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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0079; Directorate Identifier 2010–SW–108–AD; Amendment 39–16587; AD 2010–26–51]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada Limited (BHTC) Model 206A, 206B, 206L, 206L–1, 206L–3, 206L–4, 222, 222B, 222U, 230, 407, 427, and 430 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Emergency Airworthiness Directive (AD) 2010–26–51, which was sent previously to all known U.S. owners and operators of the specified model helicopters by individual letters. This AD also supersedes existing AD 2009–08–03. This AD is prompted by another incident in which the tail rotor blade (blade) tip weight separated from a blade during flight causing vibration. This unsafe condition led to the determination that additional blades could be affected and should be added to the applicability. The actions specified by this AD are intended to prevent loss of the blade tip weight, loss of a blade, and subsequent loss of control of the helicopter.

DATES: Effective March 25, 2011, to all persons except those persons to whom it was made immediately effective by Emergency AD 2010–26–51, issued on December 8, 2010, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 25, 2011.

Comments for inclusion in the Rules Docket must be received on or before May 9, 2011.

ADDRESSES: Use one of the following addresses to submit comments on this 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 AD from Bell Helicopter Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4, telephone (450) 437–2862 or (800) 363–8023, fax (450) 433–0272, or at *http://www.bellcustomer.com/files/.*

Examining The Docket: You may examine the docket that contains the AD, any comments, and other information on the Internet at *http://www.regulations.gov,* or 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.

FOR FURTHER INFORMATION CONTACT: Sharon Miles, Aviation Safety Engineer, Rotorcraft Directorate, Regulations and Policy Group, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5122, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: On March 26, 2009, the FAA issued AD 2009–08–03, Amendment 39–15876 (74 FR 16112, April 9, 2009). AD 2009–08–03 requires, before further flight, removing and replacing each affected blade with an airworthy blade. That action was prompted by three reports of blade tip weights being slung from the blades during flights, causing significant vibration.

Since issuing AD 2009–08–03, BHTC has revised the Alert Service Bulletins (ASBs) based on revisions to the Rotor Blades Inc. (RBI) documents that are attached to the ASBs. All of the ASBs contain a letter from RBI indicating that RBI has received a fourth blade in which one tip weight was lost in flight. This prompted RBI to add additional blade serial numbers that could be affected. RBI asked BHTC to re-issue the affected ASBs calling for immediate inspection of the affected blades. This condition, if not corrected, could result in loss of the blade tip weight, loss of a blade, and subsequent loss of control of the helicopter.

Related Service Information

We have reviewed the following revised BHTC ASBs, all dated November 29, 2010. Each ASB contains an RBI letter that adds blade serial numbers to the RBI list.

- No. 206–07–116, Revision B, for Model 206A/B series helicopters;
- No. 206L–07–148, Revision B, for Model 206L series helicopters;
- No. 222–07–106, Revision D, for Model 222 and 222B helicopters;
- No. 222U–07–77, Revision D, for Model 222U helicopters;
- No. 230–07–38, Revision D, for Model 230 helicopters;
- No. 407–07–81, Revision B, for Model 407 helicopters;
- No.427–07–18, Revision B, for Model 427 helicopters;
- No. 430–07–41, Revision D, for Model 430 helicopters.

Transport Canada, the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on these helicopter models. Transport Canada advises of three reports of blade weights departing from the blades during flight due to missing weight screws and that the failure can occur at any time leading to loss of control of the helicopter. Transport Canada advises since issuing its original AD, the blade manufacturer has determined that a batch of additional blades could be affected. Transport Canada classified the ASBs as mandatory and issued revised AD No. CF–2007–21R1, dated November 30, 2010, to extend the applicability of the AD to cover the affected blades to ensure the continued airworthiness of these helicopters.

FAA's Evaluation and Unsafe Condition Determination

These helicopters have been approved by the aviation authority of Canada and are approved for operation in the United States. Pursuant to our bilateral agreement, Transport Canada has notified us of the unsafe condition described in the Transport Canada AD. We are issuing this AD because we evaluated all information provided by Transport Canada and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs.

Since the unsafe condition is likely to exist or develop on other helicopters of these same type designs, this AD requires, before further flight, unless already accomplished, replacing any affected blade with an airworthy blade. An airworthy blade is one that has a part number and a serial number that is not listed in the RBI document that is attached to each ASB listed in the Applicability section of this AD.

Differences Between This AD and the Transport Canada AD

This AD differs from the Transport Canada AD in that this AD only applies to those blades listed in the RBI document attached to the ASBs. The Transport Canada AD allows use of those ASBs or later revisions approved by the Chief, Continuing Airworthiness, Transport Canada.

FAA's Determination and Requirements of This AD

This unsafe condition is likely to exist or develop on other helicopters of the same type design. Therefore, this AD is being issued to prevent loss of the blade tip weight, loss of a blade, and subsequent loss of control of the helicopter.

The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability of the helicopter. Therefore, replacing each affected blade with an airworthy blade is required before further flight, and this AD must be issued immediately.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on December 8, 2010 to all known U.S. owners and operators of the specified helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to 14 CFR 39.13 to make it effective to all persons.

Costs of Compliance

We estimate that this AD will affect 3,741 helicopters of U.S. registry, and it will take approximately 2.0 work hours per helicopter to replace and track-and-balance any affected blade. At an average labor rate of $85 per work hour, this is a cost per helicopter of $170. The RBI letter contains a warranty statement which states that owners or operators of Bell helicopters "who comply with the instructions in this bulletin will be eligible to return defective blades identified by serial number in the compliance section of this bulletin to your nearest RBI facility for inspection and repair at no cost." Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be $635,970.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA–2010–XXXX; Directorate Identifier 2010–SW–108–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the 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 with FAA personnel concerning this 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 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).

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will 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 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 an economic evaluation of the estimated costs to comply with this AD. See the AD docket to examine the 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, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (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. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2010–26–51 Bell Helicopter Textron Canada Limited: Amendment 39–16587. Docket No. FAA–2011–0079; Directorate Identifier 2010–SW–108–AD.

Applicability: Model 206A, 206B, 206L, 206L–1, 206L–3, 206L–4, 222, 222B, 222U, 230, 407, 427, and 430 helicopters, with a tail rotor blade (blade) having a part number and serial number, installed, as listed in the Rotor Blades Inc. (RBI) document attached to the following Bell Helicopter Textron Alert Service Bulletins (ASBs), certificated in any category:

ASB No.	Revision	Date	Helicopter model
206–07–116	B	November 29, 2010	206A and 206B Series.
206L–07–148	B	November 29, 2010	206L, L–1, L–3, and L–4.
222–07–106	D	November 29, 2010	222 and 222B.
222U–07–77	D	November 29, 2010	222U.
230–07–38	D	November 29, 2010	230.
407–07–81	B	November 29, 2010	407.
427–07–18	B	November 29, 2010	427.
430–07–41	D	November 29, 2010	430.

Compliance: Before further flight, unless accomplished previously.

To prevent loss of a blade tip weight, loss of a blade, and subsequent loss of control of the helicopter, do the following:

(a) Replace any affected blade with an airworthy blade. An airworthy blade is one that has a part number and a serial number that is not listed in the RBI document attached to each ASB listed in the Applicability section of this AD.

(b) 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, Safety Management Group, FAA, ATTN: Sharon Miles, Aviation Safety Engineer, Rotorcraft Directorate, Regulations and Policy Group, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5122, fax (817) 222–5961, for information about previously approved alternative methods of compliance.

(c) Special flight permits will not be issued.

(d) The Joint Aircraft System/Component (JASC) Code is: 6410—Tail Rotor Blades.

(e) Determine the affected part number and serial number by referring to the RBI document attached to the following Bell Helicopter Textron Alert Service Bulletins, all dated November 29, 2010:

Alert Service Bulletin No.	Revision
206–07–116	B
206L–07–148	B
222–07–106	D
222U–07–77	D
230–07–38	D
407–07–81	B
427–07–18	B
430–07–41	D

The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bell Helicopter Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4, telephone (450) 437–2862 or (800) 363–8023, fax (450) 433–0272, or at *http://www.bellcustomer.com/files/.* Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(f) This amendment becomes effective on March 25, 2011, to all persons except those persons to whom it was made immediately effective by Emergency AD 2010–26–51, issued December 8, 2010, which contained the requirements of this amendment.

Note: The subject of this AD is addressed in Transport Canada (Canada) AD CF–2007–21R1, dated November 30, 2010.

Issued in Fort Worth, Texas, on January 14, 2011.

Kim Smith,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2011–4465 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0866; Directorate Identifier 2010–SW–065–AD; Amendment 39–16586; AD 2011–03–03]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada Limited Model 427 Helicopters

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

ACTION: Final rule.

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

Tail rotor driveshaft hanger bearing bracket part number (P/N) 427–044–223–101 has been found cracked due to fatigue. It has been determined that the fatigue cracking was initiated by a tooling mark left during manufacture.

The existence of tooling marks on the bracket could lead to bracket failure, loss of tail rotor drive and, consequently, loss of control of the helicopter.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective April 14, 2011.

On April 14, 2011, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

For service information identified in this AD, contact Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, TX 76101; *telephone:* (817) 280–2011; *fax:* (817) 280–2321; or at *http://www.bellhelicopter.com.* You may review copies of the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Sharon Miles, Aerospace Engineer, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, Texas 76137; *telephone:* (817) 222–5122; *fax:* (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on August 30, 2010 (75 FR 52912). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Tail rotor driveshaft hanger bearing bracket part number (P/N) 427–044–223–101 has been found cracked due to fatigue. It has been determined that the fatigue cracking was initiated by a tooling mark left during manufacture.

The existence of tooling marks on the bracket could lead to bracket failure, loss of tail rotor drive and, consequently, loss of control of the helicopter.

The MCAI requires you to rework the tail rotor driveshaft hanger bearing bracket.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 30 products of U.S. registry. We also estimate that it will take about 4 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD to the U.S. operators to be $10,200 or $340 per product.

In addition, we estimate that any necessary follow-on actions would require parts costing $5,034, for a cost of $5,034 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866;

(2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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:

2011–03–03 Bell Helicopter Textron Canada Limited: Amendment 39–16586; Docket No. FAA–2010–0866; Directorate Identifier 2010–SW–065–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective April 14, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bell Helicopter Textron Canada Limited Model 427 helicopters, all serial numbers (SNs), certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 65: Tail Rotor Drive.

Reason

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

Tail rotor driveshaft hanger bearing bracket part number (P/N) 427–044–223–101 has been found cracked due to fatigue. It has been determined that the fatigue cracking was initiated by a tooling mark left during manufacture.

The existence of tooling marks on the bracket could lead to bracket failure, loss of tail rotor drive and, consequently, loss of control of the helicopter.

The MCAI requires you to rework the tail rotor driveshaft hanger bearing bracket.

Actions and Compliance

(f) Unless already done, do the following actions:

(1) Applicable to SNs 56001 through 56073, and 56077: Within 30 days after April 14, 2011 (the effective date of this AD), inspect both sides of the hanger bracket, P/N 427–044–223–101, for cracks following Bell Helicopter Alert Service Bulletin No. 427–09–29, REV A, dated November 17, 2009.

(i) If no cracks are found during the inspection required by paragraph (f)(1) of this AD, before further flight, rework both sides of the hanger bracket, P/N 427–044–223–101, following Bell Helicopter Alert Service Bulletin No. 427–09–29, REV A, dated November 17, 2009.

(ii) If cracks are found during the inspection required by paragraph (f)(1) of this AD, before further flight, replace the hanger bracket, P/N 427–044–223–101, with a new hanger bracket, P/N 427–044–223–101, that has been reworked following Bell Helicopter

Alert Service Bulletin No. 427–09–29, REV A, dated November 17, 2009.

(2) Applicable to all SNs: As of April 14, 2011 (the effective date of this AD), you may not install replacement tail rotor driveshaft hanger bracket, P/N 427–044–223–101, unless the bracket has been inspected and found free of cracks and has been reworked following Bell Helicopter Alert Service Bulletin No. 427–09–29, REV A, dated November 17, 2009.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Sharon Miles, Aerospace Engineer, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone: (817) 222–5122; fax: (817) 222–5961. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave., SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

Related Information

(h) Refer to MCAI Transport Canada AD No. CF–2010–17, dated June 2, 2010; and Bell Helicopter Alert Service Bulletin No. 427–09–29, REV A, dated November 17, 2009, for related information.

Material Incorporated by Reference

(i) You must use Bell Helicopter Alert Service Bulletin No. 427–09–29, REV A, dated November 17, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, TX 76101; *telephone:* (817) 280–2011; *fax:* (817) 280–2321; or at *http://www.bellhelicopter.com.*

(3) You may review copies of the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. For information on the availability of this material at the FAA, call 816–329–4148.

(4) You may also review copies of the service information incorporated by reference for this AD at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Fort Worth, Texas, on January 13, 2011.

Kim Smith,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2011–4468 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0891; Directorate Identifier 2009–SW–055–AD; Amendment 39–16585, AD 2011–03–02]

RIN 2120–AA64

Airworthiness Directives; EUROCOPTER FRANCE Model SA330F, SA330G, and SA330J Helicopters

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

ACTION: Final rule.

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

While adjusting the position of the pedal unit on a SA 330 helicopter, the copilot set the position beyond the end limit ("tall pilot" position). This resulted in the separation of the pedal adjustment system and the pedals rocking forward.

After investigation, it was determined that the Loctite bond on the "tall pilot" stop nut was damaged, most likely due to aging of the adhesive. The nut came loose and could no longer perform its stop function. The threaded rod of the adjustment system separated from the system.

The separation of the adjustment system, if not corrected, could result in the loss of control of the pedal units, causing the helicopter to begin rotating.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective April 14, 2011.

On April 14, 2011, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

FOR FURTHER INFORMATION CONTACT: Gary B. Roach, Aerospace Engineer, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone: (817) 222–5130; fax: (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on September 13, 2010 (75 FR 55492). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

While adjusting the position of the pedal unit on a SA 330 helicopter, the copilot set the position beyond the end limit ("tall pilot" position). This resulted in the separation of the pedal adjustment system and the pedals rocking forward.

After investigation, it was determined that the Loctite bond on the "tall pilot" stop nut was damaged, most likely due to aging of the adhesive. The nut came loose and could no longer perform its stop function. The threaded rod of the adjustment system separated from the system.

The separation of the adjustment system, if not corrected, could result in the loss of control of the pedal units, causing the helicopter to begin rotating.

For the reasons described above, this Emergency AD requires a one-time functional test and modification (MOD 330A779820.00) of the pedal unit adjustment system.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 6 products of U.S. registry. We also estimate that it will take about 3 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $100 per product.

Based on these figures, we estimate the cost of this AD to the U.S. operators to be $2,130 or $355 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866;

(2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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:

2011–03–02 EUROCOPTER FRANCE: Amendment 39–16585; Docket No. FAA–2010–0891; Directorate Identifier 2009–SW–055–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective April 14, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to SA330F, SA330G, and SA330J helicopters, all serial numbers, certificated in any category, equipped with pedal position adjustment system modification (MOD 07.10.304).

Subject

(d) Air Transport Association of America (ATA) Code 67: Rotors Flight Control.

Reason

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

While adjusting the position of the pedal unit on a SA 330 helicopter, the copilot set the position beyond the end limit ("tall pilot" position). This resulted in the separation of the pedal adjustment system and the pedals rocking forward.

After investigation, it was determined that the Loctite bond on the "tall pilot" stop nut was damaged, most likely due to aging of the adhesive. The nut came loose and could no longer perform its stop function. The threaded rod of the adjustment system separated from the system.

The separation of the adjustment system, if not corrected, could result in the loss of control of the pedal units, causing the helicopter to begin rotating.

For the reasons described above, this Emergency AD requires a one-time functional test and modification (MOD 330A779820.00) of the pedal unit adjustment system.

Actions and Compliance

(f) Unless already done, do the following actions:

(1) Within the next 10 hours time-in-service after April 14, 2011 (the effective date of this AD), do a functional test of the pedal unit adjustment system following paragraph 2.B.1 of EUROCOPTER Emergency Alert Service Bulletin No. 67.18, dated August 3, 2009.

(2) If any non-conformity is found, before further flight, modify the pedal unit adjustment system following paragraphs 2.B.2, 2.B.3 or 2.B.4, and 2.B.5 of EUROCOPTER Emergency Alert Service Bulletin No. 67.18, dated August 3, 2009 (MOD 330A779820.00).

(3) If any non-conformity is not found, within 3 months after April 14, 2011 (the effective date of this AD), modify the pedal unit adjustment system following paragraphs 2.B.2, 2.B.3, and 2.B.5 of the EUROCOPTER Emergency Alert Service Bulletin No. 67.18, dated August 3, 2009 (MOD 330A779820.00).

(4) If half-bushings are not available when complying with paragraph (f)(2) or (f)(3) of this AD, flights are authorized without half-bushings for up to 12 months after April 14, 2011 (the effective date of this AD).

(5) After 3 months after April 14, 2011 (the effective date of this AD), do not install a pedal position adjustment system, unless it has been modified (MOD 330A779820.00) in accordance with the requirements of this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to *Attn:* Gary B. Roach, Aerospace Engineer, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, Texas 76137; *telephone:* (817) 222–5130; *fax:* (817) 222–5961. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) Emergency AD No.: 2009–0172–E, dated August 5, 2009; and, for related information.

Material Incorporated by Reference

(i) You must use EUROCOPTER Emergency Alert Service Bulletin No. 67.18, dated August 3, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, TX 75053–4005; *telephone:* (800) 232–0323; *fax:* (972) 641–3710; or *Internet: http://www.eurocopter.com.*

(3) You may review copies of the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(4) You may also review copies of the service information incorporated by reference for this AD at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Fort Worth, Texas, on January 10, 2011.

Kim Smith,

Manager, Rotorcraft Directorate, Aircraft Certificate Service.

[FR Doc. 2011–4466 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0781; Directorate Identifier 2007–SW–49–AD; Amendment 39–16590; AD 2011–03–06]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS–365N2, AS 365 N3, and SA–365N1 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for the specified Eurocopter France (Eurocopter) model helicopters. This AD requires replacing the aluminum tail rotor (T/R) blade pitch control shaft with a steel T/R blade pitch control shaft. This AD is prompted by an incident involving a Eurocopter Model AS–365N2 helicopter on which there was a loss of control of the T/R due to a broken shaft. The actions specified by this AD are intended to prevent failure of the T/R blade pitch control shaft, loss of T/R control, and subsequent loss of control of the helicopter.

DATES: Effective April 14, 2011.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 14, 2011.

ADDRESSES: You may get the service information identified in this AD from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (800) 232–0323, fax (972) 641–3710, or at *http://www.eurocopter.com.*

Examining the Docket: You may examine the docket that contains this AD, any comments, and other information on the Internet at *http://www.regulations.gov* or at the Docket Operations office, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jim Grigg, Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5126, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Discussion

On August 2, 2010 we issued a Notice of Proposed Rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the Eurocopter Model AS–365N2, AS 365 N3, and SA–365N1 helicopters, all serial numbers, with an aluminum T/R blade pitch control shaft, part number (P/N) 365A33.6161.20 or P/N 365A33.6161.21. That NPRM was published in the **Federal Register** on August 11, 2010 (75 FR 48618) and proposed to require replacing the aluminum T/R blade pitch control shaft with a steel T/R blade pitch control shaft. The actions specified by the NPRM are intended to prevent failure of the T/R blade pitch control shaft, loss of T/R control, and subsequent loss of control of the helicopter.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD No. 2007–0220, dated August 13, 2007, to correct an unsafe condition for the Eurocopter Model AS–365N2, AS 365 N3, and SA–365N1 helicopters, all serial numbers, equipped with an aluminum T/R blade pitch control shaft, P/N 365A33.6161.20 or P/N 365A33.6161.21. EASA advises of an incident in which the pilot of a Model AS 365 N2 helicopter encountered a loss of control of the T/R, but executed an uneventful run-on landing. A subsequent investigation revealed that the T/R blade pitch control shaft, P/N 365A33.6161.21, had broken in the main section of the shaft sliding area, which appeared to be damaged by peening. The origin of the crack, which developed under fatigue loading, could not be determined. However, accidental damage (i.e., shock impact), is believed to have caused the initiation of a crack.

Related Service Information

Eurocopter has issued Alert Service Bulletin No. 01.00.59, dated June 21, 2007 (ASB), which specifies removing any T/R blade pitch control shaft, P/N 365A33.6161.20 or P/N 365A33.6161.21, and replacing it with a steel T/R blade pitch control shaft, P/N 365A33.6214.20. EASA classified this ASB as mandatory and issued EASA AD No. 2007–0220, dated August 13, 2007, to ensure the continued airworthiness of these helicopters.

FAA's Evaluation and Unsafe Condition Determination

These products have been approved by the aviation authority of France, and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, their technical representative, has notified us of the unsafe condition described in the EASA AD. We are adopting this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of these same type designs. This AD requires, within 100 hours time-in-service (TIS), removing any aluminum T/R blade pitch control shaft, P/N 365A33.6161.20 or P/N 365A33.6161.21, and replacing it with a steel T/R blade pitch control shaft, P/N 365A33.6214.20. The actions are required to be accomplished by following specified portions of the ASB described previously.

Differences Between This AD and the EASA AD

Our AD differs from the EASA AD in that we require compliance within 100 hours TIS instead of no later than December 31, 2007, since that date has passed.

Comments

By publishing the NPRM, we gave the public an opportunity to participate in developing this AD. However, we received no comment on the NPRM or on our determination of the cost to the public. Therefore, based on our review and evaluation of the available data, we have determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

We estimate that this AD will affect 36 helicopters of U.S. registry and the actions will take approximately 12 work hours per helicopter to accomplish at an average labor rate of $85 per work hour. Required parts will cost approximately $3,525. Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be $163,620 to replace the aluminum T/R blade pitch control shaft on the entire fleet, or $4,545 per helicopter.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will 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 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 an economic evaluation of the estimated costs to comply with this AD. See the AD docket to examine the 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, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (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. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2011–03–06 Eurocopter France: Amendment 39–16590; Docket No. FAA 2010–0781; Directorate Identifier 2007–SW–49–AD.

Applicability: Model AS–365N2, AS 365 N3, and SA–365N1 helicopters, with an aluminum tail rotor (T/R) blade pitch control shaft, part number (P/N) 365A33.6161.20 or P/N 365A33.6161.21, installed, certificated in any category.

Compliance: Required within 100 hours time-in-service, unless accomplished previously.

To prevent failure of the T/R blade pitch control shaft, loss of T/R control, and subsequent loss of control of the helicopter, accomplish the following:

(a) Remove the aluminum T/R blade pitch control shaft, P/N 365A33.6161.20 or P/N 365A33.6161.21, and replace it with a steel T/R blade pitch control shaft, P/N 365A33.6214.20, in accordance with the Accomplishment Instructions, Operational Procedure, paragraphs 2.B.1. through 2.B.3., of Eurocopter Alert Service Bulletin No. 01.00.59, dated June 21, 2007.

(b) 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, Safety Management Group, Rotorcraft Directorate, FAA, *Attn:* Jim Grigg, Aviation Safety Engineer, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5126, fax (817) 222–5961.

(c) The Joint Aircraft System/Component (JASC) Code is 6500: Tail Rotor Drive System.

(d) Replace the T/R blade pitch control shaft in accordance with the specified portions of Eurocopter Alert Service Bulletin No. 01.00.59, dated June 21, 2007. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, TX 75053–4005, telephone (800) 232–0323, fax (972) 641–3710, or at *http://www.eurocopter.com.* Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(e) This amendment becomes effective on April 14, 2011.

Note: The subject of this AD is addressed in European Aviation Safety Agency AD No. 2007–0220, dated August 13, 2007.

Issued in Fort Worth, Texas, on January 24, 2011.

Lance T. Gant,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2011–4467 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0679; Directorate Identifier 2009–NM–179–AD; Amendment 39–16621; AD 2011–05–11]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747SR, and 747SP Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for the products listed above. That AD currently requires repetitive inspections and torque checks of the hanger fittings and strut forward bulkhead of the forward engine mount and adjacent support structure, and visual inspections of the internal angle and external bulkhead chord and detailed inspection of internal angles, and corrective actions if necessary. The existing AD also provides for an optional inspection. This new AD requires additional inspections of airplanes that have hi-lok bolts and collars at all of the Group B fastener locations, except fastener 13, and related investigative and corrective actions. This AD also requires repetitive inspections of the internal angle, and corrective actions if necessary. This AD also requires, for certain airplanes, replacing the fasteners, which terminates certain repetitive inspections. This AD was prompted by reports of undertorqued or loose fasteners, a cracked bulkhead chord, and a fractured back-up angle. We are issuing this AD to detect and correct loose fasteners and/or damaged or cracked hanger fittings, back-up angles, and bulkhead of the forward engine mount, which could lead to failure of the hanger fitting and bulkhead and consequent separation of the engine from the airplane.

DATES: This AD is effective April 14, 2011.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of April 14, 2011.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Ken Paoletti, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6434; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede airworthiness directive (AD) 2007–19–19, amendment 39–15210 (72 FR 53939, September 21, 2007). That AD applies to the specified products. The NPRM was published in the **Federal Register** on July 8, 2010 (75 FR 39185). That NPRM proposed to continue to require repetitive inspections and torque checks of the hanger fittings and strut forward bulkhead of the forward engine mount and adjacent support structure, and visual inspections of the internal angle and external bulkhead chord and detailed inspection of internal angles, and corrective actions if necessary; and it proposed to retain the optional inspection. That NPRM also proposed to require additional inspections of airplanes that have hi-lok bolts and collars at all of the Group B fastener locations, except fastener 13, and related investigative and corrective actions. That NPRM also proposed to require repetitive inspections of the internal angle, and corrective actions if necessary; and for certain airplanes, replacing the fasteners, which would terminate certain repetitive inspections.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received.

Request To Include an Option To Support the Engine

Boeing requested that we revise paragraph (k) of the NPRM to include an option to support the engine while accomplishing the actions specified in Boeing Alert Service Bulletin 747–54A2203, Revision 2, dated July 9, 2009. Boeing stated that a safe engine support procedure is established in Subject 71–00–02 of the Boeing 747 Aircraft Maintenance Manual, which contains information for removing and installing the power plant using one of two methods: with a crane, overhead sling, strut-mounted bootstrap components; or with the PT90–E universal engine changer. Boeing stated that using the PT90–E changer is optional in the two hoisting procedures. Boeing pointed out that Boeing Alert Service Bulletin 747–54A2203, Revision 2, dated July 9, 2009, clearly states not to use the bootstrap (strut-mounted) components method. Boeing stated that all that is required is removing the engine weight to remove the engine mount fasteners. Boeing stated that doing paragraph (k) of the NPRM would unnecessarily remove the engine and cause significant downtime and incur many costs.

We disagree with the request to include the option to support the engine weight. Boeing Alert Service Bulletin 747–54A2203, Revision 2, dated July 9, 2009, specifies procedures to remove and install the engine. Using other procedures to suspend the engine does not provide a satisfactory level of safety. Safety issues may occur when supporting the engine weight instead of removing the engine; for example, any movement or loads applied to the engine with pneumatic ducts, hydraulic lines, and controls connected may cause hidden damage. The engine support procedure does not address the weight of the engine to ensure that no loads are applied to the strut to allow fastener removal in accordance with Boeing Alert Service Bulletin 747–54A2203, Revision 2, dated July 9, 2009. In addition, the engine support procedure does not require the airplane to be secured to prevent its movement during the time that the engine is supported. We have retained the requirement in paragraph (k) of this final rule. We have not changed the AD in regard to this issue.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

There are about 266 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Actions (required by AD 2007–19–19)	40	$85	$0	$3,400	121	$411,400
Internal Angle Inspection (new action)	16	85	0	1,360	121	164,560
Replacement of fasteners (new action)	24	85	0	2,040	121	246,840

Authority for This Rulemaking

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

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

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will 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 this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) 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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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 removing airworthiness directive (AD) 2007–19–19, Amendment 39–15210 (72 FR 53939, September 21, 2007), and adding the following new AD:

2011–05–11 The Boeing Company: Amendment 39–16621; Docket No. FAA–2010–0679; Directorate Identifier 2009–NM–179–AD.

Effective Date

(a) This airworthiness directive (AD) is effective April 14, 2011.

Affected ADs

(b) This AD supersedes AD 2007–19–19, Amendment 39–15210.

Applicability

(c) This AD applies to The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747SR, and 747SP series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 747–54A2203, Revision 2, dated July 9, 2009.

Subject

(d) Air Transport Association (ATA) of America Code 54: Nacelles/Pylons.

Unsafe Condition

(e) This AD results from the development of a mandating action. The Federal Aviation Administration is issuing this AD to detect and correct loose fasteners and/or damaged or cracked hanger fittings, back-up angles, and bulkhead of the forward engine mount, which could lead to failure of the hanger fitting and bulkhead and consequent separation of the engine from the airplane.

Compliance

(f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Restatement of a Requirement of AD 2007–19–19, With Updated Service Information

Inspections and Related Investigative and Corrective Actions

(g) Except as provided by paragraphs (i), (l), and (n) of this AD: At the applicable compliance times and repeat intervals listed in Tables 1 and 2 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 747–54A2203, Revision 1, dated August 9, 2007, do the inspections and applicable related investigative and corrective actions in accordance with Parts 2 and 8 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2203, Revision 1, dated August 9, 2007; or Revision 2, dated July 9, 2009. After the effective date of this AD, use only Boeing Alert Service Bulletin 747–54A2203, Revision 2, dated July 9, 2009.

New Requirements of This AD

Mandatory Initial and Repetitive Inspections and Related Investigative and Corrective Actions

(h) For all airplanes: Except as provided by paragraph (m) of this AD, at the applicable time in Table 2 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 747–54A2203, Revision 2, dated July 9, 2009, do the initial inspection and related investigative and corrective actions in accordance with Part 7 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2203, Revision 2, dated July 9, 2009, except as required by paragraphs (k) and (n) of this AD. Repeat the inspection thereafter at the applicable time in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 747–54A2203, Revision 2, dated July 9, 2009.

(i) For airplanes that were inspected in accordance with in Boeing Alert Service

Bulletin 747–54A2203, dated August 31, 2000; or Revision 1, dated August 9, 2007; and that have hi-lok bolts and collars at all of the Group B fastener locations: Except as provided by paragraph (m) of this AD, at the applicable time in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 747–54A2203, Revision 2, dated July 9, 2009, do the initial inspection and related investigative and corrective actions in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2203, Revision 2, dated July 9, 2009, except as required by paragraph (n) of this AD. Repeat the inspection at the applicable interval in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 747–54A2203, Revision 2, dated July 9, 2009.

Replacement of Hi-Lok Group B Fasteners

(j) For airplanes that were inspected in accordance with Boeing Alert Service Bulletin 747–54A2203, dated August 31, 2000, and that have hi-lok bolts and collars at all of the Group B fastener locations: Within 18 months after the effective date of this AD, replace all hi-lok Group B fasteners in accordance with Part 6 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2203, Revision 2, dated July 9, 2009. Repeat the inspection required by Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2203, Revision 2, dated July 9, 2009, at the applicable interval specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 747–54A2203, Revision 2, dated July 9, 2009.

Exceptions to Service Bulletin

(k) Where Step 3 of Part 7 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2203, Revision 1, dated August 9, 2007; or Revision 2, dated July 9, 2009; provides the option to support the engine weight instead of removing the engine, this AD does not allow that option. This AD requires that the engine be removed before performing the inspections required by paragraph (h) of this AD.

(l) Where Boeing Alert Service Bulletin 747–54A2203, Revision 1, dated August 9, 2007, specifies a compliance time after the date of that service bulletin, this AD requires compliance within the specified compliance time after October 9, 2007 (the effective date of AD 2007–19–19).

(m) Where Boeing Alert Service Bulletin 747–54A2203, Revision 2, dated July 9, 2009, specifies a compliance time after the date of Revision 1 or Revision 2 of that service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD.

(n) Where Boeing Alert Service Bulletin 747–54A2203, Revision 1, dated August 9, 2007; or Boeing Alert Service Bulletin 747–54A2203, Revision 2, dated July 9, 2009; specifies to contact Boeing for appropriate action, this AD requires, before further flight, repair of the discrepancy or replacement of the discrepant part using a method approved in accordance with the Boeing Commercial Airplanes Organization Designation Authorization or in accordance with the procedures specified in paragraph (p) of this AD.

Credit for Actions Previously Accomplished in Accordance With Previous Service Information

(o) Actions performed before the effective date of this AD, in accordance with Boeing Alert Service Bulletin 747–53A2203, Revision 1, dated August 9, 2007, are acceptable for compliance with the corresponding actions specified in paragraphs (h), (i), and (j) of this AD.

Alternative Methods of Compliance (AMOCs)

(p)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Ken Paoletti, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6434; fax (425) 917–6590. Or, e-mail information to *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved previously in accordance with AD 2007–19–19, Amendment 39–15210, are approved as AMOCs for the corresponding provisions of this AD.

Related Information

(q) For more information about this AD, contact Ken Paoletti, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6434; fax (425) 917–6590.

Material Incorporated by Reference

(r) You must use Boeing Alert Service Bulletin 747–54A2203, Revision 2, dated July 9, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.*

(3) You may review copies of the service information at the FAA, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at an NARA facility, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on February 22, 2011.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–5117 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0150; Directorate Identifier 2010–NM–100–AD; Amendment 39–16619; AD 2011–05–10]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model ATP Airplanes; BAE Systems (Operations) Limited Model HS 748 Airplanes

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

ACTION: Final rule; request for comments.

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

* * * * *

Recently, during a walk round check, an operator found an aileron trim tab hinge pin that had migrated sufficiently to cause a rubbing foul on the flap. Other reports indicate that, for the purposes of expediency, it has become common practice during maintenance when replacing a control tab, instead of unbolting the forward part of the piano hinge from the primary control surface, the hinge pins are punched out of the hinges. Investigations have concluded that, after reinserting the pins after maintenance, the ends of the hinges may not have been pinched, which is likely to have been the cause of the detected hinge pin migration.

This condition [non-pinched hinge pin ends], if not detected and corrected, could lead to further incidents of migration of a tab

hinge pin out of the hinge, likely resulting in restricted movement of the tab control and consequent reduced control of the aeroplane.

This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective March 25, 2011.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of March 25, 2011.

We must receive comments on this AD by April 25, 2011.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; *phone:* 425–227–1175; *fax:* 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2010–0035, dated March 4, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> Early in the life of the ATP (circa 1989), a report was received that a control surface hinge pin had migrated out of position, causing a rubbing contact. BAE Systems responded by issuing SB ATP–27–11, describing a one-time inspection of the hinge pins, which was classified mandatory by UK CAA AD 006–06–89. Both SB and AD were subsequently cancelled in 1990. The HS.748 and the ATP secondary controls are similar in these areas, although no action was taken on the HS.748 fleet at that time.
>
> Recently, during a walk round check, an operator found an aileron trim tab hinge pin that had migrated sufficiently to cause a rubbing foul on the flap. Other reports indicate that, for the purposes of expediency, it has become common practice during maintenance when replacing a control tab, instead of unbolting the forward part of the piano hinge from the primary control surface, the hinge pins are punched out of the hinges.
>
> Investigations have concluded that, after reinserting the pins after maintenance, the ends of the hinges may not have been pinched, which is likely to have been the cause of the detected hinge pin migration.
>
> This condition [non-pinched hinge pin ends], if not detected and corrected, could lead to further incidents of migration of a tab hinge pin out of the hinge, likely resulting in restricted movement of the tab control and consequent reduced control of the aeroplane.
>
> For the reasons described above, this AD requires the [detailed] inspection of aileron and rudder tab piano hinge pins [for length and end pinching] and, depending on findings, the necessary corrective actions.

Corrective actions include cutting the hinge pin to specified size, and pinching the piano hinge ends sufficient to prevent the piano hinge pin from migrating from the piano hinge. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

BAE Systems (Operations) Limited has issued Service Bulletin ATP–27–090, dated April 14, 2009; and Service Bulletin HS748–27–136, dated April 14, 2009. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

There are no products of this type currently registered in the United States. However, this rule is necessary to ensure that the described unsafe condition is addressed if any of these products are placed on the U.S. Register in the future.

Differences Between the AD and the MCAI or Service Information

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

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

FAA's Determination of the Effective Date

Since there are currently no domestic operators of this product, notice and opportunity for public comment before issuing this AD are unnecessary.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2011–0150; Directorate Identifier 2010–NM–100–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;

2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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:

2011–05–10 BAE Systems (Operations) Limited: Amendment 39–16619. Docket No. FAA–2011–0150; Directorate Identifier 2010–NM–100–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 25, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all BAE Systems (Operations) Limited Model ATP airplanes and BAE Systems (Operations) Limited Model HS 748 series 2A and series 2B airplanes; certificated in any category.

