are seeking information and written comments from Federal, State, Tribal, and local agencies, individuals and organizations interested in, or affected by the Proposed Action or Alternatives. To assist the BLM and the USFS in identifying issues and concerns related to the Proposed Action, scoping comments should be as specific as possible.

ADDRESSES: Send written comments to: Rasmussen Valley Mine EIS, Bureau of Land Management, Pocatello Field Office, 4350 Cliffs Drive, Pocatello, Idaho 83204. E-mail: *Rasmussen_Valley_EIS@blm.gov.*

FOR FURTHER INFORMATION CONTACT: Bill Volk, Bureau of Land Management, Pocatello Field Office, 4350 Cliffs Drive, Pocatello, Idaho 83204, phone (208) 236–7503. Information is also available at: *http://www.blm.gov/id/st/en/fo/pocatello/planning/rasmussen_valley_mine.html.*

SUPPLEMENTARY INFORMATION: The BLM will serve as the lead agency and the USFS as the co-lead agency. The Idaho Department of Environmental Quality is a cooperating agency. The mining and reclamation plans have been developed and submitted for agency review of proposed open pit mining operations at the Rasmussen Valley Phosphate Federal Mineral Lease I–05975, in Caribou County, Idaho, by Nu-West Industries, Inc., doing business as Agrium Conda Phosphate Operations (Agrium). The Rasmussen Valley Phosphate Lease Area is located about 18 miles northeast of Soda Springs, Idaho.

The proposed new mining operations at the Rasmussen Valley Phosphate Lease area lie on lands where the surface estate is administered by the BLM, the USFS, the Idaho Department of Fish and Game, and private owners. The Federal mineral estate is administered by the BLM. The portion where the surface estate is administered by the USFS lies within the Soda Springs Ranger District of the Caribou-Targhee National Forest. The lease was originally issued in 1955. Subsequent lease transactions resulted in the transfer of the lease to Agrium in 2004. These leases grant the lessee, Agrium in this case, exclusive rights to mine and otherwise dispose of the federally owned phosphate deposit at the site. Through development of this EIS, the BLM and the USFS will analyze environmental impacts of the proposed mining operations and reasonable alternatives to the proposed action. Appropriate mitigation measures will also be formulated.

Agency Decisions: The BLM Idaho State Director or delegated official will make a decision regarding approval of the proposed mine and reclamation plan, a proposed lease modification or grant of a fringe acreage lease (enlargement of leased areas), and appropriate land use authorizations on leased lands. Decisions will be based on the EIS and any recommendations the USFS may have regarding surface management of leased National Forest System lands. The USFS Caribou-Targhee National Forest Supervisor makes:

(1) Recommendations to the BLM concerning surface management and mitigation on leased lands within the Caribou-Targhee National Forest; and

(2) Decisions on mine related activities that occur off-lease within the Caribou-Targhee National Forest. Special use authorizations from the USFS would be necessary for any support structures and facilities for the mine located off-lease within the Caribou-Targhee National Forest.

The Army Corps of Engineers may also make decisions related to permits under Section 404 of the Clean Water Act.

Background: Agrium has operated the existing North Rasmussen Ridge and Dry Valley Mines since 2003. Agrium has indicated that they will eventually complete mining of these currently permitted reserves, requiring the proposed mining of the Rasmussen Valley phosphate lease if mining is to continue in the immediate area. Because of the significant construction time associated with the infrastructure needed for the proposed mine (new haul road and mine infrastructure), this proposal is being analyzed in advance of depleting the currently permitted ore reserves at Agrium's North Rasmussen Ridge and Dry Valley Mines. The proposed Rasmussen Valley Mine project would include an open pit phosphate mine and associated features including growth media stockpiles, temporary and permanent external overburden storage areas, storm water retention ponds and mine pit backfill areas, a haul road, an equipment staging area, and re-routing of an existing county road and power line.

The lease currently contains 511.4 acres of which approximately 311.4 acres are on National Forest System Lands, 40 acres are on BLM public lands, and 160 acres are on lands managed by the Idaho Department of Fish and Game (IDFG). The lessee has proposed a lease modification (enlargement) of the Federal Phosphate Lease I–05975 in three areas totaling 170 acres to allow optimum recovery of existing ore currently contiguous to Lease I–05975. This proposed modification will be analyzed in the EIS. Approximately 420.4 acres are proposed for disturbance both on-lease and off-lease by the mining project, of which 198.5 acres would be on National Forest System Lands, 28.7 acres on BLM public lands, 134.9 acres on the IDFG Blackfoot Wildlife Management Area, 0.4 acres on Idaho Department of Lands, and 57.9 acres on private land.

Of the total proposed 420.4 acres of disturbance, approximately 310.3 acres are on-lease for the mine pit, backfill areas, temporary and permanent external overburden disposal areas, an

equipment staging area and haul roads, and approximately 110.1 acres of disturbance are off-lease for haul roads, a county road re-route, growth media stockpiles and storm water retention ponds.

Of the 110.1 total acres of off-lease disturbance, 31.3 acres are proposed to be disturbed on private land, and 13.6 acres are proposed to be disturbed on National Forest System Lands within the 170-acre proposed lease modification. Off-lease disturbance on National Forest System Lands of approximately 30.8 acres for the haul road, storm water retention ponds, and growth media stockpiles is proposed to be permitted by a 71-acre Special Use Permit (SUP) rather than a lease modification. Off-lease disturbance of approximately 7.4 acres is proposed by Agrium on the Idaho Fish and Game's Blackfoot Wildlife Management Area, primarily for storm water retention ponds and the county road re-alignment. Approximately 26.6 acres of disturbance off-lease on private land, but not within the lease modification, is proposed for the haul road, storm water retention ponds, and growth media stockpiles. Approximately 0.4 acres of proposed off-lease disturbance for the haul road is on land managed by the Idaho Department of Lands. Mining is proposed to begin at the southern end of the Rasmussen Valley Mine deposit, continuing northwest through the deposit to the extent of the lease. Initially, overburden from the pit would be placed in an external overburden storage area located on-lease directly to the west of the pit. As mining progresses northwest, overburden would be placed either back in the mined-out portion of the pit, or in additional external overburden storage areas located on-lease to the west of the pit.

Agrium has proposed management practices in its mine and reclamation plan to reduce environmental impacts. Reclamation would be conducted concurrently with mining. Agrium's plan emphasizes the backfill of mine pits and limiting the amount of overburden placed in permanent external storage areas. To reduce the potential for contaminant release to water or uptake into reclamation vegetation, Agrium is proposing to limit the amount of time that seleniferous overburden is exposed to the elements, to return all seleniferous overburden material to the mine pits, and to cap overburden with low-seleniferous material consisting of approximately 3 feet of cherty material, overlain by 2 feet of growth media.

Agrium has proposed to build associated new facilities including an ore stockpile and groundwater supply well(s). To assist personnel needs and mobile equipment operation, a small support staging facility would be constructed at the active mining site immediately west of the pit. This facility provides electrical power, fuel and grease storage within secondary containment, communication, safety structures, and a temporary shift change building.

Off-lease facilities would include haul roads and storm water control features, and growth media stockpiles. Trucks would be used to transport ore to the Wooley Valley rail head and overburden to a permanent disposal area.

Potential impacts to surface resources and water quality include erosion, an increase in stream sediment load, and contamination from dissolved metals and selenium. Agrium has proposed to implement practices designed to reduce, eliminate, or mitigate these impacts. Suitable growth media would be salvaged from disturbed areas for use in reclamation. Mine reclamation would include removal of facilities and equipment, backfilling pits as mining progresses, grading slopes, capping overburden disposal areas and pit backfill, restoring drainages, spreading growth media, stabilizing surfaces, revegetation, and testing and treatment for any remaining contaminants. Environmental monitoring will be performed to ensure impacts do not exceed those authorized.

Issues initially identified for the proposed mining of the Rasmussen Valley phosphate lease include potential effects on groundwater and surface water quantity and quality; vegetation, soil and mineral resources; air quality; wildlife and their habitats (including fisheries); livestock grazing; wetlands and riparian habitat; recreation; and socio-economics such as employment and the continued operation of a fertilizer plant and support businesses; Native American rights, treaties, and land uses; visual resources; and cumulative effects.

The EIS will analyze the Proposed Action and the No Action Alternative. Other alternatives may be considered that could provide mitigation of potential impacts.

The tentative EIS project schedule is as follows:

- Begin public scoping period and meetings: Winter 2011.
- Estimated date for draft EIS and associated comment period: Spring 2013.
- Final EIS publication: Winter 2014.
- Record of Decision: Winter 2014.

At least three "open-house" style public scoping meetings will be held which will include displays explaining the project and providing a forum for commenting on the project.

Meetings are planned to be held in Pocatello, Fort Hall, and Soda Springs, Idaho. The dates, times, and locations of the public scoping meetings will be announced in mailings and public notices issued by the BLM (see **DATES** above).

Authorities: 42 U.S.C. 4321 *et seq.;* 40 CFR parts 1500–1508; 43 CFR part 46; 43 U.S.C. 1701; and 43 CFR part 3590.

Joe Kraayenbrink,

District Manager, Idaho Falls District, Bureau of Land Management.

Brent Larson,

Forest Supervisor, Caribou-Targhee National Forest.

[FR Doc. 2011–4535 Filed 2–28–11; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT926000–11–L19100000–BJ0000–LRCME0R04763]

Notice of Filing of Plats of Survey; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on March 31, 2011.

DATES: Protests of the survey must be filed before March 31, 2011 to be considered.

ADDRESSES: Protests of the survey should be sent to Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669.

FOR FURTHER INFORMATION CONTACT: Steve Toth, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5121 or (406) 896–5009.

SUPPLEMENTARY INFORMATION: This survey was executed at the request of the Bureau of Indian Affairs, Rocky Mountain Region, Billings, Montana, and was necessary to determine individual and tribal trust lands.

The lands we surveyed are:

Principal Meridian, Montana

T. 27 N., R. 48 E.

The plat, in two sheets, representing the dependent resurvey of a portion of the subdivisional lines, the corrective dependent resurvey of the line between sections 18 and 19, the dependent resurvey of a portion of the subdivision of sections 19 and 21, the adjusted original meanders of the former left bank of the Missouri River, downstream, through section 19, a certain division of accretion line, and the subdivision of sections 19 and 21, and the survey of the meanders of the present left bank and the informative traverse of the present left bank of the Missouri River, downstream, through section 19, Township 27 North, Range 48 East, Principal Meridian, Montana, was accepted February 16, 2011.

We will place a copy of the plat, in two sheets, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on this plat, in two sheets, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in two sheets, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Authority: 43 U.S.C. Chap. 3.

Dated: February 23, 2011.

James D. Claflin,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 2011–4518 Filed 2–28–11; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVS00560.L71220000.FR0000. LVTFF1000770, 241A; N–57230; 11–08807; MO# 4500018891; TAS:14X5232]

Notice of Realty Action: Conveyance of Public Lands for Airport Purposes in Clark County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) has examined and found 160 acres of public land in the City of Henderson, Clark County, Nevada, as suitable for conveyance for airport purposes under the authority of Section 516 of the Airport and Airway Improvement Act of 1982.

DATES: Interested parties may submit written comments regarding the proposed conveyance of the lands until April 15, 2011. The requested lands will not be conveyed for at least 60 days after the date of the publication of this notice in the **Federal Register.**

ADDRESSES: Mail written comments to the BLM Field Manager, Las Vegas Field Office, 4701 N. Torrey Pines Drive, Las Vegas, NV 89130–2301.

FOR FURTHER INFORMATION CONTACT: Philip Rhinehart, (702) 515–5182, or *prhineha@blm.gov.*

SUPPLEMENTARY INFORMATION: The Clark County Department of Aviation has requested the conveyance of 160 acres of public land for a fully operational airport known as the Henderson Executive Airport. The lands are legally described as:

Mount Diablo Meridian

T. 23 S. R. 61 E.

Sec. 10, S½SE¼NE¼ NE¼, S½NE¼SE¼NE¼, SE¼SE¼NE¼, SW¼SE¼NE¼, N½NE¼NE¼SE¼, NW¼NE¼SE¼, N½SE¼NE¼SE¼;

Sec. 11, W½NW¼, NW¼;NW¼;SW¼, NE¼;NW¼;SW¼, N½;SW¼;NW¼;SW¼, N½;SE¼NW¼SW¼.

The area described contains 160 acres, more or less, in Clark County.

The Clark County Department of Aviation currently holds an airport lease for 140 acres of the 160 acres found suitable for conveyance. The 140-acre lease will be terminated prior to the proposed conveyance. As part of the processing of the lease action on August 20, 1999, a Notice of Realty Action was published in the **Federal Register** (64 FR 161: 45562), noticing that certain public lands in Clark County, Nevada, had been examined and found suitable for public airport lease purposes under the provisions of the Airport and Airway Improvement Act of 1982, as amended (49 U.S.C., Appendix 211–213). The additional 20 acres requested for conveyance are needed for the continued operations of the Henderson Executive Airport. The additional 20 acres have been found suitable for conveyance for airport purposes but are not currently under lease to Clark County. The lands identified for conveyance are segregated from mineral entry under the Southern Nevada Public Lands Management Act of 1998 (Pub. L. 105–263). Conveyance of the subject lands is consistent with the BLM, Las Vegas Resource Management Plan dated October 5, 1998, and would be in the public interest. Under regulations found at 49 U.S.C. Section 47125, Clark County is entitled to a fee simple, no cost conveyance of the subject property.

Conveyance of the land is consistent with applicable Federal and county land use plans and will help meet the needs of the community. The conveyance will enhance safety, capacity, security and environmental protection at the Henderson Executive Airport. The land is not required for any other Federal purposes.

Additional detailed information pertaining to this request for conveyance, plan of development, and site plan is contained in case file N–57230, which is located in the BLM Las Vegas Field Office at the above address.

Conveyance of the public land shall be subject to limitations prescribed by law and regulation and prior to patent issuance, a holder of any right-of-way within the conveyance area may be given the opportunity to amend the right-of-way for conversion to a new term, including perpetuity, if applicable.

The patent, when issued, will be subject to the provisions of the Airport and Airways Improvement Act of 1982 and applicable regulations of the Secretary of the Interior, and will contain the following rights, reservations, covenants, terms and conditions to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with 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.

Conveyance of the public land will be subject to:

1. Valid existing rights.

2. A right-of-way for a road, drainage, and municipal utilities (water and sewer) granted to the City of Henderson, Nevada, its successors or assigns, by right-of-way N–62099, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

3. A right-of-way to construct, operate, maintain, and terminate an underground water pipeline, a pressure reducing valve station, and maintenance area to the City of Henderson, Nevada, its successors or assigns, by right-of-way N–63254, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

4. A right-of-way to improve, construct, operate, maintain and terminate roads, municipal utilities (water and sewer) and drainage purposes to the City of Henderson, Nevada, its successors or assigns, by right-of-way N–77148, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

5. A right-of-way for underground 4 inch, 6 inch, and 8 inch diameter

polyethylene natural gas pipelines with appurtenances granted to Southwest Gas Corporation, its successors or assigns, by right-of-way N–82996, pursuant to the Act of February 25, 1920 (30 U.S.C. 185).

6. An appropriate indemnification clause protecting the United States from claims out of lessee's/patentee's use, occupancy, or operations on the leased/patented premises.

7. In accordance with Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act, the land described was examined on January 10, 2011, and shows no evidence indicating that hazardous substances had been stored for 1 year or more, nor have any hazardous substances been disposed of or released on the subject property.

Conveyance of the public land will contain the following Covenants:

1. That the grantee will use the property interest for airport purposes, and will develop that interest for airport purposes within one to five years after the date of this conveyance. Except that if the property interest is necessary to meet future development of an airport in accordance with National Plan of Integrated Airports System, the grantee will develop that interest for airport purposes on or before the period provided in the plan or within a period satisfactory to the Administrator of the Federal Aviation Administration and any interim use of that interest for other than airport purposes will be subject to such terms and conditions as the Administrator may prescribe.

2. That the airport runway system and its appurtenant safety areas, and all buildings and facilities, will be operated for public airport purposes on fair and reasonable terms without unjust economic discrimination; or on the basis of race, color, or national origin, as to airport employment practices, and as to accommodations, services, facilities, or other public uses of the airport.

3. That the grantee will not grant or permit any exclusive right forbidden by Section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1349 9(a), as amended), at the airport or at any other airport now owned or controlled by it.

4. Agrees that no person shall be excluded from any participation, be denied any benefits, or be otherwise subjected to any discrimination on the grounds of race, color, national origin, or disability.

5. Agrees to comply with all requirements imposed by or pursuant to Part 21 of the Regulations of the Office of the Secretary of Transportation (49 CFR 21)—nondiscrimination in federally assisted programs of the Department of Transportation—effectuation of Title VI of the Civil Rights Act of 1964.

6. That in furtherance of the policy of the Federal Aviation Administration under covenant, the grantee:

(a) Agrees that, unless authorized by the Administrator, it will not, either directly or indirectly, grant or permit any person, firm or corporation the exclusive right at the airport, or at any other airport now owned or controlled by it, to conduct any aeronautical activities, including, but not limited to, charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity.

(b) Agrees that it will terminate any existing exclusive right to engage in the sale of gasoline or oil, or both, granted before July 17, 1962, at such an airport, at the earliest renewal, cancellation, or expiration date applicable to the agreement that established the exclusive right.

(c) Agrees that it will terminate forthwith any other exclusive right to conduct any aeronautical activity now existing at such an airport.

7. That any later transfer of the property interest conveyed will be subject to the covenants and conditions in the instrument of conveyance.

8. That, if the covenant to develop the property interest (or any part thereof) for airport purposes within one year after the date of this conveyance is breached, or if the property interest (or any part thereof) is not used in a manner consistent with terms of the conveyance, then the Administrator may give notice to the patentee requiring Clark County, Nevada, to take specified action towards development within a fixed period. These notices may be issued repeatedly, and outstanding notices may be amended or supplemented. Upon expiration of a period so fixed without completion by the grantee of the required action, the Administrator may, on behalf of the United States, enter, and take title to, the property interest conveyed or the particular part of the interest to which the breach relates.

9. That, if any covenant or condition in the instrument of conveyance, other than the covenant contained in paragraph 7 of this section, is breached, the Administrator may, on behalf of the United States, immediately enter, and take title to, the property interest conveyed or, in his discretion, that part of that interest to which the breach relates.

10. That a determination by the Administrator that one of the foregoing covenants has been breached is conclusive of the facts, and that, if the right entry and possession of title stipulated in the forgoing covenants is exercised, the grantee will, upon demand of the Administrator, take any action (including prosecution of suit or executing of instruments) that may be necessary to evidence transfer to the United States of title to the property interest conveyed, or in the Administrator's discretion, to that part interest to which the breach relates.

Upon publication of this notice in the **Federal Register**, the land described will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, but not conveyance under the Airport and Airway Improvement Act of 1982.

Interested parties may submit written comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision to convey under the Airport and Airway Improvement Act of 1982, or any other factor not directly related to the suitability of the land for airport 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. Only written comments submitted to the Field Manager, BLM Las Vegas Field Office, will be considered properly filed.

Any adverse comments will be reviewed by the BLM Nevada State Director, who may sustain, vacate, or modify the realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior. In the absence of any adverse comments, the decision will become effective on May 2, 2011. The lands will not be available for conveyance until after the decision becomes effective.

Authority: 43 CFR 2911.0–1.

Vanessa Hice,

Assistant Field Manager, Division of Lands.

[FR Doc. 2011–4536 Filed 2–28–11; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLIDC01000.L11500000.MO0000.241A0; 450019352]

Notice of Realty Action: Proposed Direct Sale of Public Land in Shoshone County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) proposes to sell a 0.07-acre parcel of public land in Shoshone County, Idaho, to Sunshine Precious Metals, Inc. (Sunshine) for the appraised fair market value of $280.

DATES: Comments regarding the proposed sale must be received by the BLM on or before April 15, 2011.

ADDRESSES: Written comments concerning this proposed sale may be submitted to Field Manager, BLM Coeur d'Alene Field Office, 3815 Schreiber Way, Coeur d'Alene, Idaho 83815.

FOR FURTHER INFORMATION CONTACT: Janna Paronto, Realty Specialist, at 3815 Schreiber Way, Coeur d'Alene, Idaho 83815 or phone (208) 769–5037.

SUPPLEMENTARY INFORMATION: On February 6, 2008, a Notice of Realty Action (NORA) was published in the **Federal Register** announcing the proposed direct sale and segregation of 5.07 acres of public land in Shoshone County, Idaho. No public comments were received as a result of the publication of the NORA. At this time, the BLM is no longer proposing to sell the 5-acre parcel and is announcing the proposal to sell only the 0.07-acre parcel, measuring 952 feet long and averaging about 3 feet wide. This sale will be made by direct sale to Sunshine in accordance with Sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (FLPMA), as amended (43 U.S.C. 1713 and 1719):

Boise Meridian

T. 48 N., R. 3 E.,
Sec. 15 lot 24.
Containing 0.07 acre, more or less.

The area described contains 0.07 acre in Shoshone County, and its appraised fair market value is $280 based on an approved BLM appraisal. A copy of the appraisal is available for review at the location identified in **ADDRESSES** above. The 2007 BLM Coeur d'Alene Resource Management Plan identifies this parcel of public land as suitable for disposal through direct sale to the historic land user. This parcel is not needed for any Federal purpose and is difficult and uneconomic to manage as public land. The BLM is proposing a direct sale of the 0.07-acre parcel, which is the smallest legal subdivision that can be used to describe this sliver of public land, to Sunshine. A direct sale is appropriate because Sunshine has used/occupied a building(s) located on this parcel since the 1930s. The public interest would be best served by disposing of this parcel to the user/occupant by direct sale. The disposal parcel contains no known mineral values and the conveyance would include the simultaneous conveyance of the Federal mineral interests with the sale of the land. In addition to the appraised fair market value, Sunshine would be required to pay a $50 nonrefundable filing fee for conveyance of the mineral interests. Any patent issued will be subject to all valid existing rights of record and contain the following terms, conditions, and reservations.

a. A reservation of a right-of-way to the United States for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945);

b. A notice and indemnification statement under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9620(h), indemnifying and holding the United States harmless from any release of hazardous materials that may have occurred. To the extent required by law, the sale will be subject to the requirements of section 120(h) of CERCLA, 42 U.S.C. 9620(h).

Detailed information concerning the proposed land sale including the appraisal, planning and environmental documents, and a mineral report are available for review at the BLM Coeur d'Alene Office at the location identified in the **ADDRESSES** section above. Normal business hours are 7:45 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Public Comments: Public comments regarding the proposed sale may be submitted in writing to the BLM Coeur d'Alene Field Manager (*see* **ADDRESSES** section) on or before April 15, 2011. Comments received in electronic form, such as e-mail or facsimile, will not be considered. Any adverse comments regarding the proposed sale will be reviewed by the BLM Idaho State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action in whole or in part. In the absence of timely filed objections, this realty action will become the final determination of the Department of the Interior not less than 60 days from March 1, 2011.