Subject

(d) Air Transport Association (ATA) of America Code 27: Flight Controls.

Reason

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

* * * * *

Recently, during a walk round check, an operator found an aileron trim tab hinge pin that had migrated sufficiently to cause a rubbing foul on the flap. Other reports indicate that, for the purposes of expediency, it has become common practice during maintenance when replacing a control tab, instead of unbolting the forward part of the piano hinge from the primary control surface, the hinge pins are punched out of the hinges. Investigations have concluded that, after reinserting the pins after maintenance, the ends of the hinges may not have been pinched, which is likely to have been the cause of the detected hinge pin migration.

This condition [non-pinched hinge pin ends], if not detected and corrected, could lead to further incidents of migration of a tab hinge pin out of the hinge, likely resulting in restricted movement of the tab control and consequent reduced control of the aeroplane.

Compliance

(f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Inspection and Corrective Action

(g) Within 90 days after the effective date of this AD: Do a detailed inspection of the aileron and rudder tab piano hinge pins to determine that each piano hinge pin is 0.120 inch (3.00 mm) shorter than the piano hinge at each end; and that the piano hinge ends have been pinched sufficiently to prevent the piano hinge migrating from the piano hinge, in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Service Bulletin ATP–27–090, dated April 14, 2009; or BAE Systems (Operations) Limited Service Bulletin HS748–27–136, dated April 14, 2009, as applicable.

(1) If any piano hinge pin is not 0.120 inch (3.00 mm) shorter than the piano hinge at each end, before further flight, cut to size, in accordance with Accomplishment Instructions of BAE Systems (Operations) Limited Service Bulletin ATP–27–090, dated April 14, 2009; or BAE Systems (Operations) Limited Service Bulletin HS748–27–136, dated April 14, 2009; as applicable.

(2) If any piano hinge pin is not pinched sufficiently to prevent the piano hinge migrating from the piano hinge, before further flight, pinch the hinge, in accordance with Accomplishment Instructions of BAE Systems (Operations) Limited Service Bulletin ATP–27–090, dated April 14, 2009; or BAE Systems (Operations) Limited Service Bulletin HS748–27–136, dated April 14, 2009; as applicable.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows: No differences

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to *Attn:* Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; *phone:* 425–227–1175; *fax:* 425–227–1149. Information may be e-mailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

Related Information

(i) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2010–0035, dated March 04, 2010; BAE Systems (Operations) Limited Service Bulletin ATP–27–090, dated April 14, 2009; and BAE Systems (Operations) Limited Service Bulletin HS748–27–136, dated April 14, 2009; for related information.

Material Incorporated by Reference

(j) You must use BAE Systems (Operations) Limited Service Bulletin ATP–27–090, dated April 14, 2009; or BAE Systems (Operations) Limited Service Bulletin HS748–27–136, dated April 14, 2009; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675207; fax +44 1292

675704; e-mail *RApublications@baesystems.com;* Internet *http://www.baesystems.com/Businesses/RegionalAircraft/index.htm.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on February 22, 2011.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–5115 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–1198; Directorate Identifier 2010–NM–145–AD; Amendment 39–16623; AD 2011–05–13]

RIN 2120–AA64

Airworthiness Directives; Saab AB, Saab Aerosystems Model SAAB 2000 Airplanes

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

ACTION: Final rule.

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

Corrosion has been found on the rear spar upper cap of the horizontal stabilizer of SAAB 2000 aeroplanes. The affected areas are adjacent to the inboard elevator hinge where the electrical wiring harnesses are located and wired through the lightening holes. The upper spar cap is a primary structural element and is important to the structural integrity of the horizontal stabilizer.

Corrosion damage in these areas, if not detected and corrected, can result in a starting point for future crack propagation, which would impair the integrity of the horizontal stabilizer upper spar cap structure.

* * * * *

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective April 14, 2011.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 14, 2011.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1112; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on December 14, 2010 (75 FR 77796). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Corrosion has been found on the rear spar upper cap of the horizontal stabilizer of SAAB 2000 aeroplanes. The affected areas are adjacent to the inboard elevator hinge where the electrical wiring harnesses are located and wired through the lightening holes. The upper spar cap is a primary structural element and is important to the structural integrity of the horizontal stabilizer.

Corrosion damage in these areas, if not detected and corrected, can result in a starting point for future crack propagation, which would impair the integrity of the horizontal stabilizer upper spar cap structure.

For the reasons describe above, this AD requires a detailed visual inspection (DVI) of the LH and RH horizontal stabilizer rear spar adjacent to the inboard elevator hinge and the harnesses installed in the adjacent areas, installation of convoluted tubing on the harness, and corrective actions depending on findings.

The corrective actions include installing convoluted tubing on the harness, applying corrosion prevention compound to the inspected area, making sure clearance exists between the spar cap and the harnesses/convoluted tube, and contacting Saab for repair instructions and doing the repair. You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 8 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $1,360 or $170 per product.

Authority for This Rulemaking

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

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

products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;

2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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:

2011–05–13 Saab AB, Saab Aerosystems: Amendment 39–16623. Docket No. FAA–2010–1198; Directorate Identifier 2010–NM–145–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective April 14, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Saab AB, Saab Aerosystems Model SAAB 2000 airplanes, certificated in any category.

Subject

(d) Air Transport Association (ATA) of America Code 55: Stabilizers.

Reason

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

Corrosion has been found on the rear spar upper cap of the horizontal stabilizer of SAAB 2000 aeroplanes. The affected areas are adjacent to the inboard elevator hinge where the electrical wiring harnesses are located and wired through the lightening holes. The upper spar cap is a primary structural element and is important to the structural integrity of the horizontal stabilizer.

Corrosion damage in these areas, if not detected and corrected, can result in a starting point for future crack propagation, which would impair the integrity of the horizontal stabilizer upper spar cap structure.

* * * * *

Compliance

(f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Actions

(g) Within 12 months after the effective date of this AD: Do a detailed visual inspection for corrosion of the left-hand and right-hand horizontal stabilizers, do a detailed visual inspection for chafing or damage on the harness installed in the adjacent area, and install convoluted tubing on the harness, in accordance with the Accomplishment Instructions of Saab Service Bulletin 2000–55–013, dated July 6, 2009.

(h) If, during the inspection required by paragraph (g) of this AD, corrosion is found, before next flight, repair the corrosion using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, or European Aviation Safety Agency (EASA) (or its delegated agent).

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to *Attn:* Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1112; fax (425) 227–1149. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

Related Information

(j) Refer to MCAI EASA Airworthiness Directive 2010–0115, dated June 17, 2010; and Saab Service Bulletin 2000–55–013, dated July 6, 2009; for related information.

Material Incorporated by Reference

(k) You must use Saab Service Bulletin 2000–55–013, dated July 6, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Saab AB, Saab Aerosystems, SE–581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; e-mail *saab2000.techsupport@saabgroup.com;* Internet *http://www.saabgroup.com.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on February 22, 2011.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–5116 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–1156; Directorate Identifier 2010–NM–128–AD; Amendment 39–16622; AD 2011–05–12]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 777–200, –200LR, –300, and –300ER Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD requires repetitive detailed inspections for disbonding and tearing and measurements for wear of the internal diameter (ID) of the Karon-lined bushings of the bulkhead support jackscrew fitting and of the jackscrew fitting of the horizontal stabilizer; and reinstallation of the horizontal stabilizer trim actuator (HSTA) after inspection and measurement; and if necessary, replacement of the bushings with new bushings and all applicable related investigative and corrective actions. This AD was prompted by a report indicating that a Karon-lined bushing with the liner broken into five pieces was found during a scheduled inspection of the HSTA components; the broken liner had worn and disbonded from the bushing. We are issuing this AD to detect and correct discrepancies of the HSTA attachment locations, which could result in reduced structural integrity of the horizontal stabilizer and consequent loss of controllability of the airplane.

DATES: This AD is effective April 14, 2011.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of April 14, 2011.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, *Attention:* Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1, fax 206–766–5680; e-mail *me.boecom@boeing.com*; Internet *https://www.myboeingfleet.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Duong Tran, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6452; fax (425) 917–6590; e-mail *duong.tran@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to the specified products. That NPRM published in the **Federal Register** on December 1, 2010 (75 FR 74668, January 18, 2011). That NPRM proposed to require repetitive detailed inspections for disbonding and tearing and measurements for wear of the internal diameter (ID) of the Karon-lined bushings of the bulkhead support jackscrew fitting and of the jackscrew fitting of the horizontal stabilizer; repetitive installations of the horizontal stabilizer trim actuator (HSTA); and if necessary, replacement of the bushings with new bushings and all applicable related investigative and corrective actions.

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comments received. Boeing and American Airlines support the NPRM.

Clarification of AD Summary

We determined that the requirement specified in the Summary section of the NPRM for "repetitive installations of the HSTA" should be more clearly described as "reinstallation of the HSTA after inspection and measurement." The Summary section of this AD has been revised accordingly. No change has been made to other sections of this AD in this regard.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

We estimate that this AD affects 145 airplanes of U.S. registry. We also estimate that it will take about 7 work-hours per product to comply with the detailed inspection, measurement, and installation in this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $86,275, or $595 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will 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 this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) 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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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 airworthiness directive (AD):

2011–05–12 The Boeing Company: Amendment 39–16622; Docket No. FAA–2010–1156; Directorate Identifier 2010–NM–128–AD.

Effective Date

(a) This AD is effective April 14, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to The Boeing Company Model 777–200, –200LR, –300, and –300ER series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 777–55A0017, dated May 20, 2010.

Subject

(d) Air Transport Association (ATA) of America Code 55: Stabilizers.

Unsafe Condition

(e) This AD results from a report indicating that a Karon-lined bushing with the liner broken into five pieces was found during a scheduled inspection of the horizontal stabilizer trim actuator (HSTA) components; the broken liner had worn and disbonded from the bushing. The Federal Aviation Administration is issuing this AD to detect and correct discrepancies of the HSTA attachment locations, which could result in reduced structural integrity of the horizontal stabilizer and consequent loss of controllability of the airplane.

Compliance

(f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Inspection/Related Investigative and Corrective Actions

(g) Before the accumulation of 32,000 total flight cycles, or within 24 months after the effective date of this AD, whichever occurs later: Do a detailed inspection for disbonding and tearing, and a measurement for wear of the internal diameter (ID) of the Karon-lined bushings of the bulkhead support jackscrew fitting and of the jackscrew fitting of the horizontal stabilizer; replace bushings with new bushings, as applicable; do all applicable related investigative and corrective actions; and install either a known serviceable or overhauled HSTA. Do the actions in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 777–55A0017, dated May 20, 2010, except as provided by paragraph (h) of this AD. Do all applicable related investigative and corrective actions before further flight. Repeat the actions required by this paragraph thereafter at intervals not to exceed 16,000 flight cycles.

Exceptions to Corrective Actions

(h) If, during any inspection or measurement required by this AD, any damage is found, or the inner diameter is greater than the allowable hole diameter, and Part 1, Step 3.B.2.a.(1)(a)1)a) of the Accomplishment Instructions of Boeing Alert Service Bulletin 777–55A0017, dated May 20, 2010, specifies to contact Boeing for appropriate action: Before further flight, do the repair using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be e-mailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane.

Related Information

(j) For more information about this AD, contact Duong Tran, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6452; fax (425) 917–6590; email *duong.tran@faa.gov.*

Material Incorporated by Reference

(k) You must use Boeing Alert Service Bulletin 777–55A0017, dated May 20, 2010, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.*

(3) You may review copies of the service information incorporated by reference at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the FAA, call 425–227–1221.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at an NARA facility, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, February 22, 2011.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–5086 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0156; Directorate Identifier 2010–NM–231–AD; Amendment 39–16628; AD 2011–06–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–243F Airplanes

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

ACTION: Final rule; request for comments.

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

During a recent in-service event the flight crew of a Trent 700 powered A330 aircraft

reported a temporary Engine Pressure Ratio (EPR) shortfall on engine 2 during the take-off phase of the flight. * * *

Data analysis confirmed a temporary fuel flow restriction and subsequent recovery, and indicated that also engine 1 experienced a temporary fuel flow restriction shortly after the initial event on engine 2 * * *.

Based on previous industry-wide experience, the investigation of the event has focused on the possibility for ice to temporarily restrict the fuel flow. * * *

* * * The scenario of ice being shed and causing a temporary blockage in the engine fuel system may lead to a temporary fuel flow restriction to the engine. This may result in a possible engine surge or stall condition, and in the engine not being able to provide the commanded thrust.

* * * * *

This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective March 25, 2011.

We must receive comments on this AD by April 25, 2011.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; *phone:* 425–227–1138; fax: 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2010–0132, dated June 28, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

During a recent in-service event the flight crew of a Trent 700 powered A330 aircraft reported a temporary Engine Pressure Ratio (EPR) shortfall on engine 2 during the take-off phase of the flight. The ENG STALL warning was set. The flight crew followed the standard procedures which included reducing throttle to idle. The engine recovered and provided the demanded thrust level for the remainder of the flight.

Data analysis confirmed a temporary fuel flow restriction and subsequent recovery, and indicated that also engine 1 experienced a temporary fuel flow restriction shortly after the initial event on engine 2, again followed by a full recovery. The engine 1 EPR shortfall was insufficient to trigger any associated warning and was only noted through analysis of the flight data. No flight crew action was necessary to recover normal performance on this engine. The remainder of the flight was uneventful.

Based on previous industry-wide experience, the investigation of the event has focused on the possibility for ice to temporarily restrict the fuel flow. While no direct fuel system fault has been identified, the operation of the water scavenge system at Rib 3 cannot be excluded as being a contributory factor.

Testing and analysis are continuing to identify the root cause of the event. The scenario of ice being shed and causing a temporary blockage in the engine fuel system may lead to a temporary fuel flow restriction to the engine. This may result in a possible engine surge or stall condition, and in the engine not being able to provide the commanded thrust.

Therefore, as a precautionary measure to reduce the possibility of ingesting ice into the engine fuel feed system, EASA EAD 2010–0042–E [which corresponds to FAA AD 2010–08–08] required to:

—Deactivate the automatic Standby Fuel Pump Scavenge System, which operates during Taxi and Take-off by removing relays Functional Item Numbers (FIN) 80QA1 and 80QA2 (this will not affect normal standby pump operation) for aeroplanes identified in the applicability section of this AD and on which this deactivation has not been performed in production through the modification 200801, and

—Prohibit the dispatch with * * * [a] MAIN Fuel Pump inoperative on all aeroplanes identified in the applicability section of this AD.

This AD * * * is issued to extend the applicability to the newly certified model A330–243F.

This AD also requires revising the Limitations section of the airplane flight manual to advise the flight crew of the dispatch prohibition. You may obtain further information by examining the MCAI in the AD docket.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

There are no products of this type currently registered in the United States. However, this rule is necessary to ensure that the described unsafe condition is addressed if any of these products are placed on the U.S. Register in the future.

Differences Between the AD and the MCAI or Service Information

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

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

FAA's Determination of the Effective Date

Since there are currently no domestic operators of this product, notice and opportunity for public comment before issuing this AD are unnecessary.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2011–0156; Directorate Identifier 2010–NM–231–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic,

environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;

2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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:

2011–06–04 Airbus: Amendment 39–16628. Docket No. FAA–2011–0156; Directorate Identifier 2010–NM–231–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 25, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A330–243F airplanes; certificated in any category; all manufacturer serial numbers on which Airbus modification 56966H16199 has been embodied in production or Airbus Service Bulletin A330–28–3105 has been embodied in service;.

Subject

(d) Air Transport Association (ATA) of America Code 28: Fuel.

Reason

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

During a recent in-service event the flight crew of a Trent 700 powered A330 aircraft reported a temporary Engine Pressure Ratio (EPR) shortfall on engine 2 during the take-off phase of the flight. * * *

Data analysis confirmed a temporary fuel flow restriction and subsequent recovery, and indicated that also engine 1 experienced a temporary fuel flow restriction shortly after the initial event on engine 2 * * *.

Based on previous industry-wide experience, the investigation of the event has focused on the possibility for ice to temporarily restrict the fuel flow. * * *

* * * The scenario of ice being shed and causing a temporary blockage in the engine fuel system may lead to a temporary fuel flow restriction to the engine. This may result in a possible engine surge or stall condition, and in the engine not being able to provide the commanded thrust.

* * * * *

Compliance

(f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Inoperative Fuel Pump Prohibition

(g) Dispatch of an airplane with any inoperative main fuel pump is prohibited as of the effective date of this AD.

Airplane Flight Manual Revision

(h) Before further flight after the effective date of this AD, revise the Limitations section of the airplane flight manual (AFM) to include the following statement. This may be done by inserting a copy of this AD into the AFM.

"Dispatch with any inoperative main fuel pump is prohibited."

Note 1: When a statement identical to that in paragraph (h) of this AD has been included in the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: EASA AD 2010–0132, dated June 28, 2010, affected certain Model A330–243, –243F, –341, –342, and –343 airplanes. This AD affects only the newly certified Model A330–243F airplanes. FAA AD 2010–08–08 addresses the identical unsafe condition for the Model A330–243, –341, –342, and –343 airplanes.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to *Attn:* Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; *phone:* 425–227–1138; fax: 425–227–1149. Information may be e-mailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

Related Information

(j) Refer to Airworthiness Information (MCAI) EASA Airworthiness Directive 2010–0132, dated June 28, 2010, for related information.

Material Incorporated by Reference

(k) None.

Issued in Renton, Washington, on February 28, 2011.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–5293 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0199; Directorate Identifier 2011–CE–005–AD; Amendment 39–16631; AD 2011–06–06]

RIN 2120–AA64

Airworthiness Directives; Eclipse Aerospace, Inc. Model EA500 Airplanes Equipped With a Pratt and Whitney Canada, Corp. (PWC) PW610F–A Engine

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are superseding an existing airworthiness directive (AD) for the products listed above. That AD currently requires you to incorporate operating limitations of maximum operating altitude of 37,000 feet into Section 2, Limitations, of the airplane flight manual (AFM). This AD requires you to incorporate operating limitations of maximum operating altitude of 30,000 feet into Section 2, Limitations, of the AFM. This AD was prompted by several incidents of engine surge. We are issuing this AD to prevent hard carbon buildup on the static vane, which could result in engine surges. Engine surges may result in a necessary reduction in thrust and decreased power for the affected engine. In some cases, this could result in flight and landing under single-engine conditions. It is also possible this could affect both engines at the same time, requiring dual-engine shutdown.

DATES: This AD is effective March 21, 2011.

We must receive any comments on this AD by April 25, 2011.

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Eric Kinney, Aerospace Engineer, Ft. Worth Aircraft Certification Office, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; *telephone:* (817) 222–5459; *fax:* (817) 222–5960; *e-mail: eric.kinney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On November 17, 2008, we issued AD 2008–24–07, amendment 39–15747 (73 FR 70866, November 24, 2008), for certain Eclipse Aviation Corporation (Eclipse) Model EA500 airplanes equipped with a Pratt and Whitney Canada, Corp. (PWC) PW610F–A engine. That AD requires you to incorporate operating limitations into Section 2, Limitations, of the airplane flight manual (AFM). That AD resulted from several incidents of engine surge. We issued that AD to prevent hard carbon buildup on the static vane, which could result in engine surges. Engine surges may result in a necessary reduction in thrust and decreased power for the affected engine. In some cases, this could result in flight and landing under single-engine conditions.

Actions Since AD was Issued

Since we issued AD 2008–24–07, the unsafe condition of engine surges due to hard carbon build up blocking the static vanes has continued to occur at 37,000 feet altitude and lower.

Six known events have occurred, five of which were at or below 37,000 feet altitude and four of which were in a two-week period.

Operating effects may include a reduction of available thrust or an in-flight shutdown of the affected engine. This could occur in flight and require landing under single-engine conditions. It is also possible that this could affect both engines at the same time, requiring dual-engine shutdown.

FAA's Determination

We are issuing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

This AD requires you to incorporate operating limitations of maximum operating altitude of 30,000 feet into Section 2, Limitations, of the AFM.

Interim Action

We consider this AD interim action. The PWC PW610F–A engine is certificated in Canada and is certificated as a foreign type-validated engine under FAA TCDS E00074EN. The FAA understands that Transport Canada (the airworthiness authority for Canada) and PWC are considering potential actions to address the engine aspects of this condition. In the meantime, the FAA is issuing this AD on the Eclipse Model EA500 to address the immediate unsafe condition and to mandate the altitude limitation.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because a reduction of available thrust or an in-flight shutdown of the affected engine might occur. This could occur in flight and require landing under single-engine conditions. It is also possible that this could affect both engines at the same time, requiring dual-engine shutdown. Therefore, we find that notice and opportunity for prior public comment are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments before it becomes effective. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number

FAA–2011–0199 and directorate identifier 2011–CE–005–AD at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Costs of Compliance

We estimate that this AD affects 259 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Incorporate operating limitations of maximum operating altitude of 30,000 feet into Section 2, Limitations, of the AFM.	1 work-hour × $85 per hour = $85.	Not Applicable	$85	$22,015

The cost presented above is a cost estimate only. Since a person holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may insert the AFM change, the cost burden of this AD on the individual owner/operator is minimal or nothing.

Authority for This Rulemaking

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

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

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will 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 this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) 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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends part 39 of the Federal Aviation Regulations (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 removing airworthiness directive (AD) 2008–24–07, Amendment 39–15747 (73 FR 70866, November 24, 2008) and adding the following new AD:

2011–06–06 Eclipse Aerospace, Inc. Model EA500 Airplanes Equipped With a Pratt and Whitney Canada, Corp. (PWC) PW610F–A Engine: Amendment 39–16631; Docket No. FAA–2011–0199; Directorate Identifier 2011–CE–005–AD.

Effective Date

(a) This AD is effective March 21, 2011.

Affected ADs

(b) This AD supersedes AD 2008–24–07, Amendment 39–15747.

Applicability

(c) This AD applies to Model EA500 airplanes, all serial numbers, that are:

(1) equipped with a Pratt and Whitney Canada, Corp. PW610F–A engine; and

(2) certificated in any category.

Subject

(d) Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 72, Engine.

Unsafe Condition

(e) This AD was prompted by several incidents of engine surge. We are issuing this AD to prevent hard carbon buildup on the static vane, which could result in engine surges. Engine surges may result in a necessary reduction in thrust and decreased power for the affected engine. In some cases, this could result in flight and landing under single-engine conditions. It is also possible this could affect both engines at the same time, requiring dual-engine shutdown.

Compliance

(f) Comply with this AD within the compliance times specified, unless already done.

Actions

(g) Before further flight, incorporate the following language into Section 2, Limitations, of your airplane flight manual (AFM): "Per AD 2011–06–06, LIMIT THE MAXIMUM OPERATING ALTITUDE TO 30,000 FEET (9144M) PRESSURE ALTITUDE."

(1) A person holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may insert the operating limitations into Section 2, Limitations, of the AFM. Make an entry into the aircraft logbook showing compliance with this portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(2) You may incorporate paragraph (g) of this AD into Section 2, Limitations, of your AFM to comply with this AD.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Fort Worth Airplane Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly

to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/ certificate holding district office.

Related Information

(i) For more information about this AD, contact Eric Kinney, Aerospace Engineer, Ft. Worth Aircraft Certification Office, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; *telephone:* (817) 222–5459; *fax:* (817) 222–5960; *e-mail: eric.kinney@faa.gov.*

Issued in Kansas City, Missouri, on March 3, 2011.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–5296 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0154; Directorate Identifier 2011–NM–016–AD; Amendment 39–16624; AD 2011–05–14]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Model DHC–8–400 Series Airplanes

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

ACTION: Final rule; request for comments.

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

Two cases of the main landing gear (MLG) alternate extension system (AES) cam mechanism failure were found during line checks. The cam mechanism operates the cable to open the MLG door and releases the MLG uplock in sequence. In the case where it is necessary to deploy the MLG using the AES, the failure of the MLG AES cam mechanism on one side will lead to an unsafe asymmetrical landing configuration.

* * * * *

The unsafe condition is possible loss of control during landing. This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective March 25, 2011.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of March 25, 2011.

We must receive comments on this AD by April 25, 2011.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Fabio Buttitta, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7303; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

The Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Emergency Airworthiness Directive CF–2011–01, dated January 17, 2011 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

Two cases of the main landing gear (MLG) alternate extension system (AES) cam mechanism failure were found during line checks. The cam mechanism operates the cable to open the MLG door and releases the MLG uplock in sequence. In the case where it is necessary to deploy the MLG using the AES, the failure of the MLG AES cam mechanism on one side will lead to an unsafe asymmetrical landing configuration.

Preliminary investigation indicates that the cam mechanism failure may have occurred and remained dormant after a previous AES operation. The cam mechanism may not have fully returned to the normal rested position. With the cam mechanism out of normal rested position, normal powered landing gear door operation could introduce sufficient loads to fracture the cam mechanism or rupture the door release cable.

This directive mandates the initial and subsequent [detailed] inspections for proper operation of the MLG AES cam mechanism, and rectify [repair or replace cam assembly with new or serviceable cam assembly] as necessary.

The unsafe condition is possible loss of control during landing. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Bombardier has issued Repair Drawing 8/4–32–0160, Issue 2, dated January 18, 2011. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between the AD and the MCAI or Service Information

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

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

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this

AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because two cases of the main landing gear (MLG) alternate extension system (AES) cam mechanism failure were found during line checks. The cam mechanism operates the cable to open the MLG door and releases the MLG uplock in sequence. In the case where it is necessary to deploy the MLG using the AES, the failure of the MLG AES cam mechanism on one side will lead to an unsafe asymmetrical landing configuration. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2011–0154; Directorate Identifier 2011–NM–016–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;

2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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:

2011–05–14 Bombardier, Inc.: Amendment 39–16624. Docket No. FAA–2011–0154; Directorate Identifier 2011–NM–016–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 25, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier, Inc. Model DHC–8–400, -401, and -402 airplanes, certificated in any category, serial numbers 4001 and subsequent.

Subject

(d) Air Transport Association (ATA) of America Code 32: Landing Gear.

Reason

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

Two cases of the main landing gear (MLG) alternate extension system (AES) cam mechanism failure were found during line checks. The cam mechanism operates the cable to open the MLG door and releases the MLG uplock in sequence. In the case where it is necessary to deploy the MLG using the AES, the failure of the MLG AES cam mechanism on one side will lead to an unsafe asymmetrical landing configuration.

* * * * *

The unsafe condition is possible loss of control during landing.

Compliance

(f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Actions

(g) Within 50 flight hours or 10 days after the effective date of this AD, whichever occurs first, do a detailed inspection for proper operation of the MLG AES cam mechanism, in accordance with paragraph A) of Bombardier Repair Drawing 8/4–32–0160, Issue 2, dated January 18, 2011. Repeat the inspection thereafter at intervals not to exceed 50 flight hours or 10 days, whichever occurs first.

(1) If the cam mechanism is found to reset to the normal rested position without any sticking or binding, it is operating properly.

(2) If the cam mechanism has not reset to its normal rested position, or if any sticking or binding is observed, before further flight, remove the cam assembly, in accordance with paragraph A) of Bombardier Repair Drawing 8/4–32–0160, Issue 2, dated January 18, 2011, and do the actions in paragraph (g)(2)(i) or (g)(2)(ii) of this AD.

(i) Repair the cam mechanism assembly, including doing detailed inspections for discrepancies (including an inspection to determine proper operation, an inspection for damage, an inspection for corrosion and cadmium coating degradation, and inspections to determine dimensions are within the limits specified in paragraph B) of Bombardier Repair Drawing 8/4–32–0160, Issue 2, dated January 18, 2011), in accordance with paragraph B) of Bombardier Repair Drawing 8/4–32–0160, Issue 2, dated January 18, 2011, and install the repaired cam assembly in accordance with paragraph C) of Bombardier Repair Drawing 8/4–32–0160, Issue 2, dated January 18, 2011.

(ii) Install a new or serviceable cam assembly, in accordance with paragraph C) of Bombardier Repair Drawing 8/4–32–0160, Issue 2, dated January 18, 2011.

(3) If the cam mechanism is found damaged or inoperative during the repair specified in paragraph (g)(2)(i) of this AD, or if any discrepancies are found and Bombardier Repair Drawing 8/4–32–0160, Issue 2, dated January 18, 2011, does not specify repairs for those discrepancies, or repairs specified in paragraph (g)(2)(i) of this AD cannot be accomplished: Before further flight, repair and reinstall using a method approved by the Manager, ANE–170, New

York Aircraft Certification Office (ACO), FAA, or Transport Canada Civil Aviation (TCCA) (or its delegated agent), or install new or serviceable cam assembly in accordance with paragraph C) of Bombardier Repair Drawing 8/4–32–0160, Issue 2, dated January 18, 2011.

Credit for Actions Accomplished in Accordance With Previous Service Information

(h) Actions done before the effective date of this AD in accordance with Bombardier 8/4–32–0160, Issue 1, dated January 14, 2011, are acceptable for compliance with the corresponding requirements of this AD.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows: No difference.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, ANE–170, New York ACO, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to *Attn:* Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

Related Information

(j) Refer to MCAI Canadian Emergency Airworthiness Directive CF–2011–01, dated January 17, 2011; and Bombardier Repair Drawing 8/4–32–0160, Issue 2, dated January 18, 2011; for related information.

Material Incorporated by Reference

(k) You must use Bombardier Repair Drawing 8/4–32–0160, Issue 2, dated January 18, 2011, to do the actions required by this AD, unless the AD specifies otherwise. Bombardier Repair Drawing 8/4–32–0160, Issue 2, dated January 18, 2011, contains the following effective pages:

Sheet number shown on page	Issue level shown on page	Date shown on page
1	2	January 18, 2011
2, 3, 11	2	None shown *
4–10	1	None shown *

(* The issue date of this document is found only on the first page of the document; no other page of this document contains this information.)

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Bombardier, Inc., Q–Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; e-mail *thd.qseries@aero.bombardier.com*; Internet *http://www.bombardier.com*.

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on February 22, 2011.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–5085 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0009; Airspace Docket No. 10–AWP–20]

RIN 2120–AA66

Amendment of VOR Federal Airways V–1, V–7, V–11 and V–20; Kona, HI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends four VHF Omnidirectional Range (VOR) Federal airways in the vicinity of Kona, HI; V–1, V–7, V–11 and V–20 to bring them in concert with the FAA's Aeronautical Products. These VOR Federal airways are being impacted due to the relocation of the Kona VHF Omnidirectional Radio Range and Tactical Air Navigation Aids (VORTAC).

DATES: Effective date 0901 UTC, May 5, 2011. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace Regulation and ATC Procedures Group, Office of Mission Support Services, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; *telephone:* (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

The FAA has relocated the Kona VORTAC current location 3.92 nautical miles north northwest to the Kona International Airport property. As a part of this effort, the FAA realigned V– 1, V–7, V–11 and V–20, and changed the VORTAC identification from IAI to KOA.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying Hawaiian VOR Federal Airways V–1, V–7, V–11 and V–20. Specifically, this action realigns the airways north northwest of the current VORTAC site to reflect the new radials of the relocated Kona VORTAC (KOA) onto Kona International Keahole Airport property Kailua-Kona, HI. This will enhance the management of aircraft operations over Hawaii. This action does not affect the boundaries, altitudes, or operating requirements of the airspace. The FAA's Aeronautical Products has correctly charted the airspace, therefore, notice and public comment under 5 U.S.C. 553(b) are unnecessary.

Hawaiian VOR airways are published in paragraph 6010(c) of FAA Order 7400.9U, dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The VOR airways listed in this document will be published subsequently in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it revises multiple Federal airways in Hawaii.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with 311a, FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures." This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9U, Airspace Designations and Reporting Points, signed August 18, 2010 and effective September 15, 2010 amended as follows:

Paragraph 6010(c) Hawaiian VOR federal airways.

* * * * *

V–1 [Amended]

From Kona, HI, INT Kona 321° and Maui, HI, 180° radials; INT Maui 180° and Upolu Point, HI, 305° radials; INT Maui 199° and Upolu Point 305° radials; to Maui.

* * * * *

V–7 [Amended]

From Kona, HI, INT Kona 321° and Lanai, HI, 140° radials; Lanai; Molokai, HI. From Koko Head 050° and Molokai 358° radials; to INT Molokai 358° radial and lat. 24°19′00″ N.

* * * * *

V–11 [Amended]

From INT Kona, HI, 321° and Upolu Point, HI, 211° radials; via Upolu Point; INT Upolu Point 349° and Maui, HI, 080° radials; to Maui.

* * * * *

V–20 [Amended]

From Honolulu, HI, INT Honolulu 136° and Kona, HI, 305° radials; Kona.

Issued in Washington, DC, on March 1, 2011.

Rodger A. Dean,

Acting Manager, Airspace, Regulations and ATC Procedures Group.

[FR Doc. 2011–5078 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0024; Airspace Docket No. 11–ASW–1]

RIN 2120–AA66

Amendment to VOR Federal Airway V–358; TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: This action amends a final rule published by the FAA in the **Federal Register**, that inadvertently extended VOR Federal airway V–358 to the wrong end point. This action reflects the correct end point and coincides with the FAA's aeronautical database.

DATES: Effective date 0901 UTC, May 5, 2011. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Airspace, Regulations and ATC Procedures Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; *telephone:* (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

On October 16, 2000, the FAA published a final rule in the **Federal Register** amending thirteen Federal airways in the vicinity of Dallas/Fort Worth, TX (65 FR 61087). That action simplified the airway structure and enhanced the management of aircraft operations in the area. VOR Federal airway V–358 was one of the thirteen airways included in the rule, changing its end point from Will Rogers, OK to Waco, TX.

On October 2, 2001, the FAA published a final rule in the **Federal Register** realigning a portion of V–358 to prevent instrument flight rules (IFR) aircraft navigating on the airway from encroaching on the newly established Prohibited Area 49 (P–49), Crawford, TX (66 FR 50101). The realignment around P–49 was necessary to assist the United States Secret Service in providing security for the President of the United States and preventing IFR aircraft from flying through P–49. However, the airway description contained in the rule inadvertently extended the V–358 end

point from Waco, TX, back to Will Rogers, OK.

On October 26, 2009, the FAA published a third final rule in the **Federal Register** amending the V–358 airway description (74 FR 54896). That rule renamed the Lampasas, TX, VHF omnidirectional range/tactical air navigation (VORTAC) to Gooch Springs, TX, VORTAC. This was done to avoid confusion since the Lampasas VORTAC and Lampasas Airport both shared the same name and location identifier, but were not co-located. Again, the airway end point error was over looked and V–358 was published with an end point as Will Rogers, OK, instead of Waco, TX.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by correcting the end point in the legal description of V–358 from Will Rogers, OK, to Waco, TX. The rule reflects the end point coinciding with the FAA's aeronautical database.

Since this is an administrative change, and does not affect the dimensions, altitude, or operating requirements of that airspace, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9U, dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The domestic Federal VOR airway listed in this document will be published subsequently in the Order.

Environmental Review

There are no changes to the lateral limits. Therefore, the FAA has determined that this action is not subject to environmental assessments and procedures in accordance with FAA Order 1050.1E, Policies and Procedures for Considering Environmental Impacts, and the National Environmental Policy Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, and effective September 15, 2010, is amended as follows:

Paragraph 6010(a) Domestic VOR federal airways.

* * * * *

V–358 [Amended]

From San Antonio, TX, via Stonewall, TX; Gooch Springs, TX; INT Gooch Springs 041° and Waco, TX, 280° radials; to Waco.

* * * * *

Issued in Washington, DC, on March 2, 2011.

Edith V. Parish,

Manager, Airspace, Regulations and ATC Procedures Group.

[FR Doc. 2011–5057 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–1180; Airspace Docket No. 10–AWP–15]

Establishment of Area Navigation (RNAV) Routes; Western United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes seven High Altitude Area Navigation (RNAV) routes in the Western United States (U.S.). These new routes provide pilots and air traffic controllers with efficient direct routes enhancing safety and improving the efficient use of the National Airspace System (NAS).

DATES: Effective date 0901 UTC, May 5, 2011. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace Regulation and ATC Procedures Group, Office of Mission Support Services, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; *telephone:* (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

On December 9, 2010, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish RNAV routes in the Western U.S. (75 FR 76648). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received in response to the NPRM.

The Rule

The FAA is amending to Title 14 Code of Federal Regulations (14 CFR) part 71 to establish seven RNAV Q-routes in the Western United States. The RNAV routes described in this action will enhance safety, and facilitate more flexible and efficient use of the navigable airspace for en route Instrument Flight Rules (IFR) operations within the NAS. Specifically, these routes will improve departure flow from the San Francisco/Oakland, CA, Terminal area by providing additional parallel departure routings and improve arrival flow from Salt Lake ARTCC to Reno, NV, and Sacramento, CA.