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.

Authorities: 43 CFR Subparts 2710, 2711 and 2720.

Kurt Pavlat,
Acting Coeur d'Alene Field Manager.

[FR Doc. 2011–4507 Filed 2–28–11; 8:45 am]
BILLING CODE 4310–GG–P

INTERNATIONAL TRADE COMMISSION

Submission for OMB Review; Comment Request

AGENCY: United States International Trade Commission.

ACTION: Notice of proposed collection; comment request.

SUMMARY: The proposed information collection is a 3-year extension, pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (the "Act"), of the current generic survey clearance previously approved by the Office of Management and Budget ("OMB"). The clearance is used by the U.S. International Trade Commission ("Commission") to issue information collections (specifically, producer, importer, purchaser, and foreign producer questionnaires and certain institution notices) for a series of import injury investigations that are required by the Tariff Act of 1930 and the Trade Act of 1974. The current generic survey clearance is assigned OMB control No. 3117–0016; it will expire on June 30, 2011. Comments concerning the proposed information collections are requested in accordance with section 3506(c)(2)(A) of the Act; such comments are described in greater detail in the section of this notice entitled **SUPPLEMENTARY INFORMATION**.

DATES: To be assured of consideration, written comments should be received no later than 60 days after publication of this in the **Federal Register**.

ADDRESSES: Signed comments should be submitted to James Holbein, Acting Secretary, U.S. International Trade Commission, 500 E St., SW., Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed collection of information and supporting documentation may be obtained from Jennifer Merrill (USITC, tel. no. 202–205–3188). Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION:

Request for Comments

Comments are solicited as to: (1) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used; (3) the quality, utility, and clarity of the information to be collected; and (4) minimization of the burden of the proposed information collection on those who are to respond (including through the use of appropriate automated, electronic, mechanical, or other technological forms of information technology, *e.g.,* permitting electronic submission of responses).

Summary of the Proposed Information Collections

(1) Need for the Proposed Information Collections

The information requested in questionnaires and five-year sunset review institution notices issued under the generic survey clearance is utilized by the Commission in the following statutory investigations: Antidumping duty, countervailing duty, escape clause, North American Free Trade Agreement (NAFTA) safeguard, market disruption, and interference with programs of the U.S. Department of Agriculture (USDA). The Commission's generic survey clearance to issue questionnaires will not apply to repetitive questionnaires such as those issued on a quarterly or annual basis or to other investigations and research studies conducted under section 332 of the Trade Act of 1974. The information provided by firms in response to the questionnaires provides the basis for the Commission's determinations in the above-cited statutory investigations. The submitted data are consolidated by Commission staff and provided to the Commission in the form of a staff report. In addition, in the majority of its investigations, the Commission releases completed questionnaires returned by industry participants to representatives of parties to its investigations under the terms of an administrative protective order, the terms of which safeguard the confidentiality of any business proprietary or business confidential information. Representatives of interested parties also receive a confidential version of the staff report under the administrative protective order. Subsequent party submissions to the Commission during the investigative process are based, in large part, upon their review of the information collected. Included in the proposed generic clearance are the institution notices for the five-year sunset reviews of antidumping and countervailing duty orders and suspended investigations. Responses to the institution notices will be evaluated by the Commission and form much of the record for its determinations to conduct either expedited or full five-year sunset reviews of existing antidumping and countervailing duty orders.

(2) Information Collection Plan

Questionnaires for specific investigations are sent to all identified domestic producers manufacturing the product(s) in question. Importer and purchaser questionnaires are also sent to all substantial importers/purchasers of the product(s). Finally, all foreign manufacturers of the product(s) in question that are represented by counsel are sent questionnaires, and, in addition, the Commission attempts to contact any other foreign manufacturers, especially if they export the product(s) in question to the United States. Firms receiving questionnaires include businesses, farms, and/or other for-profit institutions; responses are mandatory. The institution notices for the five-year sunset reviews are published in the **Federal Register** and solicit comment from interested parties (*i.e.,* U.S. producers within the industry in question as well as labor unions or representative groups of workers, U.S. importers and foreign exporters, and involved foreign country governments).

(3) Description of the Information To Be Collected

Although the content of each questionnaire will differ based on the needs of a particular investigation, questionnaires are based on long-established, generic formats. Producer questionnaires generally consist of the following four parts: (part I) General questions relating to the organization and activities of the firm; (part II) data on capacity, production, inventories, employment, and the quantity and value of the firm's shipments and purchases from various sources; (part III) financial data, including income-and-loss data on the product in question, data on asset valuation, research and development expenses, and capital expenditures; and (part IV) pricing and market factors. (Questionnaires may, on occasion, also contain part V, an abbreviated version of the above-listed parts, used for gathering data on additional product categories.) Importer questionnaires generally consist of three parts: (part I) General questions relating to the organization and activities of the firm; (part II) data on the firm's imports and the shipment and inventories of its imports; and (part III) pricing and market factors similar to that requested in the producer questionnaire. Purchaser questionnaires generally consist of five parts: (part I) General questions relating to the organization and activities of the firm; (part II) data concerning the purchases of the product by the firm; (part III) market characteristics and purchasing practices; (part IV) comparisons between imported and U.S.-produced product; and (part V) actual purchase prices for specific types of domestic and subject imported products and the names of the firm's vendors. Foreign producer questionnaires generally consist of (part I) general questions relating to the organization and activities of the firm; (part II) data concerning the firm's manufacturing operations; and may include (part III) market factors. The notices of institution for the five-year sunset reviews include 11 specific requests for information that firms are to provide if their response is to be considered by the Commission.

(4) Estimated Burden of the Proposed Information Collection

The Commission estimates that information collections issued under the requested generic clearance will impose an average annual burden of 186,002 burden hours on 4,221 respondents (i.e., recipients that provide a response to the Commission's questionnaires or the notices of institution of five-year sunset reviews). Table 1 lists the projected annual burden for each type of information collection for the July 2011–June 2014 period.

(5) Minimization of Burden

The Commission periodically reviews its investigative processes, including data collection, to reduce the

information burden. Questionnaires clearly state that estimates are acceptable for certain items. They are designed in part with check-in type formats to simplify the response. The reporting burden for smaller firms is reduced in that the sections of the questionnaire that are applicable to their operations are typically more limited. Requests by parties to expand the data collection or add items to the questionnaire for specific investigations may not be accepted if the Commission believes such requests will increase the response burden while not substantially adding to the investigative record. Completed questionnaires have traditionally been returned to the Commission in paper form, however the Commission is promoting options for electronic submission. For example, the Commission provides the questionnaires on the Commission's Web site in a fillable Word format and has created a secure drop box which questionnaire respondents can use to securely upload completed questionnaires. The information provided in response to its notices of institution for the five-year sunset reviews is typically submitted in document form directly to the Office of the Secretary although it may be submitted to the Commission's Electronic Data Information System (EDIS) and Electronic Docket.

TABLE 1—PROJECTED ANNUAL BURDEN DATA, BY TYPE OF INFORMATION COLLECTION, JULY 2008–JUNE 2011

Item	Producer questionnaires	Importer questionnaires	Purchaser questionnaires	Foreign producer questionnaires	Institution notices for 5-year reviews	Total
Number of respondents	751	1,279	988	1,119	84	4,221
Frequency of response	1	1	1	1	1	1
Total annual responses	751	1,279	988	1,119	84	4,221
Hours per response	71.5	40.1	35.1	40.6	10.9	44.1
Total hours	53,672	51,292	34,678	45,443	917	186,002

No record keeping burden is known to result from the proposed collection of information.

By order of the Commission.

Issued: February 18, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011–4438 Filed 2–28–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *In Re Certain Glassware,* DN 2788; the Commission is soliciting comments on any public interest issues raised by the complaint.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, Acting Secretary to the Commission, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and 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 (*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 has received a complaint filed on behalf of Boston Beer Corporation on February 18, 2011. The complaint alleges violations of section 337 of the Tariff Act of 1930 (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 glassware. The complaint names as respondents 1 Source Signature Glassware, Inc. of Chandler, AZ; di Sciacca Co. of Chandler, AZ; and San Tan Brewing Co. of Chandler, AZ.

The complainant, proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five pages in length, on any public interest issues raised by the complaint. Comments should address whether issuance of an exclusion order and/or a cease and desist order in this investigation would negatively affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the potential orders;

(iii) Indicate the extent to which like or directly competitive articles are produced in the United States or are otherwise available in the United States, with respect to the articles potentially subject to the orders; and

(iv) Indicate whether Complainant, Complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to an exclusion order and a cease and desist order within a commercially reasonable time.

Written submissions must be filed no later than by close of business, five business days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Submissions should refer to the docket number ("Docket No. 2787") in a prominent place on the cover page and/or the first page. The Commission's rules authorize filing

submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (*see* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50(a)(4) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50(a)(4)).

By order of the Commission.

Issued: February 18, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011–4439 Filed 2–28–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–669 (Third Review)]

Cased Pencils From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of an expedited five-year review concerning the antidumping duty order on cased pencils from China.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on cased pencils from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* February 4, 2011.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On February 4, 2011, the Commission determined that the domestic interested party group response to its notice of institution (75 FR 67102, November 1, 2010) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review. Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.[1] [2]

Staff report.—A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on April 18, 2011, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[3] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before April 21, 2011 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by April 21, 2011. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: February 18, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011–4440 Filed 2–28–11; 8:45 am]

BILLING CODE 7020–02–P

[1] Commissioners Daniel R. Pearson and Shara L. Aranoff found that other circumstances warranted conducting a full review.

[2] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

[3] The Commission has found the responses submitted by Dixon Ticonderoga Co.; General Pencil Co., Inc.; Musgrave Pencil Co.; and Sanford, L.P. to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–742]

In the Matter of Certain Digital Televisions and Components Thereof; Notice of Commission Determination Not To Review an Initial Determination Granting a Motion To Terminate The Investigation in Its Entirety

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 an initial determination ("ID") (Order No. 7) of the presiding administrative law judge ("ALJ") granting the private parties' motion to terminate the investigation in its entirety.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3152. Copies of the ID and all other nonconfidential 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. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*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.*

SUPPLEMENTARY INFORMATION: On October 18, 2010, the Commission instituted an investigation under section 337 of the Tariff Act of 1930, 19 U.S.C.1337, based on a complaint filed by LG Electronics, Inc. of Seoul, Korea ("LG") alleging a violation of section 337 in the importation, sale for importation, and sale within the United States after importation of certain digital televisions and components thereof by reason of infringement of certain claims of U.S. Patent No. RE 37,070; U.S. Patent No. 6,785,906; and U.S. Patent No. 6,598,233. 75 FR 63857 (Oct. 18, 2010). Complainant LG named Vizio, Inc. of Irvine, California, AmTRAN Technology Co., Ltd. of Taipei, Taiwan and AmTRAN Logistic, Inc. of Irvine, California as respondents.

On January 18, 2011, the private parties filed a motion to terminate the investigation in its entirety by reason of a settlement pursuant to Commission Rules 210.21(a)(2) and (b). The movants state that they have entered into a settlement agreement and patent cross license agreements. The Commission investigative attorney supports the motion.

On January 28, 2011, the ALJ issued an ID (Order No. 7) granting the motion. No party petitioned for review of the subject ID. 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(h) of the Commission's Rules of Practice and Procedure (19 CFR 210.42(h)).

By order of the Commission.

Issued: February 18, 2011.

William R. Bishop,

Hearings and Meetings Assistant.

[FR Doc. 2011–4443 Filed 2–28–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–825 and 826 (Second Review)]

Certain Polyester Staple Fiber From Korea and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution five-year reviews concerning the antidumping duty orders on certain polyester staple fiber from Korea and Taiwan.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on certain polyester staple fiber from Korea and Taiwan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is March 31, 2011. Comments on the adequacy of responses may be filed with the Commission by May 16, 2011. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

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

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—On May 25, 2000, the Department of Commerce issued antidumping duty orders on imports of certain polyester staple fiber from Korea and Taiwan (65 FR 33807). Following five-year reviews by Commerce and the Commission, effective April 3, 2006, Commerce issued a continuation of the antidumping duty orders on imports of certain polyester staple fiber from Korea and Taiwan (71 FR 16558). The Commission is now conducting second five-year reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 11–5–241, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are Korea and Taiwan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission found that there were two Domestic Like Products corresponding to (1) low-melt fiber and (2) conventional polyester staple fiber (all subject polyester staple fiber except for low-melt fiber). However, the Commission made a negative original determination with respect to low-melt fiber. One Commissioner defined the Domestic Like Product differently in the original determinations. In its full first five-year review determinations, the Commission defined the Domestic Like Product to be all certain conventional polyester staple fiber, coextensive with the scope of the reviews.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined two Domestic Industries: (1) All domestic producers of low-melt fiber and (2) all domestic producers of conventional polyester staple fiber. However, the Commission made a negative determination with respect to low-melt fiber in the original investigations. One Commissioner defined the Domestic Industry differently in the original determinations. In its full first five-year review determinations, the Commission defined the Domestic Industry as all domestic producers of certain conventional polyester staple fiber, coextensive with the scope of the reviews.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the "same particular matter" as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is March 31, 2011. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is May 16, 2011. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to be Provided In Response to this Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in each Subject Country that currently export or have exported Subject Merchandise to the United States or other countries after 2004.

(7) A list of 3–5 leading purchasers in the U.S. market for the Domestic Like Product and the Subject Merchandise (including street address, World Wide Web address, and the name, telephone number, fax number, and E-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the Domestic Like Product or the Subject Merchandise in the U.S. or other markets.

(9) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2010, except as noted (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the Domestic Like Product (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(d) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the Domestic Like Product produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country(ies), provide the following information on your firm's(s') operations on that product during calendar year 2010 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from each Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of Subject Merchandise imported from each Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each Subject Country.

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country(ies), provide the following information on your firm's(s') operations on that product during calendar year 2010 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in each Subject Country accounted for by your firm's(s') production; and

(b) Capacity (quantity) of your firm to produce the Subject Merchandise in each Subject Country *(i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from each Subject Country accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in each Subject Country after 2004, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology;

production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country(ies), and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: February 23, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011–4447 Filed 2–28–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–694]

In the Matter of Certain Multimedia Display and Navigation Devices and Systems, Components Thereof, and Products Containing Same; Notice of Commission Determination To Review-in-Part a Final Determination of No Violation of Section 337; Schedule for Filing Written Submissions on the Issues Under Review and on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review certain portions of the final initial determination ("ID") issued by the presiding administrative law judge ("ALJ") on December 16, 2010 finding no violation of section 337 in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Jia Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–4737. 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 the instant investigation on December 16, 2009, based on a complaint filed by Pioneer Corporation of Tokyo, Japan and Pioneer Electronics (USA) Inc. of Long Beach, California (collectively, "Pioneer"). 74 FR 66676 (Dec. 16, 2009). The complaint alleges violations of section 337 of the Tariff Act of 1930 (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 multimedia display and navigation devices and systems, components thereof, and products containing same by reason of infringement of various claims of United States Patent Nos. 5,365,448 ("the '448 patent"), 5,424,951 ("the '951 patent"), and 6,122,592 ("the '592 patent"). The complaint names Garmin International, Inc. of Olathe, Kansas, Garmin Corporation of Taiwan (collectively, "Garmin") and Honeywell International Inc. of Morristown, New Jersey ("Honeywell") as the proposed respondents. Honeywell was subsequently terminated from the investigation, leaving only the Garmin respondents remaining.

On December 16, 2010, the ALJ issued a final ID, including his recommended determination on remedy and bonding. In his final ID, the ALJ found no violation of section 337 by Garmin. Specifically, the ALJ found that the accused products do not infringe claims 1 and 2 of the '448 patent, claims 1 and 2 of the '951 patent, or claims 1 and 2 of the '592 patent. The ALJ further found that neither Garmin nor the Commission investigative attorney ("IA") has established that claims 1 and 2 of the '592 patent are invalid for obviousness under 35 U.S.C. 103 or for failing to comply with the written description requirement under 35 U.S.C. 112. With respect to remedy, the ALJ recommended that if the Commission disagrees with the finding of no violation, the Commission should issue a limited exclusion order directed to multimedia display and navigation devices and systems, and the components of such devices and systems, as well as a cease and desist order. The ALJ recommended that the limited exclusion order contain a certification provision. In addition, the ALJ recommended, in the event that a violation is found, that Garmin be required to post a bond equal to 0.5 percent of the entered value of any accused products that Garmin seeks to import during the Presidential review period.

On January 5, 2011, Pioneer, Garmin, and the IA each filed a petition for review of the ALJ's final ID. On January 9, 2011, Pioneer filed a consolidated reply to Garmin's and the IA's petitions for review. On the same day, Garmin filed a reply to Pioneer's petition for review and a separate reply to the IA's petitions for review. Also on the same day, the IA filed a consolidated reply to Pioneer and Garmin's petitions for review.

Having examined the record of this investigation, including the ALJ's final ID and the submissions of the parties, the Commission has determined to review (1) The claim construction of the limitation "second memory means" recited in claim 1 of the '951 patent, (2) infringement of claims 1 and 2 of the '951 patent, (3) the claim construction of the limitations "extracting means" and "a calculating device" recited in claim 1 of the '592 patent, (4) infringement of claims 1 and 2 of the '592 patent, (5) validity of the '592 patent under the written description requirement of 35 U.S.C. 112, and (6) the economic prong of the domestic industry requirement. No other issues are being reviewed.

The parties should brief their positions on the issues on review with reference to the applicable law and the evidentiary record. In connection with its review, the Commission is particularly interested in responses to the following questions:

1. With respect to claim 1 of the '951 patent, does the claimed function of the limitation "second memory means" require "the read display pattern data" stored on the "second memory means" to be in the same data format with "said display pattern data * * * from said

first memory mean"? Does the scope of the claimed function allow "display pattern data" stored on the "second memory means" to be derived from and to convey the same conceptual information as "display pattern data" from the "first memory means," even though the display pattern data may be represented in different formats? Please provide support for your claim construction in the claims, the specification, the prosecution history, and any extrinsic evidence concerning how the claim would be understood by persons skilled in the art.

2. Assume that the scope of the claimed function of the "second memory means" limitation recited in claim 1 of the '951 patent encompasses "display pattern data" stored on the "second memory means" that are derived from and represented in a different format than the "display pattern data" from the "first memory means," where both "display pattern data" represent the same conceptual information. Do the accused product combinations, *i.e.,* the product combinations identified at the top of page 3 of complainant's petition for review, meet the "second memory means" limitation?

3. Assuming that the accused product combinations meet all of the recited limitations of claim 1 of the '951 patent, do they also meet dependent claim 2's limitation "wherein said second memory means has a plurality of memory locations to store said position coordinate data and said position display data to indicate said display pattern as a pair?" Please cite to all evidence in the record for support.

4. With respect to the proper construction of the function of the "extracting means" limitation recited in claim 1 of the '592 patent, does claim 1 require that the recited "plurality of locations" be physically segregated into different categories in memory in view of the intrinsic evidence (*see, e.g.,* '592 patent, Figure 27 and Col. 16).

5. If the answer to question 4 is yes, do the accused devices meet the "extracting means" limitation of the '592 patent? Please cite to all evidence in the record for support.

6. With respect to the proper construction of the corresponding structure of the "extracting means" limitation recited in claim 1 of the '592 patent, should the Commission modify the corresponding structure identified by the ALJ from the specification as "CPU programmed to read location data from memory and a CD–ROM drive, *wherein the memory is RAM configured to store the location data as depicted in Figure 27"?* Please provide support for your claim construction in the claims, the specification, the prosecution history, and any extrinsic evidence concerning how the claim would be understood by persons skilled in the art.

7. If the answer to question 6 is yes, do the accused devices meet the "extracting means" limitation of the '592 patent? Please cite to all evidence in the record for support.

8. With respect to the proper construction of the limitation "a calculating device" recited in claim 1 of the '592 patent, does the intrinsic evidence require that the recited term "said locations" refer to the plurality of locations of the selected category that has been extracted by the "extracting means," rather than all locations of the selected category?

9. If the answer to question 8 is yes, do the "Search Near" mode and the "GPS Simulator" mode of the accused device meet the limitation "a calculating device"? Please cite to all evidence in the record for support.

10. With respect to the functionality discussed on page 124, n. 19 of the ID, please cite to all evidence of record indicating how this feature operates and how this feature does or does not meet the "a calculating device" limitation of claim 1. Please cite to all evidence in the record for support.

11. Assuming that the specification of the '592 patent provides adequate support for the "extracting means" limitation of claim 1 and assuming that claim 1 is not directed to the disparaged problem in the prior art, does the specification provide adequate support for "a selector device" and "a location name display device" recited in claim 1 to satisfy the written description requirement of 35 U.S.C. 112?

12. With respect to the economic prong of the domestic industry requirement, what is Pioneer's investment as opposed to DVA's investment for Pioneer's licensing activities with the entity identified on page 148 of the ID?

13. With respect to Pioneer's licensing negotiation efforts with the entity identified on page 151 of the ID, what is the contribution by Pioneer's U.S. employees?

14. Do payments made to outside counsel by complainant prior to filing the instant investigation constitute investment in exploitation of the patent under section 337(a)(3)(C)?

15. With respect to the table provided on pages 87–88 of complainant's post-hearing brief and adopted by the ALJ on pages 157–158 of the ID, please identify the targeted licensee for each entry.

16. Is Pioneer's investment in exploitation of the asserted patents through licensing "substantial" under section 337(a)(3)(C), in light of the Commission's holding on page 31, first paragraph, of *Certain Printing and Imaging Devices and Components Thereof,* 337–TA–690, Comm'n Op. (Feb. 1, 2011)?

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in a respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, *see In the Matter of Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the United States Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. See Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties to the investigation are requested to file

written submissions on the issues identified in this notice. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding. Complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. Complainant is also requested to state the date that the patent expires and the HTSUS numbers under which the accused products are imported. The written submissions and proposed remedial orders must be filed no later than close of business on March 9, 2011. Reply submissions must be filed no later than the close of business on March 18, 2011. The written submissions must be no longer than 100 pages and the reply submissions must be no longer than 50 pages. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All non-confidential written submissions will be available for public inspection at the Office of the Secretary.

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 sections 210.42–46 and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 210.42–46 and 210.50).

By order of the Commission.