The High Altitude RNAV Routes are published in paragraph 2006 in FAA Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory

Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes RNAV routes in the Western United States.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, Environmental Impacts: Polices and Procedures, paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, and effective September 15, 2010, is amended as follows:

Paragraph 2006 United States area navigation routes.

* * * * *

Q–120 SAC to RWF [New]

SAC	VORTAC	(Lat. 38°26′37″ N., long. 121°33′06″ W.)
ZORUN	WP	(Lat. 39°59′00″ N., long. 118°55′00″ W.)
GALLI	WP	(Lat. 40°19′10″ N., long. 118°07′18″ W.)
BPI	VOR/DME	(Lat. 42°34′46″ N., long. 110°06′33″ W.)
FOSIG	WP	(Lat. 43°49′03″ N., long. 101°25′18″ W.)
RWF	VOR/DME	(Lat. 44°28′02″ N., long. 095°07′42″ W.)

* * * * * * *

Q–122 MOGEE to FOD [New]

MOGEE	WP	(Lat. 38°20′10″ N., long. 121°23′23″ W.)
MACUS	WP	(Lat. 39°53′00″ N., long. 118°48′00″ W.)
MCORD	WP	(Lat. 40°12′00″ N., long. 118°01′00″ W.)
LCU	VORTAC	(Lat. 41°21′47″ N., long. 113°50′26″ W.)
BEARR	FIX	(Lat. 41°31′51″ N., long. 112°29′18″ W.)
KURSE	WP	(Lat. 42°04′30″ N., long. 105°09′36″ W.)
ONL	VORTAC	(Lat. 42°28′14″ N., long. 098°41′13″ W.)
FOD	VORTAC	(Lat. 42°36′40″ N., long. 094°17′41″ W.)

* * * * * * *

Q–124 MOGEE to WAATS [New]

MOGEE	WP	(Lat. 38°20′10″ N., long. 121°23′23″ W.)
MACUS	WP	(Lat. 39°53′00″ N., long. 118°48′00″ W.)
MCORD	WP	(Lat. 40°12′00″ N., long. 118°01′00″ W.)
SLOWN	WP	(Lat. 40°34′00″ N., long. 116°24′00″ W.)
FASTE	WP	(Lat. 40°42′00″ N., long. 114°30′00″ W.)
BVL	VORTAC	(Lat. 40°43′34″ N., long. 113°45′27″ W.)
WAATS	FIX	(Lat. 40°43′10″ N., long. 112°31′48″ W.)

* * * * * * *

Q–126 TIPRE to EKR [New]

TIPRE	WP	(Lat. 38°12′21″ N., long. 121°02′09″ W.)
INSLO	WP	(Lat. 38°40′45″ N., long. 117°17′53″ W.)
GAROT	WP	(Lat. 39°18′00″ N., long. 113°15′00″ W.)
EKR	VOR/DME	(Lat. 40°04′03″ N., long. 107°55′30″ W.)

* * * * * * *

Q–128 LIN to MEM [New]

LIN	VORTAC	(Lat. 38°04′29″ N., long. 121°00′14″ W.)
JSICA	WP	(Lat. 38°31′14″ N., long. 117°17′13″ W.)
EDLES	FIX	(Lat. 38°40′40″ N., long. 109°56′27″ W.)
FLOOD	FIX	(Lat. 38°20′24″ N., long. 105°05′38″ W.)
ZAROS	WP	(Lat. 37°59′22″ N., long. 102°20′22″ W.)
BVO	VOR/DME	(Lat. 36°50′03″ N., long. 096°01′06″ W.)

RZC	VORTAC	(Lat. 36°14′47″ N., long. 094°07′17″ W.)
PAMMO	WP	(Lat. 35°35′04″ N., long. 091°49′21″ W.)
MEM	VORTAC	(Lat. 35°00′54″ N., long. 089°58′60″ W.)

* * * * * * *

Q–130 LIN to PNH [New]

LIN	VORTAC	(Lat. 38°04′29″ N., long. 121°00′14″ W.)
JSICA	WP	(Lat. 38°31′14″ N., long. 117°17′13″ W.)
REANA	WP	(Lat. 38°24′00″ N., long. 114°20′00″ W.)
MRRNY	WP	(Lat. 37°49′42″ N., long. 111°59′60″ W.)
RSK	VORTAC	(Lat. 36°44′54″ N., long. 108°05′56″ W.)
DIXAN	FIX	(Lat. 36°16′51″ N., long. 105°57′20″ W.)
MIRME	WP	(Lat. 35°47′01″ N., long. 103°50′32″ W.)
PNH	VORTAC	(Lat. 35°14′06″ N., long. 101°41′56″ W.)

* * * * * * *

Q–132 WEBGO to MAGPY [New]

WEBGO	WP	(Lat. 39°28′00″ N., long. 120°21′00″ W.)
ANAHO	FIX	(Lat. 39°57′40″ N., long. 119°24′56″ W.)
MYBAD	WP	(Lat. 40°23′16″ N., long. 118°22′23″ W.)
ZERAM	WP	(Lat. 40°28′00″ N., long. 118°07′00″ W.)
MAGPY	WP	(Lat. 40°51′27″ N., long. 116°12′09″ W.)

Issued in Washington, DC, on March 1, 2011.

Rodger A. Dean,

Acting Manager, Airspace, Regulations and ATC Procedures Group.

[FR Doc. 2011–5076 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–1179; Airspace Docket No. 10–ANM–9]

RIN 2120–AA66

Establishment of Area Navigation (RNAV) Routes; Western United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes six High Altitude Area Navigation (RNAV) routes in the Western United States (U.S.). These new routes provide pilots and air traffic controllers with efficient direct routes enhancing safety and improving the efficient use of the National Airspace System (NAS).

DATES: Effective date 0901 UTC, May 5, 2011. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace Regulation and ATC Procedures Group, Office of Mission Support Services, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; *telephone:* (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

On December 9, 2010, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish RNAV routes in the Western U.S. (75 FR 76652). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received in response to the NPRM.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing six RNAV Q-routes in the Western United States. The RNAV routes described in this action will enhance safety, and facilitate more flexible and efficient use of the navigable airspace for en route Instrument Flight Rules (IFR) operations within the NAS. Specifically, these routes will improve arrival flow from the Denver, CO, Terminal area to the San Francisco/Oakland, CA, Terminal area and improve arrival flow from and through Salt Lake ARTCC to the San Francisco/Oakland, CA, Terminal area.

High Altitude RNAV Routes are published in paragraph 2006 in FAA Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes RNAV routes in the Western United States.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, Environmental Impacts: Polices and Procedures, paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no

extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, and effective September 15, 2010, is amended as follows:

Paragraph 2006 United States area navigation routes.

* * * * *

Q–134 DUGLE to VOAXA [New]

DUGLE	FIX	(Lat. 37°51′54″ N., long. 120°40′04″ W.)
TATOO	WP	(Lat. 38°19′42″ N., long. 117°16′50″ W.)
JULIK	FIX	(Lat. 39°09′11″ N., long. 112°31′33″ W.)
HERSH	WP	(Lat. 39°30′46″ N., long. 109°59′07″ W.)
VOAXA	FI	(Lat. 39°47′18″ N., long. 106°31′58″ W.)

* * * * * * *

Q–136 OAL to VOAXA [New]

OAL	VORTAC	(Lat. 38°00′12″ N., long. 117°46′14″ W.)
RUMPS	WP	(Lat. 38°07′10″ N., long. 117°16′15″ W.)
KATTS	WP	(Lat. 38°20′00″ N., long. 116°20′00″ W.)
WEEMN	WP	(Lat. 39°21′57″ N., long. 109°58′03″ W.)
VOAXA	FIX	(Lat. 39°47′18″ N., long. 106°31′58″ W.)

* * * * * * *

Q–138 ILA to ABR [New]

ILA	VORTAC	(Lat. 39°04′16″ N., long. 122°01′38″ W.)
FIMUV	WP	(Lat. 39°49′05″ N., long. 120°11′17″ W.)
JENSA	WP	(Lat. 40°11′36″ N., long. 119°13′27″ W.)
PUHGI	WP	(Lat. 40°47′38″ N., long. 117°45′32″ W.)
ROOHZ	WP	(Lat. 41°14′12″ N., long. 116°12′58″ W.)
PARZZ	WP	(Lat. 41°36′15″ N., long. 115°02′10″ W.)
UROCO	WP	(Lat. 42°51′52″ N., long. 110°50′25″ W.)
RICCO	WP	(Lat. 43°48′29″ N., long. 107°02′30″ W.)
MOTLY	WP	(Lat. 44°45′50″ N., long. 102°25′43″ W.)
ABR	VOR/DME	(Lat. 45°25′02″ N., long. 098°22′07″ W.)

* * * * * * *

Q–121 PARZZ to TOUGH [New]

PARZZ	WP	(Lat. 41°36′15″ N., long. 115°02′10″ W.)
PIH	VORTAC	(Lat. 42°52′13″ N., long. 112°39′08″ W.)
TOUGH	WP	(Lat. 46°13′58″ N., long. 105°12′52″ W.)

* * * * * * *

Q–123 PARZZ to COKEE [New]

PARZZ	WP	(Lat. 41°36′15″ N., long. 115°02′10″ W.)
COKEE	WP	(Lat. 47°22′25″ N., long. 106°51′49″ W.)

* * * * * * *

Q–125 PARZZ to WLLES [New]

PARZZ	WP	(Lat. 41°36′15″ N., long. 115°02′10″ W.)
WLLES	WP	(Lat. 48°57′33″ N., long. 110°08′18″ W.)

Issued in Washington, DC, on March 1, 2011.

Rodger A. Dean,

Acting Manager, Airspace, Regulations and ATC Procedures Group.

[FR Doc. 2011–5077 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

[Docket No. SLSDC–2011–0002]

RIN 2135–AA29

Seaway Regulations and Rules: Periodic Update, Various Categories

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is amending the joint regulations by updating the Seaway Regulations and Rules in various categories. The changes will update regulations concerning condition of vessels and preclearance and security for tolls. These amendments are necessary to take account of updated procedures and will enhance the safety of transits through the Seaway. Several of the amendments are merely editorial or for clarification of existing requirements.

DATES: The final rule is effective March 20, 2011.

FOR FURTHER INFORMATION CONTACT: Carrie Mann Lavigne, Chief Counsel, Saint Lawrence Seaway Development Corporation, 180 Andrews Street, Massena, New York 13662; 315/764–3200.

SUPPLEMENTARY INFORMATION: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is amending the joint regulations by updating the Regulations and Rules in various categories. The amendments update the following sections of the Regulations and Rules: Condition of Vessels, and Preclearance and Security for Tolls. These changes are necessary to take account of updated procedures which will enhance the safety of transits through the Seaway. Many of these changes are to clarify existing requirements in the regulations. Where new requirements or regulations are being made, an explanation for such a change is provided below.

The joint regulations are effective in Canada on March 20, 2011. For consistency, because these are joint regulations under international agreement, and to avoid confusion among users of the Seaway, the SLSDC finds that there is good cause to make the U.S. version of the amendments effective on the same date.

Regulatory Notices

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://www.Regulations.gov.*

The Notice of Proposed Rulemaking was published in the **Federal Register** on January28, 2011 (76 FR 5104). No comments were received.

The SLSDC is amending two sections of the Condition of Vessels portion of the joint Seaway regulations. Under section 401.8, "Landing booms", the SLSDC is clarifying that no more than 4 mooring lines will be handled by Seaway personnel as part of the tie-up service. In addition, the change clarifies that tie-up service does not include let go service. In section 401.24, "Application for preclearance", the SLSDC is requiring that preclearance applications must be received by the SLSMC between 08:00–16:00 hours Monday through Friday and at least 24 hours prior to the vessel's arrival.

The other changes to the joint regulations are merely editorial or to clarify existing requirements.

Regulatory Evaluation

This regulation involves a foreign affairs function of the United States and therefore Executive Order 12866 does not apply and evaluation under the Department of Transportation's Regulatory Policies and Procedures is not required.

Regulatory Flexibility Act Determination

I certify this regulation will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Regulations and Rules primarily relate to commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

Environmental Impact

This regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et seq.*) because it is not a major federal action significantly affecting the quality of the human environment.

Federalism

The Corporation has analyzed this rule under the principles and criteria in Executive Order 13132, dated August 4, 1999, and has determined that this rule does not have sufficient federalism implications to warrant a Federalism Assessment.

Unfunded Mandates

The Corporation has analyzed this rule under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48) and determined that it does not impose unfunded mandates on State, local, and tribal governments and the private sector requiring a written statement of economic and regulatory alternatives.

Paperwork Reduction Act

This regulation has been analyzed under the Paperwork Reduction Act of 1995 and does not contain new or modified information collection requirements subject to the Office of Management and Budget review.

List of Subjects in 33 CFR Part 401

Hazardous materials transportation, Navigation (water), Penalties, Radio, Reporting and recordkeeping requirements, Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation amends 33 CFR part 401 as follows:

PART 401—SEAWAY REGULATIONS AND RULES

Subpart A—Regulations

■ 1. The authority citation for subpart A of part 401 continues to read as follows:

Authority: 33 U.S.C. 983(a) and 984(a)(4), as amended; 49 CFR 1.52, unless otherwise noted.

■ 2. In § 401.8, revise paragraph (c) to read as follows:

§ 401.8 Landing booms.

* * * * *

(c) Vessels not equipped with or not using landing booms must use the Seaway's tie-up service at approach walls using synthetic mooring lines only. Maximum of 4 lines will be handled by Seaway personnel and the service does not include let go service.

■ 3. In § 401.11, revise paragraph (a) introductory text to read as follows:

§ 401.11 Fairleads.

(a) Mooring lines shall:

* * * * *

■ 4. In § 401.12 revise paragraphs (a)(1) introductory text, (a)(1)(i), and (a)(2) to read as follows:

§ 401.12 Minimum requirements—mooring lines and fairleads.

(a) * * *

(1) Vessels of more than 100 m but not more than 150 m in overall length shall have three mooring lines—wires or synthetic hawsers, which shall be independently power operated by winches, capstans or windlasses. All lines shall be led through closed chocks or fairleads acceptable to the Manager and the Corporation.

' (i) One shall lead forward and one shall lead astern from the break of the bow and one lead astern from the quarter.

* * * * *

(2) Vessels of more than 150 m in overall length shall have four mooring lines—wires, independently power operated by the main drums of adequate power operated winches as follows:

(i) One mooring line shall lead forward and one mooring line shall lead astern from the break of the bow.

(ii) One mooring line shall lead forward and one mooring line shall lead astern from the quarter.

* * * * *

■ 5. Revise § 401.24 to read as follows:

§ 401.24 Application for preclearance.

The representative of a vessel may, on a preclearance form obtained from the Manager, St. Lambert, Quebec, or downloaded from the St. Lawrence Seaway Web site (*http://www.greatlakes-seaway.com*), apply for preclearance, giving particulars of the ownership, liability insurance and physical characteristics of the vessel and guaranteeing payment of the fees that may be incurred by the vessel. The preclearance application must be received by the St. Lawrence Seaway between 08:00–16:00 hours Monday through Friday excluding holidays and at least 24 hours prior to arrival.

■ 6. In § 401.39, revise paragraph (a) as follows:

§ 401.39 Preparing mooring lines for passing through.

* * * * *

(a) Winches shall be capable of paying out and heaving in at a minimum speed of 46 m per minute; and

* * * * *

■ 7. In § 401.40, revise paragraph (a) to read as follows:

§ 401.40 Entering, exiting, or position in lock.

(a) Unless directed by the Manager and the Corporation, no vessel shall proceed into a lock in such a manner that the stem passes the stop symbol on the lock wall nearest the closed gates.

* * * * *

■ 8. In § 401.51, revise paragraph (b) to read as follows:

§ 401.51 Signaling approach to a bridge.

* * * * *

(b) The signs referred to in paragraph (a) of this section are placed at distances varying between 550 m and 2990 m upstream and downstream from moveable bridges at sites other than lock sites.

* * * * *

■ 9. In § 401.57, revise paragraph (c) to read as follows:

§ 401.57 Disembarking or boarding.

* * * * *

(c) Persons disembarking or boarding shall be assisted by a member of the vessel's crew under safe conditions.

■ 10. In § 401.65, revise paragraph (c) to read as follows:

§ 401.65 Communication—ports, docks and anchorages.

* * * * *

(c) Every vessel prior to departing from a port, dock, or anchorage shall report to the appropriate Seaway station its destination and its expected time of arrival at the next check point.

* * * * *

Issued at Washington, DC, on March 3, 2011. Saint Lawrence Seaway Development Corporation

Collister Johnson, Jr.,

Administrator.

[FR Doc. 2011–5423 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–61–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2010–0072, 0073, 0075, 0634, 0636, 0638, 0639, 0643, 0645, 0646; RL–9277–8]

RIN 2050–AD75

National Priorities List, Final Rule No. 51

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA" or "the Act"), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency ("EPA" or "the Agency") in determining which sites warrant further investigation. These further investigations will allow EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule adds ten sites to the NPL, all to the General Superfund Section.

DATES: *Effective Date:* The effective date for this amendment to the NCP is April 11, 2011.

ADDRESSES: For addresses for the Headquarters and Regional dockets, as well as further details on what these dockets contain, see section II, "Availability of Information to the Public" in the **SUPPLEMENTARY INFORMATION** portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Terry Jeng, *phone:* (703) 603–8852, *e-mail: jeng.terry@epa.gov,* Site Assessment and Remedy Decisions Branch; Assessment and Remediation Division; Office of Superfund Remediation and Technology Innovation (mail code 5204P); U.S. Environmental Protection Agency; 1200 Pennsylvania Avenue, NW.; Washington, DC 20460; or the Superfund Hotline, phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

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I. Background

A. What are CERCLA and SARA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 ("CERCLA" or "the Act"), in response to the dangers of uncontrolled releases or threatened releases of hazardous substances, and releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law 99–499, 100 Stat. 1613 *et seq.*

B. What is the NCP?

To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances, or releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under section 105(a)(8)(A) of CERCLA, the NCP also includes "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable taking into account the potential urgency of such action, for the purpose of taking removal action." "Removal" actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases of hazardous substances, pollutants or contaminants (42 U.S.C. 9601(23)).

C. What is the National Priorities List (NPL)?

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The list, which is appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended. Section 105(a)(8)(B) defines the NPL as a list of "releases" and the highest priority "facilities" and requires that the NPL be revised at least annually. The NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is only of limited significance, however, as it does not assign liability to any party or to the owner of any specific property. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by EPA (the "General Superfund Section"), and one of sites that are owned or operated by other Federal agencies (the "Federal Facilities Section"). With respect to sites in the Federal Facilities Section, these sites are generally being addressed by other Federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing a Hazard Ranking System ("HRS") score and determining whether the facility is placed on the NPL.

D. How are sites listed on the NPL?

There are three mechanisms for placing sites on the NPL for possible remedial action (*see* 40 CFR 300.425(c) of the NCP): (1) A site may be included on the NPL if it scores sufficiently high on the HRS, which EPA promulgated as appendix A of the NCP (40 CFR part 300). The HRS serves as a screening tool to evaluate the relative potential of uncontrolled hazardous substances, pollutants or contaminants to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), EPA promulgated revisions

to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: ground water, surface water, soil exposure, and air. As a matter of Agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL. (2) Pursuant to 42 U.S.C. 9605(a)(8)(B), each State may designate a single site as its top priority to be listed on the NPL, without any HRS score. This provision of CERCLA requires that, to the extent practicable, the NPL include one facility designated by each State as the greatest danger to public health, welfare, or the environment among known facilities in the State. This mechanism for listing is set out in the NCP at 40 CFR 300.425(c)(2). (3) The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed without any HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658) and generally has updated it at least annually.

E. What happens to sites on the NPL?

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the "Superfund") only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). ("Remedial actions" are those "consistent with permanent remedy, taken instead of or in addition to removal actions * * *." 42 U.S.C. 9601(24).) However, under 40 CFR 300.425(b)(2) placing a site on the NPL "does not imply that monies will be expended." EPA may pursue other appropriate authorities to respond to the releases, including enforcement action under CERCLA and other laws.

F. Does the NPL define the boundaries of sites?

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so. Indeed, the precise nature and extent of the site are typically not known at the time of listing.

Although a CERCLA "facility" is broadly defined to include any area where a hazardous substance has "come to be located" (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. However, the NPL site is not necessarily coextensive with the boundaries of the installation or plant, and the boundaries of the installation or plant are not necessarily the "boundaries" of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location where that contamination has come to be located, or from where that contamination came.

In other words, while geographic terms are often used to designate the site (e.g., the "Jones Co. plant site") in terms of the property owned by a particular party, the site, properly understood, is not limited to that property (*e.g.,* it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (e.g., where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the "site"). The "site" is thus neither equal to, nor confined by, the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. In addition, the site name is merely used to help identify the geographic location of the contamination, and is not meant to constitute any determination of liability at a site. For example, the name "Jones Co. plant site," does not imply that the Jones company is responsible for the contamination located on the plant site.

EPA regulations provide that the Remedial Investigation ("RI") "is a process undertaken * * * to determine the nature and extent of the problem presented by the release" as more information is developed on site contamination, and which is generally performed in an interactive fashion with the Feasibility Study ("FS") (40 CFR 300.5). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, the HRS inquiry focuses on an evaluation of the threat posed and therefore the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination "has come to be located" before all necessary studies and remedial work are completed at a site. Indeed, the known boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted above, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, it can submit supporting information to the Agency at any time after it receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

G. How are sites removed from the NPL?

EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Superfund-financed response has been implemented and no further response action is required; or

(iii) The remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate.

H. May EPA delete portions of sites from the NPL as they are cleaned up?

In November 1995, EPA initiated a new policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been cleaned up and made available for productive use.

I. What is the construction completion list (CCL)?

EPA also has developed an NPL construction completion list ("CCL") to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when: (1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) EPA has determined that the response action should be limited to measures that do not involve construction (e.g., institutional controls); or (3) the site qualifies for deletion from the NPL. For the most up-to-date information on the CCL, *see* EPA's Internet site at *http://www.epa.gov/superfund/cleanup/ccl.htm.*

J. What is the Sitewide Ready for Anticipated Use measure?

The Sitewide Ready for Anticipated Use measure represents important Superfund accomplishments and the measure reflects the high priority EPA places on considering anticipated future land use as part of our remedy selection process. *See* Guidance for Implementing the Sitewide Ready-for-Reuse Measure, May 24, 2006, OSWER 9365.0–36. This measure applies to final and deleted sites where construction is complete, all cleanup goals have been achieved, and all institutional or other controls are in place. EPA has been successful on many occasions in carrying out remedial actions that ensure protectiveness of human health and the environment for current and future land users, in a manner that allows contaminated properties to be restored to environmental and economic vitality. For further information, please go to *http://www.epa.gov/superfund/programs/recycle/tools/index.html.*

II. Availability of Information to the Public

A. May I review the documents relevant to this final rule?

Yes, documents relating to the evaluation and scoring of the sites in this final rule are contained in dockets located both at EPA Headquarters and in the Regional offices.

An electronic version of the public docket is available through *http://www.regulations.gov* (*see* table below for Docket Identification numbers). Although not all Docket materials may be available electronically, you may still access any of the publicly available Docket materials through the Docket facilities identified below in section II D.

DOCKET IDENTIFICATION NUMBERS BY SITE

Site name	City/county, state	Docket ID No.
Dwyer Property Ground Water Plume	Elkton, MD	EPA–HQ–SFUND–2010–0639.
Washington County Lead District—Furnace Creek	Caledonia, MO	EPA–HQ–SFUND–2010–0646.
ACM Smelter and Refinery	Cascade County, MT	EPA–HQ–SFUND–2010–0072.
Wright Chemical Corporation	Riegelwood, NC	EPA–HQ–SFUND–2010–0073.
Mansfield Trail Dump	Byram Township, NJ	EPA–HQ–SFUND–2010–0634.
Dewey Loeffel Landfill	Nassau, NY	EPA–HQ–SFUND–2010–0075.
Milford Contaminated Aquifer	Milford, OH	EPA–HQ–SFUND–2010–0643.
Cabo Rojo Ground Water Contamination	Cabo Rojo, PR	EPA–HQ–SFUND–2010–0638.
Hormigas Ground Water Plume	Caguas, PR	EPA–HQ–SFUND–2010–0636.
West County Road 112 Ground Water	Midland, TX	EPA–HQ–SFUND–2010–0645.

B. What documents are available for review at the Headquarters Docket?

The Headquarters Docket for this rule contains, for each site, the HRS score sheets, the Documentation Record describing the information used to compute the score, pertinent information regarding statutory requirements or EPA listing policies that affect the site, and a list of documents referenced in the Documentation Record. For sites that received comments during the comment period, the Headquarters Docket also contains a Support Document that includes EPA's responses to comments.

C. What documents are available for review at the Regional Dockets?

The Regional Dockets contain all the information in the Headquarters Docket, plus the actual reference documents containing the data principally relied upon by EPA in calculating or evaluating the HRS score for the sites located in their Region. These reference documents are available only in the Regional Dockets. For sites that received comments during the comment period, the Regional Docket also contains a Support Document that includes EPA's responses to comments.

D. How do I access the documents?

You may view the documents, by appointment only, after the publication of this rule. The hours of operation for the Headquarters Docket are from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. Please contact the Regional Dockets for hours.

Following is the contact information for the EPA Headquarters: Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; 1301 Constitution Avenue, NW.; EPA West, Room 3334, Washington, DC 20004, 202/566–0276.

The contact information for the Regional Dockets is as follows:

Joan Berggren, Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA, Superfund Records and Information Center, Mailcode HSC, One Congress Street, Suite 1100, Boston, MA 02114–2023; 617/918–1417.

Ildefonso Acosta, Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007–1866; 212/637–4344.

Dawn Shellenberger (ASRC), Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, Library, 1650 Arch Street, Mailcode 3PM52, Philadelphia, PA 19103; 215/814–5364.

Debbie Jourdan, Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street, SW, Mailcode 9T25, Atlanta, GA 30303; 404/562–8862.

Evette Jones, Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA, Records Center, Superfund Division SRC–7J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604; 312/886–7572.

Brenda Cook, Region 6 (AR, LA, NM, OK, TX), U.S. EPA, 1445 Ross Avenue, Suite 1200, Mailcode 6SFTS, Dallas, TX 75202–2733; 214/665–7436.

Michelle Quick, Region 7 (IA, KS, MO, NE), U.S. EPA, 901 North 5th Street, Mailcode SUPRERNB, Kansas City, KS 66101; 913/551–7335.

Sabrina Forrest, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 1595 Wynkoop Street, Mailcode 8EPR–B, Denver, CO 80202–1129; 303/312–6484.

Karen Jurist, Region 9 (AZ, CA, HI, NV, AS, GU, MP), U.S. EPA, 75 Hawthorne Street, Mailcode SFD–9–1, San Francisco, CA 94105; 415/972–3219.

Ken Marcy, Region 10 (AK, ID, OR, WA), U.S. EPA, 1200 6th Avenue, Mailcode ECL–112, Seattle, WA 98101; 206/463–1349.

E. How may I obtain a current list of NPL sites?

You may obtain a current list of NPL sites via the Internet at *http://www.epa.gov/superfund/* (look under the Superfund sites category) or by contacting the Superfund Docket (*see* contact information above).

III. Contents of This Final Rule

A. Additions to the NPL

This final rule adds the following ten sites to the NPL, all to the General Superfund Section. The sites are presented in the table below:

State	Site name	City/county
MD	Dwyer Property Ground Water Plume	Elkton.
MO	Washington County Lead District—Furnace Creek	Caledonia.
MT	ACM Smelter and Refinery	Cascade County.
NC	Wright Chemical Corporation	Riegelwood.
NJ	Mansfield Trail Dump	Byram Township.
NY	Dewey Loeffel Landfill	Nassau.
OH	Milford Contaminated Aquifer	Milford.
PR	Cabo Rojo Ground Water Contamination	Cabo Rojo.
PR	Hormigas Ground Water Plume	Caguas.
TX	West County Road 112 Ground Water	Midland.

B. What did EPA do with the public comments it received?

EPA reviewed all comments received on the sites in this rule and responded to all relevant comments. This rule adds ten sites to the NPL.

Two sites received no comments: Dwyer Property Ground Water Plume (MD), and Cabo Rojo Ground Water Contamination (PR). Four sites received only comments in favor of listing: Mansfield Trail Dump (NJ), Milford Contaminated Aquifer (OH), Hormigas Ground Water Plume (PR), and West County Road 112 Ground Water (TX). For these sites, EPA agrees with the commenters that the sites warrant being placed on the NPL and require further study to determine what, if any, remediation is necessary. In addition, there were some erroneous comments submitted. One comment regarding a mine in Alaska was incorrectly submitted to the Hormigas Ground Water Plume docket, and one anonymous comment submitted to the West County Road 112 docket contained only the letter "t".

The Washington County Lead District—Furnace Creek site (MO) received a comment unrelated to listing. The commenter asked that EPA provide the results of soil and water testing conducted at the commenter's residence and further requested to know what proposed cleanup would be employed and how long would it take. In response, EPA will provide the testing results, but cannot provide a cleanup plan, if cleanup is found to be necessary, until further studies are conducted. The commenter and others will have an opportunity to comment on any proposed plan before EPA makes a final cleanup decision.

Three sites being added to the NPL received comments related to the HRS score: Wright Chemical Corporation (NC), Dewey Loeffel Landfill (NY), and ACM Smelter and Refinery (MT). EPA's responses to these comments are provided in support documents prepared for each site which are available in the regional and Headquarters public dockets concurrent with the publication of this final rule.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

1. What is Executive Order 12866?

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one 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.

2. Is this final rule subject to Executive Order 12866 review?

No. The listing of sites on the NPL does not impose any obligations on any entities. The listing does not set standards or a regulatory regime and imposes no liability or costs. Any liability under CERCLA exists irrespective of whether a site is listed. It has been determined that this action is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

1. What is the Paperwork Reduction Act?

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations, after initial display in the preamble of the final rules, are listed in 40 CFR part 9.

2. Does the Paperwork Reduction Act apply to this final rule?

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* EPA has determined that the PRA does not apply because this rule does not contain any information collection requirements that require approval of the OMB.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time

needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

1. What is the Regulatory Flexibility Act?

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

2. How has EPA complied with the Regulatory Flexibility Act?

This rule listing sites on the NPL does not impose any obligations on any group, including small entities. This rule also does not establish standards or requirements that any small entity must meet, and imposes no direct costs on any small entity. Whether an entity, small or otherwise, is liable for response costs for a release of hazardous substances depends on whether that entity is liable under CERCLA 107(a). Any such liability exists regardless of whether the site is listed on the NPL through this rulemaking. Thus, this rule does not impose any requirements on any small entities. For the foregoing reasons, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

1. What is the Unfunded Mandates Reform Act (UMRA)?

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Before EPA promulgates a rule where a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

2. Does UMRA apply to this final rule?

This final rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Listing a site on the NPL does not itself impose any costs. Listing does not mean that EPA necessarily will undertake remedial action. Nor does listing require any action by a private party or determine liability for response costs. Costs that arise out of site responses result from site-specific decisions regarding what actions to take, not directly from the act of placing a site on the NPL. Thus, this rule is not subject to the requirements of section 202 and 205 of UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. As is mentioned above, site listing does not impose any costs and would not require any action of a small government.

E. Executive Order 13132: Federalism

1. What is Executive Order 13132?

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" are defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

2. Does Executive Order 13132 apply to this final rule?

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it does not contain any requirements applicable to States or other levels of government. Thus, the requirements of the Executive Order do not apply to this final rule.

EPA believes, however, that this final rule may be of significant interest to State governments. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA therefore consulted with State officials and/or representatives of State governments early in the process of developing the rule to permit them to have meaningful and timely input into its development. All sites included in this final rule were referred to EPA by States for listing. For all sites in this rule, EPA received letters of support either from the Governor or

a State official who was delegated the authority by the Governor to speak on their behalf regarding NPL listing decisions.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

1. What is Executive Order 13175?

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" are defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

2. Does Executive Order 13175 apply to this final rule?

This final rule does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). Listing a site on the NPL does not impose any costs on a tribe or require a tribe to take remedial action. Thus, Executive Order 13175 does not apply to this final rule.

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

1. What is Executive Order 13045?

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

2. Does Executive Order 13045 apply to this final rule?

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this section present a disproportionate risk to children.

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

1. What is Executive Order 13211?

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)), requires federal agencies to prepare a "Statement of Energy Effects" when undertaking certain regulatory actions. A Statement of Energy Effects describes the adverse effects of a "significant energy action" on energy supply, distribution and use, reasonable alternatives to the action, and the expected effects of the alternatives on energy supply, distribution and use.

2. Does Executive Order 13211 apply to this final rule?

This action is not a "significant energy action" as defined in Executive Order 13211, because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this final rule is not likely to have any adverse energy impacts because adding a site to the NPL does not require an entity to conduct any action that would require energy use, let alone that which would significantly affect energy supply, distribution, or usage. Thus, Executive Order 13175 does not apply to this action.

I. National Technology Transfer and Advancement Act

1. What is the National Technology Transfer and Advancement Act?

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

2. Does the National Technology Transfer and Advancement Act apply to this final rule?

No. This rulemaking does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

1. What is Executive Order 12898?

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

2. Does Executive Order 12898 apply to this rule?

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. As this rule does not impose any enforceable duty upon State, tribal, or local governments, this rule will neither increase nor decrease environmental protection.

K. Congressional Review Act

1. Has EPA submitted this rule to Congress and the Government Accountability Office?

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, that includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA has submitted a report containing this rule 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 rule is not a "major rule" as defined by 5 U.S.C. 804(2).

2. Could the effective date of this final rule change?

Provisions of the Congressional Review Act (CRA) or section 305 of CERCLA may alter the effective date of this regulation.

Under the CRA, 5 U.S.C. 801(a), before a rule can take effect the federal agency promulgating the rule must submit a report to each House of the Congress and to the Comptroller General. This report must contain a copy of the rule, a concise general statement relating to the rule (including whether it is a major rule), a copy of the cost-benefit analysis of the rule (if any), the agency's actions relevant to provisions of the Regulatory Flexibility Act (affecting small businesses) and the Unfunded Mandates Reform Act of 1995 (describing unfunded federal requirements imposed on state and local governments and the private sector), and any other relevant information or requirements and any relevant Executive Orders.

EPA has submitted a report under the CRA for this rule. The rule will take effect, as provided by law, within 30 days of publication of this document, since it is not a major rule. Section 804(2) defines a major rule as any rule that the Administrator of the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) finds has resulted in or is likely to result in: an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. NPL listing is not a major rule because, as explained above, the listing, itself, imposes no monetary costs on any person. It establishes no enforceable duties, does not establish that EPA necessarily will undertake remedial action, nor does it require any action by any party or determine liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Section 801(a)(3) provides for a delay in the effective date of major rules after this report is submitted.

3. What could cause a change in the effective date of this rule?

Under 5 U.S.C. 801(b)(1) a rule shall not take effect, or continue in effect, if Congress enacts (and the President signs) a joint resolution of disapproval, described under section 802.

Another statutory provision that may affect this rule is CERCLA section 305, which provides for a legislative veto of regulations promulgated under CERCLA. Although *INS* v. *Chadha,* 462 U.S. 919,103 S. Ct. 2764 (1983) and *Bd. of Regents of the University of Washington* v. *EPA,* 86 F.3d 1214,1222 (D.C. Cir. 1996) cast the validity of the legislative veto into question, EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives.

If action by Congress under either the CRA or CERCLA section 305 calls the effective date of this regulation into question, EPA will publish a document of clarification in the **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: March 3, 2011.

Mathy Stanislaus,

Assistant Administrator, Office of Solid Waste and Emergency Response.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

■ 2. Table 1 of Appendix B to part 300 is amended by adding the following sites in alphabetical order to read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1—GENERAL SUPERFUND SECTION

State	Site name	City/county	Notes [a]
*	*	*	*
MD	Dwyer Property Ground Water Plume	Elkton.	
*	*	*	*
MO	Washington County Lead District—Furnace Creek	Caledonia.	
*	*	*	*
MT	ACM Smelter and Refinery	Cascade County.	
*	*	*	*
NC	Wright Chemical Corporation	Riegelwood.	
*	*	*	*
NJ	Mansfield Trail Dump	Byram Township.	
*	*	*	*
NY	Dewey Loeffel Landfill	Nassau.	
*	*	*	*
OH	Milford Contaminated Aquifer	Milford.	
*	*	*	*
PR	Cabo Rojo Ground Water Contamination	Cabo Rojo.	

TABLE 1—GENERAL SUPERFUND SECTION—Continued

State	Site name	City/county	Notes [a]
*	* * * *	*	*
PR	Hormigas Ground Water Plume	Caguas.	
*	* * * *	*	*
TX	West County Road 112 Ground Water	Midland.	
*	* * * *	*	*

[a] A = Based on issuance of health advisory by Agency for Toxic Substance and Disease Registry (HRS score need not be greater than or equal to 28.50).
C = Sites on Construction Completion list.
S = State top priority (HRS score need not be greater than or equal to 28.50).
P = Sites with partial deletion(s).

[FR Doc. 2011–5337 Filed 3–9–11; 8:45 am]
BILLING CODE 6560–50–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

45 CFR Part 1180

Institute of Museum and Library Services; Evaluation by Grantees

AGENCY: Institute of Museum and Library Services, National Foundation On the Arts and Humanities.

ACTION: Technical amendment; final rule.

SUMMARY: This rule makes a technical amendment to the Institute of Museum and Library Services' (IMLS') reporting guidelines for grantees. The purpose of this rule is to ensure the agency's requirements are consistent with guidance provided by the Office of Management and Budget (OMB).

DATES: Effective March 10, 2011.

FOR FURTHER INFORMATION CONTACT: Institute of Museum and Library Services, *Attn:* Office of the General Counsel, 1800 M Street, NW., 9th Floor, Washington, DC 20036; or Nancy E. Weiss, (202) 653–4640. Hearing impaired individuals are advised that information on this matter may be obtained by contacting the IMLS TTY Phone on (202) 653–4614.

SUPPLEMENTARY INFORMATION:

Background: OMB Circular A–110, Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, provides, in part, that an agency awarding grants shall prescribe the frequency with which performance reports shall be submitted, and that that frequency shall be not more than quarterly, nor less than annually. 2 CFR 215.51.

IMLS amends 45 CFR 1180.46, Evaluation by the grantee, to ensure that IMLS requirements conform to the government-wide grants reporting requirements as reflected in OMB Circular A–110.

This final rule implements the OMB Circular and does not make any significant changes in current policies and procedures. IMLS issues this rule as a direct final rule. Under 5 U.S.C. 553(b)(3)(A) agencies are not required to undergo notice and comment procedure for "interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice." Because this rule brings IMLS' regulation into line with OMB Uniform Administrative Requirements for Grants and Agreements under Circular A–110, it falls under the exception cited above.

List of Subjects in 45 CFR Part 1180

Libraries, Museums, Administrative practice and procedure, Grant programs, Grant administration, Nonprofit organizations, Reporting and recordkeeping requirements.

Accordingly, 45 CFR part 1180 is amended as follows:

PART 1180—GRANT REGULATIONS

■ 1. The authority citation for part 1180 is revised to read as follows:

Authority: 20 U.S.C. 9101–9176; 2 CFR 215.

■ 2. Section 1180.46 is revised to read as follows:

§ 1180.46 Evaluation by the grantee.

(a) A grantee shall evaluate at least annually:

(1) The grantee's progress in achieving the objectives set forth in its approved application; and

(2) The contribution of the grant toward meeting the purposes of the Act.

(b) More frequent evaluations may be required by the Institute at the discretion of the Director or the Director's designee.

Nancy E. Weiss,

General Counsel, Institute of Museum and Library Services.

[FR Doc. 2011–5014 Filed 3–9–11; 8:45 am]
BILLING CODE 7036–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 101126522–0640–02]

RIN 0648–XA277

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 in the Gulf of Alaska

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

ACTION: Temporary rule; modification of a closure.

SUMMARY: NMFS is opening directed fishing for pollock in Statistical Area 630 of the Gulf of Alaska (GOA). This action is necessary to fully use the A season allowance of the 2011 total allowable catch (TAC) of pollock in Statistical Area 630 of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 7, 2011, through 1200 hrs, A.l.t., March 10, 2011. Comments must be received at the following address no later than 4:30 p.m., A.l.t., *March 22, 2011.*

ADDRESSES: Send comments to James W. Balsiger, Regional Administrator, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by RIN 0648–XA277, by any one of the following methods:

• *Electronic Submissions:* Submit all electronic public comments via the

Federal eRulemaking Portal *http://www.regulations.gov.*

- *Mail:* P.O. Box 21668, Juneau, AK 99802.
- *Fax:* (907) 586–7557.
- *Hand delivery to the Federal Building:* 709 West 9th Street, Room 420A, Juneau, AK.

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

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

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

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

NMFS closed directed fishing for pollock in Statistical Area 630 of the GOA under § 679.20(d)(1)(iii) on February 28, 2011 (76 FR 11393, March 2, 2011).

As of March 2, 2011, NMFS has determined that approximately 4,100 metric tons of pollock remain in the directed fishing allowance for pollock in Statistical Area 630 of the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the A season allowance of the 2011 TAC of pollock in Statistical Area 630 of the GOA, NMFS is terminating the previous closure and is reopening directed fishing pollock in Statistical Area 630 of the GOA. The Administrator, Alaska Region (Regional Administrator) considered the following factors in reaching this decision: (1) The current catch of pollock in Statistical Area 630 of the GOA and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

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 pollock fishery in Statistical Area 630 of the GOA. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet and processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 2, 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.

Without this inseason adjustment, NMFS could not allow pollock fishery in Statistical Area 630 of the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until March 22, 2011.

This action is required by § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: March 7, 2011.

Margo Schulze-Haugen,

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

[FR Doc. 2011–5520 Filed 3–7–11; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 101126521–6040–02]

RIN 0648–XA279

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Less Than 60 Feet (18.3 m) Length Overall Using Hook-and-Line or Pot Gear in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 m) length overall (LOA) using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2011 Pacific cod total allowable catch allocated to catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 8, 2011, through 2400 hrs, A.l.t., December 31, 2011.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

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

The 2011 Pacific cod total allowable catch (TAC) allocated as a directed fishing allowance to catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI is 4,055 metric tons, as established by the final 2011 and 2012 harvest specification for groundfish in the BSAI (76 FR 11139, March 1, 2011).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS, has determined that the 2011 Pacific cod TAC allocated as a directed fishing allowance allocated to catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI

has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific cod by catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 3, 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 § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: March 7, 2011.

Margo Schulze-Haugen,

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

[FR Doc. 2011–5528 Filed 3–7–11; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 76, No. 47
Thursday, March 10, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 315

RIN 3206–AM36

Noncompetitive Appointment of Certain Military Spouses

AGENCY: U.S. Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The U.S. Office of Personnel Management (OPM) is issuing proposed regulations to eliminate the 2-year eligibility limitation for noncompetitive appointment for spouses of certain deceased or 100 percent disabled veterans. OPM is removing this restriction to provide spouses of certain deceased or 100 percent disabled veterans with unlimited eligibility for noncompetitive appointment. The intended effect of this change is to further facilitate the entry of these military spouses into the Federal civil service.

DATES: Comments must be received on or before May 9, 2011.

ADDRESSES: You may submit comments, which are identified by RIN 3206–AM36, by any of the following methods:

- *E-mail: employ@opm.gov.* Include "RIN 3206–AM36, Career and Career-Conditional Employment" in the subject line of the message.
- *Fax:* (202) 606–2329.
- *Mail:* Angela Bailey, Deputy Associate Director for Employee Services, U.S. Office of Personnel Management, Room 6566, 1900 E Street, NW., Washington, DC 20415–9700.

FOR FURTHER INFORMATION CONTACT: Michelle Glynn, 202–606–1571, *Fax:* 202–606–2329 by TDD: 202–418–3134, or *e-mail: michelle.glynn@opm.gov.*

SUPPLEMENTARY INFORMATION: On September 25, 2008, the President issued Executive Order (E.O.) 13473 allowing agencies to make noncompetitive appointments of spouses of certain members of the armed forces. OPM implemented this E.O. via final regulations which were published in the **Federal Register** (FR) on August 12, 2009 (74 FR 40471). OPM's implementing rules established a noncompetitive hiring authority for certain military spouses. Under this hiring authority, eligible spouses include, subject to other criteria specified in the final rule, the following categories of military spouses: Those who are relocating with their service member spouse as a result of permanent change of station (PCS) orders, spouses of service members who incurred a 100 percent disability because of the service member's active duty service, and the un-remarried widow or widower of a service member killed while on active duty. A spouse remains eligible for a noncompetitive appointment for a maximum of 2 years from the date of: (a) The service member's orders authorizing a permanent change of station; (b) the documentation showing the service member is 100 percent disabled; or (c) the documentation showing the service member was killed while on active duty.

Paragraph (d) of proposed § 315.612 provides conditions under which an agency may appoint a military spouse noncompetitively under this section. In this paragraph, OPM is proposing to eliminate the 2-year eligibility window for spouses of service members who incurred a 100 percent disability because of the service member's active duty service, and spouses of service members killed while on active duty. This paragraph extends without time limitation the eligibility of these spouses from the date of documentation showing the service member is 100 percent disabled because of active duty service, or documentation showing the service member was killed while on active duty.

On February 4, 2011, the Department of the Navy presented OPM with the findings of a Spouse Employment and Empowerment Integrated Process Team that was initiated by the Chairman of the Joint Chiefs of Staff. The Integrated Process Team found that spouses of service members who were killed or who became 100 percent disabled while on active duty had been unable to make use of the noncompetitive hiring authority within the 2-year eligibility period prescribed by regulation, due to their bereavement, their convalescent care responsibilities, their dependant care responsibilities, or their need to undergo education or training. OPM believes that it is inconsistent with the purpose of E.O. 13473 to deny a military spouse the opportunity to make use of the noncompetitive hiring authority when the very condition that gives rise to eligibility—the death or disability of a service member—also places unique burdens on the service member's spouse that delay his or her workforce reentry.

For this reason, OPM is proposing to eliminate the 2-year eligibility period for noncompetitive appointment for spouses of service members who incurred a 100 percent disability because of the service member's active duty service, and for spouses of service members killed while on active duty. The 2-year eligibility period will remain in effect for spouses whose eligibility is based on relocating with their service member spouse as a result of PCS orders.

E.O. 12866 and E.O. 13563 Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866 and Executive Order 13563.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only Federal agencies and employees.

List of Subjects in 5 CFR Part 315

Government employees.

U.S. Office of Personnel Management.

John Berry,

Director.

Accordingly, OPM is proposing to amend 5 CFR part 315 as follows:

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

1. The authority citation for part 315 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, and 3302; E.O. 10577, 3 CFR, 1954–1958 Comp. p. 218, unless otherwise noted; and E.O. 13162. Secs. 315.601 and 315.609 also issued under 22 U.S.C. 3651 and 3652. Secs. 315.602 and 315.604 also issued under 5 U.S.C. 1104. Sec. 315.603 also issued under 5 U.S.C. 8151. Sec. 315.605 also issued under E.O. 12034, 3 CFR, 1978 Comp. p.111. Sec. 315.606 also issued under E.O. 11219, 3 CFR, 1964–1965 Comp.

p. 303. Sec. 315.607 also issued under 22 U.S.C. 2560. Sec. 315.608 also issued under E.O. 12721, 3 CFR, 1990 Comp. p. 293. Sec. 315.610 also issued under 5 U.S.C. 3304(c). Sec. 315.611 also issued under 5 U.S.C. 3304(f). Sec. 315.612 also under E.O. 13473. Sec. 315.708 also issued under E.O. 13318, 3 CFR, 2004 Comp. p. 265. Sec. 315.710 also issued under E.O. 12596, 3 CFR, 1978 Comp. p. 264.

Subpart F—Career or Career Conditional Appointment Under Special Authorities

2. In § 315.612, revise paragraph (d)(1) to read as follows:

§ 315.612 Noncompetitive appointment of certain military spouses.

* * * * *

(d) *Conditions.* (1) In accordance with the provisions of this section, spouses are eligible for noncompetitive appointment:

(i) For a maximum of 2 years from the date of the service member's permanent change of station orders;

(ii) From the date of documentation verifying the member of the armed forces is 100 percent disabled; or

(iii) From the date of documentation verifying the member of the armed forces was killed while on active duty.

* * * * *

[FR Doc. 2011–5459 Filed 3–9–11; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–2011–BT–BC–0009]

Building Energy Codes Program: Presenting and Receiving Comments to DOE Proposed Changes to the International Green Construction Code (IgCC)

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

ACTION: Notice of public meeting.

SUMMARY: The U. S. Department of Energy's Office of Energy Efficiency and Renewable Energy (EERE) is seeking input on potential proposed changes to the draft International Green Construction Code (IgCC). The first edition of the IgCC is currently being developed by the International Code Council (ICC) for anticipated publication in 2012. EERE will be holding a public meeting to present and solicit public comment on proposed changes.

DATES: DOE will hold a public meeting on 14 April, 2011, from 9 a.m. to 4 p.m., in Washington, DC.

ADDRESSES: The public meeting will be held at the Holiday Inn, 550 C Street, SW., Washington, DC 20585–0121. If a foreign national wishes to participate in the meeting, please inform DOE as soon as possible by contacting Ms. Brenda Edwards at (202) 586–2945 so that the necessary procedures can be completed.

Background Materials and Submitting Comments: For access to the IgCC code change proposals filed by DOE, visit the Web site: *http://www.energycodes.gov/development/IgCC/.* Written comments may be filed to each DOE IgCC code change proposal by using the "submit input" function on this Web site.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Dewey, U.S. Department of Energy, Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121. *Tel.:* (202) 287–1534. *E-mail: Robert.Dewey@ee.doe.gov.*

Mr. Chris Calamita, U.S. Department of Energy, Office of the General Counsel, GC–72, 1000 Independence Avenue, SW., Washington, DC 20585–0121. *Tel.:* (202) 586–1777. *E-mail: Christopher.Calamita@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: The public meeting announced in today's notice is for DOE to present and receive comments on DOE's proposed changes to the IgCC.

The IgCC is being developed to provide a baseline of codes addressing green construction, and provide a framework linking sustainability with safety and performance.

The IgCC is intended to provide a green model building code provisions for new and existing commercial buildings and would include American Society of Heating, Refrigerating and Air-Conditioning Engineers ASHRAE 189.1–2009 as an alternate compliance option in its current form. It is currently being developed as a voluntary "overlay" code with energy conservation and efficiency provisions intended to exceed those in the 2012 IECC. It also contains provisions for regulating site development and land use, material resource conservation and efficiency, water resource conservation and efficiency, indoor environmental quality and commissioning. The IgCC also currently provides for jurisdictional requirements and is intended to provide compliance flexibility through a variety of optional project electives.

The International Codes Council will conduct hearings on the IgCC from May 16 through May 22, 2011, in Dallas, Texas, for consideration of the proposed changes. The complete set of all 1400 proposed changes to the IgCC will be available from the ICC in mid-March.

It is not the object of this public meeting to obtain any group position or consensus. Rather, the EERE is seeking as many recommendations as possible from all individuals at this meeting. The meeting will be conducted in a conference style.

Written comments to the IgCC code change proposals filed by DOE may be submitted by using the "submit input" function assigned to each DOE proposal on the Web site: *http://www.energycodes.gov/development/IgCC/.*

Issued in Washington, DC, on March 4, 2011.

Roland J. Risser,

Program Manager, Building Technologies Program, Energy Efficiency and Renewable Energy.

[FR Doc. 2011–5494 Filed 3–9–11; 8:45 am]

BILLING CODE 6450–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 23, 37, 38, and 39

RIN 3038–AC98

Requirements for Processing, Clearing, and Transfer of Customer Positions

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission (Commission) is proposing regulations to implement Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Proposed regulations would establish the time frame for a swap dealer (SD), major swap participant (MSP), futures commission merchant (FCM), swap execution facility (SEF), and designated contract market (DCM) to submit contracts, agreements, or transactions to a derivatives clearing organization (DCO) for clearing. Proposed regulations also would facilitate compliance with DCO Core Principle C (Participant and Product Eligibility) in connection with standards for cleared products and the prompt and efficient processing of all contracts, agreements, and transactions submitted for clearing. The Commission is further proposing related regulations implementing SEF Core Principle 7 (Financial Integrity of Transactions) and DCM Core Principle 11 (Financial Integrity of Transactions), requiring coordination with DCOs in the

development of rules and procedures to facilitate clearing. Additionally, the Commission is proposing a regulation to implement DCO Core Principle F (Treatment of Funds), requiring a DCO, upon customer request, to promptly transfer customer positions and related funds from one clearing member to another, without requiring the close-out and re-booking of the positions.

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

ADDRESSES: You may submit comments, identified by RIN number 3038–AC98, by any of the following methods:

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

Please submit comments by only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that may be exempt from disclosure under the Freedom of Information Act (FOIA), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1] The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse, or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under FOIA.

FOR FURTHER INFORMATION CONTACT: John C. Lawton, Deputy Director, 202–418–5480, *jlawton@cftc.gov;* Phyllis P. Dietz, Associate Director, 202–418–5449, *pdietz@cftc.gov;* Sarah E. Josephson, Associate Director, 202–418–5684, *sjosephson@cftc.gov,* Division of Clearing and Intermediary Oversight; Riva Spear Adriance, Associate Director, 202–418–5494, *radriance@cftc.gov;* Nancy Markowitz, Assistant Deputy Director, 202–418–5453, *nmarkowitz@cftc.gov;* Nadia Zakir, Attorney-Advisor, 202–418–5720, *nzakir@cftc.gov;* Mauricio Melara, Attorney-Advisor, 202–418–5719, *mmelara@cftc.gov;* Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

A. Title VII of the Dodd-Frank Act

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

In this notice of proposed rulemaking, the Commission proposes to adopt regulations to establish the time frame for an SD, MSP, FCM, SEF, or DCM to process and submit contracts, agreements, or transactions to a DCO for clearing; to establish certain product standards and a time frame for a DCO to clear such contracts, agreements, and transactions; and to facilitate a DCO's transfer of open positions from a carrying clearing member to another clearing member without unwinding and re-booking the position. These supplement proposed regulations that were previously published for public comment.[5]

B. Existing Swap Clearing Practices

1. Time Frame for Clearing

Currently, a significant number of swaps are not cleared and, for those that are cleared, there may be a delay in the substitution of a DCO as the counterparty to the transaction through a novation of the original contract, agreement, or transaction.[6] In many instances, this delay can be up to a week. For example, some clearinghouses accept bilateral trades for clearing on a batched basis once a week. This time lag potentially presents credit risk to the swap counterparties and the DCO because the value of a position may change significantly between the time of execution and the time of novation, thereby allowing financial exposure to accumulate in the absence of daily mark-to-market. Among the purposes of clearing are the reduction of risk and the enhancement of financial certainty, and this delay diminishes these benefits of clearing swaps that Congress sought to promote in the Dodd-Frank Act. Delay in clearing is also inconsistent with other proposed regulations concerning product eligibility and financial integrity of transactions insofar as the delay constrains liquidity and increases risk.

The Commission recognizes that there may be instances when a delay in acceptance of a transaction by a DCO is unavoidable. For instance, when new products are first listed for clearing, existing legacy transactions may have to be moved into clearing incrementally. However, this process, sometimes referred to as backloading or migration, should be accomplished as quickly as possible.

The swap market infrastructure established by the Dodd-Frank Act provides for the trading of swaps on a SEF or DCM. The Dodd-Frank Act also

[1] Commission regulations referred to herein are found at 17 CFR Ch. 1 (2010). They are accessible on the Commission's Web site at *http://www.cftc.gov.*

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

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

[4] 7 U.S.C. 1 *et seq.*

[5] *See e.g.,* 76 FR 6715, Feb. 8, 2011 (proposed rules for SD and MSP documentation); 76 FR 3698, Jan. 20, 2011, (proposed rules for DCO Core Principles C and F); 76 FR 1214, Jan. 7, 2011 (proposed rules for SEF Core Principle 7; 75 FR 81519, Dec. 28, 2010, (proposed rules for SD and MSP confirmation, portfolio reconciliation, and portfolio compression); 75 FR 80572, Dec. 22, 2010 (proposed rules for DCM Core Principle 11).

[6] A clearinghouse becomes the counterparty to trades with market participants through novation, an open offer system, or an analogous legally binding arrangement. Through novation, the original contract between the buyer and seller is extinguished and replaced by two new contracts, one between the clearinghouse and the buyer and the other between the clearinghouse and the seller. In an open offer system, a clearinghouse is automatically and immediately interposed in a transaction at the moment the buyer and seller agree on the terms.

establishes certain parameters for the bilateral execution of swaps among entities registered as SDs or MSPs and their counterparties. Swaps traded on a SEF or DCM, as well as swaps executed bilaterally, that are subject to mandatory clearing (and have not been electively excepted from mandatory clearing by an end user under section 2(h)(7) of the CEA), must be cleared by a registered DCO. For swaps executed bilaterally that are not required to be cleared, if the parties to the transaction agree to clear, they may submit the swap to a registered DCO for clearing.

Through this proposed rulemaking, the Commission seeks to expand access to, and to strengthen the financial integrity of, the swap markets subject to Commission oversight by requiring, and establishing uniform standards for, prompt processing, submission, and acceptance of swaps eligible for clearing by DCOs. This requires setting an appropriate time frame for the processing and submission of swaps for clearing, as well as a time frame for the clearing of swaps by the DCO.

2. Transfer of Swaps Positions and Related Funds

Currently, in the futures industry, a request by a customer to transfer its open positions and related funds from its carrying FCM to another FCM is accomplished within a reasonable period of time (typically within two business days). However, under current practice for some cleared swaps, a customer's request to transfer all or a portion of its swap positions and related funds may be subject to a more significant delay. (A party to a cleared swap may wish to transfer its positions from its current clearing member to another clearing member because there is concern about the carrying clearing member's financial strength or for competitive reasons relating to customer service or pricing). In these instances, a party must either enter into an offsetting position without terminating its original position, thereby creating economically unnecessary trades, or "unwind" the position with the clearinghouse.

In proposing a new regulation to implement DCO Core Principle F (Treatment of Funds), the Commission seeks to ensure that DCOs do not impose economic or operational obstacles to the prompt transfer of customer positions and related funds from one clearing member to another, upon the request of a customer. The Commission's purpose in this regard is to formalize and apply to swaps clearing, the futures clearinghouse practice of transferring customer positions and related funds without close-out and re-booking of the positions.

II. Proposed Regulations

A. Proposed § 23.506—SD and MSP Submission of Swaps for Processing and Clearing

1. Proposed Regulations

Section 731 of the Dodd-Frank Act amends the CEA by adding a new section 4s, which sets forth a number of requirements for SDs and MSPs. Specifically, section 4s(i) of the CEA establishes swap documentation standards for SDs and MSPs and requires them to "conform with such standards as may be prescribed by the Commission by rule or regulation that relate to timely and accurate confirmation, processing, netting, documentation, and valuation of all swaps." Accordingly, the Commission is proposing regulations on swap processing and clearing discussed below, pursuant to the authority granted under sections 4s(h)(1)(D), 4s(h)(3)(D), 4s(i), and 8a(5) of the CEA.[7] These proposed regulations for SDs and MSPs are intended to complement the proposed regulations for DCOs, which require timely acceptance of swaps for clearing.[8]

In order to ensure compliance with any mandatory clearing requirement issued pursuant to section 2(h)(1) of the CEA and to promote the mitigation of counterparty credit risk through the use of central clearing, the Commission is proposing § 23.506(a)(1), which would require that SDs and MSPs have the ability to route swaps that are not executed on a SEF or DCM to a DCO in a manner that is acceptable to the DCO for the purposes of risk management. Under § 23.506(a)(2), SDs and MSPs would also be required to coordinate with DCOs to facilitate prompt and efficient processing in accordance with proposed regulations related to the timing of clearing by DCOs.

Proposed § 23.506(a) does not prescribe the manner by which SDs or MSPs route their swaps to DCOs and provide for prompt and efficient processing. Indeed, in many instances, it is likely that DCOs will enable SDs and MSPs to submit their swaps to clearing via third-party platforms and other service providers. In this manner, privately negotiated swaps may be submitted to DCOs with minimal burden on market participants.

Proposed § 23.506(b) would set forth timing requirements for submitting swaps to DCOs in those instances where the swap is subject to a clearing mandate and in those instances when a swap is not subject to a mandate. Under § 23.506(b)(1), an SD or MSP would be required to submit a swap that is not executed on a SEF or DCM, but is subject to a clearing mandate under section 2(h)(1) of the CEA (and has not been electively excepted from mandatory clearing by an end user under section 2(h)(7) of the CEA) as soon as technologically practicable following execution of the swap, but no later than the close of business on the day of execution.

For those swaps that are not subject to a clearing mandate, but both counterparties to the swap have elected to clear the swap, under proposed § 23.506(b)(2), the SD or MSP would be required to submit the swap for clearing not later than the next business day after execution of the swap or the agreement to clear, if later than execution. This time frame reflects the possibility that, unlike a trade that takes place on a DCM, in the case of a bilateral swap, the parties may need time to agree to terms that would conform with a DCO's template for swaps it will accept for clearing. As noted previously, any delay between execution and novation to a clearinghouse potentially presents credit risk to the swap counterparties and the DCO because the value of the position could change significantly between the time of execution and the time of novation, thereby allowing financial exposure to accumulate in the absence of daily mark-to-market. The proposed regulation would serve to limit this delay as much as reasonably possible.

Proposed § 23.506 is consistent with regulations previously proposed for SDs and MSPs, including proposed § 23.501, which requires confirmation of all swaps.[9] In fact, by providing for confirmation upon acceptance for clearing pursuant to proposed § 39.12(b)(7)(v), SDs and MSPs would be able to satisfy proposed § 23.501.

Proposed § 23.506 is consistent with the Commission's proposed regulations requiring reporting of swap transaction data to a registered swap data repository.[10] Under these proposed regulations, SDs and MSPs are required to report certain information about a

[7] 7 U.S.C. 6s(h)(1)(D); 7 U.S.C. 6s(h)(3)(D); 7 U.S.C. 6s(i); and 7 U.S.C. 12a(5). Section 8a(5) of the CEA authorizes the Commission to promulgate such regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of the CEA.

[8] *See* discussion in section II.B. of this notice.

[9] *See* 76 FR at 81531.

[10] *See* 75 FR 76574, Dec. 8, 2010 (proposed rules for swap data recordkeeping and reporting requirements).

swap that is not executed on a SEF or DCM to a registered swap data repository "promptly following verification of the primary economic terms by the counterparties with each other at or immediately following execution of the swap, but in no event later than: 30 minutes after execution of the swap if verification of primary economic terms occurs electronically; or 24 hours after execution of a swap if verification of primary economic terms does not occur electronically." [11] One of the "primary economic terms" required to be reported under such proposed regulations is an indication of whether or not the swap will be cleared by a DCO.[12]

The proposed regulation also is consistent with the Commission's proposed regulations requiring real-time public reporting of swap transaction and pricing data.[13] Under these proposed regulations, SDs and MSPs are required to report certain information about a swap that is not executed on a SEF or DCM to a registered swap data repository that accepts and publicly disseminates swap transaction and pricing data, as soon as technologically practicable following execution of such swap.[14] The information required to be reported under the proposed regulations includes an indication of whether or not a swap is cleared by a DCO.[15]

2. Solicitation of Comments

The Commission solicits comment on all aspects of the proposed § 23.506. It further requests responses to the following specific questions: Should the regulations specify how an SD or MSP must ensure that it has the capacity to route swaps to a DCO? Are there any systemic obstacles to the DCO, SD, and MSP coordination required under the proposed regulation?

Are the proposed time frames in § 23.506(b) appropriate? Are they operationally feasible? What is the operational feasibility of same-day clearing for swaps executed bilaterally that are required to be cleared and those that will not be required to be cleared? The Commission further requests comment on the use of the phrase "as soon as technologically practicable."

B. Proposed § 39.12—Acceptance and Clearing of Swaps by a DCO

1. Recently Proposed Product Eligibility Standards Under Core Principle C

Core Principle C requires each DCO to establish "appropriate standards for determining the eligibility of agreements, contracts, or transactions submitted to the [DCO] for clearing." [16] The Commission has previously proposed § 39.12(b) to implement this provision,[17] pursuant to its rulemaking authority under sections 5b(c)(2)(A) and 8a(5) of the CEA.[18]

As previously published for public notice and comment, proposed § 39.12(b)(1) would require a DCO to establish appropriate requirements for determining the eligibility of agreements, contracts, or transactions submitted to the DCO for clearing, taking into account the DCO's ability to manage the risks associated with such agreements, contracts, or transactions.[19] Proposed § 39.12(b)(2) would codify the requirements of section 2(h)(1)(B) of the CEA regarding a DCO's offset of economically equivalent swaps.[20] Proposed § 39.12(b)(3) would require a DCO to select contract unit sizes that maximize liquidity, open access, and risk management.[21] Finally, proposed § 39.12(b)(4) would require each DCO that clears swaps to have rules stating that upon acceptance of a swap by the DCO for clearing, (i) the original swap is extinguished, (ii) it is replaced by equal and opposite swaps between clearing members and the DCO, (iii) all terms of the cleared swaps must conform to templates established under DCO rules, and (iv) if a swap is cleared by a clearing member on behalf of a customer, all terms of the swap, as carried in the customer account on the books of the clearing member, must conform to the terms of the cleared swap established under the DCO's rules.[22]

2. Re-Proposed and Newly Proposed Regulations

To refine and supplement the previously proposed regulations implementing Core Principle C, the Commission is (1) re-proposing § 39.12(b)(2) to clarify the role of a DCO in establishing the terms and conditions for swaps that it accepts for clearing; [23] (2) proposing a new § 39.12(b)(4) that would prohibit a DCO from refusing to clear a product where neither party to the original contract, agreement, or transaction is a clearing member; (3) re-proposing § 39.12(b)(3) (renumbered as § 39.12(b)(5)) to clarify a DCO's role and objectives in selecting contract units for clearing purposes that are smaller than the contract units in which trades submitted for clearing were executed; and (4) proposing a new § 39.12(b)(7) that would clarify the timing of the actions described in previously proposed §§ 39.12(b)(4)(i) and (ii) (renumbered as paragraph (b)(6)), *i.e.,* requirements that upon acceptance of a swap by the DCO for clearing, (i) the original swap is extinguished and (ii) it is replaced by equal and opposite swaps between clearing members and the DCO.

(a) Section 39.12(b)(2)

As previously proposed, § 39.12(b)(2) required a DCO to "adopt rules providing that all swaps with the same terms and conditions submitted to the derivatives clearing organization for clearing are economically equivalent within the derivatives clearing organization and may be offset with each other within the derivatives clearing organization." [24] It also required that a DCO provide for non-discriminatory clearing of a swap executed bilaterally or on or subject to the rules of an unaffiliated SEF or DCM.[25]

The Commission is proposing to revise the first provision of § 39.12(b)(2) to clarify that a DCO must adopt rules to establish templates for the terms and conditions of swaps that it will clear. Accordingly, the proposed provision now reads: "A derivatives clearing organization shall adopt rules providing that all swaps with the same terms and conditions, as defined by templates established under derivatives clearing organization rules, submitted to the derivatives clearing organization for

[11] Proposed § 45.3(a)(1)(iii)(A), 75 FR at 76600.

[12] Proposed § 45.1(q)(20), 75 FR at 76598.

[13] *See* 75 FR 76140, Dec. 7, 2010 (proposed rules for real-time public reporting of swap transaction data).

[14] Proposed § 43.3(a)(3), 75 FR at 76172.

[15] Proposed § 43.4 and Appendix A to part 43, 75 FR at 76174 and 76177.

[16] Section 5b(c)(2)(C)(i)(II) of the CEA; 7 U.S.C. 7a–1(c)(2)(C)(i)(II).

[17] *See* 76 FR 3698.

[18] 7 U.S.C. 7a–1(c)(2)(A); and 7 U.S.C. 12a(5).

[19] *See* 76 FR at 3720.

[20] *Id.* Section 2(h)(1)(B) of the CEA, 7 U.S.C. 2(h)(1)(B), requires a DCO to adopt rules providing that all swaps with the same terms and conditions submitted to the DCO for clearing are economically equivalent within the DCO and may be offset with each other within the DCO. Section 2(h)(1)(B) further requires a DCO to provide for non-discriminatory clearing of a swap executed bilaterally or on or subject to the rules of an unaffiliated SEF or DCM.

[21] *See* 76 FR at 3720.

[22] *Id.*

[23] To provide additional clarity regarding open access to clearing, the Commission is proposing to renumber the second sentence of proposed § 39.12(b)(2) as § 39.12(b)(3) and to insert a new paragraph (b)(4). Accordingly, proposed paragraphs (b)(3) and (b)(4) would be renumbered as paragraphs (b)(5) and (b)(6), respectively.

[24] *See* 76 FR at 3720.

[25] *Id.*

clearing are economically equivalent within the derivatives clearing organization and may be offset with each other within the derivatives clearing organization."

As noted above, the second provision of previously proposed § 39.12(b)(2) would be unchanged, and would be renumbered as § 39.12(b)(3).

(b) Section 39.12(b)(4)

Some clearinghouses have indicated that they intend to require that, for a transaction to be eligible for clearing, one of the executing parties must be a clearing member. This has the effect of preventing trades between two parties who are not clearing members from being cleared. Such a restriction of open access serves no apparent risk management purpose and operates to keep certain trades out of the clearing process and to constrain liquidity for cleared trades. Moreover, such restrictions also may raise competitive issues under Core Principle N (Antitrust Considerations).[26]

Accordingly, the Commission is proposing new § 39.12(b)(4) to prohibit a DCO from refusing to clear a product where neither party to the original contract, agreement, or transaction is a clearing member. The Commission notes that parties that are not clearing members would still have to submit their bilateral trades for clearing through a clearing member of the DCO.

(c) Section 39.12(b)(5)

The Commission previously proposed § 39.12(b)(3), now proposed to be renumbered at § 39.12(b)(5), which would require a DCO to "select contract unit sizes that maximize liquidity, open access, and risk management."[27] To the extent appropriate to further these objectives, a DCO would be further required to select contract units for clearing purposes that are smaller than the contract units in which trades submitted for clearing were executed.[28] The purpose of this provision is to require the DCO to split a cleared swap into smaller units in order to promote liquidity by permitting more parties to trade the product, to facilitate open access by permitting more clearing members to clear the product, and to aid risk management by enabling a DCO, in the event of a default, to have more potential counterparties to take on positions during a liquidation.

The Commission is now proposing to expand its description of the actions to be undertaken by the DCO and the objectives to be served. Accordingly, the Commission proposes that the introductory sentence of § 39.12(b)(5) read as follows: "A derivatives clearing organization shall select contract unit sizes and other terms and conditions that maximize liquidity, facilitate transparency in pricing, promote open access, and allow for effective risk management." This would clarify that, in establishing product templates under its rules, the DCO is required to select other terms and conditions in addition to unit size, such as termination or maturity period, settlement features, and cash flow conventions, to facilitate price transparency in addition to liquidity, open access, and risk management.

(d) Section 39.12(b)(7)

Proposed § 39.12(b)(7)(i) would establish general standards for the adoption of rules that establish a time frame for clearing. The DCO would have to coordinate with each SEF and DCM that lists for trading a product that is cleared by the DCO, in developing rules and procedures to facilitate prompt and efficient processing of all contracts, agreements, and transactions submitted to the DCO for clearing.

For prompt and efficient clearing to occur, the rules, procedures, and operational systems of the trading platform and the clearinghouse must mesh. Vertically integrated trading and clearing systems currently process high volumes of transactions quickly and efficiently. The Commission believes that trading platforms and DCOs under separate control should be able to coordinate with one another to achieve similar results. The Commission also recognizes that there may be issues of connectivity between and among trading platforms and clearinghouses. The Commission requests comment on how best to facilitate the development of infrastructure, systems, and procedures to address these issues.

Proposed paragraph (ii) would require a DCO to have rules that provide that the DCO will accept for clearing, immediately upon execution, all contracts, agreements, and transactions that are listed for clearing by the DCO and (A) that are entered into on or subject to the rules of a SEF or DCM; (B) for which the executing parties have clearing arrangements in place with clearing members of the DCO; and (C) for which the executing parties identify the DCO as the intended clearinghouse.

Rules, procedures, and operational systems along these lines currently work well for many exchange-traded futures. Similar requirements could be applied across multiple exchanges and clearinghouses for swaps. The parties would need to have clearing arrangements in place with clearing members in advance of execution. In cases where more than one DCO offered clearing services, the parties also would need to specify in advance where the trade should be sent for clearing.