Issued: February 23, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011–4452 Filed 2–28–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–856 (Second Review)]

Ammonium Nitrate From Russia

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the suspended investigation on ammonium nitrate from Russia.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether termination of the suspended investigation on ammonium nitrate from Russia would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is March 31, 2011. Comments on the adequacy of responses may be filed with the Commission by May 16, 2011. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

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

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On May 19, 2000, the Department of Commerce suspended an antidumping duty investigation on imports of ammonium nitrate from Russia (65 FR 37759, June 16, 2000). Following five-year reviews by Commerce and the Commission, effective April 5, 2006, Commerce issued a continuation of the suspended investigation on imports of ammonium nitrate from Russia (71 FR 17080). The Commission is now conducting a second review to determine whether termination of the suspended investigation would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is Russia.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination and its full first five-year review determination, the Commission defined the Domestic Like Product coextensively with the subject merchandise: fertilizer grade ammonium nitrate products with a bulk density equal to or greater than 53 pounds per cubic foot.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination and its full first five-year review determination, the Commission defined the Domestic Industry as all domestic producers of high density ammonium nitrate.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 11–5–239, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the "same particular matter" as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is March 31, 2011. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is May 16, 2011. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information to be Provided In Response to this Notice of Institution: As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the termination of the suspended investigation on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries after 2004.

(7) A list of 3–5 leading purchasers in the U.S. market for the Domestic Like Product and the Subject Merchandise (including street address, World Wide Web address, and the name, telephone number, fax number, and E-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the Domestic Like Product or the Subject Merchandise in the U.S. or other markets.

(9) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2010, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the Domestic Like Product (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(d) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(e) the value of (i) Net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the Domestic Like Product produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2010 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2010 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) Capacity (quantity) of your firm to produce the Subject Merchandise in the Subject Country (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country after 2004, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.
Issued: February 23, 2011.

William R. Bishop,
Hearings and Meetings Coordinator.

[FR Doc. 2011–4445 Filed 2–28–11; 8:45 am]
BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–692]

In the Matter of Certain Ceramic Capacitors and Products Containing Same; Notice of Commission Determination To Review in Part A Final Initial Determination Finding No Violation of Section 337; Schedule for Filing Written Submissions on the Issues Under Review and on Remedy, the Public Interest and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part the final initial determination ("ID") issued by the presiding administrative law judge ("ALJ") on December 22, 2010, finding no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in this investigation.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3042. Copies of non-confidential

documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*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 November 4, 2009, based on a complaint filed by Murata Manufacturing Co., Ltd. of Kyoto, Japan and Murata Electronics North America, Inc. of Smyrna, Georgia (collectively, "Murata"). 74 FR 57193–94 (Nov. 4, 2009). The complaint alleged violations of section 337 of the Tariff Act of 1930 (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 ceramic capacitors and products containing the same by reason of infringement of various claims of United States Patent Nos. 6,266,229 ("the '229 patent"); 6,014,309 ("the '309 patent"); 6,243,254 ("the '254 patent"); and 6,377,439 (subsequently terminated from the investigation). The complaint named Samsung Electro-Mechanics Co., Ltd. of Suwon City, Korea and Samsung Electro-Mechanics America, Inc. of Irvine, California (collectively, "Samsung") as respondents.

On December 22, 2010, the ALJ issued his final ID, finding no violation of section 337 by Respondents with respect to any of the asserted claims of the asserted patents. Specifically, the ALJ found that the accused products do not infringe the asserted claims of the '254 patent. The ALJ also found that none of the cited references anticipated the asserted claims and that none of the cited references rendered the asserted claims obvious. The ALJ further found that the asserted claims were not rendered unenforceable due to inequitable conduct. The ALJ, however, found that asserted claims 11–14, 19, and 20 of the '254 patent failed to satisfy the requirements of 35 U.S.C. 112 for lack of written description. Likewise, the ALJ found that the accused products do not infringe asserted claim 3 of the '309 patent and that none of the cited references anticipated or rendered obvious the asserted claims. The ALJ further found that the asserted claim was not rendered unenforceable due to inequitable conduct. Similarly, the ALJ found that the accused products meet all the limitations of the asserted claims of the '229 patent and that the claims are not rendered unenforceable due to inequitable conduct. The ALJ further found that the cited references do not anticipate the asserted claims but found that the prior art rendered the asserted claims obvious. The ALJ concluded that an industry exists within the United States that practices the '254 and '229 patents but that a domestic industry does not exist with respect to the '309 patent as required by 19 U.S.C. 1337(a)(2) and (3).

On January 4, 2011, Murata and the Commission investigative attorney filed petitions for review of the ID. That same day, Samsung filed a contingent petition for review of the ID. On January 12, 2011, the parties filed responses to the various petitions and contingent petition for review.

Having examined the record of this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission has determined to review the final ID in part. Specifically, the Commission has determined to review the findings related to the '229 patent and in particular the finding that AAPA (Applicant Admitted Prior Art) does not invalidate the asserted claims of the '229 patent. With respect to the '309 patent, it is unclear whether the ALJ made a specific finding that Nakano discloses a thickness ratio of 0.01 to 10. ID at 167. To the extent that the ALJ made such a finding, the Commission reverses and does not adopt such a finding as its own. The Commission has determined not to review the issues related to the '309 patent and '254 patent raised by the petitions for review and terminates the '309 and '254 patents from the investigation.

The parties are requested to brief their positions on the issues under review with reference to the applicable law and the evidentiary record. In connection with its review, the Commission is particularly interested in responses to the following questions:

1. Can characterizations of the prior art that patent applicants make in the specification constitute the "single allegedly anticipatory reference pursuant to Section 102"? *See* ID at 139. Even if those characterizations cannot constitute such a reference, are applicants bound by characterizations of the prior art contained in the specification? In your response, please consider *Pharmastem Therapeutics, Inc.* v. *Viacell, Inc.,* 491 F.3d 1342, 1362 (Fed. Cir. 2007) and *Constant* v. *Advanced Micro-Devices, Inc.,* 848 F.2d 1560, 1570 (Fed. Cir. 1988).

2. Assume that patent applicants are bound by their characterizations as described above. Have the '229 applicants made concessions showing that the asserted claims of the '229 patent are anticipated or obvious? Please specify how the alleged applicant admissions disclose that a single prior art reference discloses each limitation of the asserted claims and/or that a combination of prior art references render the claims obvious. Please cite only record evidence and relevant legal authority to support your position.

3. Assume that the specification can constitute a single allegedly anticipatory reference pursuant to Section 102. Please provide an analysis as to anticipation and obviousness. Please cite only record evidence and relevant legal authority to support your position.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent(s) being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, *see In the Matter of Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the

aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties to the investigation are requested to file written submissions on the issues identified in this notice. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding with respect to the '29 patent. Complainants and the IA are also requested to submit proposed remedial orders for the Commission's consideration. Complainants are also requested to state the date that the patent expires and the HTSUS numbers under which the accused products are imported. The written submissions and proposed remedial orders must be filed no later than close of business on Tuesday, March 8, 2011. Reply submissions must be filed no later than the close of business on Tuesday, March 15, 2011. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

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 sections 210.42–46 and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 210.42–46 and 210.50).

By order of the Commission.

Issued: February 23, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011–4442 Filed 2–28–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–728]

In the Matter of Collaborative System Products and Components Thereof (II); Notice of Commission Determination Not To Review an Initial Determination Terminating the Investigation on the Basis of a Settlement Agreement; Termination of the 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 final initial determination ("ID") (Order No. 20) issued by the presiding administrative law judge ("ALJ") on January 24, 2011 granting a consent motion to terminate the above-captioned investigation in its entirety based upon a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Jia Chen, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–4737. 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 July 19, 2010, based on a complaint filed by eInstruction Corporation ("eInstruction") of Denton, Texas on May 12, 2010. 75 FR 41889 (Jul. 19, 2010). The complaint alleged violations of section 337 of the Tariff Act of 1930 (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 collaborative system products and components thereof by reason of infringement of various claims of United States Patent No. 6,930,673. The complaint, as amended, named the following respondents: Promethean Inc. of Alpharetta, Georgia; Promethean Technology Shenzhen Ltd. of Shanghai, China; and Promethean Ltd. of Blackburn, Lancashire, United Kingdom.

On January 4, 2011, eInstruction filed a consent motion to terminate the instant investigation on the ground that the parties have reached a settlement agreement pursuant to Commission Rule 210.21(b). On January 24, 2011, the Commission investigative attorney filed a response supporting the motion. On January 24, 2011, the ALJ issued the subject ID granting the motion. No petitions for review of the ID were filed.

The Commission has determined not to review the subject ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.21(b) and 210.42(h) of the Commission's Rules of Practice and Procedure (19 CFR 210.21(b), 210.42(h)).

By order of the Commission.

Issued: February 23, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011–4441 Filed 2–28–11; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0010]

Agency Information Collection Activities: Extension of a Currently Approved Collection

ACTION: 60-Day Notice of Information Collection Under Review: Semi-Annual Progress Report for Grantees From the Grants To Support Tribal Domestic Violence and Sexual Assault Coalitions Program.

The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. Comments are encouraged and will be

accepted for "sixty days" until May 2, 2011. This process is conducted in accordance with 5 CFR 1320.10.

Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, *Attn:* DOJ Desk Officer. The best way to ensure your comments are received is to e-mail them to *oira_submission@omb.eop.gov* or fax them to 202–395–7285. All comments should reference the 8-digit OMB number for the collection or the title of the collection. If you have questions concerning the collection, please contact Cathy Poston, Office on Violence Against Women, at 202–514–5430 or the DOJ Desk Officer at 202–395–3176.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Grantees from the Grants to Support Tribal Domestic Violence and Sexual Assault Coalitions (Tribal Coalitions).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* 1122–0011. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the 14 grantees from the Tribal Coalitions Program. The Tribal Coalitions Program grantees include Indian tribal governments that will support the development and operation of new or existing nonprofit tribal domestic violence and sexual assault coalitions in Indian country. These grants provide funds to develop and operate nonprofit tribal domestic violence and sexual assault coalitions in Indian country to address the unique issues that confront Indian victims. The Tribal Coalitions Program provides resources for organizing and supporting efforts to end violence against Indian women.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the 14 respondents (grantees from the Tribal Coalitions Program) approximately one hour to complete a Semi-Annual Progress Report. The Semi-Annual Progress Report is divided into sections that pertain to the different types of activities that grantees may engage in with grant funds. Grantees must complete only those sections that are relevant to their activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 28 hours, that is 14 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Lynn Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street, NE., Suite 2E–502, Washington, DC 20530.

Dated: February 23, 2011.

Lynn Murray,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 2011–4446 Filed 2–28–11; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0009]

Agency Information Collection Activities: Extension of a Currently Approved Collection

ACTION: 60-Day Notice of information collection under review: Semi-Annual Progress Report for Safe Havens: Supervised Visitation and Safe Exchange Grant Program.

The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. Comments are encouraged and will be accepted for "sixty days" until May 2, 2011. This process is conducted in accordance with 5 CFR 1320.10.

Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, *Attn:* DOJ Desk Officer. The best way to ensure your comments are received is to e-mail them to *oira_submission@omb.eop.gov* or fax them to 202–395–7285. All comments should reference the 8 digit OMB number for the collection or the title of the collection. If you have questions concerning the collection, please call Cathy Poston, Office on Violence Against Women, at 202–514-5430 or the DOJ Desk Officer at 202–395–3176.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Grantees from the Safe Havens: Supervised Visitation and Exchange Grant Program (Supervised Visitation Program).

(3) *Agency form number, if any, and the applicable component of the*

Department of Justice sponsoring the collection: Form Number: 1122–0009. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the approximately 33 grantees of the Supervised Visitation Program who are States, Indian tribal governments, and units of local government. The Supervised Visitation Program provides an opportunity for communities to support the supervised visitation and safe exchange of children, by and between parents, in situations involving domestic violence, child abuse, sexual assault, or stalking.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 33 respondents (Supervised Visitation Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A Supervised Visitation Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 66 hours, that is 33 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Lynn Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street, NE., Suite 2E–502, Washington, DC 20530.

Dated: February 23, 2011.

Lynn Murray,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 2011–4453 Filed 2–28–11; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0011]

Agency Information Collection Activities: Extension of a Currently Approved Collection

ACTION: 60-Day Notice of Information Collection Under Review: Semi-Annual Progress Report for Grantees From the Grants to State Sexual Assault and Domestic Violence Coalitions Program.

The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. Comments are encouraged and will be accepted for "sixty days" until May 2, 2011. This process is conducted in accordance with 5 CFR 1320.10.

Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, *Attn:* DOJ Desk Officer. The best way to ensure your comments are received is to e-mail them to *oira_submission@omb.eop.gov* or fax them to 202–395–7285. All comments should reference the 8 digit OMB number for the collection or the title of the collection. If you have questions concerning the collection, please Cathy Poston, Office on Violence Against Women, at 202–514–5430 or the DOJ Desk Officer at 202–395–3176.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Grantees from the Grants to State Sexual Assault and Domestic Violence Coalitions Program (State Coalitions Program)

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* 1122–0010. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the 88 grantees from the State Coalitions Program. The State Coalitions Program provides federal financial assistance to state coalitions to support the coordination of state victim services activities, and collaboration and coordination with federal, state, and local entities engaged in violence against women activities.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 88 respondents (State Coalitions Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A State Coalitions Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 176 hours, that is 88 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Lynn Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street, NE., Suite 2E–502, Washington, DC 20530.

Dated: February 23, 2011.

Lynn Murray,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 2011–4448 Filed 2–28–11; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0005]

Agency Information Collection Activities: Extension of a Currently Approved Collection

ACTION: 60-Day Notice of Information Collection Under Review: Semi-Annual

Progress Report for Grants To Reduce Violent Crimes Against Women on Campus Program.

The Department of Justice, Office on Violence Against Women (OVW) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. Comments are encouraged and will be accepted for "sixty days" until May 2, 2011. This process is conducted in accordance with 5 CFR 1320.10.

Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: DOJ Desk Officer. The best way to ensure your comments are received is to e-mail them to *oira_submission@omb.eop.gov* or fax them to 202–395–7285. All comments should reference the 8 digit OMB number for the collection or the title of the collection. If you have questions concerning the collection, please Cathy Poston, Office on Violence Against Women, at 202–514–5430 or the DOJ Desk Officer at 202–395–3176.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Grantees from the Grants to Reduce Violent Crimes Against Women on Campus Program (Campus Program).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–0005. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the approximately 100 grantees (institutions of higher education) of the Grants to Reduce Violent Crimes Against Women on Campus Program whose eligibility is determined by statute. Campus Program grants may be used to enhance victim services and develop programs to prevent violent crimes against women on campuses. The Campus Program also enables institutions of higher education to develop and strengthen effective security and investigation strategies to combat violent crimes against women on campuses, including domestic violence, dating violence, sexual assault, and stalking.

(4) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 100 respondents (Campus Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A Campus Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 200 hours, that is 100 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Lynn Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street, NE., Suite 2E–502, Washington, DC 20530.

Dated: February 23, 2011.

Lynn Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2011–4450 Filed 2–28–11; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

Notice of Lodging of an Amendment to Consent Decree Under the Clean Air Act

Notice is hereby given that on February 14, 2011, a proposed Amendment to the consent decree in *United States et al.* v. *Lafarge North America, et al.,* Civil Action No. 3:10–cv–44–JPG was lodged with the United States District Court for the Southern District of Illinois.

On March 18, 2010, the United States District Court for the Southern District of Illinois entered a consent decree ("decree") resolving claims of the United States and twelve states or state agencies against Lafarge North America, Inc.'s, Lafarge Midwest, Inc.'s, and Lafarge Building Materials, Inc.'s ("Lafarge's") for alleged violations of the Clean Air Act ("CAA" or "Act") at its thirteen portland cement production facilities in the United States. Specifically, the consent decree resolved alleged violations of the Act's Prevention of Significant Deterioration ("PSD") provisions, 42 U.S.C. 7470–92; Nonattainment New Source Review ("NNSR") provisions, 42 U.S.C. 7501–15; the federally approved and enforceable state implementation plans ("SIPs") which incorporate and/or implement the above-listed Federal PSD and/or NNSR requirements; and the CAA Title V operating permit requirements, 42 U.S.C. 7661–61f, including Title V's implementing federal and state regulations. Among other requirements, the consent decree requires Lafarge to install and continuously operate two wet flue gas desulfurization devices ("Wet FGDs") to control SO_2 emissions from Kilns 22 and 23 at Lafarge's Alpena, Michigan cement production facility.

The proposed Amendment to the decree allows Lafarge the option of installing a single Wet FGD to control combined SO_2 emissions from both Kilns 22 and 23 at its Alpena, Michigan cement production facility, rather than the two Wet FGDs required by the decree. In addition, the proposed Amendment requires Lafarge to: (1) Install single Wet FGD three months earlier than currently required in the decree for one of the Alpena cement kilns; (2) design the Wet FGD to collect the combined SO_2 emissions from both Kilns 22 and 23 at Lafarge's Alpena facility; and (3) develop a malfunction abatement plan, subject to EPA and state approval under the decree, intended to minimize emissions in the event of a malfunction of each Wet FGD at Ravena and Alpena. These requirements ensure

that the proposed Amendment to the decree will achieve equivalent or better emission reductions for SO_2 than those currently required.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States et al.* v. *Lafarge North America, et al.,* Civil Action No. 3:10–cv–44–JPG, DJ# 90–5–2–1–08221.

The proposed Amendment to the consent decree may be examined at the Office of the United States Attorney, Southern District of Illinois, Nine Executive Drive, Fairview Heights, Illinois 62208–1344 (contact Assistant United States Attorney J. Christopher Moore (618) 628–3700)), and at U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, IL 60604–3590 (contact Associate Regional Counsel Louise Gross (312/886–6844)). During the public comment period, the proposed Consent Decree, may also be examined on the following Department of Justice Web site, to *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the proposed consent decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $4.50 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Maureen M. Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2011–4519 Filed 2–28–11; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Radiation Sampling and Exposure Records

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and Health Administration sponsored information collection request (ICR) titled, "Radiation Sampling and Exposure Records," to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

DATES: Submit comments on or before March 31, 2011.

ADDRESSES: A copy of this ICR, with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain,* on the day following publication of this notice or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an e-mail to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the U.S. Department of Labor, Mine Safety and Health Administration, Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), e-mail: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by e-mail at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Regulation 30 CFR 57.5040 requires mine operators to calculate and record individual exposures to radon daughters on MSHA Form 4000–9 "Record of Individual Exposure to Radon Daughters". The calculations are based on the results of the weekly sampling required by 30 CFR 57.5037. Records must be maintained by the operator and submitted to the MSHA annually. The sampling and recordkeeping requirement alerts the mine operator and the MSHA to possible failure in the radon daughter control system, and permits appropriate corrective action to be taken in a timely manner. Data submitted to the MSHA is intended to establish a means by which the MSHA can assure compliance with underground radiation standards and to assure that miners can, on written request, have records of cumulative exposures made available to them or their estate, and to medical and legal representatives who have obtained written authorization.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid OMB control number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1219–0003. The current OMB approval is scheduled to expire on February 28, 2011; however, it should be noted that information collections submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on December 21, 2010.

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs, at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register.** In order to ensure appropriate consideration, comments should reference OMB Control Number 1219–0003. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or

other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Mine Safety and Health Administration (MSHA).

Title of Collection: Radiation Sampling and Exposure Records.

OMB Control Number: 1219–0003.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 5.

Total Estimated Number of Responses: 505.

Total Estimated Annual Burden Hours: 1,627.

Total Estimated Annual Costs Burden: $25.

Dated: February 24, 2011.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2011–4512 Filed 2–28–11; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Qualification/Certification Program Request for Mine Safety and Health Administration Individual Identification Number

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) titled, "Qualification/Certification Program Request for MSHA Individual Identification Number (MIIN)," to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

DATES: Submit comments on or before March 31, 2011.

ADDRESSES: A copy of this ICR, with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain,* on the day following publication of this notice or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an e-mail to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the U.S. Department of Labor, Mine Safety and Health Administration (MSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), e-mail: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by e-mail at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The MSHA issues certifications, qualifications, and approvals (licenses) to the nation's miners to conduct specific work within mines. Prior to the approval of this collection Social Security Numbers (SSNs) were used for tracking purposes within MSHA data processing systems, in the absence of other reliable identification systems. In the effort to reduce use of SSNs both by the MSHA and third parties, the MSHA has changed the process to one in which miners requiring a license or benefit from the MSHA will register for a MIIN. This unique number is used in place of individual SSNs for all licensing requirements within the MSHA. This process has allowed the MSHA to discontinue the past practice of individuals supplying their personally identifiable information to instructors, states or other entities, which in turn supplied that information to the MSHA. Miners needing a license or benefit from the MSHA will need to register only one time to obtain their MIINs.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1219–0143. The current OMB approval is scheduled to expire on February 28, 2011; however, it should be noted that information collections submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on December 17, 2010 (75 FR 79029).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register.** In order to ensure appropriate consideration, comments should reference OMB Control Number 1219–0143. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Mine Safety and Health Administration (MSHA).

Title of Collection: Qualification/Certification Program Request for MSHA Individual Identification Number (MIIN).

OMB Control Number: 1219–0143.

Affected Public: Private sector—businesses or other for-profits.

Total Estimated Number of Respondents: 11,000.

Total Estimated Number of Responses: 11,000.

Total Estimated Annual Burden Hours: 916.

Total Estimated Annual Costs Burden: $5,170.

Dated: February 23, 2011.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2011–4511 Filed 2–28–11; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Affordable Care Act Internal Claims and Appeals and External Review Procedures for Non-Grandfathered Plans

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, "Affordable Care Act Internal Claims and Appeals and External Review Procedures for Non-grandfathered Plans," to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

DATES: Submit comments on or before March 31, 2011.

ADDRESSES: A copy of this ICR, with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain,* on the day following publication of this notice or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an e-mail to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the U.S. Department of Labor, Employee Benefits Security Administration (EBSA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), e-mail: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by e-mail at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Affordable Care Act added Public Health Service Act section 2719, which provides rules relating to internal claims and appeals and external review processes. On July 23, 2010, the EBSA issued interim final regulations to implement the statutory provision. *See* 75 FR 43330. With respect to internal claims and appeals processes for group health coverage, group health plans and health insurance issuers offering group health insurance coverage must comply with the internal claims and appeals processes set forth in 29 CFR 2560.503–1 (the DOL claims procedure regulation) and update such processes in accordance with standards established by the Secretary of Labor. Group health plans and issuers offering group health insurance coverage must comply with either a State external review process or a Federal review process. The regulations provide a basis for determining when plans and issuers must comply with an applicable State external review process and when they must comply with the Federal external review process.

The claims procedure regulation imposes information collections, as part of the reasonable procedures that an employee benefit plan must establish regarding the handling of a benefit claim. These information collections include third-party notice and disclosure requirements that the plan must satisfy by providing information to participants and beneficiaries of the plan; consequently, the collections are subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for these information collections under OMB Control Number 1210–0144. The current OMB approval is scheduled to expire on February 28, 2011; however, it should be noted that information collections submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on December 10, 2010.

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to ensure appropriate consideration, comments should reference OMB Control Number 1210–0144. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Employee Benefits Security Administration (EBSA).

Title of Collection: Affordable Care Act Internal Claims and Appeals and External Review Procedures for Non-grandfathered Plans.

OMB Control Number: 1210–0144.

Affected Public: Private sector—Businesses and other for-profits and Not-for-profit institutions.

Total Estimated Number of Responses: 94,483.

Total Estimated Annual Burden Hours: 631.

Total Estimated Annual Costs Burden: $250,328.

Dated: February 22, 2011.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2011–4410 Filed 2–28–11; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Certification of Funeral Expenses

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Workers' Compensation Programs (OWCP) sponsored information collection request (ICR) titled, "Certification of Funeral Expenses," to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

DATES: Submit comments on or before March 31, 2011.

ADDRESSES: A copy of this ICR, with applicable supporting documentation;

including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain,* on the day following publication of this notice or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an e-mail to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the U.S. Department of Labor, Office of Workers' Compensation Programs (OWCP), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), e-mail: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by e-mail at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Office of Workers' Compensation Programs (OWCP) administers the Longshore and Harbor Workers' Compensation Act. The Act provides benefits to workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. The Act provides that reasonable funeral expenses not to exceed $3,000 shall be paid in all compensable death cases. The OWCP has developed Form LS–265 for use in submitting the funeral expenses for payment.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1240–0040. The current OMB approval is scheduled to expire on February 28, 2011; however, it should be noted that information collections submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on October 18, 2010 (75 FR 63862).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to ensure appropriate consideration, comments should reference OMB Control Number 1240–0040. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Office of Workers' Compensation Programs (OWCP).

Title of Collection: Certification of Funeral Expenses.

OMB Control Number: 1240–0040.

Affected Public: Businesses or other for-profits.

Total Estimated Number of Respondents: 80.

Total Estimated Number of Responses: 80.

Total Estimated Annual Burden Hours: 20.

Total Estimated Annual Costs Burden: $38.

Dated: February 23, 2011.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2011–4412 Filed 2–28–11; 8:45 am]

BILLING CODE 4510–CF–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Comparability of Current Work to Coal Mine Employment

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Workers' Compensation Programs (OWCP) sponsored information collection request (ICR) titled, "Comparability of Current Work to Coal Mine Employment," to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

DATES: Submit comments on or before March 31, 2011.

ADDRESSES: A copy of this ICR, with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain,* on the day following publication of this notice or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an e-mail to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, *Attn:* OMB Desk Officer for the Department of Labor, Office of Workers' Compensation Programs (OWCP), Office of Management and Budget, Room 10235, Washington, DC 20503, *Telephone:* 202–395–6929/*Fax:* 202–395–6881 (these are not toll-free numbers), *e-mail: OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by e-mail at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Black Lung Benefits Act of 1977, as amended, 30 U.S.C. 901 *et seq.,* provides for the payment of benefits to coal miners who are totally disabled by black lung disease arising out of coal mine employment and their dependents and survivors. Once a miner has been identified as having performed non-coal mine work subsequent to coal mine employment, the miner or the miner's survivor is asked to complete Form CM–913 to compare coal mine work to non-

coal mine work. This employment information along with medical information is used to establish whether the miner is totally disabled due to black lung disease caused by coal mine employment.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1240–0035. The current OMB approval is scheduled to expire on February 28, 2011; however, it should be noted that information collections submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on October 18, 2010 (75 FR 63864).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to ensure appropriate consideration, comments should reference OMB Control Number 1240–0035. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Office of Workers' Compensation Programs (OWCP).

Title of Collection: Comparability of Current Work to Coal Mine Employment.

OMB Control Number: 1240–0035.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 1650.

Total Estimated Number of Responses: 1650.

Total Estimated Annual Burden Hours: 825.

Total Estimated Annual Costs Burden: $776.

Dated: February 23, 2011.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2011–4409 Filed 2–28–11; 8:45 am]

BILLING CODE 4510–CH–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Funding Opportunity and Solicitation for Grant Applications (SGA) for Serving Juvenile Offenders in High-Poverty, High-Crime Communities

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of Solicitation for Grant Applications (SGA).

Funding Opportunity Number: SGA/DFA PY 10–09.

SUMMARY: Through this notice, the Department of Labor's Employment and Training Administration (ETA) announces the availability of approximately $17 million in grant funds authorized by the Workforce Investment Act of 1998 to serve juvenile offenders, ages 16 to 24, in high-poverty, high-crime communities. The purpose of these grants is to improve the long-term labor market prospects of these youth. The Department expects to award two grants of $8.5 million each to organizations with the capacity to implement multi-site, multi-state projects. Grantees will be required to competitively select local sub-grantees to operate the program in a minimum of five high-poverty, high-crime communities in at least two states.

The complete SGA and any subsequent SGA amendments, in connection with the Workforce Investment Act of 1998 is described in further detail on ETA's Web site at *http://www.doleta.gov/grants* or on *http://www.grants.gov.* The Web sites provide application information, eligibility requirements, review and selection procedures and other program requirements governing this solicitation.

DATES: The closing date for receipt of applications is April 12, 2011.

FOR FURTHER INFORMATION CONTACT: Donna Kelly, 200 Constitution Avenue, NW., Room N4716, Washington, DC 20210; Telephone: 202–693–3934.

Signed at Washington, DC, this 24th day of February, 2011.

Donna Kelly,

Grant Officer, Employment and Training Administration.

[FR Doc. 2011–4514 Filed 2–28–11; 8:45 am]

BILLING CODE 4510–FT–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Funding Opportunity and Solicitation for Grant Applications (SGA) for the Career Pathways Innovation Fund Grants Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of Solicitation for Grant Applications (SGA).

Funding Opportunity Number: SGA/DFA PY 10–06.

SUMMARY: Through this notice, the Department of Labor's Employment and Training Administration (ETA) announces the availability of up to approximately $122 million in grant funds authorized by Workforce Investment Act of 1998, Public Law 105–220 to develop and implement career pathway programs in partnership with employers and other relevant organizations in the community. The overarching goals for projects funded under this SGA are to: (1) Increase the number of individuals who earn credentials that enable them to compete for employment in in-demand and emerging industries and occupations; (2) lead to employment for program participants; (3) articulate and ease academic and employment transitions, through the implementation of articulation agreements and other activities, for students of different skill levels and at varying academic levels, including students with low English or basic skills proficiency; (4) establish multiple entry and exit points for students along the post-secondary education continuum; and, (5) create systemic change that will last beyond the grant period by establishing partnerships, agreements, processes, and programs that better connect the education, training, workforce, and

supportive services necessary to achieve the preceding four goals, including strengthening the role of the public workforce system in career pathway programs. ETA proposes to fund approximately 40 to 50 grants ranging from $1 million to $5 million. Based on statutory requirements, at least $65 million of the total designated funds will be reserved for projects that focus on the health care sector. In addition, DOL intends to reserve funding of approximately $6.25 million of the total appropriation to award additional funding to support grantee efforts to conduct a third-party evaluation of the grant activities with this SGA.

The complete SGA and any subsequent SGA amendments, in connection with the Workforce Investment Act of 1998, Public Law 105–220 is described in further detail on ETA's Web site at *http://www.doleta.gov* or on *http://www.grants.gov.* The Web sites provide application information, eligibility requirements, review and selection procedures and other program requirements governing this solicitation.

DATES: The closing date for receipt of applications is March 31, 2011.

FOR FURTHER INFORMATION CONTACT: Linda Forman, 200 Constitution Avenue, NW., Room N4716, Washington, DC 20210; *telephone:* 202–693–3416.

Signed at Washington, DC, this 23rd day of February, 2011.

Donna Kelly,

Grant Officer, Employment and Training Administration.

[FR Doc. 2011–4407 Filed 2–28–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: 2011 Adverse Effect Wage Rates, Allowable Charges for Agricultural Workers' Meals, and Maximum Travel Subsistence Reimbursement

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (Department) is issuing this Notice to announce: (1) The 2011 Adverse Effect Wage Rates (AEWRs) for employers seeking to employ temporary or seasonal nonimmigrant foreign workers to perform agricultural labor or services (H–2A workers); (2) the allowable maximum amount for 2011 that employers may charge their H–2A workers for providing them with three meals a day; and (3) the maximum travel subsistence reimbursement which a worker with receipts may claim in 2011.

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

FOR FURTHER INFORMATION CONTACT: William L. Carlson, Ph.D., Administrator, Office of Foreign Labor Certification, U.S. Department of Labor, Room C–4312, 200 Constitution Avenue, NW., Washington, DC 20210. *Telephone:* 202–693–3010 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The United States (U.S.) Citizenship and Immigration Services of the Department of Homeland Security may not approve an employer's petition for the admission of H–2A nonimmigrant temporary agricultural workers in the U.S. unless the petitioner has received from the Department of Labor (Department) an H–2A labor certification. Approved labor certifications attest that: (1) There are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the foreign worker in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1101(a)(15)(H)(ii)(b), 1184(c)(1), and 1188(a); and 8 CFR 214.2(h)(5) and (6).

The Department's regulations for the H–2A program require employers to offer and pay their U.S. and H–2A workers no less than the appropriate hourly AEWR in effect at the time the work is performed. 20 CFR 655.122(l).

A. Adverse Effect Wage Rates for 2011

Employers of H–2A workers must pay the highest of (i) the AEWR, in effect, at the time the work is performed; (ii) the applicable prevailing wage; or (iii) the statutory minimum wage, as specified in the regulations. 20 CFR 655.120(a). Except as otherwise provided in 20 CFR part 655, Subpart B, the region-wide AEWR for all agricultural employment (except those occupations which are exempted under the special procedure provisions of 20 CFR 655.102) for which temporary H–2A certification is being sought is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) for the region as published annually by the United States Department of Agriculture (USDA) based on its quarterly wage survey. Pursuant to 20 CFR 655.120(c), the Administrator of the Office of Foreign Labor Certification must publish USDA field and livestock worker (combined) wage data as AEWRs in a **Federal Register** Notice. Accordingly, the 2011 AEWRs for agricultural work performed by U.S. and H–2A workers on or after the effective date of this Notice are set forth in the table below:

TABLE—2011 ADVERSE EFFECT WAGE RATES

State	2011 AEWRs
Alabama	$9.12
Arizona	9.60
Arkansas	8.97
California	10.31
Colorado	10.48
Connecticut	10.25
Delaware	10.60
Florida	9.50
Georgia	9.12
Hawaii	12.01
Idaho	9.90
Illinois	10.84
Indiana	10.84
Iowa	11.03
Kansas	11.52
Kentucky	9.48
Louisiana	8.97
Maine	10.25
Maryland	10.60
Massachusetts	10.25
Michigan	10.62
Minnesota	10.62
Mississippi	8.97
Missouri	11.03
Montana	9.90
Nebraska	11.52
Nevada	10.48
New Hampshire	10.25
New Jersey	10.60
New Mexico	9.60
New York	10.25
North Carolina	9.30
North Dakota	11.52
Ohio	10.84
Oklahoma	9.65
Oregon	10.60
Pennsylvania	10.60
Rhode Island	10.25
South Carolina	9.12
South Dakota	11.52
Tennessee	9.48
Texas	9.65
Utah	10.48
Vermont	10.25
Virginia	9.30
Washington	10.60
West Virginia	9.48
Wisconsin	10.62
Wyoming	9.90

B. Allowable Meal Charges

Among the minimum benefits and working conditions which the Department requires employers to offer their U.S. and H–2A workers are three

meals a day or free and convenient cooking and kitchen facilities. 20 CFR 655.122(g). When the employer provides meals, the job offer must state the charge, if any, to the worker for such meals. 20 CFR 655.122(g).

The Department has published at 20 CFR 655.173(a) the methodology for determining the maximum amounts that H–2A agricultural employers may charge their U.S. and foreign workers for meals. These rules provide for annual adjustments of the previous year's allowable charges based upon Consumer Price Index (CPI) data. 20 CFR 655.173(a).

Each year, the maximum charges allowed by 20 CFR 655.122(g) are adjusted by the same percentage as the 12-month percent change for the CPI for all Urban Consumers for Food (CPI–U for Food). The Department may permit an employer to charge workers no more than the higher maximum amount set forth in 20 CFR 655.173(b), as applicable, for providing them with three meals a day, if justified and sufficiently documented. The H–2A program's regulations require the Department to make the annual adjustments and to publish a Notice in the **Federal Register** each calendar year, announcing annual adjustments in allowable charges that may be made by agricultural and logging employers for providing three meals daily to their U.S. and foreign workers. The 2010 rates were published in the **Federal Register** at 75 FR 7293, Feb. 18, 2010.

The Department has determined the percentage change between December of 2009 and December of 2010 for the CPI–U for Food was .8 percent. Accordingly, the maximum allowable charges under 20 CFR 655.122(g) were adjusted using this percentage change, and the new permissible charges for 2011 shall be no more than $10.73 per day, unless the Department has approved a higher charge pursuant to 20 CFR 655.173(b).

C. Maximum Travel Subsistence Expense

The regulations at 20 CFR 655.122(h) establish that the minimum daily travel subsistence expense, for which a worker is entitled to reimbursement, is at least as much as the employer would charge the worker for providing the worker with three meals a day during employment (if applicable), but in no event less than the amount permitted under 20 CFR 655.173(a). The regulation is silent about the maximum amount to which a qualifying worker is entitled.

The Department based the maximum meals component on the standard Continental United States (CONUS) per diem rate established by the General Services Administration (GSA), published at 41 CFR Part 301, Appendix A. The CONUS meal component is now $46.00 per day.

Workers who qualify for travel reimbursement are entitled to reimbursement up to the CONUS meal rate for related subsistence when they provide receipts. In determining the appropriate amount of subsistence reimbursement, the employer may use the GSA system under which a traveler qualifies for meal expense reimbursement at 75 percent of the subsistence for the first partial day of travel and 75 percent of the subsistence for the last partial day per quarter of a day. If a worker has no receipts, the employer is not obligated to reimburse above the minimum stated at 20 CFR 655.173(a), as specified above.

Signed in Washington, DC this 18th day of February, 2011.

Jane Oates,

Assistant Secretary, Employment and Training Administration.

[FR Doc. 2011–4419 Filed 2–28–11; 8:45 am]

BILLING CODE 4510–FN–P

LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket No. 2010–8 CRB DD 2005–2008]

Distribution of 2005 Through 2008 DART Musical Works Funds Royalties

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Notice soliciting comments on motion for partial distribution.

SUMMARY: The Copyright Royalty Judges are soliciting comments on a motion for partial distribution in connection with 2005, 2006, 2007, and 2008 DART Musical Works Fund royalties.

DATES: Comments are due on or before March 31, 2011.

ADDRESSES: Comments may be sent electronically to *crb@loc.gov*. In the alternative, send an original, five copies, and an electronic copy on a CD either by mail or hand delivery. Please do not use multiple means of transmission. Comments may not be delivered by an overnight delivery service other than the U.S. Postal Service Express Mail. If by mail (including overnight delivery), comments must be addressed to: Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977. If hand delivered by a private party, comments must be brought to the Library of Congress, James Madison Memorial Building, LM–401, 101 Independence Avenue, SE., Washington, DC 20559–6000. If delivered by a commercial courier, comments must be delivered to the Congressional Courier Acceptance Site located at 2nd and D Street, NE., Washington, DC. The envelope must be addressed to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM–403, 101 Independence Avenue, SE., Washington, DC 20559–6000.

FOR FURTHER INFORMATION CONTACT: Richard Strasser, Senior Attorney, or Gina Giuffreda, Attorney Advisor, by telephone at (202) 707–7658 or e-mail at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: On April 8, 2010, Broadcast Music, Inc., the American Society of Composers, Authors and Publishers, SESAC, Inc. and The Harry Fox Agency, Inc. (hereinafter "Settling Claimants") filed with the Judges a Motion for Partial Distribution of the Digital Audio Recording Technology ("DART") Musical Works Funds for 2005, 2006, 2007, and 2008. In the Motion the Settling Claimants state that they have reached confidential settlements concerning their respective distribution shares for these years. The Settling Claimants request that the Judges, pursuant to Section 801(b)(3)(A) of the Copyright Act, distribute to the Settling Claimants 95% of the 2005–2008 DART Musical Works Funds, for the Writers and Music Publishers Subfunds. They also request that the Copyright Royalty Judges ("Judges") publish notice in the **Federal Register** requesting comments on their proposed partial distribution. Section 801(b)(3)(A) authorizes the Judges to order distributions of royalty funds to the extent that the Judges find that the distribution of such fees is not subject to controversy. 17 U.S.C. 801(b)(3)(A). That section of the Copyright Act does not require publication in the **Federal Register**, but it does require that the Judges find that the fees requested are not subject to controversy. The Settling Claimants do not make such a representation. Rather they represent that they have agreed among themselves how any distributed funds should be allocated among themselves. The Settling Claimants state that the Judges "have the discretion, within a zone of reasonableness, to find that 95% of the royalties are not in controversy." Motion at 4. As support for this assertion, they state that "[i]n the past four DART proceedings, non-settling individual writer and publisher claimants collectively have either received less than one tenth of one percent (0.1%) of the royalty funds or have been dismissed altogether * * *.

Accordingly, as in the past, at least 95% of the 2005–2008 Musical Works Funds is clearly not in controversy, and a partial distribution of this amount to the Settling Parties is appropriate and warranted at this time." *Id.* We do not agree that Section 801(b)(3)(A) gives us the discretion to determine that 95% of the funds at issue in this matter are not in controversy based on the Settling Claimants' representations that non-settling claimants were awarded less than five percent of the funds in prior proceedings. Moreover, the Settling Claimants chose not to serve all of the claimants and therefore those claimants were given no opportunity to comment on whether the Settling Claimants' assertions with respect to a controversy are accurate. In the absence of persuasive evidence that no controversy exists with respect to the funds that the Settling Claimants request, we cannot make the requisite finding under Section 801(b)(3)(A) that no controversy exists with respect to the requested funds. Nevertheless, we do have authority under Section 801(b)(3)(C) of the Copyright Act to authorize partial distributions if, after publication in the **Federal Register,** we determine that no claimant entitled to receive such fees has stated a reasonable objection to the partial distribution and the Settling Claimants requesting the partial distribution agree, among other things, to sign an agreement obligating them to return any excess amounts to the extent necessary to comply with the final determination on the distribution of the funds. *See* 17 U.S.C. 801(b)(3)(C). Therefore, we seek comments from any claimant entitled to receive royalties from the 2005–2008 DART Musical Works Funds regarding whether there are any reasonable objections to a partial distribution of 95% of the 2005–2008 Musical Works Funds to the Settling Claimants. Moreover, we request comments from the Settling Claimants regarding whether they are willing to make the representations required for a partial distribution pursuant to Section 801(b)(3)(C) of the Copyright Act.

The Motion of the Settling Claimants for Partial Distribution is posted on the Copyright Royalty Board Web site at *http://www.loc.gov/crb*.

Dated: February 24, 2011.

James Scott Sledge,

Chief U.S. Copyright Royalty Judge.

[FR Doc. 2011–4462 Filed 2–28–11; 8:45 am]

BILLING CODE 1410–72–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Sunshine Act Meetings; Notice

The National Science Board's Task Force on Merit Review (MR), 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 held by teleconference for the transaction of National Science Board business and other matters specified, as follows:

DATE AND TIME: March 8, 2011, 1 p.m. to 3 p.m.

SUBJECT MATTER: Discussion of Guiding Principles for Assessing Merit Review Criteria and Chairman's remarks.

STATUS: Open.

LOCATION: This meeting will be held by teleconference at the National Science Board Office, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Room 130, Stafford Place I, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 will be available for the public to listen-in to this meeting held by teleconference. All visitors must contact the Board Office [call 703–292–7000 or send an e-mail message to *nationalsciencebrd@nsf.gov*] at least 24 hours prior to the teleconference and provide name and organizational affiliation. All visitors must report to the NSF visitor desk located in the lobby at the 9th and N. Stuart Streets entrance on the day of the teleconference to receive a visitor's badge.

UPDATES AND POINT OF CONTACT: 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/*. Point of contact for this meeting is: Kim Silverman, 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. 2011–4685 Filed 2–25–11; 4:15 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0045]

Draft Regulatory Guide: Issuance, Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance and Availability of Draft Regulatory Guide, DG–7008, "Leakage Tests on Packages for Shipment of Radioactive Materials."

FOR FURTHER INFORMATION CONTACT: Bernard H. White, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–492–3303 or e-mail; *Bernard.White@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft guide in the agency's "Regulatory Guide" series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the NRC staff uses in evaluating specific problems or postulated accidents, and data that the NRC staff needs in its review of applications for permits and licenses.

The draft regulatory guide (DG), entitled, "Leakage Tests on Packages for Shipment of Radioactive Materials" is temporarily identified by its task number, DG–7008, which should be mentioned in all related correspondence. DG–7008 is proposed Revision 1 of Regulatory Guide 7.4, dated June 1975.

This guide describes an approach that the NRC staff considers acceptable for meeting the containment criteria for Type B packages in Title 10, Section 71.51, "Additional Requirements for Type B Packages," of the Code of Federal Regulations (10 CFR 71.51). The regulations at 10 CFR 71.51 require licensees to ensure that Type B packages, following tests for normal conditions of transport and hypothetical accident conditions, meet the containment criteria to minimize radioactive contamination and dose rates to the public. The NRC staff developed and published this guidance to help licensees meet these objectives, ensure package integrity, and minimize the distribution of contamination to the environment.

This regulatory guide endorses the methods and procedures developed by the Standards Committee on Packaging

and Transportation of Radioactive and Nonnuclear Hazardous Materials, N14, Subcommittee of the American National Standards Institute (ANSI) in ANSI N14.5–1997, "Radioactive Materials—Leakage Tests on Packages for Shipment," issued 1997, as a process that the NRC staff considers acceptable for meeting the regulatory requirements.

II. Further Information

The NRC staff is soliciting comments on DG–7008. Comments may be accompanied by relevant information or supporting data and should mention DG–7008 in the subject line. Comments submitted in writing or in electronic form will be made available to the public in their entirety through the NRC's Agencywide Documents Access and Management System (ADAMS).

ADDRESSES: You may submit comments by any one of the following methods. Please include Docket ID NRC–2011–0045 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site Regulations.gov. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

Federal rulemaking Web site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2011–0045. Address questions about NRC dockets to Carol Gallagher (301) 492–3668; e-mail *Carol.Gallagher@nrc.gov.*

Mail comments to: Cindy K. Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to RADB at 301–492–3446.

You can access publicly available documents related to this notice using the following methods:

NRC's Public Document Room (PDR): The public may examine and have copied for a fee, publicly available documents at the NRC's PDR, Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.* The draft regulatory guide is available electronically under ADAMS Accession Number ML102350572.

FOR FURTHER INFORMATION CONTACT: Bernard H. White, Project Manager, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; Telephone: 301–492–3303; e-mail: *Bernard.White@nrc.gov.*

Comments would be most helpful if received by April 26, 2011. Comments received after that date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Electronic copies of DG–7008 are available through the NRC's public Web site under Draft Regulatory Guides in the "Regulatory Guides" collection of the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/doc-collections/.* Electronic copies are also available in ADAMS (*http://www.nrc.gov/reading-rm/adams.html*), under Accession No. ML102350572. The regulatory analysis may be found in ADAMS under Accession No. ML102350573.