Proposed paragraph (iii), which governs swaps subject to mandatory clearing, would require a DCO to have rules that provide that the DCO will accept for clearing, upon submission, all contracts, agreements, and transactions that are listed for clearing by the DCO and (A) That are not executed on or subject to the rules of a SEF or DCM; (B) that are subject to mandatory clearing pursuant to section 2(h) of the CEA; (C) that are submitted by the parties to the DCO, in accordance with § 23.506 of the Commission's regulations; (D) for which the executing parties have clearing arrangements in place with clearing members of the DCO; and (E) for which the executing parties identify the DCO as the intended clearinghouse.

Proposed paragraph (iv) would provide for a longer time frame for clearing swaps not executed on or subject to the rules of a SEF or DCM and not subject to mandatory clearing. It would require a DCO to have rules that provide that the DCO will process for clearing, no later than the close of business on the day of submission to the DCO, all swaps that are listed for clearing by the DCO and (A) that are not executed on a SEF or a DCM; (B) that are not subject to mandatory clearing pursuant to section 2(h) of the CEA; (C) that are submitted by the parties to the DCO in accordance with proposed § 23.506; (D) for which the executing parties have clearing arrangements in place with clearing members of the DCO; and (E) for which the executing parties identify the DCO as the intended clearinghouse.

Because the execution of bilateral trades might not be automated and because the parties to a trade might not decide that they want to clear the trade until some time after execution, immediate clearing might not be feasible. However, a DCO should provide sufficient clarity about its participant and product eligibility requirements to enable swap counterparties to determine whether a bilateral trade would be acceptable to be cleared within one day of submission.

Proposed § 39.12(b)(7)(v) would require that DCOs accepting a swap for

[26] *See* Section 5b(c)(2)(N) of the CEA, which provides that "Unless necessary or appropriate to achieve the purposes of this Act, a derivatives clearing organization shall not—

(i) Adopt any rule or take any action that results in any unreasonable restraint of trade; or

(ii) Impose any material anticompetitive burden."

[27] *See* 76 FR at 3720.

[28] *Id.*

clearing provide the counterparties with a definitive written record of the terms of their agreement, which will serve as a confirmation of the swap. This requirement would facilitate the timely processing and confirmation of swaps not executed on a SEF or DCM by allowing parties to confirm their transaction by submitting it to a DCO for clearing. Swaps executed on a SEF or DCM are confirmed upon execution.[29] In other regulations proposed by the Commission, a swap confirmation is defined as the consummation (electronically or otherwise) of legally binding documentation (electronic or otherwise) that memorializes the agreement of the counterparties to all of the terms of a swap.[30] By providing for confirmation upon acceptance for clearing, SDs and MSPs would be able to satisfy proposed § 23.501, which requires timely confirmation of all swaps.

(e) Proposed §§ 37.702 and 38.601—Reciprocal Requirements for SEFs and DCMs

In connection with proposing that a DCO coordinate the development of rules and procedures with each SEF and DCM that lists for trading a product that is cleared by the DCO, the Commission is re-proposing certain amendments to parts 37 and 38 of the Commission's regulations to include reciprocal coordination obligations for SEFs and DCMs.

The Commission previously proposed §§ 37.700 to 703 to implement SEF Core Principle 7 (Financial Integrity of Transactions), pursuant to its rulemaking authority under sections 5h(h) and 8a(5) of the CEA.[31] Core Principle 7 requires a SEF to "establish and enforce rules and procedures for ensuring the financial integrity of swaps entered on or through the facilities of the swap execution facility, including the clearing and settlement of the swaps pursuant to section 2(h)(1) [of the CEA]."[32] As previously proposed, § 37.702(b) would require a SEF to provide for the financial integrity of its transactions cleared by a DCO by ensuring that the SEF has the capacity to route transactions to the DCO in a manner acceptable to the DCO for purposes of risk management.[33] In this notice, the Commission proposes to renumber previously proposed § 37.702(b) as paragraph (b)(1) and add a new paragraph (b)(2) to require the SEF to additionally provide for the financial integrity of cleared transactions by coordinating with each DCO to which it submits transactions for clearing, in the development of rules and procedures to facilitate prompt and efficient transaction processing in accordance with the requirements of § 39.12(b)(7) of the Commission's regulations.

Similarly, the Commission previously proposed §§ 38.600 to 607 to implement DCM Core Principle 11 (Financial Integrity of Transactions) pursuant to its rulemaking authority under sections 5(d)(1) and 8a(5) of the CEA.[34] Core Principle 11 requires a DCM to "establish and enforce—(A) rules and procedures for ensuring the financial integrity of transactions entered into on or through the facilities of the contract market (including the clearance and settlement of the transactions with a derivatives clearing organization); and (B) rules to ensure—(i) the financial integrity of any—(I) futures commission merchant; and (II) introducing broker; and (ii) the protection of customer funds."[35] As previously proposed, § 38.601 would require that transactions executed on or through a DCM, other than transactions in security futures products, must be cleared through a registered DCO in accordance with the provisions of part 39 of the Commission's regulations.[36] In this notice, the Commission proposes to renumber this provision as paragraph (a) of proposed § 38.601 and add a new paragraph (b) to specifically require the DCM to coordinate with each DCO to which it submits transactions for clearing, in the development of DCO rules and procedures to facilitate prompt and efficient transaction processing in accordance with the requirements of § 39.12(b)(7) of the Commission's regulations.

3. Solicitation of Comments

The Commission solicits comment on all aspects of the proposed regulations. It further requests responses to the following specific questions: Are there any systemic or legal obstacles to the DCO, SEF, and DCM coordination required under the proposed regulation? Are the proposed time frames appropriate? Are they operationally feasible? More specifically, for futures traded on a DCM, rules and procedures are in place under which bunched orders are accepted for clearing immediately upon execution, with allocation to individual customer accounts occurring before the end of the day. Are similar procedures operationally feasible for swaps executed as block trades? What amount of time is necessary for asset managers to allocate block trades to the individual entities on whose behalf they manage money, prior to the allocated trades being sent to clearing (i.e. end of day, two hours, etc.)? Should the submission of block trades to a DCO be treated differently than other trades executed on or subject to the rules of a SEF or DCM? What is the operational feasibility of same-day clearing for bilateral swaps that are not required to be cleared?

C. Proposed § 39.15—Transfer of Customer Positions and Related Funds

1. Recently Proposed Treatment of Funds Standards Under Core Principle F

Core Principle F, as amended by the Dodd-Frank Act,[37] requires a DCO to: (a) Establish standards and procedures that are designed to protect and ensure the safety of its clearing members' funds and assets; (b) hold such funds and assets in a manner by which to minimize the risk of loss or of delay in the DCO's access to the assets and funds; and (c) only invest such funds and assets in instruments with minimal credit, market, and liquidity risks.[38] The Commission has proposed § 39.15 to establish standards for compliance with Core Principle F.[39]

2. Newly-Proposed Regulations

To supplement the previously proposed regulations implementing Core Principle F, the Commission is proposing a new § 39.15(d) to require a DCO to facilitate the prompt transfer of customer positions from one clearing member of the DCO to another clearing member of the DCO.[40]

Efficient and complete portability of customer positions and the funds

[29] *See* 76 FR at 1240.

[30] *See* 75 FR 76140; and 75 FR 76574.

[31] *See* 76 FR 1214; 7 U.S.C. 7b–3(h); and 7 U.S.C. 12a(5).

[32] Section 5h(f)(7) of the CEA, 7 U.S.C. 7b–3(f)(7).

[33] *See* 76 FR at 1248. Section 37.702(b), as originally proposed, referred to "ongoing" risk management. In renumbering and re-proposing this provision herein, the Commission is deleting the term "ongoing" because it is superfluous and could create confusion when read in conjunction with other Commission regulations that refer to "risk management." *See, e.g.,* proposed § 39.13 relating to risk management for DCOs, 76 FR at 3720.

[34] *See* 75 FR 80572; 7 U.S.C. 7(d)(1); and 7.U.S.C. 12a(5).

[35] Section 5(d)(11) of the CEA, 7 U.S.C. 7(d)(11).

[36] *See* 75 FR at 80618.

[37] Section 5b(c)(2)(F) of the CEA; 7 U.S.C. 7a–1(c)(2)(F) (Core Principle F).

[38] Prior to amendment by the Dodd-Frank Act, Core Principle F provided that "[t]he applicant shall have standards and procedures designed to protect and ensure the safety of member and participant funds."

[39] *See* 76 FR at 3723.

[40] In connection with the proposed addition of new paragraph (d), the Commission also proposes to renumber previously proposed paragraph (d) as paragraph (e).

related to those positions is important in both pre-default and post-default scenarios. A DCO should therefore structure its portability arrangements in a way that facilitates the prompt and efficient transfer of all or a portion of a customer's positions and funds from one clearing member to one or more other clearing members. A DCO's rules and procedures should require clearing members to facilitate the transfer of customer positions and funds upon the customer's request, subject to any notice or other contractual requirements.

Proposed § 39.15(d) would require a DCO to have rules providing that, upon the request of a customer and subject to the consent of the receiving clearing member, the DCO will promptly transfer all or a portion of such customer's portfolio of positions and related funds from the carrying clearing member of the DCO to another clearing member of the DCO, without requiring the close-out and re-booking of the positions prior to the requested transfer. The term "promptly," as used in this provision is intended to mean as soon as possible and within a reasonable period of time. Based on current futures industry standards, this time frame is typically no more than two business days. The requirement that a DCO not require close-out and re-booking of positions eliminates a source of unnecessary delay and market disruption, and conforms with current futures industry practice.[41] The Commission is unaware of any reason that the transfer of cleared swaps positions cannot be accomplished by means of the same process that has been used for futures positions.

3. Solicitation of Comments

The Commission requests comment on whether the use of the term "promptly" provides adequate guidance or whether another descriptive term or phrase, such as "within a reasonable period of time" or "as soon as practicable" would better convey the intended meaning. The Commission is not proposing that a specific time frame be included in § 39.15(d) because as technology evolves, it is likely that the transfer of customer positions and related funds can be accomplished more quickly and with greater operational efficiency. The Commission requests comment on the proposed time frame and possible alternative standards that could be applied.

As noted above, the Commission believes that the transfer of cleared customer swap positions can be processed in the same manner as futures positions. The Commission requests comment on whether there are distinctions between futures and cleared swaps positions that would require a different type of processing such that the cleared swaps positions would have to be closed out and re-booked prior to transfer from the carrying clearing member to another clearing member.

The proposed regulation places an obligation on the DCO to promptly transfer customer positions and related funds, and the Commission requests comment on whether the regulation also should require that a DCO adopt rules that would require its clearing members to facilitate prompt transfer of customer accounts.

III. Related Matters

A. Regulatory Flexibility Act

1. Swap Dealers and Major Swap Participants

The Regulatory Flexibility Act (RFA) requires that agencies consider whether the regulations they propose will have a significant economic impact on a substantial number of small entities.[42] The Commission previously has established certain definitions of "small entities" to be used in evaluating the impact of its regulations on small entities in accordance with the RFA.[43] The proposed regulations would affect SDs and MSPs.

SDs and MSPs are new categories of registrants. Accordingly, the Commission has not previously addressed the question of whether such persons are, in fact, small entities for purposes of the RFA. The Commission previously has determined, however, that futures commission merchants (FCMs) should not be considered to be small entities for purposes of the RFA.[44] The Commission's determination was based, in part, upon the obligation of FCMs to meet the minimum financial requirements established by the Commission to enhance the protection of customers' segregated funds and protect the financial condition of FCMs generally.[45] Like FCMs, SDs will be subject to minimum capital and margin requirements and are expected to comprise the largest global financial firms. The Commission is required to exempt from SD registration any entities that engage in a de minimis level of swaps dealing in connection with transactions with or on behalf of customers. The Commission anticipates that this exemption would tend to exclude small entities from registration. Accordingly, for purposes of the RFA for this rulemaking, the Commission is hereby proposing that SDs not be considered "small entities" for essentially the same reasons that FCMs have previously been determined not to be small entities and in light of the exemption from the definition of SD for those engaging in a de minimis level of swap dealing.

The Commission also has previously determined that large traders are not "small entities" for RFA purposes.[46] In that determination, the Commission considered that a large trading position was indicative of the size of the business. MSPs, by statutory definition, maintain substantial positions in swaps or maintain outstanding swap positions that create substantial counterparty exposure that could have serious adverse effects on the financial stability of the United States banking system or financial markets. Accordingly, for purposes of the RFA for this rulemaking, the Commission is hereby proposing that MSPs not be considered "small entities" for essentially the same reasons that large traders have previously been determined not to be small entities.

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

The Commission invites the public to comment on whether SDs and MSPs should be considered small entities for purposes of the RFA.

[41] *See, e.g.,* National Futures Association Rule 2–27 "Transfer of Customer Accounts" (requiring that in response to a customer's request to transfer its account, the carrying member must confirm the account balances and positions to the receiving member and then effect the requested transfer); and Chicago Mercantile Exchange Rule 853 "Transfer of Trades" (permitting existing trades to be transferred either on the books of a clearing member or from one clearing member to another clearing member provided 1. the transfer merely constitutes a change from one account to another account where the underlying beneficial ownership in the accounts remains the same; or 2. an error has been made in the clearing of a trade and the error is discovered and the transfer is completed within two business days after the trade date).

[42] 5 U.S.C. 601 *et seq.*

[43] 47 FR 18618, Apr. 30, 1982.

[44] *Id.* at 18619.

[45] *Id.*

[46] *Id.* at 18620.

2. Swap Execution Facilities

As noted above, the RFA requires that agencies consider whether the regulations they propose will have a significant economic impact on a substantial number of small entities. The Commission previously has established certain definitions of "small entities" to be used in evaluating the impact of its regulations on small entities in accordance with the RFA.

The regulations adopted herein will affect SEFs. While SEFs are new entities to be regulated by the Commission pursuant to the Dodd-Frank Act, in a recent rulemaking proposal,[47] the Commission proposed that SEFs should not be considered as small entities for the purpose of the RFA. The Dodd-Frank Act defines a SEF to mean "a trading system or platform in which multiple participants have the ability to execute or trade swaps by accepting bids and offers made by multiple participants in the facility or system, through any means of interstate commerce, including any trading facility, that—(A) facilitates the execution of swaps between persons; and (B) is not a designated contract market."[48]

In such rulemaking, the Commission proposed that SEFs not be considered to be "small entities" for essentially the same reasons that DCMs and DCOs have previously been determined not to be small entities. These reasons include the fact that the Commission designates a DCM or registers a DCO only when it meets specific criteria including the expenditure of sufficient resources to establish and maintain adequate self-regulatory programs. Likewise, the Commission will register an entity as a SEF only after it has met specific criteria including the expenditure of sufficient resources to establish and maintain an adequate self-regulatory program.[49] Once registered, a SEF will be required to comply with the additional requirements set forth in the final form of the proposed Part 37 rulemaking.[50] Under such rulemaking, the Commission proposed that SEFs should also not be considered small entities based on, among other things, the central role SEFs will play in the national regulatory scheme overseeing the trading of swaps.[51] Not only will SEFs play a vital role in the national economy, but they will be subject to Commission oversight with statutory duties to enforce the regulations adopted by their own governing bodies.

Accordingly, the Commission does not expect the regulations, as proposed herein, to have a significant economic impact on a substantial number of small entities. Therefore, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the proposed regulations will not have a significant economic impact on a substantial number of small entities.

The Commission invites the public to comment on whether SEFs should be considered small entities for purposes of the RFA.

3. Designated Contract Markets and Derivatives Clearing Organizations

The regulations proposed by the Commission will affect DCMs and DCOs (some of which will be designated as systemically important DCOs). As noted above, the Commission has previously established certain definitions of "small entities" to be used by the Commission in evaluating the impact of its regulations on small entities in accordance with the RFA. The Commission has previously determined that DCMs and DCOs are not small entities for the purpose of the RFA.[52] Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the proposed regulations will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act (PRA)[53] imposes certain requirements on Federal agencies in connection with their conducting or sponsoring any collection of information as defined by the PRA. Under the PRA, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number from the Office of Management and Budget (OMB). The Commission believes that these proposed regulations will not impose any new information collection requirements that require approval of OMB under the PRA.

C. Cost-Benefit Analysis

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

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

Summary of proposed requirements. The proposed regulations would establish the time frame for SDs, MSPs, FCMs, DCMs, and SEFs to submit contracts, agreements, or transactions to a DCO for clearing. The proposed regulations would implement new section 4s(i) of the CEA by establishing standards for SDs and MSPs related to the timely processing and clearing of swaps. The proposed regulations also would implement SEF Core Principle 7 (Financial Integrity of Transactions) and DCM Core Principle 11 (Financial Integrity of Transactions), requiring coordination with DCOs in the development of rules and procedures to facilitate clearing. Additionally, the proposed regulations would facilitate compliance with DCO Core Principle C (Participant and Product Eligibility) in connection with the prompt and efficient processing of all contracts, agreements, and transactions submitted for clearing. Finally, the proposed regulations would implement DCO Core Principle F (Treatment of Funds), requiring a DCO, upon customer request, to promptly transfer customer positions and related funds from one clearing member to another, without requiring the close-out and re-booking of the positions.

Costs. The Commission has determined that the costs borne by SDs, MSPs, FCMs, SEFs, DCMs, and DCOs to implement the new timing requirements for processing and clearing positions and for transferring customer positions and related funds, may be limited and far outweighed by the accrual of benefits to the financial system as a result of the

[47] 75 FR 63745–46 (Oct. 18, 2010).

[48] *See* section 1a(50) of the CEA. In addition, the Commission proposed regulations regarding the types of entities that must register as SEFs. *See* 76 FR 1214. The Commission does not believe that such proposals would alter its determination that a SEF is not a "small entity" for purposes of the RFA.

[49] *See* 76 FR 1214.

[50] *Id.*

[51] *Id.* at 1235.

[52] *See* 47 FR 18618, 18621, Apr. 30, 1982 (DCM determination); 66 FR 45605, 45609, Aug. 29, 2001 (DCO determination).

[53] 44 U.S.C. 3501 *et seq.*

regulations' implementation. Indeed, as discussed in Section I.B.2., the timely transfer of futures positions and funds is currently practiced; thus, the additional costs of similar processes for swaps may not be too significant. Rather, timely transfers of positions and funds between clearing members would reduce economic and operational obstacles. Moreover, the Commission has determined that the costs of implementing new timing requirements for clearing would not be significantly burdensome to a DCO given that immediate processing and clearing of futures contracts is the current industry standard. Furthermore, the clearing delays in the swaps market (as discussed in Sections I.B.1, above) creates a credit risk because the value of position may change between execution and novation, thereby allowing financial exposure to accumulate in the absence of daily mark-to-market, and additionally can have negative effects on liquidity and the market's price discovery function.

Benefits. The Commission has determined that the benefits of the proposed regulations are considerable. Through this proposed rulemaking, market access will be expanded by requiring and establishing uniform standards for, prompt processing and clearing of swaps eligible for clearing by DCOs. Other benefits of timely clearing include the promotion of centralized trading and clearing; increased financial and legal certainty; and the timely notice of information so that parties and market participants can gauge risk exposure, liquidity, and market integrity. Timely clearing increases liquidity, enhances price discovery for traders, and reduces risk to markets by informing market participants of margin concerns and whether safeguards should be triggered. Significantly, the Commission notes that these regulations would aid market participants in fully complying with Dodd-Frank's overarching mandate to promote clearing of swaps. The proposed new regulation regarding a DCO's timely transfer of swaps positions and related funds would benefit market participants by eliminating economic or operational obstacles to customer transfers between clearing members. In addition, the standardization of swaps clearing and procedures for customer account transfer will be more akin to valuable practices used in the futures market. The Commission believes it is prudent to employ similar practices in the swaps markets.

List of Subjects

17 CFR Part 23

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

17 CFR Part 37

Swaps, Swap execution facilities, Registration application, Registered entities, Reporting and recordkeeping requirements.

17 CFR Part 38

Block transaction, Commodity futures, Designated contract markets, Reporting and recordkeeping requirements, Transactions off the centralized market.

17 CFR Part 39

Commodity futures, Participant and product eligibility, Risk management, Swaps.

In light of the foregoing, the Commission hereby proposes to amend part 23, as proposed to be added at 75 FR 71390, November 23, 2010, and further amended at 75 FR 81530, December 28, 2010; part 37, as proposed to be revised at 76 FR 1237, January 7, 2011; part 38, as proposed to be amended at 75 FR 80606, December 22, 2010; and part 39, as proposed to be amended at 76 FR 3717, January 20, 2011, of Title 17 of the Code of Federal Regulations as follows:

PART 23—SWAP DEALERS AND MAJOR SWAP PARTICIPANTS

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

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

2. Revise the table of contents for part 23, subpart I to read as follows:

Subpart I—Swap Documentation

Sec.
23.500 Definitions.
23.501 Swap confirmation.
23.502 Portfolio reconciliation.
23.503 Portfolio compression.
23.504 Swap trading relationship documentation.
23.505 End user exception documentation.
23.506 Swap processing and clearing.

3. Add § 23.506 to part 23, subpart I, to read as follows:

§ 23.506 Swap processing and clearing.

(a) *Swap processing.* (1) Each swap dealer and major swap participant shall ensure that it has the capacity to route swap transactions not executed on a swap execution facility or designated contract market to a derivatives clearing organization in a manner acceptable to the derivatives clearing organization for the purposes of risk management; and

(2) Each swap dealer and major swap participant shall coordinate with each derivatives clearing organization to which the swap dealer, major swap participant, or its clearing member, submits transactions for clearing, to facilitate prompt and efficient swap transaction processing in accordance with the requirements of § 39.12(b)(7) of this chapter.

(b) *Swap clearing.* With respect to each swap that is not executed on a swap execution facility or a designated contract market, each swap dealer and major swap participant shall:

(1) If such swap is subject to a mandatory clearing requirement pursuant to section 2(h)(1) of the Act and an exception pursuant to 2(h)(7) is not applicable, submit such swap for clearing to a derivatives clearing organization as soon as technologically practicable after execution of the swap, but no later than the close of business on the day of execution; or

(2) If such swap is not subject to a mandatory clearing requirement pursuant to section 2(h)(1) of the Act but is accepted for clearing by any derivatives clearing organization and the swap dealer or major swap participant and its counterparty agree that such swap will be submitted for clearing, submit such swap for clearing not later than the next business day after execution of the swap, or the agreement to clear, if later than execution.

PART 37—SWAP EXECUTION FACILITIES

4. Revise the authority citation for part 37 to read as follows:

Authority: 7 U.S.C. 1a, 2, 5, 6, 6c, 7, 7a–2, 7b–3 and 12a, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, 124 Stat. 1376.

Subpart H—Financial Integrity of Transactions

5. Amend § 37.702 by revising paragraph (b) to read as follows:

§ 37.702 General financial integrity.

* * * * *

(b) For transactions cleared by a derivatives clearing organization:

(1) By ensuring that the swap execution facility has the capacity to route transactions to the derivative clearing organization in a manner acceptable to the derivatives clearing organization for purposes of risk management; and

(2) By coordinating with each derivatives clearing organization to which it submits transactions for clearing, in the development of rules and procedures to facilitate prompt and efficient transaction processing in accordance with the requirements of § 39.12(b)(7) of this chapter.

* * * * *

PART 38—DESIGNATED CONTRACT MARKETS

6. Revise the authority citation for part 38 to read as follows:

Authority: 7 U.S.C. 1a, 2, 6, 6a, 6c, 6d, 6e, 6f, 6g, 6i, 6j, 6k, 6l, 6m, 6n, 7, 7a–2, 7b, 7b–1, 7b–3, 8, 9, 15, and 21, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, 124 Stat. 1376.

Subpart L—Financial Integrity of Transactions

7. Revise § 38.601 to read as follows:

§ 38.601 Mandatory clearing.

(a) Transactions executed on or through the designated contract market, other than transactions in security futures products, must be cleared through a Commission-registered derivatives clearing organization, in accordance with the provisions of part 39 of this chapter.

(b) A designated contract market must coordinate with each derivatives clearing organization to which it submits transactions for clearing, in the development of rules and procedures to facilitate prompt and efficient transaction processing in accordance with the requirements of § 39.12(b)(7) of this chapter.

PART 39—DERIVATIVES CLEARING ORGANIZATIONS

8. Revise the authority citation for part 39 to read as follows:

Authority: 7 U.S.C. 1a, 2, 5, 6, 6d, 7a–1, 7a–2, and 7b as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, 124 Stat. 1376.

Subpart B—Compliance With Core Principles

9. Amend § 39.12 by revising paragraphs (b)(2) through (b)(4), and adding paragraphs (b)(5) through (b)(7), to read as follows:

§ 39.12 Participant and product eligibility.

(a) * * *

(b) * * *

(2) A derivatives clearing organization shall adopt rules providing that all swaps with the same terms and conditions, as defined by templates established under derivatives clearing organization rules, submitted to the derivatives clearing organization for clearing are economically equivalent within the derivatives clearing organization and may be offset with each other within the derivatives clearing organization.

(3) A derivatives clearing organization shall provide for non-discriminatory clearing of a swap executed bilaterally or on or subject to the rules of an unaffiliated swap execution facility or designated contract market.

(4) A derivatives clearing organization shall not require that one of the original executing parties must be a clearing member in order for a contract, agreement, or transaction to be eligible for clearing.

(5) A derivatives clearing organization shall select contract unit sizes and other terms and conditions that maximize liquidity, facilitate transparency in pricing, promote open access, and allow for effective risk management. To the extent appropriate to further these objectives, a derivatives clearing organization shall select contract units for clearing purposes that are smaller than the contract units in which trades submitted for clearing were executed.

(6) A derivatives clearing organization that clears swaps shall have rules providing that, upon acceptance of a swap by the derivatives clearing organization for clearing:

(i) The original swap is extinguished;

(ii) The original swap is replaced by equal and opposite swaps between clearing members and the derivatives clearing organization;

(iii) All terms of the cleared swaps must conform to templates established under derivatives clearing organization rules; and

(iv) If a swap is cleared by a clearing member on behalf of a customer, all terms of the swap, as carried in the customer account on the books of the clearing member, must conform to the terms of the cleared swap established under the derivatives clearing organization's rules.

(7) *Time frame for clearing.* (i) *General.* Each derivatives clearing organization shall coordinate with each swap execution facility and designated contract market that lists for trading a product that is cleared by the derivatives clearing organization, in developing rules and procedures to facilitate prompt and efficient processing of all contracts, agreements, and transactions submitted to the derivatives clearing organization for clearing.

(ii) *Transactions executed on or subject to the rules of a swap execution facility or designated contract market.* A derivatives clearing organization shall have rules that provide that the derivatives clearing organization will accept for clearing, immediately upon execution, all contracts, agreements, and transactions that are listed for clearing by the derivatives clearing organization and

(A) That are entered into on a swap execution facility or designated contract market;

(B) For which the executing parties have clearing arrangements in place with clearing members of the derivatives clearing organization; and

(C) For which the executing parties identify the derivatives clearing organization as the intended clearinghouse.

(iii) *Swaps not executed on or subject to the rules of a swap execution facility or a designated contract market and subject to mandatory clearing.* A derivatives clearing organization shall have rules that provide that the derivatives clearing organization will accept for clearing, upon submission to the derivatives clearing organization, all swaps that are listed for clearing by the derivatives clearing organization and

(A) That are not executed on a swap execution facility or a designated contract market;

(B) That are subject to mandatory clearing pursuant to section 2(h) of the Act;

(C) That are submitted by the parties to the derivatives clearing organization, in accordance with § 23.506 of this chapter;

(D) For which the executing parties have clearing arrangements in place with clearing members of the derivatives clearing organization; and

(E) For which the executing parties identify the derivatives clearing organization as the intended clearinghouse.

(iv) *Swaps not executed on or subject to the rules of a swap execution facility or a designated contract market and not subject to mandatory clearing.* A derivatives clearing organization shall have rules that provide that the derivatives clearing organization will accept for clearing, no later than the close of business on the day of submission to the derivatives clearing organization, all swaps that are listed for clearing by the derivatives clearing organization and

(A) That are not executed on a swap execution facility or a designated contract market;

(B) That are not subject to mandatory clearing pursuant to section 2(h) of the Act;

(C) That are submitted by the parties to the derivatives clearing organization, in accordance with § 23.506 of this chapter;

(D) For which the executing parties have clearing arrangements in place with clearing members of the derivatives clearing organization; and

(E) For which the executing parties identify the derivatives clearing organization as the intended clearinghouse.

(v) *All swaps not executed on a swap execution facility or a designated contract market and submitted for clearing.* A derivatives clearing organization shall have rules that provide that all swaps submitted to the derivatives clearing organization for clearing shall include written documentation that memorializes all of the terms of the transaction and legally supersedes any previous agreement. The confirmation of all terms of the transaction shall take place at the same time as the swap is accepted for clearing.

10. Amend § 39.15 by revising paragraph (d) and adding paragraph (e) to read as follows:

§ 39.15 Treatment of funds.

* * * * *

(d) *Transfer of customer positions.* A derivatives clearing organization shall have rules providing that, upon the request of a customer and subject to the consent of the receiving clearing member, the derivatives clearing organization will promptly transfer all or a portion of such customer's portfolio of positions and related funds from the carrying clearing member of the derivatives clearing organization to another clearing member of the derivatives clearing organization, without requiring the close-out and re-booking of the positions prior to the requested transfer.

(e) *Permitted investments.* Funds and assets belonging to clearing members and their customers that are invested by a derivatives clearing organization shall be held in instruments with minimal credit, market, and liquidity risks. Any investment of customer funds or assets by a derivatives clearing organization shall comply with § 1.25 of this part, as if all such funds and assets comprise customer funds subject to segregation pursuant to section 4d(a) of the Act and Commission regulations thereunder.

Issued in Washington, DC, on February 24, 2011, by the Commission.

David A. Stawick,

Secretary of the Commission.

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

Appendices to Requirements for Processing, Clearing and Transfer of Customer Positions—Commission Voting Summary and Statements of Commissioners

Appendix 1—Commission Voting Summary

On this matter, Chairman Gensler and Commissioners Dunn, Sommers, Chilton and O'Malia voted in the affirmative; no Commissioner voted in the negative.

Appendix 2—Statement of Chairman Gary Gensler

I support the proposed rulemaking regarding straight-through processing because it furthers the goal of expanding access to and strengthening the financial integrity of the swap markets. These proposed regulations would require and establish uniform standards for prompt processing, submission and acceptance for clearing of swaps eligible for clearing. Such uniform standards, similar to the practices in the futures markets, lower risk because they allow market participants to get the prompt benefit of clearing rather than having to first enter into a bilateral transaction that would subsequently be moved into a clearinghouse.

In addition, I support the requirement for prompt and efficient transfer of customer positions from a carrying clearing member of a clearinghouse to another clearing member of the clearinghouse, upon a customer's request. This would promote efficiency and avoid unnecessary delay and market disruption. Furthermore, users of derivatives could get the benefit of greater competition amongst clearing members.

[FR Doc. 2011–4707 Filed 3–9–11; 8:45 am]

BILLING CODE P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404, 405, and 416

[Docket No. SSA–2007–0053]

Compassionate Allowances for Autoimmune Disease, Office of the Commissioner; Hearing

AGENCY: Social Security Administration.

ACTION: Announcement of public hearing.

SUMMARY: We developed "Compassionate Allowances" to provide benefits quickly to applicants whose medical conditions obviously meet the definition of disability under the Social Security Act (Act) and can be identified with minimal objective medical information. In December 2007, April 2008, November 2008, July 2009, November 2009, and November 2010, we held Compassionate Allowance public hearings to help us identify the diseases and other serious medical conditions that we should consider under the Compassionate Allowance process. These hearings concerned rare diseases, cancers, traumatic brain injury and stroke, early-onset Alzheimer's disease and related dementias, schizophrenia, and cardiovascular disease and multiple organ transplants, respectively. We will hold our next hearing on March 16 to address the advisability and possible methods of identifying and implementing compassionate allowances for both adults and children with autoimmune diseases. While the public is welcome to attend the hearing, only scheduled witnesses will present testimony. We plan to address other medical conditions at subsequent hearings.

DATES: This hearing will be held on March 16, 2011, between 8:30 a.m. and 5 p.m., Eastern Standard Time (EST), in Baltimore, Maryland. The hearing will be held at the Sheraton Baltimore City Center Hotel in the International Ballroom. The hotel's address is 101 West Fayette St., Baltimore, MD 21201–3703. You may also watch the proceedings live via Webcast beginning at 9 a.m., Eastern Standard Time (EST). You may access the Webcast line for the hearing on the Social Security Administration Web site at *http://www.socialsecurity.gov/compassionateallowances/.*

ADDRESSES: You may submit written comments about the compassionate allowances initiative with respect to adults and children with autoimmune diseases, as well as topics covered at the hearing by:

- E-mail addressed to *Compassionate.Allowances@ssa.gov;* or
- Mail to Jamillah Jackson, Deputy Director, Office of Compassionate Allowances and Disability Outreach, ODP, ORDP, Social Security Administration, 4671 Annex Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401. We welcome your comments, but we may not respond directly to comments sent in response to this notice of hearing.

FOR FURTHER INFORMATION CONTACT: *Compassionate.Allowances@ssa.gov.* You may also mail inquiries about this hearing to Jamillah Jackson, Deputy Director, Office of Compassionate Allowances and Disability Outreach, ODP, ORDP, Social Security Administration, 4671 Annex Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401. For information on eligibility or filing for benefits, call our national toll-free number 1–800–772–1213 or TTY 1–800–325–0778, or visit Social Security online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Background

Under the disability programs in titles II and XVI of the Act, we pay benefits to individuals who meet our rules for entitlement and have medically determinable physical or mental impairments that are severe enough to meet the statutory definition of disability. The rules for determining disability can be very complicated, but some individuals have such serious medical conditions that their conditions obviously meet our disability standards with minimal objective medical evidence alone. To better address the needs of these individuals, we are looking into ways to allow benefits as quickly as possible based on minimal objective medical information.

Will we respond to your comments?

We will carefully consider your comments, although we will not respond directly to comments sent in response to this notice or the hearing.

Additional Hearings

You may access the transcripts of our prior hearings at *http://www.socialsecurity.gov/compassionateallowances/*. We plan to hold additional hearings on other conditions and will announce those hearings with notices in the **Federal Register**.

(Catalog of Federal Domestic Assistance Programs Nos. 96.001, Social Security—Disability Insurance; 96.006, Supplemental Security Income.)

Dated: March 3, 2011.

Michael J. Astrue,

Commissioner of Social Security.

[FR Doc. 2011–5464 Filed 3–9–11; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

[SATS No. MD–056–FOR; Docket ID: OSM 2010–0008]

Maryland Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; extension of comment period and notice of public hearing.

SUMMARY: We are reopening and extending the public comment period and will be holding a public hearing on the proposed amendment to the State of Maryland's approved regulatory program (the "Maryland program") published on January 28, 2011. The comment period is being reopened and extended in order to afford the public more time to comment and to allow enough time to hold a public hearing requested by a representative of the Sierra Club. We are also notifying the public of the date, time, and location for the public hearing. Maryland is proposing to add provisions to its program to regulate coal combustion byproducts (CCBs) and to establish requirements pertaining to the generation, storage, handling, processing, disposal, recycling, beneficial use, or other use of CCBs within the State.

DATES: We will accept written comments until 4 p.m., local time on March 28, 2011. The public hearing will be held on March 21, 2011, at 6 p.m. local time.

ADDRESSES: You may submit comments, identified by "MD–056–FOR; Docket ID: OSM–2010–0008" by either of the following two methods:

Federal eRulemaking Portal: http://www.regulations.gov. The proposed rule has been assigned Docket ID: OSM–2010–0008. If you would like to submit comments through the Federal eRulemaking Portal, go to *http://www.regulations.gov* and follow the instructions.

Mail/Hand Delivery/Courier: Mr. George Rieger, Chief, Pittsburgh Field Division,Office of Surface Mining Reclamation and Enforcement, Three Parkway Center, Suite 300, Pittsburgh, PA 15220.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, *see* III. Public Comment Procedures in the **SUPPLEMENTARY INFORMATION** section of the proposed rule published on January 28, 2011.

Public Hearing: The public hearing will be held at the Annapolis Marriot Waterfront Hotel, 80 Compromise Street, Annapolis, Maryland 21401 on March 21, 2011, at 6 p.m. local time.