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

Dated at Rockville, Maryland, this 25th day of January, 2011.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2011–4558 Filed 2–28–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Notice of Meeting

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on March 10–12, 2011, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Thursday, October 21, 2010 (74 FR 65038–65039).

Thursday, March 10, 2011, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10 a.m.: Commission Paper on the Use of Risk Insights To Enhance the Safety Focus of Small Modular Reactor Reviews (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the Commission Paper on the use of risk insights to enhance the safety focus of small modular reactor reviews.

10:15 a.m.–11:45 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS Meetings, and matters related to the conduct of ACRS business, including anticipated workload and member assignments. [**Note:** A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

11:45 a.m.–12 p.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

1 p.m.–3:30 p.m.: Point Beach, Units 1 and 2 Extended Power Uprate Application (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and

NextEra Energy Point Beach, LLC regarding the Point Beach, Units 1 and 2 extended power uprate application and the associated safety evaluation prepared by the NRC staff. [**Note:** A portion of this session may be closed in order to discuss and protect information designated as proprietary by NextEra Energy Point Beach, LLC, pursuant to 5 U.S.C. 552b(c)(4).]

3:45 p.m.–5:15 p.m.: Status of Groundwater Protection Task Force Efforts (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the status of groundwater protection task force efforts.

5:15 p.m.–7 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will discuss proposed ACRS reports on matters discussed during this meeting. [**Note:** A portion of this session may be closed in order to discuss and protect information designated as proprietary by NextEra Energy Point Beach, LLC, pursuant to 5 U.S.C. 552b(c)(4).]

Friday, March 11, 2011, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

1 p.m.–1:05 p.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

1:05 p.m.–2 p.m.: Improvements to the Generic Issue Program (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding improvements to the Generic Issue Program.

2 p.m.–7 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [**Note:** A portion of this session may be closed in order to discuss and protect information designated as proprietary by NextEra Energy Point Beach, LLC, pursuant to 5 U.S.C. 552b(c)(4).]

Saturday, March 12, 2011, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.–1 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [**Note:** A portion of this session may be closed in order to discuss and protect information designated as proprietary by NextEra Energy Point Beach, LLC, pursuant to 5 U.S.C. 552b(c)(4).]

1 p.m.–1:30 p.m.: Miscellaneous (Open)—The Committee will continue its discussion related to the conduct of Committee activities and specific issues that were not completed during previous meetings.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 21, 2010, (75 FR 65038–65039). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Ms. Ilka Berrios, Cognizant ACRS Staff (*Telephone:* 301–415–3179, *E-mail: Ilka.Berrios@nrc.gov*), five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

Thirty-five hard copies of each presentation or handout should be provided 30 minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the Cognizant ACRS Staff one day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Cognizant ACRS Staff with a CD containing each presentation at least 30 minutes before the meeting.

In accordance with Subsection 10(d) Public Law 92–463, and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room (PDR) at *pdr.resource@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at.

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m. (ET), at least 10 days before the meeting to ensure the availability of this service.

Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: February 23, 2011.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 2011–4504 Filed 2–28–11; 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.

DATES: Weeks of February 28, March 7, 14, 21, 28, April 4, 2011.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of February 28, 2011

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.

Week of March 21, 2011—Tentative

Thursday, March 24, 2011.

9 a.m. Briefing on the 50.46a Risk-Informed Emergency Core Cooling System (ECCS) Rule (Public Meeting) (Contact: Richard Dudley, 301–415–1116).

This meeting will be webcast live at the Web address—*http://*www.nrc.gov.

Week of March 28, 2011—Tentative

Tuesday, March 29, 2011

9 a.m. Briefing on Small Modular Reactors (Public Meeting) (Contact: Stephanie Coffin, 301–415–6877).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of April 4, 2011—Tentative

There are no meetings scheduled for the week of April 4, 2011.

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*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.

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The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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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 Bill Dosch, Chief, Work Life and Benefits Branch, at 301–415–6200, TDD: 301–415–2100, or by e-mail at *william.dosch@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.*

February 24, 2011.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2011–4606 Filed 2–25–11; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–252; NRC–2009–0557]

University of New Mexico AGN–201M Reactor Notice of Issuance of Renewed Facility Operating License No. R–102

The U.S. Nuclear Regulatory Commission (NRC) has issued renewed Facility Operating License No. R–102, held by the University of New Mexico (the licensee), which authorizes continued operation of the University of New Mexico AGN–201M Reactor (UNMR), located in Albuquerque, Bernalillo County, New Mexico. The UNMR is a solid homogeneous core research reactor licensed to operate at a steady-state power level of 5 watts thermal power. Renewed Facility Operating License No. R–102 will expire at midnight 20 years from its date of issuance.

The renewed license 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 regulations in Title 10, Chapter 1, "Nuclear Regulatory Commission," of the Code of Federal Regulations (10 CFR), and sets forth those findings in the renewed license. The agency afforded an opportunity for hearing in the Notice of Opportunity for Hearing published in the **Federal Register** on December 21, 2009 (74 FR 67927). The NRC received no request for a hearing or petition for leave to intervene following the notice.

The NRC staff prepared a safety evaluation report for the renewal of Facility License No. R–102 and concluded, based on that evaluation, that the licensee can continue to operate the facility without endangering the health and safety of the public. The NRC staff also prepared an Environmental Assessment and Finding of No Significant Impact for license renewal, noticed in the **Federal Register** on May 14, 2010 (75 FR 27372), and concluded that renewal of the license will not have a significant impact on the quality of the human environment.

For details with respect to the application for renewal, see the licensee's letter dated February 21, 2007 (Agencywide Document Access and Management System (ADAMS) Accession No. ML092170540), as supplemented by letters dated November 9, 2009 (ADAMS Accession No. ML093410385), February 17, 2010 (ADAMS Accession No. ML100501007), and November 19, 2010 (ADAMS Accession No. ML103330190). Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the 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 or 301–415–4737, or send an e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 22nd day of February, 2011.

For the Nuclear Regulatory Commission.

Jessie Quichocho,

Chief, Research and Test Reactors Licensing Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. 2011–4537 Filed 2–28–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–443; NRC–2011–0044]

NextEra Energy Seabrook, LLC; Seabrook Station Unit No. 1; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, Opportunity for a Hearing, and Order Imposing Procedures for Document Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of license amendment request, opportunity to comment, opportunity to request a hearing, and Commission order.

DATES: Submit comments by March 31, 2011. A request for a hearing must be filed by May 2, 2011. Any potential party as defined in 10 CFR 2.4 who believes access to Sensitive Unclassified Non-Safeguards Information and/or Safeguards Information is necessary to respond to this notice must request document access by March 11, 2011.

ADDRESSES: Please include Docket ID NRC–2011–0044 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site *http://www.regulations.gov.* Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You may submit comments by any one of the following methods.

Federal rulemaking Web site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2011–0044. Address questions about NRC dockets to Carol Gallagher 301–492–3668; e-mail *Carol.Gallagher@nrc.gov.*

Mail comments to: Chief, Rules, Announcements and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to RADB at 301–492–3446.

You can access publicly available documents related to this notice using the following methods:

NRC's Public Document Room (PDR): The public may examine, and have copied for a fee, publicly available documents at the NRC's PDR, Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. These documents may also be viewed electronically on the public computers located at the NRC's PDR at 11555 Rockville Pike, Rockville, Maryland 20852.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.* The application for amendment, dated January 27, 2011 is available electronically under ADAMS Accession No. ML110330202, however, the application for amendment, refers to and relies upon proprietary information previously submitted to the NRC and, accordingly, that information is withheld from public disclosure.

Federal rulemaking Web site: Public comments and supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID: NRC–2011–0044.

FOR FURTHER INFORMATION CONTACT: G. Edward Miller, Project Manager, Plant Licensing Branch I–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301–415–2481; fax number: 301–415–2102; e-mail: *ed.miller@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–86 issued to NextEra Energy Seabrook, LLC (NextEra or the licensee) for operation of the Seabrook Station, Unit No. 1 located in Rockingham County, New Hampshire.

The proposed amendment would revise Technical Specifications (TSs) related to the Steam Generators (SGs). Specifically, the proposed amendment would modify TS 6.7.6.k, "Steam Generator," and TS 6.8.1.7, "Steam Generator Tube Inspection Report," to allow implementation of alternate repair criteria.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the *Code of Federal Regulations* (10 CFR), 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Response: No.

The previously analyzed accidents are initiated by the failure of plant structures, systems, or components. The proposed change that alters the SG inspection and reporting criteria does not have a detrimental impact on the integrity of any plant structure, system, or component that initiates an analyzed event. The proposed change will not alter the operation of, or otherwise increase the failure probability of any plant equipment that initiates an analyzed accident.

Of the applicable accidents previously evaluated, the limiting transients with consideration to the proposed change to the SG tube inspection and repair criteria are the steam generator tube rupture (SGTR) event, the steam line break (SLB), and the feed line break (FLB) postulated accidents.

During the SGRT event, the required structural integrity margins of the SG tubes and the tube-to-tubesheet joint over the H* distance will be maintained. Tube rupture in tubes with in tubes with cracks within the tubesheet is precluded by the constraint provided by the presence of the tubesheet and the tube-to-tubesheet joint. Tube burst cannot occur within the thickness of the tubesheet. The tube-to-tubesheet joint constraint results from the hydraulic expansion process, thermal expansion mismatch between the tube and tubesheet, and from the differential pressure between the primary and secondary side, and tubesheet rotation. Based on this design, the structural margins against burst, as discussed in Regulatory Guide (RG) 1.121, "Bases for Plugging Degraded PWR [Pressurized-Water Reactor] Steam Generator Tubes," and Technical Specification 6.7.6.k, are maintained for both normal and postulated accident conditions.

The proposed change has no impact on the structural or leakage integrity of the portion of the tube outside of the tubesheet. The proposed change maintains structural and leakage integrity of the SG tubes consistent with the performance criteria of TS 6.7.6.k. Therefore, the proposed change results in no significant increase in the probability of the occurrence of a SGTR accident.

At normal operating pressures, leakage from tube degradation below the proposed limited inspection depth is limited by the tube-to-tubesheet crevice. Consequently, negligible normal operating leakage is expected from degradation below the inspected depth within the tubesheet region. The consequences of an SGTR event are not affected by the primary-to-secondary leakage flow during the event as primary-to-secondary leakage flow through a postulated tube that has been pulled out of the tubesheet is essentially equivalent to a severed tube.

Therefore, the proposed change does not result in a significant increase in the consequences of a SGTR.

The consequences of a SLB are also not significantly affected by the proposed changes. During a SLB accident, the reduction in pressure above the tubesheet on the shell side of the steam generator creates an axially uniformly distributed load on the tubesheet due to the reactor coolant system pressure on the underside of the tubesheet. The resulting bending action constrains the tubes in the tubesheet thereby restricting primary-to-secondary leakage below the midplane.

Primary-to-secondary leakage from tube degradation in the tubesheet area during the limiting accident (i.e., a SLB) is limited by flow restrictions. These restrictions result from the crack and tube-to-tubesheet contact pressures that provide a restricted leakage path above the indications and also limit the degree of potential crack face opening as compared to free span indications.

The leakage factor of 2.50 for Seabrook Station, for a postulated SLB/FLB, has been calculated as shown in Table 9–7 of Reference 10 [Proprietary Version, ADAMS Accession No. ML092650371, Non-

Proprietary Version, ADAMS Accession No. ML092650370]. For the condition monitoring assessment, the component of leakage from the prior cycle from below the H* distance will be multiplied by a factor of 2.50 and added to the total leakage from any other source and compared to the allowable accident induced leakage limit. For the operational assessment, the difference in the leakage between the allowable leakage and the accident induced leakage from sources other than the tubesheet expansion region will be divided by 2.50 and compared to the observed operational leakage.

The probability of a SLB is unaffected by the potential failure of a steam generator tube as the failure of the tube is not an initiator for a SLB event. SLB leakage is limited by leakage flow restrictions resulting from the leakage path above potential cracks through the tube-to-tubesheet crevice. The leak rate during postulated accident conditions (including locked rotor) has been shown to remain within the accident analysis assumptions for all axial and or circumferentially oriented cracks occurring 15.2 inches below the top of the tubesheet. The assumed accident induced leak rate for Seabrook Station is 500 gallons per day (gpd) during a postulated steam line break in the faulted loop. Using the limiting leak rate factor of 2.50, this corresponds to an acceptable level of operational leakage of 200 gpd. Therefore, the TS leak rate limit of 150 gpd provides significant added margin against the 500 gpd accident analysis leak rate assumption.

Therefore, the proposed change does not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

Response: No.

The proposed change that alters the SG inspection and reporting criteria does not introduce any new equipment, create new failure modes for existing equipment, or create any new limiting single failures. Plant operation will not be altered, and all safety functions will continue to perform as previously assumed in accident analyses.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed changes do not involve a significant reduction in the margin of safety.

Response: No.

The proposed change that alters the SG inspection and reporting criteria maintains the required structural margins of the SG tubes for both normal and accident conditions. Nuclear Energy Institute 97–06, Rev. 2 "Steam Generator Program Guidelines," and NRC Regulatory Guide (RG) 1.121, "Bases for Plugging Degraded PWR Steam Generator Tubes," are used as the bases in the development of the limited hot leg tubesheet inspection depth methodology for determining that SG tube integrity considerations are maintained within acceptable limits. RG 1.121 describes a method acceptable to the NRC for meeting General Design Criterion (GDC) 14, "Reactor Coolant Pressure Boundary," GDC 15, "Reactor Coolant System Design," GDC 31, "Fracture Prevention of Reactor Coolant Pressure Boundary," and GDC 32, "Inspection of Reactor Coolant Pressure Boundary," by reducing the probability and consequences of a SGTR. RG 1.121 concludes that by determining the limiting safe conditions for tube wall degradation, the probability and consequences of a SGTR are reduced. This RG uses safety factors on loads for tube burst that are consistent with the requirements of Section III of the American Society of Mechanical Engineers (ASME) Code.

For axially oriented cracking located within the tubesheet, tube burst is precluded due to the presence of the tubesheet. For circumferentially oriented cracking, Westinghouse WCAP–17071–P defines a length of degradation-free expanded tubing that provides the necessary resistance to tube pullout due to the pressure induced forces, with applicable safety factors applied. Application of the limited hot and cold leg tubesheet inspection criteria will preclude unacceptable primary-to-secondary leakage during all plant conditions. The methodology for determining leakage as described in WCAP–17071–P provides significant margin between the accident-induced leakage assumption and the technical specification leakage limit during normal operating conditions when the proposed limited tubesheet inspection depth criteria is implemented.

Therefore, the proposed change does not involve a significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis, as modified above. Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received by March 31, 2011 will be considered in making any final determination. You may submit comments using any of the methods discussed under the **ADDRESSES** caption.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

II. Opportunity To Request a Hearing

Requirements for hearing requests and petitions for leave to intervene are found in 10 CFR 2.309, "Hearing requests, petitions to intervene, requirements for standing, and contentions." Interested persons should consult 10 CFR part 2, section 2.309, which is available at the NRC's Public Document Room (PDR), located at O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852 (or call the PDR at 800–397–4209 or 301–415–4737). NRC regulations are also accessible electronically from the NRC's Electronic Reading Room on the NRC Web site at *http://www.nrc.gov.*

III. Petitions for Leave To Intervene

Any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the requestor/petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition must provide the name, address, and telephone number of the requestor or petitioner and specifically explain the reasons why the intervention should be permitted with particular reference to the following factors: (1) The nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

A petition for leave to intervene must also include a specification of the contentions that the petitioner seeks to have litigated in the hearing. For each contention, the requestor/petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the

contention. Additionally, the requestor/petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings the NRC must make to support the granting of a license amendment in response to the application. The petition must include a concise statement of the alleged facts or expert opinions which support the position of the requestor/petitioner and on which the requestor/petitioner intends to rely at hearing, together with references to the specific sources and documents on which the requestor/petitioner intends to rely. Finally, the petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application for amendment that the requestor/petitioner disputes and the supporting reasons for each dispute, or, if the requestor/petitioner believes that the application for amendment fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the requestor's/petitioner's belief. Each contention must be one which, if proven, would entitle the requestor/petitioner to relief.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Licensing Board will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Non-timely petitions for leave to intervene and contentions, amended petitions, and supplemental petitions will not be entertained absent a determination by the Commission, the Licensing Board or a Presiding Officer that the petition should be granted and/or the contentions should be admitted based upon a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

A State, county, municipality, Federally-recognized Indian Tribe, or agencies thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(d)(2). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by May 2, 2011. The petition must be filed in accordance with the filing instructions in section IV of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that State and Federally-recognized Indian tribes do not need to address the standing requirements in 10 CFR 2.309(d)(1) if the facility is located within its boundaries. The entities listed above could also seek to participate in a hearing as a nonparty pursuant to 10 CFR 2.315(c).

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to such limits and conditions as may be imposed by the Licensing Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by May 2, 2011.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

IV. Electronic Submissions (E–Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E–Filing rule (72 FR 49139, August 28, 2007). The E–Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E–Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E–Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E–Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through EIE, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance

available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html*, by e-mail at *MSHD.Resource@nrc.gov*, or by a toll-free call at 866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first-class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://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 March 1, 2011. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

Attorney for licensee: M.S. Ross, Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL 33408–0420.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation.

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A "potential party" is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The e-mail address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov*, respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1);

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention;

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's "E-Filing Rule," the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order [2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff either after a determination on standing and need for access, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 23rd day of February 2011.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in this Proceeding

Day	Event/Activity
0	Publication of Federal Register notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 requestor/petitioner reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no "need" or no likelihood of standing, the deadline for requestor/petitioner to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requestors should note that the filing requirements of the NRC's E–Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING—Continued

Day	Event/Activity
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2011–4509 Filed 2–28–11; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, March 9, 2011, at 11 a.m.

PLACE: Commission hearing room, 901 New York Avenue, NW., Suite 200, Washington, DC 20268–0001.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public. The open part of the meeting will be audiocast. The audiocast can be accessed via the Commission's Web site at *http://www.prc.gov.*

MATTERS TO BE CONSIDERED: The agenda for the Commission's March 2011 meeting includes the items identified below.

PORTIONS OPEN TO THE PUBLIC:

1. Review of active cases.
2. Report on recent activities of the Joint Periodicals Task Force and status of the report to the Congress pursuant to Section 708 of the PAEA.
3. Review of postal-related congressional activity.
4. Report on Legislative Review.
5. Report on contracts to study the social benefit of the mail.
6. Report on international activities.

PORTIONS CLOSED TO THE PUBLIC:

7. Discussion of pending litigation.
8. Discussion of confidential personnel issues.
9. Discussion of contracts involving confidential commercial information.

CONTACT PERSON FOR MORE INFORMATION: Stephen L. Sharfman, General Counsel, Postal Regulatory Commission, 901 New York Avenue, NW., Suite 200, Washington, DC 20268–0001, at 202–789–6820 (for agenda-related inquiries) and Shoshana M. Grove, Secretary of the Commission, at 202–789–6800 or *shoshana.grove@prc.gov* (for inquiries related to meeting location, access for handicapped or disabled persons, the audiocast, or similar matters).

Dated: February 25, 2011.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2011–4696 Filed 2–25–11; 4:15 pm]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2011–60; Order No. 679]

New Regional Ground Service for Parcels

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service notice of rate and classification changes affecting Parcel Select. The changes involve a new offering identified as Regional Ground service. This notice informs the public of the filing, addresses preliminary procedural matters, and invites public comment.

DATES: *Comments are due:* March 2, 2011.

ADDRESSES: Submit comments electronically by accessing the "Filing Online" link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx.* Commenters who cannot submit their views electronically should contact the person identified in **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202–789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION: On February 17, 2011, the Postal Service filed notice with the Commission of changes in rates of general applicability and concomitant classification changes for a competitive product pursuant to 39 CFR 3015.2.[1] The proposed changes establish a new "Regional Ground" price category within the Parcel Select product that is scheduled to go into effect on April 17, 2011.

Regional Ground service targets higher-volume business-to-consumer Parcel Select packages delivered within the first three postal zones (300 miles) from origin. Origin Network Distribution Center and Sectional Center Facility prices are planned for packages up to 5 pounds and up to 0.35 cubic feet. To qualify for this service, a mailer must mail 10,000 Regional Ground pieces per year. The Postal Service includes five attachments with its Notice in support of Regional Ground service.

- Decision of the Governors of the United States Postal Service on Establishment of Rate and Class of General Applicability for Regional Ground Service (Governors' Decision No. 11–2);
- Analysis of Regional Ground Service;
- Certification of Governors' Vote in the Governors' Decision No. 11–2;
- Proposed Mail Classification Schedule language; and
- Application of the United States Postal Service for Non-Public Treatment of Materials. An unredacted copy of certain materials also has been filed with the Commission.

The Commission establishes Docket No. CP2011–60 for consideration of matters related to the proposed Regional Ground price category identified in the Postal Service's Notice.

Interested persons may submit comments on whether the Postal Service's Notice is consistent with the policies of 39 U.S.C. 3632, 3633 and 3642 and 39 CFR 3015 and 3020. Comments are due no later than March 2, 2011. The Postal Service's Notice can be accessed via the Commission's Web site (*http://www.prc.gov*).

[1] Notice of the United States Postal Service of Changes in Rates of General Applicability for a Competitive Product, Established in Governors' Decision No. 11–2, February 17, 2011 (Notice).

The Commission appoints William C. Miller to serve as Public Representative in the captioned proceeding.

It is ordered:

1. The Commission establishes Docket No. CP2011–60 for consideration of matters raised by the Postal Service's Notice.

2. Comments by interested persons in this proceeding are due no later than March 2, 2011.

3. Pursuant to 39 U.S.C. 505, William C. Miller is appointed to serve as the officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2011–4460 Filed 2–28–11; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. A2011–8; Order No. 678]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Pleasant Ridge Station in Little Rock, Arkansas, has been filed. It identifies preliminary steps and provides a procedural schedule. Publication of this document will allow the Postal Service, petitioner, and others to take appropriate action.

DATES: *Administrative record due (from Postal Service):* March 2, 2011; *deadline for notices to intervene:* March 21, 2011. *See* the Procedural Schedule in the **SUPPLEMENTARY INFORMATION** section for other dates of interest.

ADDRESSES: Submit comments electronically by accessing the "Filing Online" link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx.* Commenters who cannot submit their views electronically should contact the person identified in **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202–789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 39 U.S.C. 404(d), on February 15, 2011, the Commission received a petition for review of the closing of the Pleasant Ridge Station in Little Rock, Arkansas. The petition, which was filed by Lou Schickel (Petitioner), is postmarked February 7, 2011, and was posted on the Commission's Web site February 18, 2011. The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and designates the case as Docket No. A2011–8 to consider the Petitioner's appeal. If the Petitioner would like to further explain his position with supplemental information or facts, the Petitioner may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than March 22, 2011.