FOR FURTHER INFORMATION CONTACT: George Rieger, Chief, Pittsburgh Field Division,*Telephone:* (412) 937–2153. *E-mail: grieger@osmre.gov.*

SUPPLEMENTARY INFORMATION: On January 28, 2011, (76 FR 5103) we published a proposed rule that would revise the Maryland program. The revisions would add regulations to the Maryland program to regulate coal combustion byproducts and to establish requirements pertaining to the generation, storage, handling, processing, disposal, recycling, beneficial use, or other use of coal combustion byproducts (CCB) within the State. In total, these regulations pertain to all CCB activities in the State, not just surface coal mining and reclamation operations. However, a section of the added regulations specifically pertains to surface coal mining and reclamation operations and is proposed to be part of Maryland's federally approved state program. The regulation specific to surface coal mining and reclamation operations has been added as a new regulation, Regulation .08 under COMAR 26.20.24, Special Performance Standards.

Specifically, Maryland's Regulation .08 Utilization of Coal Combustion Byproducts, will include paragraphs A–H on the Purpose and Scope, Conditions for Utilization, and Testing and Monitoring. Additionally, Maryland is adding a Coal Combustion Byproducts Utilization Request requirement that will require a solids analysis of the CCBs and a Toxicity Characteristics Leaching Procedure (TCLP) leachate analysis of the CCBs. Maryland may also impose additional controls or conditions on the use of CCBs as it sees fit for the protection of human health and the environment.

On February 14, 2011, (Administrative Record Number MD–588–010), we received a request from an attorney representing the Maryland Chapter of the Sierra Club to extend the comment period and to hold a public hearing on the amendment. We are granting the request to extend the public comment period to afford the public more time to comment on the amendment and to allow enough time to schedule and hold the hearing. The date, time and location for the public hearing may be found under **DATES** and **ADDRESSES** above.

The hearings will be open to anyone who would like to attend and/or testify. The primary purpose of the public hearing is to obtain your comments on the proposed rule so that we can prepare a complete and objective analysis of the proposal. The purpose of the hearing officer is to conduct the hearing and receive the comments submitted. Comments submitted during the hearing will be responded to in the preamble to the final rule, not at the hearing. We appreciate all comments but those most useful and likely to influence decisions on the final rule will be those that either involve personal experience or include citations to, and analyses of, the Surface Mining Control and Reclamation Act of 1977, its legislative history, its implementing regulations, case law, other State or Federal laws and regulations, data,

technical literature, or relevant publications.

At the hearing, a court reporter will record and make a written record of the statements presented. This written record will be made part of the administrative record for the rule. If you have a written copy of your testimony, we encourage you to give us a copy. It will assist the court reporter in preparing the written record. Any disabled individual who needs reasonable accommodation to attend the public hearing is encouraged to contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: February 18, 2011.

Thomas D. Shope,

Regional Director, Appalachian Region.

[FR Doc. 2011–5375 Filed 3–9–11; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2011–0057, 0058, 0061, 0062, 0064, 0065, 0066, 0068, 0070, 0072, 0074, 0075, 0076, 0077, 0078; FRL–9277–7]

RIN 2050–AD75

National Priorities List, Proposed Rule No. 54

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA" or "the Act"), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency ("EPA" or "the Agency") in determining which sites warrant further investigation. These further investigations will allow EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule proposes to add 15 sites to the General Superfund section of the NPL. One of the sites included in this proposed rule, MolyCorp, Inc., was previously proposed in May 2000. MolyCorp, Inc. is being re-proposed with a revised HRS score that is based on extensive new sampling data.

DATES: Comments regarding any of these proposed listings must be submitted (postmarked) on or before May 9, 2011.

ADDRESSES: Identify the appropriate Docket Number from the table below.

DOCKET IDENTIFICATION NUMBERS BY SITE

Site name	City/county, state	Docket ID No.
Blue Ledge Mine	Rogue River—Siskiyou National Forest, CA.	EPA–HQ–SFUND–2011–0057.
New Idria Mercury Mine	Idria, CA	EPA–HQ–SFUND–2011–0058.
Sandoval Zinc Company	Sandoval, IL	EPA–HQ–SFUND–2011–0061.
Gary Development Landfill	Gary, IN	EPA–HQ–SFUND–2011–0062.
Sauer Dump	Dundalk, MD	EPA–HQ–SFUND–2011–0064.
Kerr-McGee Chemical Corp—Columbus	Columbus, MS	EPA–HQ–SFUND–2011–0065.
Red Panther Chemical Company	Clarksdale, MS	EPA–HQ–SFUND–2011–0066.
CTS of Asheville, Inc	Asheville, NC	EPA–HQ–SFUND–2011–0068.
Garfield Ground Water Contamination	Garfield, NJ	EPA–HQ–SFUND–2011–0070.
MolyCorp, Inc	Questa, NM	EPA–HQ–SFUND–2011–0072.
New Cassel/Hicksville Ground Water Contamination	New Cassel/Hicksville, NY	EPA–HQ–SFUND–2011–0074.
Astoria Marine Construction Company	Astoria, OR	EPA–HQ–SFUND–2011–0075.
North Ridge Estates	Klamath Falls, OR	EPA–HQ–SFUND–2011–0076.
US Finishing/Cone Mills	Greenville, SC	EPA–HQ–SFUND–2011–0077.
Alamo Contaminated Ground Water	Alamo, TN	EPA–HQ–SFUND–2011–0078.

Submit your comments, identified by the appropriate Docket number, by one of the following methods:

- *http://www.regulations.gov:* Follow the online instructions for submitting comments.
- *E-mail: superfund.docket@epa.gov.*
- *Mail:* Mail comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; (Mail Code 5305T); 1200 Pennsylvania Avenue, NW.; Washington, DC 20460.
- *Hand Delivery or Express Mail:* Send comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; 1301 Constitution Avenue, NW.; EPA West, Room 3334, Washington, DC 20004. Such deliveries are accepted only during the Docket's normal hours of operation (8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays).

Instructions: Direct your comments to the appropriate Docket number (see table above). EPA's policy is that all comments received will be included in the public Docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system; that means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public Docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any

disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional Docket addresses and further details on their contents, *see* section II, "Public Review/Public Comment," of the **SUPPLEMENTARY INFORMATION** portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Terry Jeng, *phone:* (703) 603–8852, *e-mail: jeng.terry@epa.gov,* Site Assessment and Remedy Decisions Branch, Assessment and Remediation Division, Office of Superfund Remediation and Technology Innovation (Mail Code 5204P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or the Superfund Hotline, phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

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I. Background

A. What are CERCLA and SARA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 ("CERCLA" or "the Act"), in response to the dangers of uncontrolled releases or threatened releases of hazardous substances, and releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law 99–499, 100 Stat. 1613 *et seq.*

B. What is the NCP?

To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances, or releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under section 105(a)(8)(A) of CERCLA, the NCP also includes "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable taking into account the potential urgency of such action, for the purpose of taking removal action." "Removal" actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases of hazardous substances, pollutants or contaminants (42 U.S.C. 9601(23)).

C. What is the National Priorities List (NPL)?

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The list, which is appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended. Section 105(a)(8)(B) defines the NPL as a list of "releases" and the highest priority "facilities" and requires that the NPL be revised at least annually. The NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is only of limited significance, however, as it does not assign liability to any party or to the owner of any specific property. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by EPA (the "General Superfund Section"), and one of sites that are owned or operated by other Federal agencies (the "Federal Facilities Section"). With respect to sites in the Federal Facilities Section, these sites are generally being addressed by other

Federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing a Hazard Ranking System ("HRS") score and determining whether the facility is placed on the NPL.

D. How are sites listed on the NPL?

There are three mechanisms for placing sites on the NPL for possible remedial action (see 40 CFR 300.425(c) of the NCP): (1) A site may be included on the NPL if it scores sufficiently high on the HRS, which EPA promulgated as appendix A of the NCP (40 CFR part 300). The HRS serves as a screening tool to evaluate the relative potential of uncontrolled hazardous substances, pollutants or contaminants to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: Ground water, surface water, soil exposure, and air. As a matter of Agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL. (2) Pursuant to 42 U.S.C. 9605(a)(8)(B), each State may designate a single site as its top priority to be listed on the NPL, without any HRS score. This provision of CERCLA requires that, to the extent practicable, the NPL include one facility designated by each State as the greatest danger to public health, welfare, or the environment among known facilities in the State. This mechanism for listing is set out in the NCP at 40 CFR 300.425(c)(2). (3) The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed without any HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658) and generally has updated it at least annually.

E. What happens to sites on the NPL?

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the "Superfund") only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). ("Remedial actions" are those "consistent with permanent remedy, taken instead of or in addition to removal actions. * * *" 42 U.S.C. 9601(24).) However, under 40 CFR 300.425(b)(2), placing a site on the NPL "does not imply that monies will be expended." EPA may pursue other appropriate authorities to respond to the releases, including enforcement action under CERCLA and other laws.

F. Does the NPL define the boundaries of sites?

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so. Indeed, the precise nature and extent of the site are typically not known at the time of listing.

Although a CERCLA "facility" is broadly defined to include any area where a hazardous substance has "come to be located" (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. However, the NPL site is not necessarily coextensive with the boundaries of the installation or plant, and the boundaries of the installation or plant are not necessarily the "boundaries" of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location where that contamination has come to be located, or from where that contamination came.

In other words, while geographic terms are often used to designate the site (*e.g.,* the "Jones Co. plant site") in terms of the property owned by a particular party, the site, properly understood, is not limited to that property (*e.g.,* it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (*e.g.,* where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the "site"). The "site" is thus neither equal to, nor confined by, the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. In addition, the site name is merely used to help identify the geographic location of the contamination and is not meant to constitute any determination of liability at a site. For example, the name "Jones Co. plant site," does not imply that the Jones company is responsible for the contamination located on the plant site.

EPA regulations provide that the Remedial Investigation ("RI") "is a process undertaken * * * to determine the nature and extent of the problem presented by the release" as more information is developed on site contamination, and which is generally performed in an interactive fashion with the Feasibility Study ("FS") (40 CFR 300.5). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, the HRS inquiry focuses on an evaluation of the threat posed and therefore the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination "has come to be located" before all necessary studies and remedial work are completed at a site. Indeed, the known boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted above, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, it can submit supporting information to the Agency at any time after it receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

G. How are sites removed from the NPL?

EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides

that EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Superfund-financed response has been implemented and no further response action is required; or

(iii) The remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate.

H. May EPA delete portions of sites from the NPL as they are cleaned up?

In November 1995, EPA initiated a policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been cleaned up and made available for productive use.

I. What is the Construction Completion List (CCL)?

EPA also has developed an NPL Construction Completion List ("CCL") to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when: (1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) EPA has determined that the response action should be limited to measures that do not involve construction (*e.g.,* institutional controls); or (3) the site qualifies for deletion from the NPL. For the most up-to-date information on the CCL, *see* EPA's Internet site at *http://www.epa.gov/superfund/cleanup/ccl.htm.*

J. What is the Sitewide Ready for Anticipated Use measure?

The Sitewide Ready for Anticipated Use measure represents important Superfund accomplishments and the measure reflects the high priority EPA places on considering anticipated future land use as part of our remedy selection process. See Guidance for Implementing the Sitewide Ready-for-Reuse Measure, May 24, 2006, OSWER 9365.0–36. This measure applies to final and deleted sites where construction is complete, all cleanup goals have been achieved, and all institutional or other controls are in place. EPA has been successful on many occasions in carrying out remedial actions that ensure protectiveness of human health and the environment for current and future land uses, in a manner that allows contaminated properties to be restored to environmental and economic vitality. For further information, please go to *http://www.epa.gov/superfund/programs/recycle/tools/index.html.*

II. Public Review/Public Comment

A. May I review the documents relevant to this proposed rule?

Yes, documents that form the basis for EPA's evaluation and scoring of the sites in this proposed rule are contained in public Dockets located both at EPA Headquarters in Washington, DC, and in the Regional offices. These documents are also available by electronic access at *http://www.regulations.gov* (*see* instructions in the **ADDRESSES** section above).

B. How do I access the documents?

You may view the documents, by appointment only, in the Headquarters or the Regional Dockets after the publication of this proposed rule. The hours of operation for the Headquarters Docket are from 8:30 a.m. to 4:30 p.m., Monday through Friday excluding Federal holidays. Please contact the Regional Dockets for hours.

The following is the contact information for the EPA Headquarters Docket: Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; 1301 Constitution Avenue, NW.; EPA West, Room 3334, Washington, DC 20004; 202/566–0276. (Please note this is a visiting address only. Mail comments to EPA Headquarters as detailed at the beginning of this preamble.)

The contact information for the Regional Dockets is as follows:

Joan Berggren, Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA, Superfund Records and Information Center, Mailcode HSC, One Congress Street, Suite 1100, Boston, MA 02114–2023; 617/918–1417.

Ildefonso Acosta, Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007–1866; 212/637–4344.

Dawn Shellenberger (ASRC), Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, Library, 1650 Arch Street, Mailcode 3PM52, Philadelphia, PA 19103; 215/814–5364.

Debbie Jourdan, Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street, SW, Mail code 9T25, Atlanta, GA 30303; 404/562–8862.

Evette Jones, Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA, Records Center, Superfund Division SRC–7J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604; 312/886–7572.

Brenda Cook, Region 6 (AR, LA, NM, OK, TX), U.S. EPA, 1445 Ross Avenue, Suite 1200, Mailcode 6SFTS, Dallas, TX 75202–2733; 214/665–7436.

Michelle Quick, Region 7 (IA, KS, MO, NE), U.S. EPA, 901 North 5th Street, Mailcode SUPRERNB, Kansas City, KS 66101; 913/551–7335.

Sabrina Forrest, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 1595 Wynkoop Street, Mailcode 8EPR–B, Denver, CO 80202–1129; 303/312–6484.

Karen Jurist, Region 9 (AZ, CA, HI, NV, AS, GU, MP), U.S. EPA, 75 Hawthorne Street, Mailcode SFD–9–1, San Francisco, CA 94105; 415/972–3219.

Ken Marcy, Region 10 (AK, ID, OR, WA), U.S. EPA, 1200 6th Avenue, Mailcode ECL–112, Seattle, WA 98101; 206/463–1349.

You may also request copies from EPA Headquarters or the Regional Dockets. An informal request, rather than a formal written request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents. Please note that due to the difficulty of reproducing oversized maps, oversized maps may be viewed only in-person; since EPA dockets are not equipped to either copy and mail out such maps or scan them and send them out electronically.

You may use the Docket at *http://www.regulations.gov* to access documents in the Headquarters Docket (see instructions included in the **ADDRESSES** section above). Please note that there are differences between the Headquarters Docket and the Regional Dockets and those differences are outlined below.

C. What documents are available for public review at the Headquarters Docket?

The Headquarters Docket for this proposed rule contains the following for the sites proposed in this rule: HRS score sheets; Documentation Records describing the information used to compute the score; information for any sites affected by particular statutory requirements or EPA listing policies; and a list of documents referenced in the Documentation Record.

D. What documents are available for public review at the Regional Dockets?

The Regional Dockets for this proposed rule contain all of the

information in the Headquarters Docket plus the actual reference documents containing the data principally relied upon and cited by EPA in calculating or evaluating the HRS score for the sites. These reference documents are available only in the Regional Dockets.

E. How do I submit my comments?

Comments must be submitted to EPA Headquarters as detailed at the beginning of this preamble in the **ADDRESSES** section. Please note that the mailing addresses differ according to method of delivery. There are two different addresses that depend on whether comments are sent by express mail or by postal mail.

F. What happens to my comments?

EPA considers all comments received during the comment period. Significant comments are typically addressed in a support document that EPA will publish concurrently with the **Federal Register** document if, and when, the site is listed on the NPL.

G. What should I consider when preparing my comments?

Comments that include complex or voluminous reports, or materials prepared for purposes other than HRS scoring, should point out the specific information that EPA should consider and how it affects individual HRS factor values or other listing criteria (*Northside Sanitary Landfill* v. *Thomas,* 849 F.2d 1516 (DC Cir. 1988)). EPA will not address voluminous comments that are not referenced to the HRS or other listing criteria. EPA will not address comments unless they indicate which component of the HRS documentation record or what particular point in EPA's stated eligibility criteria is at issue.

H. May I submit comments after the public comment period is over?

Generally, EPA will not respond to late comments. EPA can guarantee only that it will consider those comments postmarked by the close of the formal comment period. EPA has a policy of generally not delaying a final listing decision solely to accommodate consideration of late comments.

I. May I view public comments submitted by others?

During the comment period, comments are placed in the Headquarters Docket and are available to the public on an "as received" basis. A complete set of comments will be available for viewing in the Regional Dockets approximately one week after the formal comment period closes.

All public comments, whether submitted electronically or in paper, will be made available for public viewing in the electronic public Docket at *http://www.regulations.gov http://www/epa/goc/edocket* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose disclosure is restricted by statute. Once in the public Dockets system, select "search," then key in the appropriate Docket ID number.

J. May I submit comments regarding sites not currently proposed to the NPL?

In certain instances, interested parties have written to EPA concerning sites that were not at that time proposed to the NPL. If those sites are later proposed to the NPL, parties should review their earlier concerns and, if still appropriate, resubmit those concerns for consideration during the formal comment period. Site-specific correspondence received prior to the period of formal proposal and comment will not generally be included in the Docket.

III. Contents of This Proposed Rule

A. Proposed Additions to the NPL

In today's proposed rule, EPA is proposing to add 15 sites to the General Superfund section of the NPL. All of the sites in this proposed rulemaking are being proposed based on HRS scores of 28.50 or above with the exceptions of North Ridge Estates (Klamath Falls, OR), which is being proposed based on its designation as the state's top priority, and Garfield Ground Water Contamination (Garfield, NJ), which is being proposed based on ATSDR Health Advisory criteria.

The sites are presented in the table below.

State	Site name	City/county
CA	Blue Ledge Mine	Rogue River—Siskiyou National Forest.
CA	New Idria Mercury Mine	Idria.
IL	Sandoval Zinc Company	Sandoval.
IN	Gary Development Landfill	Gary.
MD	Sauer Dump	Dundalk.
MS	Kerr-McGee Chemical Corp—Columbus	Columbus.
MS	Red Panther Chemical Company	Clarksdale.
NC	CTS of Asheville, Inc	Asheville.
NJ	Garfield Ground Water Contamination	Garfield.
NM	MolyCorp, Inc	Questa.
NY	New Cassel/Hicksville Ground Water Contamination	New Cassel/Hicksville.
OR	Astoria Marine Construction Company	Astoria.
OR	North Ridge Estates	Klamath Falls.
SC	US Finishing/Cone Mills	Greenville.
TN	Alamo Contaminated Ground Water	Alamo.

B. Re-Proposal of MolyCorp, Inc. Site

One of the 15 sites included in this proposed rule, MolyCorp, Inc., was previously proposed on May 11, 2000 (65 FR 30489). MolyCorp, Inc. is being re-proposed with a revised HRS score that is based on extensive new sampling data. Because EPA has used a large amount of new supporting material and substantially changed the HRS documentation record, EPA will not be examining comments submitted on the original May 2000 proposal. EPA will only be reviewing comments received on today's proposal.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

1. What is Executive Order 12866?

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether a regulatory action is "significant" and therefore

subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one 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.

2. Is this proposed rule subject to Executive Order 12866 review?

No. The listing of sites on the NPL does not impose any obligations on any entities. The listing does not set standards or a regulatory regime and imposes no liability or costs. Any liability under CERCLA exists irrespective of whether a site is listed. It has been determined that this action is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

1. What is the Paperwork Reduction Act?

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations, after initial display in the preamble of the final rules, are listed in 40 CFR part 9.

2. Does the Paperwork Reduction Act apply to this proposed rule?

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* EPA has determined that the PRA does not apply because this rule does not contain any information collection requirements that require approval of the OMB.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

1. What is the Regulatory Flexibility Act?

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

2. How has EPA complied with the Regulatory Flexibility Act?

This proposed rule listing sites on the NPL, if promulgated, would not impose any obligations on any group, including small entities. This proposed rule, if promulgated, also would establish no standards or requirements that any small entity must meet, and would impose no direct costs on any small entity. Whether an entity, small or otherwise, is liable for response costs for a release of hazardous substances depends on whether that entity is liable under CERCLA 107(a). Any such liability exists regardless of whether the site is listed on the NPL through this rulemaking. Thus, this proposed rule, if promulgated, would not impose any requirements on any small entities. For the foregoing reasons, I certify that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

1. What is the Unfunded Mandates Reform Act (UMRA)?

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Before EPA promulgates a rule where a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small-government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

2. Does UMRA apply to this proposed rule?

This proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Proposing a site on the NPL does not itself impose any costs. Proposal does not mean that EPA necessarily will undertake remedial action. Nor does proposal require any action by a private party or determine liability for response costs. Costs that arise out of site responses result from site-specific decisions regarding what actions to take, not directly from the act of proposing a site to be placed on the NPL. Thus, this rule is not subject to the requirements of section 202 and 205 of UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. As is mentioned above, site proposal does not impose any costs and would not require any action of a small government.

E. Executive Order 13132: Federalism

1. What is Executive Order 13132?

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" are defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

2. Does Executive Order 13132 apply to this proposed rule?

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it does not contain any requirements applicable to States or other levels of government. Thus, the requirements of the Executive Order do not apply to this proposed rule.

EPA believes, however, that this proposed rule may be of significant interest to State governments. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA therefore consulted with State officials and/or representatives of State governments early in the process of developing the rule to permit them to have meaningful and timely input into its development. All sites included in this proposed rule were referred to EPA by States for listing. For all sites in this rule, EPA received letters of support either from the Governor or a State official who was delegated the authority by the Governor to speak on their behalf regarding NPL listing decisions.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

1. What is Executive Order 13175?

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" are defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

2. Does Executive Order 13175 apply to this proposed rule?

This action does not have tribal implications, as specified in Executive Order 13175. Proposing a site to the NPL does not impose any costs on a tribe or require a tribe to take remedial action. Thus, Executive Order 13175 does not apply to this proposed rule.

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

1. What is Executive Order 13045?

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

2. Does Executive Order 13045 apply to this proposed rule?

This proposed rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this proposed rule present a disproportionate risk to children.

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

1. What is Executive Order 13211?

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)), requires federal agencies to prepare a "Statement of Energy Effects" when undertaking certain regulatory actions. A Statement of Energy Effects describes the adverse effects of a "significant energy action" on energy supply, distribution and use, reasonable alternatives to the action, and the expected effects of the alternatives on energy supply, distribution and use.

2. Does Executive Order 13211 apply to this proposed rule?

This action is not a "significant energy action" as defined in Executive Order 13211, because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this rule is not likely to have any adverse energy impacts because proposing a site to the NPL does not require an entity to conduct any action that would require energy use, let alone that which would significantly affect energy supply, distribution, or usage. Thus, Executive Order 13175 does not apply to this action.

I. National Technology Transfer and Advancement Act

1. What is the National Technology Transfer and Advancement Act?

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus

standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

2. Does the National Technology Transfer and Advancement Act apply to this proposed rule?

No. This proposed rulemaking does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

1. What is Executive Order 12898?

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

2. Does Executive Order 12898 apply to this rule?

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. As this rule does not impose any enforceable duty upon State, tribal, or local governments, this rule will neither increase nor decrease environmental protection.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: March 3, 2011.

Mathy Stanislaus,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 2011–5340 Filed 3–9–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 71

[Docket No. CDC–2011–0001]

RIN 0920–AA23

Requirements for Importers of Nonhuman Primates

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Proposed rule; extension of public comment period.

SUMMARY: On January 5, 2011 HHS/CDC published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (76 FR 678) proposing to amend its regulations (42 CFR 71.53) for the importation of live nonhuman primates (NHPs). Written comments were to be received on or before March 7, 2011. We have received a request asking for a 45 day extension of the comment period. In consideration of that request, HHS/CDC is extending the comment period by 45 days to April 25, 2011.

DATES: Written or electronic comments must be received on or before April 25, 2011. Written or electronic comments on the proposed information collection requirements must also be submitted on or before April 25, 2011. Please refer to **SUPPLEMENTARY INFORMATION** for additional information.

ADDRESSES: Written comments, identified by Docket No. CDC–2011–0001, may be submitted to the following address: Centers for Disease Control and Prevention, Division of Global Migration and Quarantine, *ATTN:* NHP Rule Comments, 1600 Clifton Road, NE., (E03), Atlanta, GA 30333. Comments will be available for public inspection Monday through Friday, except for legal holidays, from 9 a.m. until 5 p.m., Eastern Time, at 1600 Clifton Road, NE., Atlanta, GA 30333. Please call ahead to 1–866–694–4867 and ask for a representative in the Division of Global Migration and Quarantine (DGMQ) to schedule your visit. Comments also may be viewed at *http://www.cdc.gov/ncidod/dq.* Written comments may be submitted electronically via the Internet at *http://www.regulations.gov* or via e-mail to *NHPPublicComments@cdc.gov.* All comments received will be posted publicly without change, including any personal or proprietary information provided. To download an electronic version of the rule, access *http://www.regulations.gov.*

Mail written comments on the proposed information collection requirements to the following address: Office of Information and Regulatory Affairs, OMB, New Executive Office Building, 725 17th Street, NW., rm. 10235, Washington, DC 20503, *Attn:* Desk Officer for CDC.

FOR FURTHER INFORMATION CONTACT: Ashley A. Marrone, J.D., U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Division of Global Migration and Quarantine, 1600 Clifton Road, NE., Mailstop E–03, Atlanta, GA 30333, Telephone, 404–498–1600.

SUPPLEMENTARY INFORMATION: On January 5, 2011 HHS/CDC published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (76 FR 678) proposing to amend its regulations (42 CFR 71.53) for the imporation of live nonhuman primates (NHPs) by extending existing requirements for the importation of *Macaca fascicularis* (cyanmologus), *Chlororcebus aethlops* (African green) and *Macaca mulatta* (rhesus) monkeys to all NHPs. Filovirus testing would continue to be required only for Old World NHPs. In the NPRM, HHS/CDC also proposed to reduce the frequency at which importers of cynomolgus, African green, and rhesus monkeys are required to renew their registrations, from every 180 days to every two years. HHS/CDC proposed to incorporate existing guidelines into the regulations and add new provisions to address: (1) NHPs imported as part of a trained animal act; (2) NHPs imported or transferred by zoological societies; (3) The transfer of NHPs from approved laboratories; and (4) Non-live imported NHP products. Finally, HHS/CDC proposed that all NHPs be imported only through ports of entry where a CDC quarantine station is located. HHS/CDC provided a 60 day public comment period. Written comments were to be received on or before March 7, 2011. We have received a request asking for a 45 day extension of the comment period. In consideration of that request, HHS/CDC is extending the comment period by 45 days to April 25, 2011.

HHS/CDC's general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet as they are received and without change, including

any personal identifiers or contact information.

HHS/CDC has posted the NPRM and related materials on their Web site found at *http://www.cdc.gov/ncpdcid/dgmq/index.html.*

Dated: March 4, 2011.

Kathleen Sebelius,

Secretary.

[FR Doc. 2011–5457 Filed 3–9–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 385, 390, and 395

[Docket No. FMCSA–2010–0167]

RIN 2126–AB20

Electronic On-Board Recorders and Hours of Service Supporting Documents

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: This notice extends the public comment period for the NPRM from April 4, 2011 to May 23, 2011.

DATES: Comments on the NPRM are due by May 23, 2011.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah M. Freund, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001 or by telephone at (202) 366–5370.

SUPPLEMENTARY INFORMATION: On February 17, 2011, the Commercial Vehicle Safety Alliance requested that FMCSA extend the comment period for the Electronic On-Board Recorder and Hours of Service Supporting Documents Notice of Proposed Rulemaking, which published on February 1, 2011 (76 FR 5537), by 45 days. On March 1, 2011, the American Trucking Associations also requested a 45-day extension to the comment period.

FMCSA believes that other potential commenters to this rulemaking will benefit from an extension as well. Accordingly, FMCSA extends the comment period for all comments on the NPRM and its related documents to May 23, 2011.

Issued on: March 4, 2011.

Anne S. Ferro,

Administrator.

[FR Doc. 2011–5421 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2011–0008; MO 92210–0–0008]

Endangered and Threatened Wildlife and Plants; Initiation of Status Review for Longfin Smelt

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Initiation of status review and solicitation of new information.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), under the authority of the Endangered Species Act of 1973, as amended (Act), announce the initiation of a status review for the longfin smelt (*Spirinchus thaleichthys*). To ensure that the status review is comprehensive, we are requesting scientific and commercial data and other information regarding this species. Based on the status review, we will issue a 12-month finding, which will address whether the listing may be warranted, as provided in section 4(b)(3)(B) of the Act.

DATES: To allow us adequate time to conduct this review, we request that we receive information on or before April 11, 2011. After this date, you must submit information directly to the Field Office (*see* **FOR FURTHER INFORMATION CONTACT** section below). Please note that we may not be able to fully address or incorporate information that we receive after the above requested date.

ADDRESSES: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search for Docket No. FWS–R8–ES–2011–0008 and then follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS–R8–ES–2011–0008; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all information received on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (*see* the Request for Information section below for more details).

FOR FURTHER INFORMATION CONTACT: Field Supervisor, San Francisco Bay-Delta Fish and Wildlife Office, 650 Capitol Mall, Eighth Floor, Sacramento, CA 95814; by telephone at 916–930–5603; or facsimile at 916–930–5654. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Request for Information

To ensure the status review is complete and based on the best available scientific and commercial information, we request information on the longfin smelt. We request any additional information from governmental agencies, Native American Tribes, the scientific community, industry, and any other interested parties. We seek information on:

(1) The species' biology, range, and population trends, including:

(a) Habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species or its habitat.

(2) The factors that are the basis for making a listing determination for a species under section 4(a) of the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*), which are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence.

(3) The potential effects global climate change may have on the longfin smelt or its habitat.

If, after the status review, we determine that listing the longfin smelt is warranted, we will propose critical habitat (*see* definition in section 3(5)(A) of the Act), under section 4 of the Act, to the maximum extent prudent and determinable at the time we propose to list the species. Therefore, within the geographical range currently occupied by the longfin smelt, we also request data and information on:

(1) What may constitute "physical or biological features essential to the conservation of the species;"

(2) Where these features are currently found; and

(3) Whether any of these features may require special management considerations or protection.

In addition, we request data and information on "specific areas outside the geographical area occupied by the species" that are "essential to the conservation of the species." Please provide specific comments and information as to what, if any, critical habitat you think we should propose for designation if the species is proposed for listing, and why such habitat meets the requirements of section 4 of the Act.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made "solely on the basis of the best scientific and commercial data available."

You may submit your information concerning this status review by one of the methods listed in the **ADDRESSES** section. If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If you submit a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.*

Information and supporting documentation that we received and used in preparing this finding is available for you to review at *http://www.regulations.gov,* or you may make an appointment during normal business hours at the U.S. Fish and Wildlife Service, San Francisco Bay-Delta Fish and Wildlife Office (*see* **FOR FURTHER INFORMATION CONTACT**).

Previous Federal Actions

On August 8, 2007, the Service received a petition from the Bay Institute, the Center for Biological Diversity, and the Natural Resources Defense Council to list the San Francisco Bay-Delta population of the longfin smelt as a distinct population segment (DPS) and to designate critical habitat for the species concurrent with the listing. The petition was clearly identified as a petition for a listing rule and contained the names, signatures, and addresses of the requesting parties. On May 6, 2008, the Service published a 90-day finding (73 FR 24911) in which we concluded that the petition provided substantial information indicating that listing the San Francisco Bay-Delta Population of the longfin smelt as a distinct populations segment (DPS) may be warranted, and we initiated a status review. On April 9, 2009, the Service published a 12-month finding (74 FR 16169) on the petition to list the San Francisco Bay-Delta population of the longfin smelt as a DPS and designate critical habitat for the species concurrent with the listing. We determined that the San Francisco Bay-Delta population of the longfin smelt did not meet the discreteness criterion of our Policy Regarding the Recognition of Distinct Vertebrate Population Segments (DPS policy) (February 7, 1996, 61 FR 4721), and therefore we did not undertake a significance review, since it is not a valid DPS.

On November 13, 2009, the Center for Biological Diversity (CBD) filed a complaint in the U.S. District Court for the Northern District of California, challenging the Service on the merits of the 2009 determination. On February 1, 2011, the Service settled with the Center for Biological Diversity and agreed to conduct a range-wide 12-month finding to be published by September 30, 2011.

You may obtain copies of the 2009 determination, and other previous Federal actions relating to the longfin smelt, by mail from the San Francisco Bay-Delta Fish and Wildlife Office (*see* **FOR FURTHER INFORMATION CONTACT** section); on the Internet at *http://www.fws.gov/sfbaydelta/;* or by visiting the Federal eRulemaking Portal at *http://www.regulations.gov.*

Authors

The primary authors of this notice are the staff members of the San Francisco Bay-Delta Fish and Wildlife Office (*see* **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: March 2, 2011.

Gregory E. Siekaniec,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2011–5424 Filed 3–9–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 110103005–1005–01]

RIN 0648–BA48

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Greater Amberjack Management Measures

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

ACTION: Proposed rule; reopening of comment period.

SUMMARY: NMFS is reopening the comment period to provide additional opportunity for public comment on the proposed rule that would implement a seasonal closure for the Gulf of Mexico (Gulf) greater amberjack recreational sector. The reopening of the comment period is to ensure that the public fully understands the intent of the greater amberjack regulatory amendment. NMFS is reopening the comment period for the proposed rule on March 10, 2011 and it will remain open through March 25, 2011. The intended effect of the proposed rule is to mitigate the social and economic impacts associated with implementing in-season closures.

DATES: The comment period for the proposed rule that published on January 24, 2011 (76 FR 4084), and closed on February 23, 2011, will reopen on March 10, 2011 and remain open through March 25, 2011.

ADDRESSES: You may submit comments on the proposed rule identified by 0648–BA48 by any of the following methods:

- *Electronic submissions:* Submit electronic comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Rich Malinowski, Southeast Regional Office, NMFS, 263 13th Avenue, South, St. Petersburg, FL 33701.

Instructions: All comments received are a part of the public record and will generally be posted to *http://*

www.regulations.gov without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-rulemaking portal: *http://www.regulations.gov,* enter "NOAA–NMFS–2010–0281" in the keyword search, then check the box labeled "Select to find documents accepting comments or submissions", then select "Send a comment or submission". NMFS will accept anonymous comments (enter N/A in the required field if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this proposed rule will not be considered.

Copies of the regulatory amendment, which includes an environmental assessment (EA), an initial regulatory flexibility analysis (IRFA), and a regulatory impact review, may be obtained from the Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607; telephone 813–348–1630; fax 813–348–1711; e-mail *gulfcouncil@gulfcouncil.org;* or may be downloaded from the Council's Web site at: *http://www.gulfcouncil.org/.*

FOR FURTHER INFORMATION CONTACT: Rich Malinowski, 727–824–5305; *fax:* 727–824–5308.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On January 24, 2011 (76 FR 4084), NMFS published a proposed rule to establish a 2-month seasonal closure of the recreational sector for greater amberjack within the Gulf reef fish fishery. Harvest and possession of recreational greater amberjack would be prohibited in or from the Gulf EEZ during the months of June and July each year. The establishment of a recreational seasonal closure is intended to mitigate the social and economic impacts associated with implementing in-season closures.

Based on many of the comments received on the proposed rule, it appears to NMFS that the intent of the proposed action was not completely understood by the public. A number of commenters seem to have the understanding that the intent of the recreational seasonal closure is to reduce recreational harvest. In actuality, the proposed recreational seasonal closure occurs during a peak time for greater amberjack fishing, and is therefore projected to allow the recreational sector to be open during the remainder of the fishing year, without the necessity for additional in-season quota closures or implementation of accountability measures. Many for-hire operators indicated to the Council that the summer recreational seasonal closure was a preferred closure alternative since it would allow the for-hire industry to market greater amberjack as a trophy fish during the months their preferred target species of red snapper was unavailable.

NMFS specifically invites public comment on the clarification of the intent of the greater amberjack recreational seasonal closure. Additionally, the reef fish for-hire industry has requested a reopening of the comment period to allow industry additional time to submit comments. Therefore, NMFS will reopen the public comment period on the proposed rule on March 10, 2011 and it will remain open through March 25, 2011.

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

Dated: March 4, 2011.

Samuel D. Rauch III,

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

[FR Doc. 2011–5521 Filed 3–9–11; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 76, No. 47

Thursday, March 10, 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

Office of the Secretary

Notice of the National Agricultural Research, Extension, Education, and Economics Advisory Board Meeting

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App 2, the United States Department of Agriculture (USDA) announces a meeting of the National Agricultural Research, Extension, Education, and Economics Advisory Board.

DATES: The National Agricultural Research, Extension, Education, and Economics Advisory Board will meet March 30–31, 2011. The public may file written comments before or up to two weeks after the meeting with the contact person.