Categories of issues apparently raised. The categories of issues raised include: (1) failure to consider the effect on the community (*see* 39 U.S.C. 404(d)(2)(A)(i)), and (2) failure to observe procedures required by law (*see* 39 U.S.C. 404(d)(5)(B)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than the two set forth above, or that the Postal Service's determination disposes of one or more of those issues. The deadline for the Postal Service to file the administrative record with the Commission is March 2, 2011. 39 CFR 3001.113. In addition, the due date for any responsive pleading by the Postal Service to this Notice is March 2, 2011.

Availability; Web site posting. The Commission has posted the appeal and supporting material on its Web site at *http://www.prc.gov.* Additional filings in this case and participants' submissions also will be posted on the Commission's Web site, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's Web site is available online or by contacting the Commission's webmaster via telephone at 202–789–6873 or via electronic mail at *prc-webmaster@prc.gov.*

The appeal and all related documents also are available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., Monday through Friday, except on Federal Government holidays. Docket section personnel may be contacted via electronic mail at *prc-dockets@prc.gov* or via telephone at 202–789–6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained. 39 CFR 3001.9(a) and .10(a). Instructions for obtaining an account to file documents online may be found on the Commission's Web site or by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at 202–789–6846.

The Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention. Those, other than the Petitioner and respondent, wishing to be heard in this matter are directed to file a notice of intervention. *See* 39 CFR 3001.111(b). Notices of intervention in this case are to be filed on or before March 21, 2011. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site unless a waiver is obtained for hardcopy filing. *See* 39 CFR 3001.9(a) and .10(a).

Further procedures. By statute, the Commission is required to issue its decision within 120 days from the date it receives the appeal. *See* 39 U.S.C. 404(d)(5). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by the Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. *See* 39 CFR 3001.21.

It is ordered:

1. The Postal Service shall file the administrative record regarding this appeal no later than March 2, 2011.

2. Any responsive pleading by the Postal Service to this Notice is due no later than March 2, 2011.

3. The Procedural Schedule listed below is hereby adopted.

4. Pursuant to 39 U.S.C. 505, Cassandra L. Hicks is designated officer of the Commission (Public Representative) to represent the interests of the general public.

5. The Secretary shall arrange for publication of this Notice and Order and Procedural Schedule in the **Federal Register.**

PROCEDURAL SCHEDULE

February 15, 2011	Filing of Appeal.
March 2, 2011	Deadline for Postal Service to file administrative record in this appeal.
March 2, 2011	Deadline for the Postal Service to file any responsive pleading.
March 21, 2011.	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
March 22, 2011	Deadline for Petitioner's Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
April 11, 2011	Deadline for answering brief in support of Postal Service (*see* 39 CFR 3001.115(c)).
April 26, 2011	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
May 3, 2011	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).
June 7, 2011	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2011–4420 Filed 2–28–11; 8:45 am]

BILLING CODE 7710–FW–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 Monday, February 28, 2011 at 10:30 a.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), and (10) and 17 CFR 200.402(a)(3), (5), (7), and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Casey, as duty officer, voted to consider the item listed for the Closed Meeting in closed session, and determined that no earlier notice thereof was possible.

The subject matter of the Closed Meeting scheduled for Monday, February 28, 2011 will be:

Institution 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.

February 25, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–4695 Filed 2–25–11; 4:15 pm]

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 an Open Meeting on March 2, 2011 at 10 a.m., in the Auditorium, Room L–002.

The subject matters of the Open Meeting will be:

Item 1: The Commission will consider whether to propose regulations with respect to incentive-based compensation practices at certain financial institutions in accordance with Section 956 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Item 2: The Commission will consider whether to propose rules for the operation and governance of clearing agencies in accordance with the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 and Section 17A of the Securities Exchange Act of 1934.

Item 3: The Commission will consider whether to reopen the comment period for Regulation MC, which was proposed pursuant to Section 765 of the Dodd-Frank Act to mitigate conflicts of interest at security-based swap clearing agencies, security-based swap execution facilities, and national security exchanges that post or make available for trading security-based swaps, in order to solicit further comment on Regulation MC and other more recent proposed rulemakings that concern conflicts of interest at security-based swap clearing agencies and security-based swap execution facilities.

Item 4: The Commission will consider whether to propose a new rule and rule and form amendments under the Securities Act of 1933 and the Investment Company Act of 1940, relating to references to credit ratings. These amendments are in accordance with Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Commissioner Casey, as duty officer, determined that no earlier notice thereof was possible.

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.

February 24, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–4498 Filed 2–25–11; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63942; File No. SR–NYSEARCA–2011–04]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change in Connection With the Proposal of NYSE Euronext To Eliminate the Requirement of an 80% Supermajority Vote To Amend or Repeal Section 3.1 of its Bylaws

February 22, 2011.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the "Act") [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on February 11, 2011, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is submitting this rule filing in connection with the proposal of its ultimate parent, NYSE Euronext (the "Corporation"),[4] to amend its bylaws (the "Bylaws") to eliminate the requirement that the affirmative vote of the holders of not less than 80% of the votes entitled to be cast by the holders of the outstanding capital stock of the Corporation entitled to vote generally in the election of directors is necessary for the stockholders to amend or repeal Article III, Section 3.1 of the Bylaws. The proposed rule change is identical to a rule change filed by the New York Stock Exchange LLC ("NYSE") that was recently approved by the Commission.[5] The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and the Exchange's Web site at *http://www.nyse.com.*

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] NYSE Arca, a Delaware corporation, is an indirect wholly-owned subsidiary of NYSE Euronext.

[5] Securities Exchange Act Release No. 63792 (January 28, 2011) (File No. SR–NYSE–2010–77).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is submitting this rule filing in connection with the proposal of the Corporation, which is the ultimate parent company of the Exchange, to amend its Bylaws to eliminate the requirement that the affirmative vote of the holders of not less than 80% of the votes entitled to be cast by the holders of the outstanding capital stock of the Corporation entitled to vote generally in the election of directors is necessary for the stockholders to amend or repeal Article III, Section 3.1 of the Bylaws relating to the general powers of the Board of Directors of the Corporation ("Board"). Section 3.1 also provides that the number of Directors on the Board shall be fixed and changed from time to time exclusively by the Board pursuant to a resolution adopted by two-thirds of the directors then in office. Elimination of this 80% "supermajority" voting provision as it relates to Section 3.1 will have the effect that only a majority of the same number of votes entitled to be cast will be required to amend or repeal this section of the Bylaws.

Background

In connection with its 2010 Annual Meeting, the Corporation received a stockholder proposal to eliminate the supermajority voting requirements necessary to amend certain provisions of the Corporation's certificate of incorporation ("Certificate") and Bylaws. Following receipt of that proposal, the Corporation began discussions with its regulators regarding the possibility of amending its Certificate and Bylaws to implement the proposal. While recognizing the interest of stockholders in simple majority voting to amend these basic governing documents, the Corporation was also cognizant of the fact that, at the time of the merger between Euronext and NYSE Group that created the Corporation, both European and U.S. regulators were concerned about insuring a balance of U.S. and European perspectives in the governance of the newly formed entity. The regulators and the respective boards of directors viewed the combination of Euronext and NYSE Group as a "merger of equals," and balanced representation between American and European representatives on the Board was the primary means by which the principle of equality was to be implemented. The regulatory authorities approved supermajority voting to amend the governance provisions in the Certificate and Bylaws considered to be most important in maintaining this balance.

Following further discussions between the Corporation and its regulators, the regulators have indicated that they would not oppose a change to a simple majority provision for certain of the provisions currently subject to an 80% voting requirement, including Article III, Section 3.1 of the Bylaws. Section 3.1 reads as follows:

"*General Powers.* The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. The number of directors on the Board of Directors shall be fixed and changed from time to time exclusively by the Board of Directors pursuant to a resolution adopted by two-thirds of the directors then in office. In addition to the powers and authorities expressly conferred upon them by these Bylaws, the Board of Directors may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the Certificate of Incorporation or by these Bylaws required to be exercised or done by the stockholders. A director need not be a stockholder."

The purpose of this proposed rule change is to implement the decision of the Board to remove the 80% supermajority voting requirement with respect to the aforementioned Bylaw provision.

As noted above, the proposed rule change is identical to a rule change filed by the NYSE (the "NYSE Rule Change") that was recently approved by the Commission.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) [6] of the Securities Exchange Act of 1934 (the "Act"), in general, and furthers the objectives of Section 6(b)(5) [7] in

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. More specifically, the Exchange believes that the proposed rule change will permit the Corporation to respond to the stockholder proposal submitted to it while also ensuring ongoing regulatory comfort concerning balanced representation in the governance of the Corporation which will thereby contribute to perfecting the mechanism of a free and open market and a national market system, consistent with the protection of investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [10] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[11] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2011–04 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2011–04. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2011–04 and should be submitted on or before March 22, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–4425 Filed 2–28–11; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63947; File No. SR–BYX–2011–002]

Self-Regulatory Organizations; BATS Y–Exchange, Inc.; Order Granting Accelerated Approval of a Proposed Rule Change To Amend BYX Rules in Connection With the Implementation of Amendments to Regulation SHO

February 23, 2011.

I. Introduction

On January 14, 2011, BATS Y–Exchange, Inc. (the "Exchange" or "BYX") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend BYX Rules 11.9, 11.13 and 11.19 to make certain changes consistent with the upcoming implementation of amendments to Regulation SHO.[3] The proposed rule change was published for comment in the **Federal Register** on January 31, 2011.[4] The Commission received no comments on the proposed rule change. This order approves the proposed rule change on an accelerated basis.

II. Description of the Proposal

On February 26, 2010, the Commission adopted amendments to Regulation SHO under the Act in the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 242.200(g); 17 CFR 242.201.

[4] *See* Securities Exchange Act Release No. 63767 (January 25, 2011), 76 FR 5420 (January 31, 2011).

form of Rule 201,[5] pursuant to which, among other things, short sale orders in covered securities [6] generally cannot be executed or displayed by a trading center [7] such as BYX at a price that is at or below the current national best bid ("NBB") when a short sale circuit breaker is in effect for the covered security (the "short sale price test restriction").[8] In anticipation of the upcoming February 28, 2011 compliance date for Rule 201, the Exchange proposes to amend certain BYX rules to describe the manner in which the System [9] will handle short sell orders when a short sale price test restriction is triggered under Rule 201 of Regulation SHO. These changes include establishing a definition for "short sale price sliding," which is a new form of price sliding the Exchange proposes to offer when the amendments to Regulation SHO become operative, modifying certain BYX rules regarding order execution and routing when a short sale price test restriction is in effect, and modifying BYX rules related to order marking requirements. Additionally, the Exchange proposes to modify the definition of the current "displayed price sliding process" offered by BYX.

In order to comply with the short sale price test restriction of Regulation SHO, as amended, the Exchange proposes to offer short sale price sliding, which will be defined in BYX Rule 11.9(g). As a default, the Exchange will subject a User's [10] orders to short sale price sliding unless they affirmatively choose to opt-out of the process. As proposed, when a User opts out of the price sliding process, any short sale order that could not be executed or displayed due to a short sale price test restriction would be rejected or cancelled by the Exchange upon entry or while resting on the order book, respectively. When a User's order is subject to the price sliding process, as proposed, orders subject to short sale price sliding that, at the time of entry, could not be executed or displayed due to a short sale price test restriction will be repriced by the System at one minimum price variation above the current NBB to comply with Rule 201(b)(1)(i).[11] An order subject to short sale price sliding will not be readjusted downward even if it could be displayed at a lower price without violation of Rule 201 of Regulation SHO. In the event the NBB changes such that the price of a non-displayed order subject to short sale price sliding would lock or cross the NBB, the order will receive a new timestamp, and will be repriced by the System at one minimum price variation above the current NBB, again in compliance with Rule 201(b)(1)(i).[12]

As proposed, neither orders marked "short exempt" nor orders displayed by the System at a price above the then current NBB at the time of initial display when a short sale price test restriction is in effect for a covered security will be subject to short sale price sliding. Certain displayed short sale orders will not be repriced by the System after entry because under Rule 201(b)(1)(iii)(A) a trading center's policies and procedures must be reasonably designed to permit the execution of short sale orders of covered securities that were displayed at a price above the current NBB at the time of initial display. "Short exempt" orders will not be repriced by the System, but instead, the Exchange will execute, display and/or route such orders without regard to the NBB or any short sale price test restriction in effect under Regulation SHO, as described below.

The Exchange currently offers a process called "displayed price sliding process," as defined in current Rule 11.9(c)(4), which re-prices and/or displays orders at permissible prices when such orders would lock or cross Protected Quotations [13] in a manner inconsistent with Rule 610(d) of Regulation NMS.[14] The Exchange proposes to rename the "displayed price sliding process" as "NMS price sliding," to be included in new paragraph (g) of Rule 11.9, and to define the "price sliding process" as inclusive of both NMS price sliding and short sale price sliding.[15] Also, consistent with the changes described above, the Exchange proposes to replace the term "displayed price sliding process" throughout its trading rules with the term "price sliding process." As is true for displayed price sliding today and short sale price sliding as proposed, if a User chooses to opt-out of the price sliding process, the order will not be subject to NMS price sliding, and thus, the Exchange will cancel back their orders when display or execution of such orders contradict the provisions of Regulation NMS.

The Exchange also proposes a substantive change to NMS price sliding (today known as the displayed price sliding process). Under current System behavior, the Exchange cancels all non-displayed orders when the national best bid or offer ("NBBO") changes such that the non-displayed order would cross a Protected Quotation, regardless of whether the order is subject to the displayed price sliding process. Under the proposed amendment, instead of cancelling such orders, unless a User has opted out of the price sliding process, the Exchange proposes to allow a resting non-displayed order to receive a new timestamp and be repriced at the locking price in the event that the NBBO changes such that the order would cross a Protected Quotation.

The Exchange also proposes to amend its Rule 11.13 to make clear that it will execute, display and route an order

[5] *See* Securities Exchange Act Release No. 61595 (February 26, 2010), 75 FR 11232 (March 10, 2010). In connection with the adoption of Rule 201, Rule 200(g) of Regulation SHO was also amended to include a "short exempt" marking requirement. The amendments to Rule 201 and Rule 200(g) have a compliance date of February 28, 2011. *See* Securities Exchange Act Release No. 63247 (Nov. 4, 2010), 75 FR 68702 (Nov. 9, 2010). *See also* Division of Trading & Markets, Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO.

[6] Rule 201(a)(1) defines the term "covered security" to mean any "NMS stock" as defined under Rule 600(b)(47) of Regulation NMS. Rule 600(b)(47) of Regulation NMS defines an "NMS stock" as "any NMS security other than an option." Rule 600(b)(46) of Regulation NMS defines an "NMS security" as "any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in listed options." 17 CFR 242.201(a)(1); 17 CFR 242.600(b)(46); and 17 CFR 242.600(b)(47).

[7] Rule 201(a)(9) states that the term "trading center" shall have the same meaning as in Rule 600(b)(78) of Regulation NMS. Rule 600(b)(78) defines a "trading center" as "a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent." 17 CFR 242.600(b)(78).

[8] 17 CFR 242.201(b)(1). *See also* Division of Trading & Markets, Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A Nos. 2.1 and 2.2 (concerning the duration of a short sale price test restriction).

[9] The "System" is defined in BYX Rule 1.5(aa) as "the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away."

[10] A "User" is defined in BYX Rule 1.5(cc) as any member or sponsored participant of the Exchange who is authorized to obtain access to the System.

[11] Any execution or display will also need to be in compliance with applicable rules regarding minimum pricing increments. 17 CFR 242.612.

[12] *See* Division of Trading & Markets, Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A No. 4.1 (concerning un-displayed orders).

[13] As defined in BYX Rule 1.5(t), the term "Protected Quotation" means a quotation that is a Protected Bid or Protected Offer. In turn, a "Protected Bid" or "Protected Offer" shall mean a bid or offer in a stock that is (i) displayed by an automated trading center; (ii) disseminated pursuant to an effective national market system plan; and (iii) an automated quotation that is the best bid or best offer of a national securities exchange or association.

[14] 17 CFR 242.610(d).

[15] The Exchange acknowledges that potential differences can exist between Protected Bids, as defined above (*see supra* note 13), and the NBB, upon which the requirements of Regulation SHO, as amended, are based.

consistent with Rule 201 of Regulation SHO, and that if it cannot do so, orders will be cancelled back to the applicable Exchange User. In addition, the Exchange proposes to make clear that it will not route orders away from the Exchange that are marked "short" if a short sale price test restriction is in effect. Instead, such orders, if immediate-or-cancel ("IOC") or market orders, will be cancelled, and if limit orders, will be posted to the BATS Book,[16] subject to the price sliding process.

Finally, current Rule 11.19 requires Exchange Users to identify short sale orders as "short" when entered into the Exchange's System. The Exchange proposes to add the term "short exempt" to Rule 11.19 because pursuant to amended Rule 200(g) of Regulation SHO, a broker-dealer can mark a short sale order as either "short" or "short exempt." [17] The Exchange also proposes to make clear in Rule 11.19 that if an order it received is marked "short exempt," the Exchange will execute, display and/or route the order without regard to the NBB or any short sale price test restriction in effect under Regulation SHO.[18] The Exchange also proposes to make clear, as it does in Rule 11.9(d)(1) with respect to intermarket sweep orders, that it relies on a Member's [19] marking of an order, in this case the "short exempt" marking, when handling such order. Accordingly, proposed Rule 11.19 states that it is the entering Member's responsibility, not the Exchange's responsibility, to comply with the requirements of Regulation SHO relating to marking of orders as "short exempt." [20]

III. Commission Findings

The Commission finds that the proposed rule change to amend BYX Rules 11.9, 11.13 and 11.19 to make certain changes consistent with the upcoming implementation of amendments to Regulation SHO is consistent with the Act and the rules and regulations thereunder applicable to national securities exchanges and national securities associations.[21] In particular, the Commission finds that the proposal is consistent with the requirements of Section 6(b) of the Act [22] and with Section 6(b)(5) of the Act,[23] which, among other things, requires that rules of national securities exchanges be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change will provide clarity on the short sale order handling procedures employed by the Exchange and certain obligations of its Members when sending short sale orders to the Exchange consistent with Regulation SHO, as amended. The Commission also believes that the proposed short sale price sliding functionality and amendments to the existing displayed price sliding process should assist Users in executing or displaying their orders consistent with Regulation SHO and Regulation NMS.

The Commission also finds good cause, pursuant to Section 19(b)(2) of the Act,[24] for approving the proposed rule change on an accelerated basis. The proposed rule change makes changes consistent with the amendments to Regulation SHO. The Commission believes that accelerating approval of the proposed rule change is appropriate as it will allow the proposed amendments to be implemented by the compliance date for the amendments to Regulation SHO. In addition, the Commission believes that the proposed rule change should further the goals of investor protection and fair and orderly markets.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[25] that the proposed rule change (File No. SR–BYX–2011–002) be and hereby is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–4479 Filed 2–28–11; 8:45 am]

BILLING CODE 8011–01–P

[16] As defined in BYX Rule 1.5(e).

[17] 17 CFR 242.200(g). Rule 200(g)(2) provides that a sale order shall be marked "short exempt" only if the provisions of paragraphs (c) or (d) of Rule 201 of Regulation SHO are met. *See also* Division of Trading and Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A Nos. 5.4 and 5.5.

[18] 17 CFR 242.201(b)(1)(iii)(B).

[19] A "Member" is defined in BYX Rule 1.5(n) as any registered broker or dealer that has been admitted to membership in the Exchange.

[20] 17 CFR 242.200(g)(2). *See also* 17 CFR 242.201(c); 17 CFR 242.201(d).

[21] In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 15 U.S.C. 78f(b).

[23] 15 U.S.C. 78f(b)(5).

[24] 15 U.S.C. 78s(b)(2).

[25] 15 U.S.C. 78s(b)(2).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63948; File No. SR–BATS–2011–002]

Self-Regulatory Organizations; BATS Exchange, Inc.; Order Granting Accelerated Approval of a Proposed Rule Change To Amend BATS Rules in Connection With the Implementation of Amendments to Regulation SHO

February 23, 2011.

I. Introduction

On January 14, 2011, BATS Exchange, Inc. (the "Exchange" or "BATS") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend BATS Rules 11.9, 11.13 and 11.19 to make certain changes consistent with the upcoming implementation of amendments to Regulation SHO.[3] The proposed rule change was published for comment in the **Federal Register** on January 31, 2011.[4] The Commission received no comments on the proposed rule change. This order approves the proposed rule change on an accelerated basis.

II. Description of the Proposal

On February 26, 2010, the Commission adopted amendments to Regulation SHO under the Act in the form of Rule 201,[5] pursuant to which, among other things, short sale orders in covered securities [6] generally cannot be executed or displayed by a trading

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 242.200(g); 17 CFR 242.201.

[4] *See* Securities Exchange Act Release No. 63766 (January 25, 2011), 76 FR 5418 (January 31, 2011).

[5] *See* Securities Exchange Act Release No. 61595 (February 26, 2010), 75 FR 11232 (March 10, 2010). In connection with the adoption of Rule 201, Rule 200(g) of Regulation SHO was also amended to include a "short exempt" marking requirement. The amendments to Rule 201 and Rule 200(g) have a compliance date of February 28, 2011. *See* Securities Exchange Act Release No. 63247 (Nov. 4, 2010), 75 FR 68702 (Nov. 9, 2010). *See also* Division of Trading & Markets, Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO.

[6] Rule 201(a)(1) defines the term "covered security" to mean any "NMS stock" as defined under Rule 600(b)(47) of Regulation NMS. Rule 600(b)(47) of Regulation NMS defines an "NMS stock" as "any NMS security other than an option." Rule 600(b)(46) of Regulation NMS defines an "NMS security" as "any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in listed options." 17 CFR 242.201(a)(1); 17 CFR 242.600(b)(46); and 17 CFR 242.600(b)(47).

center[7] such as BATS at a price that is at or below the current national best bid ("NBB") when a short sale circuit breaker is in effect for the covered security (the "short sale price test restriction").[8] In anticipation of the upcoming February 28, 2011 compliance date for Rule 201, the Exchange proposes to amend certain BATS rules to describe the manner in which the System[9] will handle short sell orders when a short sale price test restriction is triggered under Rule 201 of Regulation SHO. These changes include establishing a definition for "short sale price sliding," which is a new form of price sliding the Exchange proposes to offer when the amendments to Regulation SHO become operative, modifying certain BATS rules regarding order execution and routing when a short sale price test restriction is in effect, and modifying BATS rules related to order marking requirements. Additionally, the Exchange proposes to modify the definition of the current "displayed price sliding process" offered by BATS.

In order to comply with the short sale price test restriction of Regulation SHO, as amended, the Exchange proposes to offer short sale price sliding, which will be defined in BATS Rule 11.9(g). As a default, the Exchange will subject a User's[10] orders to short sale price sliding unless they affirmatively choose to opt-out of the process. As proposed, when a User opts out of the price sliding process, any short sale order that could not be executed or displayed due to a short sale price test restriction would be rejected or cancelled by the Exchange upon entry or while resting on the order book, respectively. When a User's order is subject to the price sliding process, as proposed, orders subject to short sale price sliding that, at the time of entry, could not be executed or displayed due to a short sale price test restriction will be repriced by the System at one minimum price variation above the current NBB to comply with Rule 201(b)(1)(i).[11] An order subject to short sale price sliding will not be readjusted downward even if it could be displayed at a lower price without violation of Rule 201 of Regulation SHO. In the event the NBB changes such that the price of a non-displayed order subject to short sale price sliding would lock or cross the NBB, the order will receive a new timestamp, and will be repriced by the System at one minimum price variation above the current NBB, again in compliance with Rule 201(b)(1)(i).[12]

As proposed, neither orders marked "short exempt" nor orders displayed by the System at a price above the then current NBB at the time of initial display when a short sale price test restriction is in effect for a covered security will be subject to short sale price sliding. Certain displayed short sale orders will not be repriced by the System after entry because under Rule 201(b)(1)(iii)(A) a trading center's policies and procedures must be reasonably designed to permit the execution of short sale orders of covered securities that were displayed at a price above the current NBB at the time of initial display. "Short exempt" orders will not be repriced by the System, but instead, the Exchange will execute, display and/or route such orders without regard to the NBB or any short sale price test restriction in effect under Regulation SHO, as described below.

The Exchange currently offers a process called "displayed price sliding process," as defined in current Rule 11.9(c)(4), which re-prices and/or displays orders at permissible prices when such orders would lock or cross Protected Quotations[13] in a manner inconsistent with Rule 610(d) of Regulation NMS.[14] The Exchange proposes to rename the "displayed price sliding process" as "NMS price sliding," to be included in new paragraph (g) of Rule 11.9, and to define the "price sliding process" as inclusive of both NMS price sliding and short sale price sliding.[15] Also, consistent with the changes described above, the Exchange proposes to replace the term "displayed price sliding process" throughout its equity trading rules with the term "price sliding process."[16] As is true for displayed price sliding today and short sale price sliding as proposed, if a User chooses to opt-out of the price sliding process, the order will not be subject to NMS price sliding, and thus, the Exchange will cancel back their orders when display or execution of such orders contradict the provisions of Regulation NMS.

The Exchange also proposes a substantive change to NMS price sliding (today known as the displayed price sliding process). Under current System behavior, the Exchange cancels all non-displayed orders when the national best bid or offer ("NBBO") changes such that the non-displayed order would cross a Protected Quotation, regardless of whether the order is subject to the displayed price sliding process. Under the proposed amendment, instead of cancelling such orders, unless a User has opted out of the price sliding process, the Exchange proposes to allow a resting non-displayed order to receive a new timestamp and be repriced at the locking price in the event that the NBBO changes such that the order would cross a Protected Quotation.

The Exchange also proposes to amend its Rule 11.13 to make clear that it will execute, display and route an order consistent with Rule 201 of Regulation SHO, and that if it cannot do so, orders will be cancelled back to the applicable Exchange User. In addition, the Exchange proposes to make clear that it will not route orders away from the Exchange that are marked "short" if a short sale price test restriction is in effect. Instead, such orders, if immediate-or-cancel ("IOC") or market orders, will be cancelled, and if limit orders, will be posted to the BATS Book,[17] subject to the price sliding process.

Finally, current Rule 11.19 requires Exchange Users to identify short sale orders as "short" when entered into the Exchange's System. The Exchange proposes to add the term "short exempt"

[7] Rule 201(a)(9) states that the term "trading center" shall have the same meaning as in Rule 600(b)(78) of Regulation NMS. Rule 600(b)(78) defines a "trading center" as "a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent." 17 CFR 242.600(b)(78).

[8] 17 CFR 242.201(b)(1). *See also* Division of Trading & Markets, Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A Nos. 2.1 and 2.2 (concerning the duration of a short sale price test restriction).

[9] The "System" is defined in BATS Rule 1.5(aa) as "the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away."

[10] A "User" is defined in BATS Rule 1.5(cc) as any member or sponsored participant of the Exchange who is authorized to obtain access to the System.

[11] Any execution or display will also need to be in compliance with applicable rules regarding minimum pricing increments. 17 CFR 242.612.

[12] *See* Division of Trading & Markets, Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A No. 4.1 (concerning un-displayed orders).

[13] As defined in BATS Rule 1.5(t), the term "Protected Quotation" means a quotation that is a Protected Bid or Protected Offer. In turn, a "Protected Bid" or "Protected Offer" shall mean a bid or offer in a stock that is (i) displayed by an automated trading center; (ii) disseminated pursuant to an effective national market system plan; and (iii) an automated quotation that is the best bid or best offer of a national securities exchange or association.

[14] 17 CFR 242.610(d).

[15] The Exchange acknowledges that potential differences can exist between Protected Bids, as defined above (*see supra* note 13), and the NBB, upon which the requirements of Regulation SHO, as amended, are based.

[16] The rules of BATS Exchange Options Market ("BATS Options") also contain references to the displayed price sliding process. The Exchange is not proposing to modify its displayed price sliding process for BATS Options at this time.

[17] As defined in BATS Rule 1.5(e).

to Rule 11.19 because pursuant to amended Rule 200(g) of Regulation SHO, a broker-dealer can mark a short sale order as either "short" or "short exempt." [18] The Exchange also proposes to make clear in Rule 11.19 that if an order it received is marked "short exempt," the Exchange will execute, display and/or route the order without regard to the NBB or any short sale price test restriction in effect under Regulation SHO.[19] The Exchange also proposes to make clear, as it does in Rule 11.9(d)(1) with respect to intermarket sweep orders, that it relies on a Member's [20] marking of an order, in this case the "short exempt" marking, when handling such order. Accordingly, proposed Rule 11.19 states that it is the entering Member's responsibility, not the Exchange's responsibility, to comply with the requirements of Regulation SHO relating to marking of orders as "short exempt." [21]

III. Commission Findings

The Commission finds that the proposed rule change to amend BATS Rules 11.9, 11.13 and 11.19 to make certain changes consistent with the upcoming implementation of amendments to Regulation SHO is consistent with the Act and the rules and regulations thereunder applicable to national securities exchanges and national securities associations.[22] In particular, the Commission finds that the proposal is consistent with the requirements of Section 6(b) of the Act [23] and with Section 6(b)(5) of the Act,[24] which, among other things, requires that rules of national securities exchanges be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change will provide clarity on the short sale order handling procedures employed by the Exchange and certain obligations of its Members when sending short sale orders to the Exchange consistent with Regulation SHO, as amended. The Commission also believes that the proposed short sale price sliding functionality and amendments to the existing displayed price sliding process should assist Users in executing or displaying their orders consistent with Regulation SHO and Regulation NMS.

The Commission also finds good cause, pursuant to Section 19(b)(2) of the Act,[25] for approving the proposed rule change on an accelerated basis. The proposed rule change makes changes consistent with the amendments to Regulation SHO. The Commission believes that accelerating approval of the proposed rule change is appropriate as it will allow the proposed amendments to be implemented by the compliance date for the amendments to Regulation SHO. In addition, the Commission believes that the proposed rule change should further the goals of investor protection and fair and orderly markets.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[26] that the proposed rule change (File No. SR–BATS–2011–002) be and hereby is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–4480 Filed 2–28–11; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 242.200(g). Rule 200(g)(2) provides that a sale order shall be marked "short exempt" only if the provisions of paragraphs (c) or (d) of Rule 201 of Regulation SHO are met. *See also* Division of Trading and Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A Nos. 5.4 and 5.5.

[19] 17 CFR 242.201(b)(1)(iii)(B).

[20] A "Member" is defined in BATS Rule 1.5(n) as any registered broker or dealer that has been admitted to membership in the Exchange.

[21] 17 CFR 242.200(g)(2). *See also* 17 CFR 242.201(c); 17 CFR 242.201(d).

[22] In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[23] 15 U.S.C. 78f(b).

[24] 15 U.S.C. 78f(b)(5).

[25] 15 U.S.C. 78s(b)(2).

[26] 15 U.S.C. 78s(b)(2).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63943; File No. SR–NYSEAMEX–2011–06]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change in Connection With the Proposal of NYSE Euronext To Eliminate the Requirement of an 80 percent Supermajority Vote To Amend or Repeal Section 3.1 of Its Bylaws

February 22, 2011.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the "Act") [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on February 11, 2011, NYSE Amex LLC (the "Exchange" or "NYSE Amex") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is submitting this rule filing in connection with the proposal of its ultimate parent, NYSE Euronext (the "Corporation"),[4] to amend its bylaws (the "Bylaws") to eliminate the requirement that the affirmative vote of the holders of not less than 80% of the votes entitled to be cast by the holders of the outstanding capital stock of the Corporation entitled to vote generally in the election of directors is necessary for the stockholders to amend or repeal Article III, Section 3.1 of the Bylaws. The proposed rule change is identical to a rule change filed by the New York Stock Exchange LLC ("NYSE") that was recently approved by the Commission.[5] The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and the Exchange's Web site at *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is submitting this rule filing in connection with the proposal of the Corporation, which is the ultimate

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] NYSE Amex, a Delaware limited liability company, is an indirect wholly-owned subsidiary of NYSE Euronext.

[5] Securities Exchange Act Release No. 63792 (January 28, 2011) (File No. SR–NYSE–2010–77).

parent company of the Exchange, to amend its Bylaws to eliminate the requirement that the affirmative vote of the holders of not less than 80% of the votes entitled to be cast by the holders of the outstanding capital stock of the Corporation entitled to vote generally in the election of directors is necessary for the stockholders to amend or repeal Article III, Section 3.1 of the Bylaws relating to the general powers of the Board of Directors of the Corporation ("Board"). Section 3.1 also provides that the number of Directors on the Board shall be fixed and changed from time to time exclusively by the Board pursuant to a resolution adopted by two-thirds of the directors then in office. Elimination of this 80% "supermajority" voting provision as it relates to Section 3.1 will have the effect that only a majority of the same number of votes entitled to be cast will be required to amend or repeal this section of the Bylaws.

Background

In connection with its 2010 Annual Meeting, the Corporation received a stockholder proposal to eliminate the supermajority voting requirements necessary to amend certain provisions of the Corporation's certificate of incorporation ("Certificate") and Bylaws. Following receipt of that proposal, the Corporation began discussions with its regulators regarding the possibility of amending its Certificate and Bylaws to implement the proposal. While recognizing the interest of stockholders in simple majority voting to amend these basic governing documents, the Corporation was also cognizant of the fact that, at the time of the merger between Euronext and NYSE Group that created the Corporation, both European and U.S. regulators were concerned about insuring a balance of U.S. and European perspectives in the governance of the newly formed entity. The regulators and the respective boards of directors viewed the combination of Euronext and NYSE Group as a "merger of equals," and balanced representation between American and European representatives on the Board was the primary means by which the principle of equality was to be implemented. The regulatory authorities approved supermajority voting to amend the governance provisions in the Certificate and Bylaws considered to be most important in maintaining this balance.

Following further discussions between the Corporation and its regulators, the regulators have indicated that they would not oppose a change to a simple majority provision for certain of the provisions currently subject to an 80% voting requirement, including Article III, Section 3.1 of the Bylaws. Section 3.1 reads as follows:

"*General Powers.* The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. The number of directors on the Board of Directors shall be fixed and changed from time to time exclusively by the Board of Directors pursuant to a resolution adopted by two-thirds of the directors then in office. In addition to the powers and authorities expressly conferred upon them by these Bylaws, the Board of Directors may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the Certificate of Incorporation or by these Bylaws required to be exercised or done by the stockholders. A director need not be a stockholder."

The purpose of this proposed rule change is to implement the decision of the Board to remove the 80% supermajority voting requirement with respect to the aforementioned Bylaw provision.

As noted above, the proposed rule change is identical to a rule change filed by the NYSE (the "NYSE Rule Change") that was recently approved by the Commission.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) [6] of the Securities Exchange Act of 1934 (the "Act"), in general, and furthers the objectives of Section 6(b)(5) [7] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. More specifically, the Exchange believes that the proposed rule change will permit the Corporation to respond to the stockholder proposal submitted to it while also ensuring ongoing regulatory comfort concerning balanced representation in the governance of the Corporation which will thereby contribute to perfecting the mechanism of a free and open market and a national market system, consistent with the protection of investors and the public interest.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [10] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[11] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

[8] s15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMEX–2011–06 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMEX–2011–06. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMEX–2011–06 and should be submitted on or before March 22, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–4427 Filed 2–28–11; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12459 and #12460]

California Disaster #CA–00162

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Administrative declaration of a disaster for the State of California dated 02/02/2011.

Incident: Severe Winter Storms, Flooding, and Debris and Mud Flows.

Incident Period: 12/17/2010 through 01/04/2011.

Effective Date: 02/18/2011.

Physical Loan Application Deadline Date: 04/04/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 11/02/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of an Administrative declaration for the State of California, dated 02/02/2011 is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: San Diego.

Contiguous Counties:

California: Imperial.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: February 18, 2011.

Karen G. Mills,

Administrator.

[FR Doc. 2011–4429 Filed 2–28–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Information Security Task Force

AGENCY: U.S. Small Business Administration.

ACTION: Notice of meeting minutes.

SUMMARY: The SBA is issuing this notice to publish meeting minutes for the Small Business Information Security Task Force Meeting.

DATES: 1 p.m., Wednesday, January 12, 2011.

ADDRESSES: The meeting was held via teleconference.

SUPPLEMENTARY INFORMATION: Pursuant to section 507(i)(4)(A) of the Credit Card Accountability Responsibility and Disclosure Act of 2009, SBA submits the meeting minutes for the third meeting of the Small Business Information Security Task Force. Chairman, Mr. Rusty Pickens, called the meeting to order on January 12, 2011 at 1 p.m. Roll call was taken and a quorum was established. The meeting followed the provided agenda topics.

The first item under discussion was bringing the work plan to a final version and to solidify which Task Force members would own the various topic areas. Task force members were reminded that what was contained on the work plan was a first attempt at aligning the subject areas with member expertise.

Mr. Pickens took an action item to refine the scope requirements for the Task Force with specific questions of Identity Theft, Privacy, and Government Contracting information. Additionally, resource and staffing issues to support the work of the Task Force were discussed and Mr. Pickens clarified that there was no confirmation as to if the Task Force had been funded. He took an action item to work with SBA leadership to determine whether funding was available. Suggestions were made of the possibility of the corporate members providing resources such as software and staffing or undertaking fundraising efforts if no formal funding were available. It was reiterated that writers and other staff will be needed to sort and compile the data gathered by the Task Force members. Determining the end deliverable, time frame, and working back from the allocated funding was suggested as a better way to determine resource needs. A high-level budget to accompany the work plan was suggested as a good place to start. Mr. Pickens reminded the group that an informational webinar is scheduled for February 2, 2011 and presented by the PCI Standards Group. In light of the webinar, there will be no official February meeting. The next official meeting date will be determined and distributed in advance via e-mail to the Task Force members.

FOR FURTHER INFORMATION CONTACT: Rusty Pickens, Special Consultant to the Office of the CIO, U.S. Small Business Administration, *Rusty.Pickens@sba.gov.*

Paul T. Christy,

SBA Chief Information Officer.

[FR Doc. 2011–4422 Filed 2–28–11; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Noise Impacts Roadmap Annual Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting participation.

SUMMARY: This notice advises interested persons that the First Annual Meeting of the Aviation Noise Impacts Roadmap will be held on April 19–20, 2011, in Washington, DC, to coordinate and communicate research activities and findings among stakeholders and other parties with an interest in aviation noise impacts. The purpose of the meeting is to update and advance our collective scientific knowledge of the impact of aircraft noise on society in order to improve our ability to address various aspects of noise impacts and develop optimal mitigation solutions.

DATES: The First Annual Meeting of the Aviation Noise Impacts Roadmap will be held on April 19–20, 2011, in Washington, DC. The meeting will begin each day at 8:30 a.m. and conclude at 5:30 p.m.

ADDRESSES: The meeting will be held at the Department of Housing and Urban Development (HUD) Headquarters building, 451 7th Street, SW., Washington, DC 20410, Conference Room C. Attendance is open to all interested parties; however, for building security requirements, please register by March 29 (*see* below for information on registration).

FOR FURTHER INFORMATION CONTACT: Patricia Friesenhahn, Office of Environment and Energy (AEE–100), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; e-mail *patricia.friesenhahn@faa.gov,* telephone (202) 267–3562, facsimile (202) 267–5594. Meeting registration is required by March 29; there is no registration fee. To register, please provide your name, business affiliation, a contact email and phone number.

Background: Following the recommendation from the FAA's aircraft noise impacts research workshops, federal agencies are initiating annual meetings on aviation noise impacts research. The first annual meeting will focus on the following topics: noise effects on health and welfare; noise in national parks and wilderness; aircraft noise modeling; and costs of aircraft noise on society. The Department of Transportation's Federal Aviation Administration (FAA), National Aeronautics and Space Administration (NASA), Department of Defense (DOD), Department of Housing and Urban Development (HUD), National Park Service (NPS), Centers for Disease Control and Prevention (CDC) and other federal agencies, international organizations, industry, academia, and the public will meet to discuss ongoing and future noise impacts research activities in the above areas. A product of the meeting will be an Aviation Noise Impacts Roadmap document. The document will outline key research elements, summarize current programs and projects, and identify current knowledge gaps and future research activities. The intent of the Roadmap is to define systematic, focused, and complementary research programs, so that limited resources can be more effectively pooled to advance the knowledge on how best to address the impacts of aviation noise on society.

Issued in Washington, DC, on February 23, 2011.

Carl E. Burleson,

Director of Environment and Energy.

[FR Doc. 2011–4589 Filed 2–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notification of Pilot-in-Command; Notice of Public Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FAA's Office of Hazardous Materials and the Pipeline and Hazardous Materials Safety Administration's (PHMSA) Office of Hazardous Materials Safety announce a public meeting on March 11, 2011 to hear comments and gather information regarding Notification to Pilot in Command (NOPICs) (*see* 49 CFR 175.33 and ICAO TI 7;4.1). The International Civil Aviation Organization's (ICAO) Dangerous Goods Panel has begun to examine this issue and consider the informational needs of those who rely on this document. Statements by interested parties will be considered as the U.S. develops its position on this issue.

DATES: The public meeting will be held on March 11, 2011 from 9 a.m. until 3:30 p.m. Web-conferencing capabilities will be provided. The agenda for the meeting will be as follows:

- 8:30 a.m. to 9 a.m.: Sign-in
- 9 a.m. to 10 a.m.: FAA Air Traffic Control Organization Briefing on the Flight Object Initiative.
- 10 a.m. to 12 p.m.: Statements and information from air carriers and their representatives.
- 12 p.m. to 12:30 p.m.: Break
- 12:30 p.m. to 1:30 p.m.: Statements and information from airline pilots and their representatives.
- 1:30 a.m. to 2:30 p.m.: Statements and information from emergency responders and their representatives.
- 2:30 p.m. to 3:30 p.m.: Statements and information from airports, air traffic controllers, stakeholders not referenced above, as well as those unable to speak in their designated time frame.

The deadline to register for the meeting, submit a request to make an oral statement and/or participate via web-conferencing is March 4, 2011. All participants are requested to register at the following Web site: *https://spreadsheets.google.com/viewform?formkey=dExRVGF5WmtOSzZuZWxBSTdBQ2VCR1E6MQ.*

Specific information will be provided on how to participate via web-conferencing upon registration to FAA.

ADDRESSES: The March 11, 2011, public meeting will be held at FAA Headquarters (FOB 10A), Bessie Coleman Conference Center, 2nd Floor, 800 Independence Avenue, SW., Washington, DC. For questions or directions, please call the FAA's Office of Hazardous Materials, (202) 385–4900.

FOR FURTHER INFORMATION CONTACT: Questions regarding the meeting should be directed to Ms. Janet McLaughlin, Division Manager, Office of Hazardous Materials, International and Outreach Division, ADG–200, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591; telephone (202) 385–4900. E-mail: *9-AWA-ASH-ADG-HazMat@faa.gov.*

We are committed to providing equal access to this meeting for all participants. If you need alternative formats or other reasonable accommodations, please call (202) 385–4900 or e-mail: *9-AWA-ASH-ADG-HazMat@faa.gov* with your request by close of business March 4, 2011.

SUPPLEMENTARY INFORMATION:

Purpose of the Public Meeting

The purpose of the public meeting is for the FAA and PHMSA to hear the public's views and obtain relevant information on the Notification to Pilot in Command (NOPIC), also referred to as Notification to Capitan (NOTOC), processes described in 49 CFR 175.33. The United States is in the process of formulating a position that will be offered as the International Civil Aviation Organization's Dangerous

Goods Panel considers revisions to this document.[1]

The FAA and PHMSA are interested in acquiring a comprehensive understanding of the entire NOTOC system. Participants are encouraged to address the following issues:

Processes

• While recognizing variance between air carriers, what are the process(es) leading to the generation of the NOTOC and its delivery to the pilot in command?

• What are the processes involved in providing emergency responders the information they require?

What are each stakeholder's unique informational needs?

• When an onboard incident/emergency occurs not caused by or immediately associated with hazardous materials how does (or how could) the information on the NOTOC impact a pilot's reaction? How does this compare to when hazardous materials are the suspected cause of an onboard incident?

• Are there notable instances where the presence of information or lack of information impacted an air carrier's, pilot's, or emergency responder's course of action?

• Should there be a distinction (*i.e.* format or information included) between passenger and cargo-only air carriers?

General Questions

• For hazardous materials required to be listed on NOTOCs, is there additional information that would be useful? Is there certain information extraneous to NOTOC users?

• Are there certain excepted hazardous materials not currently required to be on a NOTOC that should be included on the NOTOC? Are there hazardous materials currently required to be on the NOTOC that may not need to be included?

• Can the format of the NOTOC be improved? Should different versions be considered for different users?

• Should consumer commodities be addressed in an alternative manner?

When the NOTOC is provided to Flight Crews

• 49 CFR 175.33(a) requires "accurate and legible written information" be provided to pilots in command, "as early as practicable before departure of the aircraft". The FAA and PHMSA are interested in investigating if current airline processes afford sufficient time for pilots in command to review the NOTOC, particularly taking into account the extensive demands of an aircrew prior to departure. How do airlines implement this policy and how can it be improved?

When the NOTOC is provided to Emergency Responders

• 49 CFR 175.33(c)(3) requires NOTOCs to be readily accessible at the intended arrival airport. 49 CFR 175.33(c)(4) requires NOTOCs (or the information contained within NOTOC's) to be issued to emergency responders at reasonable times and locations. The FAA, PHMSA, and relevant stakeholders are well aware of instances of unacceptable delay in providing required information to emergency responders. What improvements to this process have been made or are being considered? How are airlines considering leveraging new technologies where someday even "unintended" arrival airports would be aware of an aircraft's hazardous materials?