ADDRESSES: The meeting will take place at the Hamilton Crowne Plaza Hotel, 1001 14th Street, NW., Washington, DC 20005. Written comments from the public may be sent to the Contact Person identified in this notice at: The National Agricultural Research, Extension, Education, and Economics Advisory Board Office, Room 3901 South Building, United States Department of Agriculture, STOP 0321, 1400 Independence Avenue, SW., Washington, DC 20250–0321.

FOR FURTHER INFORMATION CONTACT: J. Robert Burk, Executive Director or Shirley Morgan-Jordan, Program Support Coordinator, National Agricultural Research, Extension, Education, and Economics Advisory Board; *telephone:* (202) 720–3684; *fax:* (202) 720–6199; or *e-mail: Robert.Burk@ars.usda.gov* or *Shirley.Morgan@ars.usda.gov.*

SUPPLEMENTARY INFORMATION: On Wednesday, March 30, 2011, from 8 a.m.–5 p.m., the full Advisory Board meeting will take place beginning with introductory remarks provided by the Chair of the Advisory Board and the USDA Under Secretary for Research, Education, and Economics. Throughout the day remarks will be made by internal and external USDA sources with expertise on subjects relevant to the Board's role as an Advisory Board on research, extension, education, and economics. Following adjournment of the meeting, an evening reception will be held from 6 p.m.–8 p.m. with a guest speaker presenting remarks on a similar subject. Specific agenda items will include a discussion panel on formal Cooperatives for inter and intra agency collaboration on research, and a session related to future funding recommendations for Research, Education, and Economics programs.

On Thursday, March 31, 2010, the Board will reconvene at 8 a.m. to discuss initial recommendations resulting from the meeting, future planning for the Board, and to finalize Board business. The Board Meeting will adjourn by 12 p.m. (noon).

Opportunity for public comment will be offered each day of the meeting, and all portions of the meeting are open to the public. Written comments by attendees or other interested stakeholders will be welcomed for the public record before and up to two weeks following the Board meeting (by the close of business on Thursday, April 14, 2011). All statements will become a part of the official record of the National Agricultural Research, Extension, Education, and Economics Advisory Board and will be kept on file for public review in the Research, Education, and Economics Advisory Board Office.

Done at Washington, DC, this 3rd day of February 2011.

Catherine Woteki,

Under Secretary, Research, Education, and Economics.

[FR Doc. 2011–5422 Filed 3–9–11; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Forest Service

Yavapai County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Yavapai County Resource Advisory Committee (RAC) will meet in Prescott, Arizona. 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 orientate new committee members to the Secural Rural Schools Act, roles of members, guidelines for Title II, and the Federal Advisory Committee Act.

DATES: The meeting will be held March 25, 2011; 10:30 a.m to 2:30 p.m.

ADDRESSES: The meeting will be held at the Yavapai County Mackin Building, 840 Rodeo Drive, Prescott, AZ 86305.

FOR FURTHER INFORMATION CONTACT: Debbie Maneely, RAC Coordinator, Prescott National Forest, 344 S. Cortez, Prescott, AZ 86301; (928) 443–8130 or *dmaneely@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The following business will be conducted: (1) Welcome and introductions; (2) Project Presentations/Questions-Answers; (3) review and ranking of projects submitted for Round 1; (4) next meeting agenda, location, and date.

Dated: March 4, 2011.

Nancy Walls,

Acting Forest Supervisor.

[FR Doc. 2011–5462 Filed 3–9–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Del Norte Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Del Norte Resource Advisory Committee (RAC) will meet in Crescent City, California. The committee meeting is authorized under the Secure Rural Schools and Community Self-

Determination (SRS) Act (Pub.L. 110–343) and in compliance with the Federal Advisory Committee Act.

DATES: The meeting will be held March 28, 2011, from 5 p.m. to 9 p.m.

ADDRESSES: The meeting will be held at the Del Norte County Unified School District, Redwood Room 301, West Washington Boulevard, Crescent City, California, 95531.

FOR FURTHER INFORMATION CONTACT: Adam Dellinger, Committee Coordinator, Six Rivers National Forest, at (707) 441–3569; e-mail *adellinger@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The Del Norte County RAC will discuss how to monitor recommended projects and will vote on projects to recommend for funding. The meeting is open to the public and there will also be a public comment opportunity.

Dated: March 2, 2011.

Tyrone Kelley,

Forest Supervisor.

[FR Doc. 2011–5453 Filed 3–9–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on this information collection for which the Agency intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by May 9, 2011.

FOR FURTHER INFORMATION CONTACT: Michele Brooks, Director, Program Development and Regulatory Analysis, USDA-Rural Utilities Service, 1400 Independence Avenue, SW., STOP 1522, Room 5159–S, Washington, DC 20250–1522. *Telephone:* (202) 690–1078. *Fax:* (202) 720–8435. *E-mail: michele.brooks@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (*see* 5 CFR 1320.8(d)). This notice identifies an information collection that Rural Development Utilities Programs is submitting to OMB for approval.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information 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 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. Comments may be sent to Michele Brooks, Director, Program Development and Regulatory Analysis, USDA-Rural Utilities Service, STOP 1522, 1400 Independence Ave., SW., Washington, DC 20250–1522. *Fax:* (202) 720–3485.

Title: Request for Mail List Data, RUS Form 87.

OMB Control Number: 0572–0051.

Type of Request: Revision of a currently approved information collection.

Abstract: The RUS Form 87 is used for both the Rural Development Electric and Telecommunications programs to obtain the names and addresses of the borrowers' officials with whom they must communicate directly in order to administer the Agency's lending programs. Changes occurring at the borrower's annual meeting (*e.g.,* the selection of board members, managers, attorneys, certified public accountants, or other officials) make necessary the collection of information. Hours are being reduced in the information collection package to accurately reflect the current number of respondents.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .25 hour per response.

Respondents: Business or other for-profit; Not-for-profit institutions.

Estimated Number of Respondents: 1,150.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 288 hours.

Copies of this information collection can be obtained from Joyce McNeil, Program Development and Regulatory Analysis, at (202) 720–0812. *Fax:* (202) 720–3485. *E-mail: joyce.mcneil@wdc.usda.gov.*

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: March 4, 2011.

Jessica Zufolo,

Deputy Administrator, Rural Utilities Service.

[FR Doc. 2011–5499 Filed 3–9–11; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Announcement of Grant Application Deadlines and Funding Levels; Correction

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Solicitation of Applications; correction.

SUMMARY: The United States Department of Agriculture's (USDA) Rural Utilities Service (RUS) published a document in the **Federal Register** of March 4, 2011, announcing the availability of $25 million in funding for Fiscal Year (FY) 2011 for the Community Connect Grant Program. The document contained an incorrect website.

FOR FURTHER INFORMATION CONTACT: Thomas P. Dickson, 202–690–4492.

Correction

In the **Federal Register** of March 4, 2011, in FR Doc. 76–12017, on page 12022, in the first column, under the heading "Agency Contacts" correct the Web site to read:

A. Web site: *http://www.rurdev.usda.gov/utp_commconnect.html.*

Dated: March 3, 2011.

Jonathan Adelstein,

Administrator, Rural Utilities Service.

[FR Doc. 2011–5500 Filed 3–9–11; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: U.S. Census Bureau.

Title: Monthly Retail Trade Survey.

OMB Control Number: 0607–0717.

Form Number(s): SM–44(06)S, SM–44(06)SE, SM–44(06)SS, SM–44(06)B, SM–44(06)BE, SM–44(06)BS, SM–45(06)S, SM–45(06)SE, SM–45(06)SS, SM–45(06)B, SM–45(06)BE, SM–45(06)BS, SM–72(06)S, and SM–20(06)I.

Type of Request: Extension of a currently approved collection.

Burden Hours: 12,200.

Number of Respondents: 8,714.

Average Hours per Response: 7 minutes.

Needs and Uses: The Monthly Retail Trade Survey provides estimates of monthly retail sales, end-of-month merchandise inventories, and quarterly e-commerce sales of retailers in the United States. In addition, the survey also provides an estimate of monthly sales at food service establishments and drinking places.

Sales and inventories data provide a current statistical picture of the retail portion of consumer activity. The sales and inventories estimates in the Monthly Retail Trade Survey measure current trends of economic activity that occur in the United States. The survey estimates provide valuable information for economic policy decisions and actions by the government and are widely used by private businesses, trade organizations, professional associations, and others for market research and analysis. The Bureau of Economic Analysis (BEA) uses these data in determining the consumption portion of Gross Domestic Product (GDP).

Retail and Food Services Sales during 2009 amounted to $3.7 trillion. The estimates produced in the Monthly Retail Trade Survey are critical to the accurate measurement of total economic activity. The estimates of retail sales represent all operating receipts, including receipts from wholesale sales made at retail locations and services rendered as part of the sale of the goods, by businesses that primarily sell at retail. The sales estimates include sales made on credit as well as on a cash basis, but exclude receipts from sales taxes and interest charges from credit sales. Also excluded is non-operating income from such services as investments and real estate. The estimates of merchandise inventories owned by retailers represent all merchandise located in retail stores, warehouses, offices, or in transit for distribution to retail establishments. The estimates of merchandise inventories exclude fixtures and supplies not held for sale, as well as merchandise held on consignment owned by others. BEA uses inventories data to determine the investment portion of the GDP.

Retail e-commerce sales are estimated from the same sample used in the Monthly Retail Trade Survey to estimate preliminary and final U.S. retail sales. The Monthly Retail Trade sample is updated on an ongoing basis to account for new retail employer businesses (including those selling via the Internet), business deaths, and other changes to the retail business universe. Research was conducted to ensure that retail firms selected in the Monthly Retail Trade Survey sample engaged in e-commerce are representative of the universe of e-commerce retailers. Total e-commerce sales for 2009 were estimated at $205 billion.

We publish retail sales and inventories estimates based on the North American Industry Classification System (NAICS).

BEA is the primary Federal user of data collected in the Monthly Retail Trade Survey. BEA uses the information in its preparation of the National Income and Products Accounts, and its benchmark and annual input-output tables. Statistics provided from retail sales and inventories estimates are used in the calculation of GDP. If the survey were not conducted, BEA would lack comprehensive data from the retail sector. This would adversely affect the reliability of the National Income and Products Accounts and the GDP. The Bureau of Labor Statistics (BLS) uses the data as input to their Producer Price Indexes and in developing productivity measurements. The data are also used for gauging current economic trends of the economy. Private businesses use the retail sales and inventories data to compute business activity indexes. The private sector also uses retail sales as a reliable indicator of consumer activity.

Affected Public: Business or other for-profit.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 182.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer (202) 482–0266, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or e-mail (*bharrisk@omb.eop.gov*).

Dated: March 4, 2011.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–5434 Filed 3–9–11; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: U.S. Census Bureau.

Title: Monthly Wholesale Trade Survey.

OMB Control Number: 0607–0190.

Form Number(s): SM4206–A, SM4206–E.

Type of Request: Extension of a currently approved collection.

Burden Hours: 6,300.

Number of Respondents: 4,500.

Average Hours per Response: 7 minutes.

Needs and Uses: The Monthly Wholesale Trade Survey (MWTS) canvasses firms primarily engaged in merchant wholesale trade, excluding manufacturers' sales branches and offices (MSBOs), that are located in the United States. This survey provides the only continuous measure of monthly wholesale sales, end-of-month inventories, and inventories/sales ratios. The sales and inventory estimates produced from the MWTS provide current trends of economic activity by kind of business for the United States. Also, the estimates compiled from this survey provide valuable information for economic policy decisions by the government and are widely used by private businesses, trade organizations, professional associations, and other business research and analysis organizations.

As one of the U.S. Census Bureau's principal economic indicators, the estimates produced by the MWTS are critical to the accurate measurement of total economic activity of the United States. The estimates of sales made by wholesale locations represent only merchant wholesalers, excluding MSBOs, who take title to goods bought for resale to other companies. Wholesalers normally sell to industrial distributors, retail operations, cooperatives, and other businesses. The sales estimates include sales made on credit as well as on a cash basis, but

exclude receipts from sales taxes and interest charges from credit sales.

The estimates of inventories represent all merchandise held in wholesale locations, warehouses, and offices, as well as goods held by others for sale on consignment or in transit for distribution to wholesale establishments. The estimates of inventories exclude fixtures and supplies not for resale, as well as merchandise held on consignment which are owned by others. Inventories are an important component in the Bureau of Economic Analysis's (BEA) calculation of the investment portion of the Gross Domestic Product (GDP).

We publish wholesale sales and inventory estimates based on the North American Industry Classification System (NAICS) which has been widely adopted throughout both the public and private sectors.

The Census Bureau tabulates the collected data to provide, with measurable reliability, statistics on sales, end-of-month inventories, and inventories/sales ratios for merchant wholesalers, excluding MSBOs.

The BEA is the primary Federal user of data collected in the MWTS. The BEA uses data from this form to prepare the national income and product accounts (NIPA), input-output accounts (I–O), and gross domestic product (GDP) by industry. End-of-month inventories are used to prepare the change in private inventories component of GDP. Sales are used to prepare estimates of real inventory-sales ratios in the NIPAs, extrapolate proprietors' income for wholesalers (until tax return data become available) in the NIPAs, and extrapolate annual current-dollar gross output for the most recent year in annual I–O tables, GDP-by-industry, and advance GDP-by-industry estimates.

The Bureau of Labor Statistics uses the data as input to its Producer Price Indexes and in developing productivity measurements. Private businesses use the wholesale sales and inventory data in computing business activity indexes. Other government agencies and businesses use this information for market research, product development, and business planning to gauge the current trends of the economy.

Affected Public: Business or other for-profit.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 182.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or e-mail (*bharrisk@omb.eop.gov*).

Dated: March 4, 2011.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–5435 Filed 3–9–11; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Amy Farrow

In the Matter of: Amy Farrow, 1493 Sanbrook Ct., Bethlehem, PA 18015, Respondent

Order Relating to Amy Farrow

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has notified Amy Farrow, in her individual capacity and as sole proprietor of The Wholesale Discount Store of Bethlehem, Pennsylvania ("Farrow"), of its intention to initiate an administrative proceeding against Farrow pursuant to Section 766.3 of the Export Administration Regulations (the "Regulations") [1] and Section 13(c) of the Export Administration Act of 1979, as amended (the "Act"),[2] through the issuance of a Proposed Charging Letter to Farrow that alleged that she committed 116 violations of the Regulations. Specifically, the charges are:

Charges 1–116 15 CFR 764.2(a): Exporting Stun Guns Without a License

On 116 occasions between on or about January 1, 2008 and on or about July 20, 2008, Farrow engaged in conduct prohibited by the Regulations by exporting items subject to the Regulations to various destinations without the required Department of Commerce authorization. Specifically, Farrow exported 254 stun guns, items subject to the Regulations, classified under Export Control Classification Number 0A985, and controlled for export to these destinations for crime control reasons, without the export licenses required by Section 742.7 of the Regulations. In exporting these items without a license, Farrow committed 116 violations of Section 764.2(a) of the Regulations.

Whereas, BIS and Farrow have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations, whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein; and

Whereas, I have approved of the terms of such Settlement Agreement;

It is therefore ordered:

First, for a period of two years from the date of this Order, Amy Farrow, 1493 Sanbrook Ct., Bethlehem, PA 18015, her representatives, assigns or agents (hereinafter collectively referred to as "Denied Person") may not participate, directly or indirectly, in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by

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[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2010). The charged violations occurred in 2008. The Regulations governing the violations at issue are found in the 2008 version of the Code of Federal Regulations (15 CFR Parts 730–774 (2008)). The 2010 Regulations set forth the procedures that apply to this matter.

[2] 50 U.S.C. app. sections 2401–2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13,222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended most recently by the Notice of August 17, 2010 (75 FR 50,681 (Aug. 16, 2010)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*).

the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Farrow by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Fifth, that, as authorized by Section 766.18(c) of the Regulations, the second year of the two year denial period set forth above shall be suspended and shall thereafter be waived, provided that during the first year of the denial period and during the period of suspension, Farrow has commited no violation of the Act or any regulation, order or license issued thereunder.

Sixth, that the Proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Issued this 28th day of February, 2011.

David W. Mills,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2011–5447 Filed 3–9–11; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–837]

Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) From Taiwan: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review

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

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

FOR FURTHER INFORMATION CONTACT: Emily Halle or Gene Calvert, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–0176 or (202) 482–3586, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 31, 2010, the Department of Commerce (the Department) initiated the administrative review of the antidumping duty order on PET Film from Taiwan covering the period July 1, 2009, through June 30, 2010. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Initiation of Administrative Review,* 75 FR 53274 (August 31, 2010). The current deadline for the preliminary results of review is April 2, 2011.

Extension of Time Limit for Preliminary Results

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), the Department shall make a preliminary determination in an administrative review of an antidumping duty order within 245 days after the last day of the anniversary month of the date of publication of the order. The Act further provides, however, that the Department may extend that 245-day period to 365 days if it determines it is not practicable to complete the review within the foregoing time period.

The Department finds that it is not practicable to complete the preliminary results of the administrative review of PET Film from Taiwan within this time limit. Specifically, the Department granted an extension until March 2, 2011 for Shinkong Synthetic Fibers Corporation to submit its supplemental questionnaire response. We will need additional time to review and analyze the supplemental questionnaire response when it is submitted. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time period for completion of the preliminary results of this review from 245 days to 365 days; *i.e.,* from April 2, 2011, until July 31, 2011.

However, July 31, 2011 falls on a Sunday, and it is the Department's long-standing practice to issue a determination the next business day when the statutory deadline falls on a weekend, federal holiday, or any other day when the Department is closed. *See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005). Accordingly, the deadline for the completion of these preliminary results is now no later than August 1, 2011.

This notice is issued and published in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: March 4, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–5515 Filed 3–9–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–819]

Magnesium Metal From the Russian Federation: Revocation of Antidumping Duty Order Pursuant to Five-Year Sunset Review

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

SUMMARY: On March 1, 2010, the Department of Commerce (the Department) initiated and the International Trade Commission (ITC) instituted the sunset review of the antidumping duty order on magnesium metal from the Russian Federation. On February 10, 2011, the ITC determined

that revocation of this antidumping duty order would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. Therefore, the Department is revoking the antidumping duty order on magnesium metal from the Russian Federation.

DATES: *Effective Date:* April 15, 2010.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla 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) 482–3477 or (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the antidumping duty order on magnesium metal from the Russian Federation on April 15, 2005. See *Notice of Antidumping Duty Order: Magnesium Metal From the Russian Federation,* 70 FR 19930 (April 15, 2005). Pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.218, the Department initiated and the ITC instituted the sunset review of this order on March 1, 2010. *See Initiation of Five-Year ("Sunset") Review,* 75 FR 9160 (March 1, 2010); *Magnesium From China and Russia,* 75 FR 9252 (March 1, 2010). As a result of its sunset review, the Department found that revocation of the antidumping duty order would likely lead to a continuation or recurrence of dumping and, therefore, notified the ITC of the magnitude of the margins likely to prevail should the order be revoked. *See Magnesium Metal From the People's Republic of China and the Russian Federation: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders,* 75 FR 38983 (July 7, 2010).

On February 10, 2011, the ITC determined pursuant to section 751(c) of the Act that revocation of the antidumping duty order on magnesium metal from the Russian Federation would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Magnesium From China and Russia,* 76 FR 11813 (March 3, 2011), and USITC Publication 4214 (February 2011), entitled *Magnesium from China and Russia: Investigation Nos. 731–TA–1071–1072 (Review).*

Scope of the Order

The merchandise covered by the order is magnesium metal (also referred to as magnesium), which includes primary and secondary pure and alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size. Magnesium is a metal or alloy containing by weight primarily the element magnesium. Primary magnesium is produced by decomposing raw materials into magnesium metal. Secondary magnesium is produced by recycling magnesium-based scrap into magnesium metal. The magnesium covered by the order includes blends of primary and secondary magnesium.

The subject merchandise includes the following pure and alloy magnesium metal products made from primary and/or secondary magnesium, including, without limitation, magnesium cast into ingots, slabs, rounds, billets, and other shapes, and magnesium ground, chipped, crushed, or machined into raspings, granules, turnings, chips, powder, briquettes, and other shapes: (1) Products that contain at least 99.95 percent magnesium, by weight (generally referred to as "ultra-pure" magnesium); (2) products that contain less than 99.95 percent but not less than 99.8 percent magnesium, by weight (generally referred to as "pure" magnesium); and (3) chemical combinations of magnesium and other material(s) in which the magnesium content is 50 percent or greater, but less that 99.8 percent, by weight, whether or not conforming to an "ASTM Specification for Magnesium Alloy."

The scope of the order excludes: (1) Magnesium that is in liquid or molten form; and (2) mixtures containing 90 percent or less magnesium in granular or powder form by weight and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nephaline syenite, feldspar, alumina (Al203), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.[1]

The merchandise subject to the order is currently classifiable under items 8104.11.00, 8104.19.00, 8104.30.00, and 8104.90.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the merchandise covered by the order is dispositive.

Revocation

As a result of the determination by the ITC that revocation of this antidumping duty order is not likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, the Department is revoking the antidumping duty order on magnesium metal from the Russian Federation, pursuant to section 751(d) of the Act. Pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(2)(i), the effective date of revocation is April 15, 2010 (*i.e.,* the fifth anniversary of the date of publication in the Federal Register of the notice of the antidumping duty order).

Effective Date of Revocation

Pursuant to section 751(c)(3)(A) of the Act and 19 CFR 351.222(i)(2)(i), the Department intends to issue instructions to U.S. Customs and Border Protection, 15 days after publication of this notice, to terminate the suspension of liquidation of merchandise subject to the order which was entered, or withdrawn, for consumption on or after April 15, 2010, the effective date of revocation of the antidumping duty order. The Department will complete any pending administrative reviews of this order and will conduct reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO which may be subject to sanctions.

This revocation pursuant to five-year (sunset) review and notice are in

[1] This second exclusion for magnesium-based reagent mixtures is based on the exclusion for reagent mixtures in the 2001 investigations of magnesium from the People's Republic of China, Israel, and the Russian Federation. *See Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form From the People's Republic of China,* 66 FR 49345 (September 27, 2001), and *Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium From Israel,* 66 FR 49349 (September 27, 2001); *Notice of Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation,* 66 FR 49347 (September 27, 2001). These mixtures are not magnesium alloys, because they are not chemically combined in liquid form and cast into the same ingot.

accordance with sections 751(c) and 751(d)(2) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: March 4, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011–5512 Filed 3–9–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA281

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a meeting of the Ad Hoc Reef Fish Limited Access Privilege Program Advisory Panel.

DATES: The meeting will convene at 1 p.m. on Monday, March 28, 2011 and conclude by 5 p.m. on Tuesday, March 29, 2011.

ADDRESSES: The meeting will be held at the Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607; *telephone:* (813) 348–1630.

Council address: Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Dr. Assane Diagne, Economist; Gulf of Mexico Fishery Management Council; *telephone:* (813) 348–1630.

SUPPLEMENTARY INFORMATION: The Ad Hoc Reef Fish Limited Access Privilege Program Advisory Panel will meet to discuss charter for-hire days-at-sea and headboat individual fishing quota pilot programs, and, fishing communities in fisheries management.

Copies of the agenda and other related materials can be obtained by calling (813) 348–1630.

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

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Trish Kennedy at the Council (*see* **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: March 4, 2011.

Tracey L. Thompson,

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

[FR Doc. 2011–5433 Filed 3–9–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA093

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Polar Bear Captures

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) regulations, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to the U.S. Fish and Wildlife Service (USFWS) to take marine mammals, by harassment, incidental to a capture-recapture program of polar bears in the U.S. Chukchi Sea.

DATES: Effective March 14, 2011, through May 31, 2011.

ADDRESSES: A copy of the authorization, application, and associated Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) may be obtained by writing to Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, MD 20910, telephoning the contact listed below (*see* **FOR FURTHER INFORMATION CONTACT**), or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Candace Nachman, Office of Protected Resources, NMFS, (301) 713–2289, ext 156.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of 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."

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the U.S. can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

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

NMFS received an application on November 4, 2010, from the USFWS for the taking, by harassment, of marine mammals incidental to a capture-recapture program of polar bears in the U.S. Chukchi Sea. NMFS reviewed the USFWS' application and identified a number of issues requiring further clarification. After addressing comments from NMFS, the USFWS modified its application and submitted a revised application on November 16, 2010.

In response to the need for information on the Chukchi-Bering Seas polar bear population, the USFWS initiated a capture-based research program starting in 2008 on the sea ice off the Chukchi Sea coastline. Captures occur on the sea ice up to 100 mi (161 km) offshore of the Alaskan coastline between Shishmaref and Cape Lisburne (*see* Figure 1 in the USFWS' application). Take of ice seals may occur when the helicopter flies over the seals hauled out on the ice. The USFWS has requested to take ringed and bearded seals by Level B harassment only.

Description of the Specified Activity

In 2008, the USFWS started a capture-recapture program of polar bears in the Chukchi-Bering Seas to begin to obtain information on bear health, body condition, movement patterns, habitat use, and demography. This work was initiated in response to the need for information to inform management (particularly the setting of harvest quotas) under the U.S.-Russia treaty that was implemented in 2008, identify appropriate mitigation for oil and gas exploration activities in the Chukchi Sea lease sale area, and the need to better monitor this population due to the listing of polar bears as "threatened" under the Endangered Species Act (ESA). Each spring, the USFWS conducts a 6–8 week period of polar bear captures on the sea ice off the U.S. Chukchi Sea coastline. A fixed wing and a Bell 206 Long-ranger helicopter are flown 300 ft (91.4 m) above the sea ice to track and locate polar bears for capture. The flyover area to locate polar bears includes ice seal habitat, and ice seals are frequently encountered hauled out on the sea ice at breathing holes or cracks. Polar bear capture operations will occur daily, as weather permits, between mid-March and the first week of May 2011. The period of validity of the IHA is until the end of May 2011 (to allow for some flexibility in case of bad weather or other unforeseen delays). During a typical capture season over the past 3 years, this has resulted in 28–30 flight days and less than 200 flight hours per season. These overflights at altitudes of approximately 300 ft (91.4 m) over sea ice where seals are hauled out may result in the Level B harassment of ringed and bearded seals. Additional details on the purpose and protocols for the polar bear capture-recapture program were contained in the Notice of Proposed IHA (76 FR 330, January 4, 2011). No changes have been made to the proposed activities.

Comments and Responses

A Notice of Proposed IHA was published in the **Federal Register** on January 4, 2011 (76 FR 330) for public comment. During the 30-day public comment period, NMFS received one letter from the Marine Mammal Commission. No other organizations or private citizens provided comments on the proposed issuance of an IHA for this activity. The Marine Mammal Commission recommended that NMFS issue the IHA, subject to inclusion of the proposed mitigation and monitoring measures. NMFS has included all of the mitigation and monitoring measures proposed in the Notice of Proposed IHA (76 FR 330, January 4, 2011) in the issued IHA.

Description of Marine Mammals in the Area of the Specified Activity

The Chukchi Sea supports a diverse assemblage of marine mammals, including: bowhead, gray, beluga, killer, minke, humpback, and fin whales; harbor porpoise; ringed, ribbon, spotted, and bearded seals; narwhals; polar bears; and walruses. However, during the time period of the USFWS' activity, none of the cetacean species are anticipated to be in the project area. Additionally, ribbon and spotted seals are not anticipated to be found in the project area. These species tend to range further south in the Bering Sea and Bristol Bay during the March to May timeframe for activity by the USFWS. During the last 3 years of flights for this polar bear capture program, the USFWS has not seen any ribbon or spotted seals. Because these two species and the cetacean species mentioned here are not found in the Chukchi Sea during this time of year, they are not considered further in this IHA notice. The polar bear and walrus are managed by the USFWS and are not considered further in this IHA notice.

Ringed and bearded seals are the two species likely to be encountered during the proposed activity. On December 10, 2010, NMFS published a notice of proposed threatened status for subspecies of the ringed seal (75 FR 77476) and a notice of proposed threatened and not warranted status for subspecies and distinct population segments of the bearded seal (75 FR 77496) in the **Federal Register**. Neither species is considered depleted under the MMPA.

Information on the status, distribution, seasonal distribution, and abundance of ringed and bearded seals can be found in the NMFS Stock Assessment Reports (SARs) and the recently completed status reviews of the ringed and bearded seals. The 2009 and 2010 Draft Alaska SARs are available on the Internet at: *http://www.nmfs.noaa.gov/pr/pdfs/sars/ak2009.pdf* and *http://www.nmfs.noaa.gov/pr/pdfs/sars/ak2010_draft.pdf,* respectively. The ringed seal status review report by Kelly *et al.* (2010) can be found on the Internet at: *http://alaskafisheries.noaa.gov/protectedresources/seals/ice/ringed/statusreview10.pdf.* The bearded seal status review report by Cameron *et al.* (2010) can be found on the Internet at: *http://alaskafisheries.noaa.gov/protectedresources/seals/ice/bearded/statusreview10.pdf.* The Notice of Proposed IHA (76 FR 330, January 4, 2011) contained a brief overview on the distribution of ringed and bearded seals in the project area.

Potential Effects of the Specified Activity on Marine Mammals

Potential effects to marine mammals could involve both acoustic and non-acoustic effects. It is uncertain if the seals react to the sound of the helicopter or to its physical presence flying overhead. Pinnipeds are able to hear both in-water and in-air sounds. However, they have significantly different hearing capabilities in the two media. For this activity, only in-air hearing capabilities will be potentially impacted. The functional hearing range for pinnipeds in-air is 75 Hz to 30 kHz (Southall *et al.,* 2007). Richardson *et al.* (1995) note that dominant tones in noise spectra from both helicopters and fixed-wing aircraft are generally below 500 Hz. Kastak and Schustermann (1995) state that the in-air hearing sensitivity is less than the in-water hearing sensitivity for pinnipeds. In-air hearing sensitivity deteriorates as frequency decreases below 2 kHz, and generally pinnipeds appear to be considerably less sensitive to airborne sounds below 10 kHz than humans. There is a dearth of information on acoustic effects of helicopter overflights on pinniped hearing and communication (Richardson *et al.,* 1995) and to NMFS' knowledge, there has been no specific

documentation of temporary threshold shift (TTS), let alone permanent threshold shift (PTS), in free-ranging pinnipeds exposed to helicopter operations during realistic field conditions.

The Notice of Proposed IHA (76 FR 330, January 4, 2011) contained a full discussion of the typical reactions of hauled out pinnipeds to aircraft flying overhead. Typical reactions of hauled out pinnipeds to aircraft that have been observed include looking up at the aircraft, moving on the ice or land, entering a breathing hole or crack in the ice, or entering the water. Based on the available data and studies described in the Notice of Proposed IHA (76 FR 330, January 4, 2011), any ringed or bearded seals found in the vicinity of the project are only anticipated to have short-term behavioral reactions to the helicopter flying overhead. Those animals that do dive into a breathing hole or crack in the ice are anticipated to return to the ice shortly after the helicopter leaves the area, as the aircraft generally stays within the same area less than seconds. Hearing impairment (*i.e.,* TTS or PTS) of pinnipeds hauled out on the ice is not anticipated as a result of the USFWS' activity because pinnipeds will likely either dive into breathing holes or the water through cracks in the ice before the helicopter would be close enough to cause such an effect. The inclusion of the mitigation measures described later in this document (see the "Mitigation" section) are anticipated to reduce impacts even further.

Anticipated Effects on Habitat

The USFWS' activity is not anticipated to have any temporary or permanent effects on the habitat of ringed and bearded seals. The aircraft lands on various areas on the sea ice a few times per day when bears are captured. This makes no modification to the habitat, and landings are always well away from any ice seals in the area. The activity is not expected to result in any physical damage to marine mammal habitat or to prey species upon which they depend. Additionally, while some seals may cease hauling out on the ice and enter a breathing hole or crack in the ice at the time the helicopter flies overhead, it is anticipated that the individuals will return to hauling out on the ice shortly after the aircraft passes. Overall, the activity is not expected to cause significant impacts on habitats used by the marine mammal species in the project area or on the food sources that they utilize.

Mitigation

In order to issue an incidental take authorization (ITA) under Sections 101(a)(5)(A) and (D) of the MMPA, NMFS must, where applicable, set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (where relevant).

The following mitigation measures are included in the IHA. Protocols for flights include maintaining a 1 mi (1.61 km) radius when flying over areas where seals are concentrated in groups of 5 or more, such as cracks or areas of thin ice with multiple breathing holes, except when needed to do so for safety reasons. USFWS will not land on ice within 0.5 mi (0.8 km) of a hauled out seal. USFWS will also fly at altitudes higher than 300 ft (91.4 m) when closer to shore, unless personnel safety prohibits flying at this lower altitude, as polar bears are less likely to be found within 30 mi (48 km) of the coast. This will reduce impacts to seals hauled out on ice closer to shore but at the same time will not jeopardize the objectives of the project.

NMFS has carefully evaluated the applicant's mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation.

Based on our evaluation of the applicant's measures, as well as other measures considered by NMFS, NMFS has determined that the required mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance. Measures to ensure availability of such species or stock for taking for certain subsistence uses is discussed later in this document (*see* "Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses" section).

Monitoring and Reporting

In order to issue an ITA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must, where applicable, set forth "requirements pertaining to the monitoring and reporting of such taking." The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area.

The USFWS will have two biologists and one pilot onboard the helicopter during each flight. During the course of the capture efforts, USFWS will devote a staff member to monitoring the number of seals encountered and species continuously throughout the flights, with the exception of when they are following polar bear tracks or have initiated a polar bear capture. In addition, USFWS will conduct dedicated monitoring over 1 hour time periods daily and record age group (when possible, but at a minimum pups vs. adult females; adult male bearded seals can be identified) and the type of reaction (*i.e.,* tracking helicopter, moving on ice, entering water, etc.). The other biologist and the pilot will continue searching for polar bears to capture. These flights will continue to occur at 300 ft (91.4 m) altitude. Surveys will occur on days that vary in weather conditions since the number of seals encountered greatly depends on weather, including temperature, cloud cover, and wind speed.

USFWS will submit a report to NMFS within 90 days of completing the activity. The report will include a description of the activities that were conducted, the methods and results of the ice seal monitoring, marine mammal sightings, estimates of the number of seals encountered, and seal reactions to the activity.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has

the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment]. Only take by Level B behavioral harassment is anticipated to occur as a result of the USFWS' polar bear capture-recapture program. Anticipated take of marine mammals is associated with either the sound or presence of the helicopter overhead (or both). No injury or mortality is anticipated, and no takes by injury or mortality are authorized.

Based on results of the last 3 years of conducting the polar bear capture-recapture program, the USFWS estimates that they may have had as many as 1,000 encounters with ringed seals and 200 encounters with bearded seals annually. The USFWS estimates that the number of seals that may be taken by harassment is 500 ringed seals and 100 bearded seals. This is based on their estimate of the number of seals encountered during previous work over the past 3 years and the research of Born *et al.* (1999) in which approximately 50% of all seals responded to helicopters at a similar altitude. It is possible that the same seal can be taken by harassment multiple times during the course of the 6–8 weeks needed to complete the proposed activity. Age and sex of the seals are not always known, but likely include all sex and age classes. Female ringed and bearded seals give birth on the sea ice between mid-March and May (the timeframe for this activity).

NMFS has authorized the take of 500 ringed seals and 100 bearded seals during the course of the activity. This is based on the approximate number of individual animals that may be in the activity area and the study by Born *et al.* (1999), which found that about half of the observed ringed seals escaped (*i.e.,* left the ice) as a response to a helicopter flying at 492 ft (150 m) altitude. The take estimates presented here do not take into consideration the required mitigation and monitoring measures described earlier in this document.

Negligible Impact and Small Numbers Analysis and Determination

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." In making a negligible impact determination, NMFS considers a variety of factors, including but not limited to: (1) The number of anticipated mortalities; (2) the number and nature of anticipated injuries; (3) the number, nature, intensity, and duration of Level B harassment; and (4) the context in which the takes occur.

No injuries or mortalities are anticipated to occur as a result of the USFWS' polar bear capture-recapture program. Takes will be limited to Level B behavioral harassment over a 6–8 week period from mid-March to early May. As stated previously, NMFS estimates that 1,000 ringed seal and 200 bearded seal takes may occur as a result of the activity. It is possible that some individual animals may be taken more than once during the course of the activity. However, with the exception of habitats near the USFWS' base location on the coast, flights rarely occur repeatedly over the same areas. The USFWS monitors the prior week's tracklogs to ensure that they continue to search new habitat each day, which likely results in few individuals being disturbed repeatedly during the course of their activities.