Participation at the Public Meetings

Attendance is open to the public. Speakers should be prepared to limit their oral remarks to 10 minutes in the event the number of speakers exceeds the time allocated in the agenda.

Public Meeting Procedures

A panel of representatives from the FAA and PHMSA will be present. An FAA representative will facilitate the meetings in accordance with the following procedures:

(1) The meetings are designed to facilitate the public comment process. The meetings will be informal and non-adversarial. No individual will be subject to questioning by any other participant. Government representatives on the panel may ask questions to clarify statements. Any statement made during the meetings by a panel member should not be construed as an official position of the government.

a. One exception is that, time permitting, attendees may be allowed to ask questions following the FAA Air Traffic Control Organization's Briefing on the Flight Object Initiative.

(2) There will be no admission fees or other charges to attend or to participate in the public meeting. The meeting will be open to all persons, subject to the capacity in the meeting room and the web-conferencing system. Every effort will be made to accommodate all persons wishing to attend. The FAA and PHMSA will try to accommodate all speakers, subject to time constraints. The FAA and PHMSA reserve the right to exclude some speakers, if necessary, to obtain balanced viewpoints.

(1) The FAA and PHMSA will review and consider all material presented by participants at the public meeting. If the speaker wishes to provide handouts to attendees, these materials shall be provided by speaker.

(2) Presentations, supplemental data, and other information may be provided to FAA and PHMSA at the discretion of the participant.

(3) Each person presenting comments is asked to submit data to support the comments. The FAA and PHMSA will protect from disclosure all proprietary data submitted in accordance with applicable laws.

Issued in Washington, DC, on February 18, 2011.

Christopher Glasow,

Director, Office of Hazardous Materials.

[FR Doc. 2011–4237 Filed 2–28–11; 8:45 am]

BILLING CODE 4910–13–P

[1] Corresponding, but non-identical requirements for NOTOCs can be found in Part7;4.1 of the *ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air* (ICAO TI). The Department of Transportation has a history and statutory mandate to harmonize with the ICAO TI when safety considerations and the public interest are not compromised. 49 USC 5120(b).

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Docket No. FHWA–2011–0014

Agency Information Collection Activities: Notice of Request for Approval of a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Request for Approval of a New Information Collection.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval of a new information collection that is summarized below under **SUPPLEMENTARY INFORMATION.** We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by May 2, 2011.

ADDRESSES: You may submit comments identified by DOT Docket ID Number 2011–0014 by any of the following methods:

Web Site: For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation,

West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

Hand Delivery or Courier: 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. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: David Kuehn, 202–493–3414, Office of Corporate Research, Technology, and Innovation Management, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Exploratory Advanced Research (EAR) Program sponsored project titled "Effects of Automated Transit and Pedestrian/Bicycling Facilities on Urban Travel Patterns."

Type of request: New information collection requirement.

Background: The Exploratory Advanced Research (EAR) Program was established to conduct longer term, higher risk research that will result in a potentially dramatic breakthrough for improving the durability, efficiency, environmental impact, productivity, and safety of highway and intermodal transportation systems. FHWA awarded a research project titled "Effects of Automated Transit and Pedestrian/Bicycling Facilities on Urban Travel Patterns" that was submitted in response to a solicitation in 2009 and supports the EAR Program focus area of new technology and advanced policies for energy and resource conservation. The project conducted by the University of Michigan with support from the University of Illinois at Chicago has the potential to lead to applications for evidence-based policies and approaches that could substantially reduce the percentage and total number of short trips using private vehicles and increase the percentage and number of trips using current and future transit technology and non-motorized trips, which would reduce use and dependence on fossil fuels and associated pollution impacts.

The research project is attempting to gauge potential travel-behavior response to far-reaching improvements in the pedestrian, cycling, and transit environments of neighborhoods. The transit improvements are inspired by the frequency and quality of service that might be made possibility of future technologies. The project is studying the capacity of these improvements to generate the following kinds of shifts: (1) Modal shift of neighborhood trips from auto to other modes; (2) Increased use of regional public transit based on improved station access; and (3) Shift of more remote non-work destinations to destinations within the neighborhood.

To explore these issues, the research team is building a model that integrates activity-based and agent-based components. The models in turn will be based on a survey of residents in four neighborhoods of metropolitan Chicago. As part of the survey, respondents will be presented with images representing potential improvements to the pedestrian, cycling, and transit environments of their neighborhoods and will respond to scenarios regarding their travel under these altered conditions.

We will mail 7,700 invitations with an expectation of 1,400 residents responding. From that pool, 800 will be selected for the study, which includes a survey packet, travel diary and phone interview.

Respondents: We estimate that 1,400 residents will respond to the initial invitation and 800 residents will participate in the study.

Frequency: This is a one-time collection.

Estimated Average Burden per Response: The invitation portion takes approximately 15 minutes to complete.

1400 residents × 15 minutes = 350 hours.

The research study takes approximately 1 hour and 30 minutes (30 minutes for the survey packet and travel diary and 1 hour for the phone interview).

800 residents × 90 minutes = 1,200 hours.

Estimated Total Annual Burden Hours: The total burden for this one-time information collection would be approximately 1,550 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection of information is necessary for the U.S. DOT's performance, including whether the information will have practical utility; (2) the accuracy of the U.S. DOT's estimate of the burden of the proposed information collection; (3) ways to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: February 24, 2011.

Juli Huynh,

Chief, Management Programs and Analysis Division.

[FR Doc. 2011–4590 Filed 2–28–11; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Alternatives Analysis Program Discretionary Funding Allocations

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Alternatives Analysis Program Announcement of Project Selections.

SUMMARY: The U.S. Department of Transportation's (DOT) Federal Transit Administration (FTA) announces the selection of projects funded with unallocated Section 5339 Alternatives Analysis Program funds in support of DOT's Livability Initiative, which was announced in the Alternatives Analysis Program Notice of Funding Availability (NOFA) on May 28, 2010. The Alternatives Analysis Program assists potential sponsors of major transit capital investments ("New Starts" and "Small Starts" projects) in the evaluation of all reasonable modal and multimodal alternatives and general alignment options to address transportation needs in a defined travel corridor. Through these funding awards, FTA will support a limited number of alternatives analyses, or technical work conducted as part of proposed or on-going alternatives analyses, that seek to advance major transit investments that foster the six livability principles of the DOT–HUD–EPA Partnership for Sustainable Communities.

FOR FURTHER INFORMATION CONTACT: Successful applicants should contact the appropriate FTA Regional office (Appendix A) for specific information regarding applying for the funds. For general information on the Alternatives Analysis Program, contact Kenneth Cervenka, Office of Planning and Environment, at (202) 493–0512 or *Kenneth.Cervenka@dot.gov*.

SUPPLEMENTARY INFORMATION: A total of $25,700,000 was available for FTA's Alternatives Analysis Program. A total of $73,027,950 was requested for 67 projects, indicating significant demand for funds. Project proposals were

evaluated based on the criteria detailed in the May 28, 2010 NOFA. The alternatives analysis proposals selected and shown in Table I will advance proposed transit investments that would provide more transportation choices, improve economic competitiveness, support existing communities, create partnerships and enhance the value of communities and neighborhoods.

Grantees selected for competitive discretionary funding should work with their FTA regional office to finalize the application in FTA's Transportation Electronic Award Management system (TEAM) so that funds can be obligated expeditiously. Funds must be used for the purposes specified in the competitive application. A discretionary project identification number has been assigned to each project for tracking purposes and must be used in the TEAM application. Pre-award authority is granted as of December 21, 2010.

Post-award reporting requirements include submission of the Financial Federal Report and Milestone reports in TEAM as appropriate (*see* FTA.C.5010.1D).

The grantee must comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal administrative requirements in carrying out the activities supported by the FTA grant. The grantee must initiate the alternatives analysis within 12 months of grant approval unless activities are already underway. Funds allocated in this announcement must be obligated in a grant by September 30, 2013.

Issued in Washington, DC, this 23rd day of February, 2011.

Peter Rogoff,

Administrator.

Appendix A

FTA Regional and Metropolitan Offices

Mary E. Mello, Regional Administrator, Region 1—Boston, Kendall Square, 55 Broadway, Suite 920, Cambridge, MA 02142–1093, Tel. 617–494–2055. States served: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.	Robert C. Patrick, Regional Administrator, Region 6—Ft. Worth, 819 Taylor Street, Room 8A36, Ft. Worth, TX 76102, Tel. 817–978–0550. 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. 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.	Mokhtee Ahmad, Regional Administrator, Region 7—Kansas City, MO, 901 Locust Street, Room 404, Kansas City, MO 64106, Tel. 816–329–3920. 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, D.C. 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.
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.	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. Los Angeles Metropolitan Office, Region 9—Los Angeles, 888 S. Figueroa Street, Suite 1850, Los Angeles, CA 90017–1850, Tel. 213–202–3952.
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.	Rick Krochalis, Regional Administrator, Region 10—Seattle, Jackson Federal Building, 915 Second Avenue, Suite 3142, Seattle, WA 98174–1002, Tel. 206–220–7954. States served: Alaska, Idaho, Oregon, and Washington.

TABLE I—ALTERNATIVES ANALYSIS PROJECT SELECTIONS

State	Project ID	Recipient	Project description	Allocation
CA	D2010–ALTA–06001 ($1,336,500) and D2010–ALTA–07001 ($663,500).	Los Angeles County Metropolitan Transportation Authority.	Van Nuys Corridor and Other Regional Transit Projects.	$2,000,000
CO	D2010–ALTA–07002	City and County of Denver	East Colfax Avenue	2,000,000
DC	D2010–ALTA–07003	District Department of Transportation	DC Streetcar Alignment and Vehicle Propulsion Technology.	1,000,000
FL	D2010–ALTA–07004	Central Florida Regional Transportation Authority—LYNX.	Osceola County Corridor	800,000
FL	D2010–ALTA–07005	City of Tallahassee—StarMetro	Future Transit System Development	400,000
FL	D2010–ALTA–07006	Gainesville Regional Transit System	Bus Rapid Transit	425,000
GA	D2010–ALTA–09001	Cobb County Department of Transportation.	Northwest Atlanta Corridor	1,360,000

TABLE I—ALTERNATIVES ANALYSIS PROJECT SELECTIONS—Continued

State	Project ID	Recipient	Project description	Allocation
GA	D2010–ALTA–09002	Gwinnett County	I–85 Corridor	600,000
IL	D2010–ALTA–09003	Chicago Transit Authority	Western Corridor	1,600,000
MN	D2010–ALTA–09004	City of Minneapolis	Nicollet-Central Urban Circulator	900,000
MN	D2010–ALTA–09005	Dakota County Regional Railroad Authority.	Robert Street Transitway	1,180,000
MO	D2010–ALTA–09006	Mid-America Regional Council	Jackson County/Kansas City Regional.	1,800,000
NE	D2010–ALTA–09007	Transit Authority of the City of Omaha.	Omaha Downtown/Midtown	700,000
NY	D2010–ALTA–09008	New York City Department of Transportation.	La Guardia Airport Transit Corridor	1,250,000
OH	D2010–ALTA–09009	Central Ohio Transit Authority	Northeast Corridor	300,000
OR	D2010–ALTA–001	Portland Area MetropolitanService District (Metro).	Southwest Corridor	2,000,000
RI	D2010–ALTA–002	Rhode Island Public Transit Authority.	Extension of Providence Core Community Connector AA.	160,000
TN	D2010–ALTA–003	Nashville Metropolitan Transit Authority.	Broadway/West End Corridor	1,180,000
TX	D2010–ALTA–004	Capital Metropolitan Transportation Authority.	North Central Corridor	1,975,000
TX	D2010–ALTA–005	Dallas Area Rapid Transit	D2 AA/EIS	700,000
TX	D2010–ALTA–006	VIA Metropolitan Transit	VIA Metropolitan Transit—Urban Circulator Program.	900,000
UT	D2010–ALTA–007	Salt Lake City Corporation	Downtown Salt Lake City Streetcar	470,000
WA	D2010–ALTA–07007 ($200,500); D2010–ALTA–09010 ($121,875); D2010–ALTA–008 ($1,648,288) and D2010–ALTA–08001 ($29,337).	Sound Transit	Sound Transit North Corridor	2,000,000
Total				$25,700,000

[FR Doc. 2011–4454 Filed 2–28–11; 8:45 am]
BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2009–0203]

Pipeline Safety: Meeting of the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee

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

ACTION: Notice of advisory committee meetings.

SUMMARY: This notice announces a public meeting of the Technical Pipeline Safety Standards Committee (TPSSC) and the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC). The committees will meet to discuss a proposed rulemaking to expedite the program implementation deadlines for certain control room management requirements and several future regulatory initiatives.

DATES: The THLPSSC will meet on Wednesday, March 23, 2011, from 1 p.m. to 5 p.m. EST. The THLPSSC and the TPSSC will meet in joint session on Thursday, March 24, 2011, from 9 a.m. to 5 p.m. and the TPSSC will meet on Friday, March 25, 2011, from 9 a.m. to 1 p.m. EST. Attendees should register in advance at: *http://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=69.* On-site registration will be available starting at noon on Wednesday, March 23, 2011, at 11:30 a.m. The meeting will not be Web cast; however, presentations will be available on the meeting Web site and posted in the E-Gov Web Site: *http://www.regulations.gov* under docket number PHMSA–2009–0203 within 30 days following the meeting.

ADDRESSES: The meeting will be held at the Crystal City Marriott near Reagan National Airport, 1999 Jefferson Davis Highway, Arlington, VA 22022–3526. The telephone number is 703–413–5500. PHMSA will post any new information or changes on the PHMSA/Office of Pipeline Safety Web page (*http://www.PHMSA.dot.gov*) 15 days before the meeting takes place.

Comments on the meeting may be submitted to the docket in the following ways:

E-Gov Web Site: http://www.regulations.gov. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

Fax: 1–202–493–2251.

Mail: Docket Management Facility; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue, SE., West Building, Room W12–140, Washington, DC 20590–001.

Hand Delivery: Room W12–140 on the ground level of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: Identify the docket number PHMSA–2009–0203 at the beginning of your comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. You should know that 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.*). Therefore, you may want to review DOT's complete Privacy Act Statement in the **Federal Register** published on

April 11, 2000 (65 FR 19477) or view the Privacy Notice at *http://www.regulations.gov* before submitting any such comments.

Docket: For access to the docket or to read background documents or comments, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground level of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: "Comments on PHMSA–2009–0203." The Docket Clerk will date-stamp the postcard prior to returning it to you via the U.S. mail. Please note that due to delays in the delivery of U.S. mail to Federal offices in Washington, DC, we recommend that persons consider an alternative method (Internet, fax, or professional delivery service) of submitting comments to the docket and ensuring their timely receipt at DOT.

Privacy Act Statement

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

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities, or to seek special assistance at the meeting, please contact Cheryl Whetsel at 202–366–4431 by March 9, 2011.

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

SUPPLEMENTARY INFORMATION:

I. Meeting Details

Members of the public may attend and make a statement during the advisory committee meeting. If you intend to make a statement, please notify PHMSA in advance by forwarding an e-mail to *cheryl.whetsel@dot.gov* by March 9, 2011.

II. Committee Background

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

III. Agenda

The agenda will include committee discussions and vote on the proposed rule: "Pipeline Safety: Control Room Management/Human Factors" published in the **Federal Register** on September 17, 2010 (75 FR 56972). PHMSA staff will also brief the committees on several regulatory and policy initiatives.

Authority: 49 U.S.C. 60102, 60115; 60118.

Issued in Washington, DC on February 17, 2011.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 2011–4414 Filed 2–28–11; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Designation of Two Individuals Pursuant to Executive Order 13553

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 two individuals newly-designated as persons whose property and interests in property are blocked pursuant to Executive Order 13553 of September 28, 2010, "Blocking Property of Certain Persons With Respect to Serious Human Rights Abuses by the Government of Iran and Taking Certain Other Actions." The property and interests in property of one of the individuals are already blocked pursuant to another OFAC sanctions program.

DATES: The designation by the Director of OFAC of the two individuals identified in this notice, pursuant to Executive Order 13553 of September 28, 2010, is effective February 23, 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 from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, Tel.: 202/622–0077.

Background

On September 28, 2010, the President issued Executive Order 13553, "Blocking Property of Certain Persons With Respect to Serious Human Rights Abuses by the Government of Iran and Taking Certain Other Actions" (the "Order") pursuant to, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701–06) and the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111–195). In the Order, the President took additional steps with respect to the national emergency declared in Executive Order 12957 of March 15, 1995.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any United States person, of persons listed in the Annex to the Order and of persons determined by the Secretary of the Treasury, in consultation with or at the recommendation of the Secretary of State, to meet any of the criteria set forth in the Order.

The Annex to the Order listed eight individuals whose property and interests in property are blocked pursuant to the Order.

On February 23, 2011, the Director of OFAC, in consultation with or at the recommendation of the Secretary of State, designated, pursuant to one or more of the criteria set forth in subparagraphs (a)(ii)(A) through (a)(ii)(C) of Section 1 of the Order, two individuals whose property and interests in property are blocked, pursuant to the Order. As noted above and in the listing below, the property and interests in property of one these individuals are already blocked pursuant to another OFAC sanctions program. The listing for these individuals is as follows:

• JAFARI DOLATABADI, Abbas (a.k.a. JA'AFARI DOLATABADI, Abbas; a.k.a. JAFARI DOLAT–ABADI, Abbas; a.k.a. JAFARI DOVLATABADI, Abbas; a.k.a. JAFARI DOWLATABADI, Abbas; a.k.a. JA'FARI–DOLATABADI, Abbas; a.k.a. JAFARI–DOLATABADI, Abbas; a.k.a. JA'FARI–DOWLATABADI, Abbas), Tehran Revolutionary and Public Court, Office of Tehran Prosecutor, Arag Circle, Tehran, Iran; DOB 1953; Prosecutor-General of Tehran; General and Revolutionary Prosecutor of Tehran; Tehran Public and Revolution Prosecutor; Tehran Public Prosecutor (individual) [IRAN–HR]

• NAQDI, Mohammad Reza (a.k.a. NAGHDI, Mohammad Reza; a.k.a. NAQDI, Muhammad; a.k.a. SHAMS, Mohammad Reza); DOB circa 1952; alt. DOB circa Mar 1961; alt. DOB circa Apr 1961; alt. DOB 1953; POB Najaf, Iraq; alt. POB Tehran, Iran; Brigadier General and Commander of the IRGC Basij Resistance Force; President of the Organization of the Basij of the Oppressed; Chief of the Mobilization of the Oppressed Organization; Head of the Basij (individual) [NPWMD] [IRGC] [IRAN–HR]

Dated: February 23, 2011.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2011–4424 Filed 2–28–11; 8:45 am]

BILLING CODE 4811–45–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel—Notice of Availability of Report of 2009 Closed Meetings

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: Pursuant to 5 U.S.C. app. I section 10(d), of the Federal Advisory Committee Act, and 5 U.S.C. section 552b, the Government in the Sunshine Act, a report summarizing the closed meeting activities of the Art Advisory Panel during 2009 has been prepared. A copy of this report has been filed with the Assistant Secretary of the Treasury for Management.

DATES: *Effective Date:* This notice is effective *March 1, 2011.*

ADDRESSES: The report is available for public inspection and requests for copies should be addressed to: Internal Revenue Service, Freedom of Information Reading Room, Room 1621, 1111 Constitution Avenue, NW., Washington, DC 20224, telephone number (202) 622–5164 (not a toll free number). The report is also available at *http://www.irs.gov*.

FOR FURTHER INFORMATION CONTACT: Joseph Bothwell, AP:TPV:ART, Internal Revenue Service/Appeals, 1099 14th Street, NW., Washington, DC 20005, telephone (202) 435–5611 (not a toll free telephone number).

SUPPLEMENTARY INFORMATION: It has determined that this document is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore, is not required. Neither does this document constitute a rule subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Douglas Shulman,

Commissioner of Internal Revenue.

[FR Doc. 2011–4201 Filed 2–28–11; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel—Notice of Availability of Report of 2010 Closed Meetings

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: Pursuant to 5 U.S.C. app. I section 10(d), of the Federal Advisory Committee Act, and 5 U.S.C. section 552b, the Government in the Sunshine Act, a report summarizing the closed meeting activities of the Art Advisory Panel during 2010 has been prepared. A copy of this report has been filed with the Assistant Secretary of the Treasury for Management.

DATES: *Effective Date:* This notice is effective *March 1, 2011.*

ADDRESSES: The report is available for public inspection and requests for copies should be addressed to: Internal Revenue Service, Freedom of Information Reading Room, Room 1621, 1111 Constitution Avenue, NW., Washington, DC 20224, telephone number (202) 622–5164 (not a toll free number). The report is also available at *http://www.irs.gov*.

FOR FURTHER INFORMATION CONTACT: Joseph Bothwell, AP:TPV:ART, Internal Revenue Service/Appeals, 1099 14th Street, NW., Washington, DC 20005, telephone (202) 435–5611 (not a toll free telephone number).

SUPPLEMENTARY INFORMATION: It has determined that this document is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore, is not required. Neither does this document constitute a rule subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Douglas Shulman,

Commissioner of Internal Revenue.

[FR Doc. 2011–4198 Filed 2–28–11; 8:45 am]

BILLING CODE 4830–01–P

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Federal Register

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FEDERAL REGISTER PAGES AND DATE, MARCH

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CFR PARTS AFFECTED DURING MARCH

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.

LIST OF PUBLIC LAWS

This is 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.

S. 188/P.L. 112–2
To designate the United States courthouse under construction at 98 West First Street, Yuma, Arizona, as the "John M. Roll United States Courthouse". (Feb. 17, 2011; 125 Stat. 4)

Last List February 3, 2011

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—MARCH 2011

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Date of FR publication	15 days after publication	21 days after publication	30 days after publication	35 days after publication	45 days after publication	60 days after publication	90 days after publication
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March 17	Apr 1	Apr 7	Apr 18	Apr 21	May 2	May 16	Jun 15
March 18	Apr 4	Apr 8	Apr 18	Apr 22	May 2	May 17	Jun 16
March 21	Apr 5	Apr 11	Apr 20	Apr 25	May 5	May 20	Jun 20
March 22	Apr 6	Apr 12	Apr 21	Apr 26	May 6	May 23	Jun 20
March 23	Apr 7	Apr 13	Apr 22	Apr 27	May 9	May 23	Jun 21
March 24	Apr 8	Apr 14	Apr 25	Apr 28	May 9	May 23	Jun 22
March 25	Apr 11	Apr 15	Apr 25	Apr 29	May 9	May 24	Jun 23
March 28	Apr 12	Apr 18	Apr 27	May 2	May 12	May 27	Jun 27
March 29	Apr 13	Apr 19	Apr 28	May 3	May 13	May 31	Jun 27
March 30	Apr 14	Apr 20	Apr 29	May 4	May 16	May 31	Jun 28
March 31	Apr 15	Apr 21	May 2	May 5	May 16	May 31	Jun 29