The ringed seal breeding and pupping seasons occur during the same time as the USFWS' action. Mating occurs primarily under the ice in late April and early May. Females give birth to a single pup in a subnivian lair on the landfast or pack ice from mid-March to mid-April. The bearded seal breeding season typically occurs from about mid-March to mid-June. Mating occurs in the water. In the Chukchi Sea and Bering Strait (the location of this action), the bearded seal pupping season typically occurs in late April, but it can occur anytime between mid-March and early May. Since mating occurs either under the ice or in the water, typical reactions of seals to helicopter overflights (*e.g.,* leaving the ice, entering lairs) while hauled out on the ice would not occur. The animals would already be off of the exposed ice.

The USFWS' activity is not expected to have significant, negative effects on pupping in the area. Ringed seals nurse their pups in the subnivian lairs. Therefore, the mother/pup pairs would not be out on the ice when the helicopter flies overhead during nursing. Bearded seals nurse their pups on the ice. However, detailed studies on bearded seal mothers show they forage extensively, diving shallowly (<33 ft, 10 m) and spend only about 10% of their time hauled out with pups and the remainder nearby at the surface or diving (Holsvik, 1998; Krafft *et al.,* 2000). Despite the relative independence of mothers and pups, their bond is described as strong, with females being unusually tolerant of threats in order to remain or reunite with pups (Krylov *et al.,* 1964; Burns and Frost, 1979; Hammill *et al.,* 1994; Lydersen *et al.,* 1994). Therefore, it is not expected that the USFWS' activities will have major impacts during the ringed or bearded seals' pupping seasons.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hr cycle). Behavioral reactions to noise exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). Consequently, a behavioral response lasting less than one day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.,* 2007). While it is possible that flights could occur on consecutive days, the flight schedule is weather dependent. Additionally, even if flights do occur on consecutive days, it is unlikely that the flight paths will be identical on consecutive days. Therefore, it is unlikely that hauled out seals will be exposed to the overflights on consecutive days. Moreover, since the helicopters only remain overhead for a few seconds at any one location, impacts lasting minutes to even hours are not expected.

On December 10, 2010, ringed and bearded seals were proposed for listing as threatened under the ESA (75 FR 77476; 75 FR 77496). Neither species is designated as depleted under the MMPA.

Although a reliable minimum population estimate is not currently available for the Alaska stock of ringed seals, the 2009 NMFS SAR notes a population of approximately 249,000 individuals (Allen and Angliss, 2010). There is no reliable minimum population estimate of the Alaska stock of bearded seals at this time. However, estimates from the 1970s and 1980s of the Bering-Chukchi population of bearded seals range from 250,000 to 300,000 (Popov, 1976 cited in Allen and Angliss, 2010; Burns, 1981 cited in Allen and Angliss, 2010). The take estimates represent 0.2% of the Alaska stock of 249,000 ringed seals and 0.04% of the Alaska stock of 250,000 bearded seals. These estimates represent the percentage of each species or stock that could be taken by Level B harassment if each animal is taken only once.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the

mitigation and monitoring measures, NMFS finds that the helicopter flights during the USFWS' polar bear capture-recapture program will result in the incidental take of small numbers of marine mammals, by Level B behavioral harassment only, and that the total taking from the USFWS' activities will have a negligible impact on the affected species or stocks.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

Relevant Subsistence Uses

The disturbance and potential displacement of marine mammals by sounds from the USFWS' proposed activities are the principal concerns related to subsistence use of the area. Subsistence remains the basis for Alaska Native culture and community. Marine mammals are legally hunted in Alaskan waters by coastal Alaska Natives. In rural Alaska, subsistence activities are often central to many aspects of human existence, including patterns of family life, artistic expression, and community religious and celebratory activities. Additionally, the animals taken for subsistence provide a significant portion of the food that will last the community throughout the year. The main species that are hunted include bowhead and beluga whales, ringed, spotted, and bearded seals, walruses, and polar bears. [As mentioned previously in this document, both the walrus and the polar bear are under the USFWS' jurisdiction.] The importance of each of these species varies among the communities and is largely based on availability.

The subsistence communities in the Chukchi Sea that have the potential to be impacted by the USFWS' proposed action include Point Hope and Kivalina. During the spring months that the USFWS' capture work is proposed to be conducted both of these communities hunt bowhead whales and ice seals. Hunting for both bowhead whales and ice seals typically occurs within 15 mi (24 km) or less of the community, according to local residents. At Point Hope, hunters have informed the USFWS that they hunt only to the west and south of Point Hope.

Potential Impacts to Subsistence Uses

NMFS has defined "unmitigable adverse impact" in 50 CFR 216.103 as:

* * * an impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) Directly displacing subsistence users; or (iii) Placing physical barriers between the marine mammals and the subsistence hunters; and (2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

Noise and general activity during the USFWS' proposed polar bear program have the potential to impact marine mammals hunted by Native Alaskans. The helicopter overflights have the potential to disturb hauled out pinnipeds by causing them to vacate the area, which could potentially make the animals unavailable to subsistence hunters if the animals do not return to the area.

Plan of Cooperation (POC)

Regulations at 50 CFR 216.104(a)(12) require IHA applicants for activities that take place in Arctic waters to provide a POC or information that identifies what measures have been taken and/or will be taken to minimize adverse effects on the availability of marine mammals for subsistence purposes. Over the past 3 years, as part of this work, the USFWS regularly consults extensively with local communities to identify temporal and spatial no fly zones. These no fly zones occur in areas of subsistence activities. In consultation with local residents, the USFWS has determined that flying to the north and northwest of Point Hope would not interfere with subsistence activities. Therefore, the USFWS will restrict flights to avoid the areas 15 mi (24 km) to the south and west of Point Hope and within a 15 mi (24 km) radius of Kivalina. The majority of the USFWS' polar bear work occurs greater than 30 mi (48 km) offshore, which also minimizes the potential for flights to affect availability of ice seals to local hunters. The USFWS holds two meetings in Point Hope each year (the community in closest proximity to much of the work). For 2011, the USFWS has agreed with local whaling captains and community leaders to have regular, weekly communications to identify no fly zones and ensure that flight paths do not intersect areas of subsistence activity. The USFWS also regularly communicates with the community of Kivalina, although polar bears tend not to be concentrated in close proximity to this community, thus flight paths tend to occur well away from subsistence use areas.

Unmitigable Adverse Impact Analysis and Preliminary Determination

NMFS has determined that the USFWS' polar bear capture-recapture program will not have an unmitigable adverse impact on the availability of species or stocks for taking for subsistence uses. This determination is supported by the information contained in this document and the POC contained in the USFWS' application (*see* **ADDRESSES**). The USFWS has agreed to certain no fly zones prior to beginning their activities. Additionally, the USFWS will meet regularly with subsistence use leaders in both Point Hope and Kivalina to redefine the no fly zones throughout the season, if necessary. There will be no impacts to beluga hunting, as this project occurs well before the summer beluga hunts in the Chukchi Sea. Lastly, the majority of the USFWS' flight tracks will occur much further offshore than the typical sites for subsistence sealing during the mid-March to early May time period.

Based on the measures contained in the USFWS' POC, the required mitigation and monitoring measures (described earlier in this document), and the project design itself, NMFS has determined that there will not be an unmitigable adverse impact on subsistence uses of marine mammals from the USFWS' polar bear capture-recapture program.

Endangered Species Act (ESA)

The Arctic subspecies of ringed seal and the Beringia distinct population segment of bearded seals are currently proposed for listing under the ESA. Section 7(a)(4) of the ESA requires a conference on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under Section 4 of the ESA or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. NMFS, Office of Protected Resources, Permits, Conservation and Education Division determined, after discussion with NMFS, Alaska Regional Office, that the issuance of an IHA to the USFWS for the take of ringed and bearded seals incidental to the proposed polar bear capture-recapture program will not jeopardize the continued existence of either species because of the low level of impact that is anticipated.

National Environmental Policy Act (NEPA)

On March 3, 2011, NMFS released an EA and issued a FONSI for this action. NMFS determined that issuance of this IHA would not significantly impact the quality of the human environment; therefore, preparation of an Environmental Impact Statement was not required for this action. NMFS' EA and FONSI are available upon request (*see* **ADDRESSES**).

Authorization

As a result of these determinations, NMFS has issued an IHA to the USFWS for the take of marine mammals incidental to helicopter flights during the USFWS' polar bear capture-recapture program in the U.S. Chukchi Sea, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: March 4, 2011.

James H. Lecky,

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

[FR Doc. 2011–5526 Filed 3–9–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Grant an Exclusive License for a U.S. Government-Owned Invention

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 35 U.S.C. 209(e), and 37 CFR 404.7 (a)(1)(i) and 37 CFR 404.7 (b)(1)(i), announcement is made of the intent to grant an exclusive, revocable license for the invention claimed in the patent application PCT/US2009/060850, filed October 15, 2009, entitled, "Clinical Decision Model," to DecisionQ Corporation, with its principal place of business at 1010 Wisconsin Avenue, Suite 310, Washington, DC 20007–3680.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, *Attn:* Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For licensing issues, Dr. Paul Mele, Office of Research and Technology Applications (ORTA), (301) 619–6664. For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: Anyone wishing to object to the grant of this license can file written objections along with supporting evidence, if any, within 15 days from the date of this publication. Written objections are to be filed with the Command Judge Advocate (*see* **ADDRESSES**).

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2011–5461 Filed 3–9–11; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The invention listed below is a CRADA Subject Invention, jointly-made under NCRADA–NAWCWDCL–03–111, and is assigned to Reynolds Systems, Inc. The United States Government, as represented by the Secretary of the Navy, has an undivided interest in this invention. U.S. Patent No. 7,661,362: Energetic material initiation device utilizing exploding foil initiated ignition system with secondary explosive material.

ADDRESSES: Requests for copies of the inventions cited should be directed to Naval Air Warfare Center Weapons Division, Code 4L4000D, 1900 N. Knox Road Stop 6312, China Lake, CA 93555–6106 and must include the Navy Case number.

FOR FURTHER INFORMATION CONTACT: Michael D. Seltzer, Ph.D., Head, Technology Transfer Office, Naval Air Warfare Center Weapons Division, Code 4L4000D, 1900 N. Knox Road Stop 6312, China Lake, CA 93555–6106, telephone 760–939–1074, FAX 760–939–1210, *E-mail: michael.seltzer@navy.mil.*

Authority: 35 U.S.C. 207, 37 CFR 404.7.

Dated: March 3, 2011.

D. J. Werner,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2011–5569 Filed 3–9–11; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Department of Education (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 9, 2011.

ADDRESSES: Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 7, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of Special Education and Rehabilitative Services

Type of Review: Revision.

Title of Collection: Annual Progress Report for the Title III Alternative Financing Program Under the Assistive Technology Act of 1998.

OMB Control Number: 1820–0662.

Agency Form Number(s): N/A.

Frequency of Responses: Annually.

Affected Public: Federal Government; Not-for-profit institutions; State, Local, or Tribal Government, State Educational Agencies or Local Educational Agencies.

Total Estimated Number of Annual Responses: 33.

Total Estimated Number of Annual Burden Hours: 891.

Abstract: Title III of the Assistive Technology Act of 1998 as in effect prior to the amendments of 2004 (Pub. L. 105–394) (AT Act of 1998) authorized grants to public agencies to support the establishment and maintenance of alternative financing programs (AFPs) that feature one or more alternative financing mechanisms to enable individuals with disabilities and their family members, guardians, advocates, and authorized representatives to purchase assistive technology (AT). Section 307 of title III requires that RSA submit to Congress an annual report on the activities conducted under that title. In order to meet this requirement, states must provide annual progress reports to Rehabilitation Services Administration (RSA). This annual report is a web-based data collection system developed based upon the instrument submitted for review herein.

The proposed instrument eliminates an entire section of optional information that is not required for submission by the title III AFP grantees, further reducing the burden from approximately 29.5 hours to 27 hours per state. Section C. AFP Optional Data Elements, which are not title III annual reporting requirements for the AFP grantees, has been proposed for removal from the current instrument. The information collected in this optional data section includes: 1. Types of AFP (partnership loans or revolving loans), 2. Interest Rates (lowest and highest interest rates established by policy), 3. Loan Amounts (lowest and highest loan amounts established by policy), 4. Repayment Terms (shortest and longest repayment terms established by policy), and Loan Guarantee Requirement, the percentage of the loans that must be repaid by the AFP to the lender in case of default as established by the agreement with the lender. Since the data reported under C. AFP Optional Data Elements of the current instrument is not required by title III of the AT Act of 1998, grantees did not report this information uniformly across programs. If every grantee doesn't report in this section, then the data can't be reported in aggregate form. In fact, the data in this section is available in the annual report to Congress on the AT Act, as this optional section contains information about program features and descriptions that may or may not change on an annual basis. Since there is no utility to the annual reporting of this optional information, the decision was made to further reduce the burden to all grantees by eliminating this section from the current instrument in the Management Information Systems.

Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4540. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2011–5547 Filed 3–9–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before April 11, 2011.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, *Attention:* Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or e-mailed to *oira_submission@omb.eop.gov* with a cc: to *ICDocketMgr@ed.gov.* Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: March 2, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title of Collection: Impact Evaluation of Race to the Top (RTT) and School Improvement Grants (SIG).

OMB Control Number: Pending.

Agency Form Number(s): N/A.

Frequency of Responses: Once.

Affected Public: State, Local, or Tribal Government, State Educational Agencies or Local Educational Agencies.

Total Estimated Number of Annual Responses: 1,180.

Total Estimated Annual Burden Hours: 4,673.

Abstract: This Office of Management and Budget (OMB) package requests clearance for activities to recruit 50 States and the District of Columbia, and up to 825 schools across an estimated 170 districts for inclusion in an evaluation of Race to the Top (RTT) and School Improvement Grants (SIG). The American Recovery and Reinvestment Act contained substantial funding for systemic education reform. This included $4.35 billion in RTT grants, which were awarded to 11 States and the District of Columbia based both on their education reform plans and their past success in creating the conditions for reform, and $3 billion in additional funding for SIG, which is aimed at implementing one of four school turnaround models (STMs) in the lowest-performing schools. The evaluation is designed to (1) study the implementation of RTT and SIG; (2) analyze the impact of SIG-funded STMs

on student outcomes using a regression discontinuity design; (3) analyze the impact of receipt of RTT funds on student outcomes using an interrupted time series design; and (4) investigate the relationship between STM turnaround models (and strategies within those models) and student outcomes in low-performing schools. No data are being collected or analyzed as part of recruitment activities. A second OMB submission will request clearance for the evaluation's data collection, analysis, and reporting activities. This future package will include data collection forms, and burden estimates of the number of respondents and hours of response time.

Copies of the information collection submission for OMB review may be accessed from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or from the Department's Web site at *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4468. When you access the information collection, click on "Download Attachments " to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2011–5548 Filed 3–9–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Department of Education (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 9, 2011.

ADDRESSES: Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 7, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title of Collection: Section 704 Annual Performance Report (Parts I and II).

OMB Control Number: 1820–0606.

Agency Form Number(s): N/A.

Frequency of Responses: Annually.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Government, State Educational Agencies or Local Educational Agencies.

Total Estimated Number of Annual Responses: 412.

Total Estimated Number of Annual Burden Hours: 14,420.

Abstract: The data collection instruments being submitted are the annual performance reports for State Independent Living Services (SILS) and Centers for Independent Living (CIL) programs. These are known as the 704 Report Part I and the 704 Report Part II, respectively. These reports are required by sections 704(m)(4)(D), 706(d), 721(b)(3) and 725(c) of the Rehabilitation Act of 1973, as amended (the Act) and the corresponding regulations in 34 CFR parts 364, 365, and 366. Approval of grantees' annual performance reports (704 Report) is a prerequisite for Rehabilitative Services Administration's approval of the annual SILS grant awards (part B funds) and CILs continuation grant awards (part C funds).

Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4539. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2011–5546 Filed 3–9–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Equity Assistance Centers Program; Office of Elementary and Secondary Education; Overview Information; Training and Advisory Services; Equity Assistance Centers (Formerly the Desegregation Assistance Centers (DAC)); Notice Inviting Applications for New Awards for Fiscal Year (FY) 2011

Catalog of Federal Domestic Assistance (CFDA) Number: 84.004D.

Dates:

Applications Available: March 10, 2011.

Deadline for Transmittal of Applications: April 25, 2011.

Deadline for Intergovernmental Review: June 20, 2011.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Training and Advisory Services—Equity Assistance Centers (EAC) program is authorized under Title IV of the Civil Rights Act of 1964, 42 U.S.C. 2000c–2000c–2, 2000c–5, and the implementing regulations in 34 CFR parts 270 and 272. This program awards grants through cooperative agreements to operate 10 regional EACs that provide technical assistance (including training) at the request of school boards and other responsible governmental agencies in the preparation, adoption, and implementation of plans for the desegregation of public schools—which in this context means plans for equity (including desegregation based on race, sex, and national origin)—and in the development of effective methods of coping with special educational problems occasioned by desegregation. Assistance may include, among other activities: (1) Dissemination of information regarding effective methods of coping with special educational problems occasioned by desegregation; (2) assistance and advice in coping with these problems; and (3) training designed to improve the ability of teachers, supervisors, counselors, parents, community members, and other elementary or secondary school personnel to deal effectively with special educational problems occasioned by desegregation.

Note: The phrase "special educational problems occasioned by desegregation" means those problems that arise in classrooms, schools, and communities as a result of desegregation efforts. The phrase does not refer to issues or problems related to special education programs under the Individuals with Disabilities Education Act (20 U.S.C. 1400 *et seq.*).

Priorities: These priorities are from the notice of supplemental priorities and definitions for discretionary grant programs, published in the **Federal Register** on December 15, 2010 (75 FR 78486).

Competitive Priorities: For FY 2011 these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i) we award up to an additional five points to an application, depending on how well the application addresses one of the following two priorities. Applicants may address more than one of the competitive preference priorities; however, the Department will review and award points under only one of the priorities. Therefore, an applicant must identify in its application which priority it wishes the Department to consider for purposes of earning the competitive preference priority points.

These priorities are:

1. *Improving the Effectiveness and Distribution of Effective Teachers or Principals.*

Projects that are designed to address the following priority area:

Increasing the retention, particularly in high-poverty schools (as defined in this notice), and equitable distribution of teachers or principals who are effective.

For the purposes of this priority, teacher and principal effectiveness should be measured using:

(1) Teacher or principal evaluation data, in States or local educational agencies that have in place a high-quality teacher or principal evaluation system that takes into account student growth (as defined in this notice) in significant part and uses multiple measures, that, in the case of teachers, may include observations for determining teacher effectiveness (such as systems that meet the criteria for evaluation systems under the Race to the Top program as described in criterion (D)(2)(ii) of the Race to the Top notice inviting applications (74 FR 59803)); or

(2) Data that include, in significant part, student achievement (as defined in this notice) or student growth data (as defined in this notice) and may include multiple measures in States or local educational agencies that do not have the teacher or principal evaluation systems described in paragraph (1).

Note: EACs provide technical assistance at the request of school boards and other responsible governmental agencies in the preparation, adoption, and implementation of plans for equity. Under this priority we may award additional points to eligible projects that demonstrate expertise in addressing equity issues related to the attainment and maintenance of the equitable distribution of effective teachers or principals in high-poverty schools.

2. *Improving School Engagement, School Environment, and School Safety and Improving Family and Community Engagement.*

Projects that are designed to address the following priority area:

Improving school safety, which may include decreasing the incidence of harassment, bullying, violence, and substance use.

Note: EACs provide technical assistance at the request of school boards and other responsible governmental agencies in the preparation, adoption, and implementation of plans for equity. Under this priority we may award additional points to eligible projects that demonstrate expertise in addressing equity issues related to school safety, including decreasing the incidence of harassment, bullying, violence, and substance use.

In this competition, we are particularly interested in applications that address the following invitational priorities.

Invitational Priorities: For FY 2011 these two priorities are invitational priorities. Under 34 CFR 75.105(c)(1) we do not give an application that meets these invitational priorities a competitive or absolute preference over other applications.

These priorities are:

1. *Enabling More Data-Based Decision-Making.*

Projects that are designed to collect (or obtain), analyze, and use high-quality and timely data, including data on program participant outcomes, in accordance with privacy requirements (as defined in this notice) in the following priority area:

Providing reliable and comprehensive information on the implementation of Department of Education programs, and participant outcomes in these programs, by using data from State longitudinal data systems or by obtaining data from reliable third-party sources.

Note: Applicants are encouraged to propose EAC programs that collect, analyze, and use reliable data to improve EAC implementation and improve participant outcomes.

2. *Promoting Science, Technology, Engineering, and Mathematics (STEM) Education.*

Projects that are designed to address the following priority area:

Increasing the number of individuals from groups traditionally underrepresented in STEM, including minorities, individuals with disabilities, and women, who are provided with access to rigorous and engaging coursework in STEM or who are prepared for postsecondary or graduate study and careers in STEM.

Note: EACs provide technical assistance at the request of school boards and other responsible governmental agencies in the preparation, adoption, and implementation of plans for equity. This priority encourages projects related to increasing the number of individuals from groups traditionally underrepresented in STEM, including minorities, individuals with disabilities, and women, and designed in a manner that is permitted under current law.

Definitions: The following definitions are from the notice of supplemental priorities and definitions for

discretionary grant programs, published in the **Federal Register** on December 15, 2010 and apply to this competition. Additional definitions applicable to this program are found in the authorizing statute for this program at 42 U.S.C. 2000c and in the program regulations in 34 CFR parts 77, 270, and 272, and will be included in the application package.

For purposes of this competition, the following definitions apply:

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.

Privacy requirements means the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, and its implementing regulations in 34 CFR part 99, the Privacy Act, 5 U.S.C. 552a, as well as all applicable Federal, State and local requirements regarding privacy.

Student achievement means—

(a) For tested grades and subjects: (1) A student's score on the State's assessments under the ESEA; and, as appropriate, (2) other measures of student learning, such as those described in paragraph (b) of this definition, provided they are rigorous and comparable across schools.

(b) For non-tested grades and subjects: Alternative measures of student learning and performance, such as student scores on pre-tests and end-of-course tests; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across schools.

Student growth means the change in student achievement (as defined in this notice) for an individual student between two or more points in time. A State may also include other measures that are rigorous and comparable across classrooms.

Program Authority: 42 U.S.C. 2000c–2000c–2, 2000c–5.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, and 99, except that 34 CFR 75.232 does not apply to grants under 34 CFR part 272. (b) The regulations for this program in 34 CFR parts 270 and 272. (c) The notice of final supplemental priorities and definitions for discretionary grant programs, published in the **Federal Register** on December 15, 2010 (75 FR 78486).

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: The Administration has requested $6,989,000 for the Training and Advisory Services—Equity Assistance Centers program for FY 2011. Of this amount, we intend to use $6,896,000 for this competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Estimated Range of Awards: $500,000—$800,000.

Estimated Average Size of Awards: $689,600.

Estimated Number of Awards: 10.

Maximum Award: We will reject and not review any application that proposes a budget exceeding $800,000 for a single budget period of 12 months.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* A public agency (other than a State educational agency or a school board) or a private, non-profit organization.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Geographical Regions:* Ten EACs will be funded under this grant program in ten different geographical regions in accordance with 34 CFR 272.12. Our reviewers will read all proposals by region. One award will be made in each region to the highest ranking proposal from that region.

The geographic regions served by the EACs are:

Region I: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Region II: New York, New Jersey, Puerto Rico, Virgin Islands.

Region III: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.

Region IV: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

Region V: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

Region VI: Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

Region VII: Iowa, Kansas, Missouri, Nebraska.

Region VIII: Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.

Region IX: Arizona, California, Nevada.

Region X: Alaska, American Samoa, Guam, Hawaii, Idaho, Northern Mariana Islands, Oregon, The Federated States of Micronesia, The Republic of the Marshall Islands, The Republic of Palau, Washington.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *http://www2.ed.gov/programs/equitycenters/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 from ED Pubs, be sure to identify this program or competition as follows: CFDA number 84.004D.

To obtain a copy from the program office, contact: Fran Walter, U.S. Department of Education, 400 Maryland Avenue, SW., room 3W115, Washington, DC 20202–6450. *Telephone:* (202) 205–9198 or by *e-mail: Fran.Walter@ed.gov.* If you use a TDD, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

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. We encourage you to limit the narrative to no more than 50 pages and suggest that you use the following standards:

- A "page" is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The optional supplemental narrative is where you, the applicant, may address one of the competitive preference priorities. You must identify the competitive preference priority that you are addressing in this narrative. Our reviewers will only score the competitive preference priority that you identify. We suggest that you limit the optional supplemental narrative to no more than three pages using the formatting standards previously identified.

The suggested 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 optional supplemental narrative to address the competitive preference priority, or the letters of support. However, the suggested page limit does apply to all of the application narrative section [Part III].

3. *Submission Dates and Times:*

Applications Available: March 10, 2011.

Deadline for Transmittal of Applications: April 25, 2011.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV.7. *Other Submission Requirements* 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: June 20, 2011.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the Applicable Regulations section in 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 this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Training and Services—Equity Assistance Centers (EACs) CFDA number 84.004D, must be submitted electronically using the Governmentwide Grants.gov Apply site at www.Grants.gov. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.* You may access the electronic grant application for Training and Advisory Services—Equity Assistance Centers at www.Grants.gov. You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.004, not 84.004D).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30 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 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 p.m., Washington, DC time, on the application deadline date.

• The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *http://www.G5.gov.*

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• You must attach any narrative sections of your application as files in a .PDF (Portable Document) format only. If you upload a file type other than 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 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 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 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Fran Walter, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3W115, Washington, DC 20202. *FAX:* (202) 202–5870.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, *Attention:* (CFDA Number 84.004D) LBJ Basement Level 1, 400 Maryland Avenue, SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

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

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, *Attention:* CFDA Number 84.004D, 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 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 following selection criteria for this program are from the regulations for this program in 34 CFR 272.30. The maximum score for all of the selection criteria is 100 points. The maximum score for each criterion is indicated in parenthesis with the criterion. The Secretary uses the following criteria to evaluate applications for EAC grants:

(a) *Mission and Strategy.* (30 points) The Secretary reviews each application to determine the extent to which the applicant understands effective practices for addressing problems in each of the desegregation assistance areas, including the extent to which the applicant:

(1) Understands the mission of the proposed DAC;

(2) Is familiar with relevant research, theory, materials, and training models;

(3) Is familiar with the types of problems that arise in each of the desegregation assistance areas;

(4) Is familiar with relevant strategies for technical assistance and training; and

(5) Is familiar with the desegregation needs of responsible governmental agencies in its designated region.

Note: The phrase "desegregation assistance areas" is defined in 34 CFR 270.3.

Note: EACs were originally identified as DACs and are still referred to by that name in the regulations for this program.

(b) *Organizational Capability.* (15 points) The Secretary reviews each application to determine the ability of the applicant to sustain a long-term, high-quality, and coherent program of technical assistance and training, including the extent to which the applicant:

(1) Demonstrates the commitment to provide the services of appropriate faculty or staff members from its organization;

(2) Selects project staff with an appropriate mixture of scholarly and practitioner backgrounds; and

(3) Has had past successes in rendering technical assistance and training in the desegregation assistance areas, including collaborating with other individuals and organizations.

(c) *Plan of Operation.* (25 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including the extent to which:

(1) The design of the project is of high quality;

(2) The plan of management ensures proper and efficient administration of the project;

(3) The applicant plans to use its resources and personnel effectively to achieve each objective; and

(4) The applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, sex, age, or handicapping condition.

(d) *Quality of Key Personnel.* (15 points)

(1) The Secretary reviews each application to determine the qualifications of the key personnel that the applicant plans to use on the project, including:

(i) The qualifications of the project director;

(ii) The qualifications of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (d)(1)(i) and (ii) of this section will commit to the project; and

(iv) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(2) To determine personnel qualifications, under paragraphs (d)(1)(i) and (ii) of this section, the Secretary considers:

(i) Experience and training in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the quality of the project.

(e) *Budget and Cost Effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which:

(1) The budget for the project is adequate to support the project activities; and

(2) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation Plan.* (5 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the methods of evaluation—

(1) Are appropriate for the project; and

(2) To the extent possible, are objective and produce data that are quantifiable.

Note: A strong evaluation plan should be included in the application narrative and should be used, as appropriate, to shape the development of the project from the beginning of the grant period. The plan should describe what methods will be used to collect data, what data will be collected, and when. It should identify benchmarks that will be used to monitor progress toward achieving project objectives and outcome measures. Applicants are encouraged to devote an appropriate level of resources to project evaluation.

(g) *Adequacy of Resources.* (5 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

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, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

Additional factors we consider in selecting an application for an award are as follows: The Training and Advisory Services Program will award one EAC grant per geographical region. *See* 34 CFR 272.31(b).

3. *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:* The Department has established the following Government Performance and Results Act of 1993 (GPRA) performance measures for the Training and Advisory Services—Equity Assistance Centers program, adapted from a set of common measures developed to help assess performance across the Department's technical assistance programs:

Program Goal: To support access and equity in public schools and help school districts solve equity problems in education related to race, gender, and national origin.

Objective 1: Provide high-quality technical assistance and training to public school districts in addressing equity in education.

Measure 1: The percentage of customers of EACs that develop, implement, or improve their policies or practices, or both, in eliminating, reducing, or preventing harassment, conflict, and school violence.

Measure 2: The percentage of customers of EACs that develop, implement, or improve their policies or practices, or both, ensuring that students of different race, sex, and national origin have equitable opportunity for high-quality instruction.

Measure 3: The percentage of customers of EACs that report the products and services they received from the EACs are of high quality.

Measure 4: The percentage of customers who report that the products and services they received from the EACs are of high usefulness to their policies and practices.

All grantees will be expected to submit, as part of their annual and final performance reports, quantitative data documenting their progress with regard to these performance measures.

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: Fran Walter, U.S. Department of Education, 400 Maryland Avenue, SW., room 3W115, Washington, DC 20202–6400. *Telephone:* (202) 205–9198 or by *e-mail: fran.walter@ed.gov.*

If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.*, braille, large print, audiotape, or computer diskette) on request to the program contact person listed under *For Further Information Contact* in section VII of this notice. *Electronic Access to This Document:* You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site. **Note**: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: March 7, 2011.

Thelma Meléndez de Santa Ana,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2011–5544 Filed 3–9–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Striving Readers Comprehensive Literacy Grant Program; Office of Elementary and Secondary Education; Overview Information; Striving Readers Comprehensive Literacy Grant Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2011

Catalog of Federal Domestic Assistance (CFDA) Number: 84.371C.

Dates:

Applications Available: March 10, 2011.

Deadline for Notice of Intent to Apply: April 1, 2011.

Deadline for Transmittal of Applications: May 9, 2011.

Deadline for Intergovernmental Review: July 5, 2011.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Striving Readers Comprehensive Literacy grant program (SRCL) is to advance literacy skills—including pre-literacy skills, reading, and writing—for students from birth through grade 12, including limited-English-proficient students and students with disabilities.

Through this program, the Department will award competitive grants to State educational agencies (SEAs) to support competitive subgrants to local educational agencies (LEAs), including charter schools that are considered LEAs under State law, or other eligible entities for the purpose of advancing literacy skills.

Priorities: This notice contains three priorities, two of which are absolute and one of which is competitive preference. We are establishing these priorities for the FY 2011 grant competition and any subsequent year in which we make awards from the list of unfunded applicants from this competition, in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1).

Absolute Priorities: The first two priorities, *Improving Learning Outcomes* and *Enabling More Data-Based Decision-Making,* are absolute priorities. Under 34 CFR 75.105(c)(3) we consider only applications that meet these priorities.

These priorities are:

Priority 1: Improving Learning Outcomes

Background: Improving the language and literacy development of disadvantaged students is essential to improving academic achievement for these students in all content areas. The 2009 National Assessment of Educational Progress (NAEP) results show disproportionately large numbers of disadvantaged students struggle with developing the necessary pre-literacy and literacy skills needed to read, comprehend, and use language effectively. This results in persistent gaps in academic achievement through the elementary and secondary school years and in high school graduation rates, and presents civic and economic difficulties for these students later in life. Meeting the language and literacy needs of disadvantaged students, including limited-English-proficient students and students with disabilities, is a particular focus of the SRCL program.

Priority

To meet this priority, an applicant must propose a project that is designed to improve school readiness and success through grade 12 in the area of language and literacy development for disadvantaged students (as defined in this notice).

Priority 2: Enabling More Data-Based Decision-Making

Background: Accurate, timely, relevant, and appropriate data, and the effective use of that data for informed decision-making, are essential to the continuous improvement of children's literacy and language development. In developing comprehensive literacy plans and programs, it is important for States to consider strategies that provide educators, as well as families and other key stakeholders, with the data they need and the capacity and training to use those data to improve school readiness, respond to the learning and academic needs of students, improve educator effectiveness, inform professional development practices and approaches, and make informed decisions that increase student pre-literacy, literacy, and language development.

Priority

To meet this priority, an applicant must propose a project that is designed to collect, analyze, and use high-quality and timely data, especially on program participant outcomes, in accordance with privacy requirements (as defined in this notice), to improve instructional practices, policies, and student outcomes in early learning settings and in elementary and secondary schools.

Competitive Preference Priorities: The following priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(ii) we award up to an additional five points to an application that meets this priority.

This priority is:

Competitive Preference Priority: Effective Use of Technology

Background: The effective use of technology is a critical tool for improving learning outcomes and providing teachers with high-quality professional development. Use of concepts, ideas, programming techniques, and computer-assisted text displays that give access to the text for students who cannot access traditional print, including limited-English-proficient children and students with disabilities, is a basic tenet of universal design for learning and can help improve students' literacy and language development and identify and address student learning challenges.

Priority

To meet this priority, an applicant must (1) propose to use technology—which may include technology to support principles of universal design for learning (as defined in this notice)—to address student learning challenges; and (2) provide, in its application, an evidence-based (as defined in this notice) rationale that its proposed technology program, practice, or strategy will increase student engagement and achievement or increase teacher effectiveness.

Program Requirements

Statutory Requirements (see Department of Education Appropriations Act, 2010 (Pub. L. 111–117)). An SEA awarded a grant under this program—

(a) Must subgrant no less than 95 percent of funds received under this competition to LEAs or, in the case of early literacy, to LEAs or other nonprofit providers of early childhood education that partner with a public or private nonprofit organization or agency with a demonstrated record of effectiveness in improving the early literacy development of children from birth through kindergarten entry and in providing professional development (as defined in this notice) in early literacy, giving priority to such agencies or other entities serving greater numbers or percentages of disadvantaged students;

(b) Must ensure that at least—

(1) 15 percent of the funds it subgrants to LEAs or other nonprofit providers of early childhood education (SRCL subgranted funds) are used to serve children from birth through age 5;

(2) 40 percent of its SRCL subgranted funds are used to serve students in kindergarten through grade 5; and

(3) 40 percent of its SRCL subgranted funds are used to serve students in middle and high school, including an equitable distribution of funds between middle and high schools;

(c) May reserve up to 5 percent of funds received under this competition for State leadership activities, including technical assistance and training, data collection, reporting, and administration.

Additional Requirements

The Department establishes the following additional requirements for the FY 2011 competition and any

subsequent year in which we make awards from the list of unfunded applications from this competition.

An SEA awarded a grant under this program—

(a) Must develop or update, implement, and continuously improve a comprehensive State literacy plan (as defined in this notice);

(b) Must align the use of Federal and State funds and programs within the SEA and in LEAs in the State, including funds under Title I, Title II–A, and Title III of the Elementary and Secondary Education Act of 1965, as amended (ESEA), and, as appropriate, under the Head Start Act, the Individuals with Disabilities Education Act, and the Carl D. Perkins Career and Technical Education Act of 2006, to support a coherent approach to funding and implementing effective literacy instruction (as defined in this notice) for disadvantaged students;

(c) Must make the process and the results of its review of subgrant applications publicly available, including the procedures the SEA used to review and judge the evidence base and the alignment with State standards for the curricula and materials LEAs propose to use; and

(d) Must ensure that SRCL subgrant funds are used to implement a comprehensive and coherent literacy program that serves students from birth through grade 12, or at any period in the birth through grade 12 continuum as determined by a needs assessment, and includes each of the components of effective literacy instruction and that—

(1) Provides effective professional development in literacy, including in instructional strategies to meet the literacy needs of disadvantaged students such as limited-English-proficient students and students with disabilities, to teachers of reading, English, or language arts, which may also include professional development in literacy for teachers of other subjects and for teachers or instructional providers for children from birth through age five;

(2) Uses curriculum and instructional materials that are aligned with State standards, incorporate the components of effective literacy instruction, and, as appropriate, incorporate technology and principles of universal design for learning to support children and youth with diverse learning needs, including disadvantaged students;

(3) Uses coherent assessment systems that are aligned with State standards and assessments and that include—

(i) Valid and reliable screening measures or strategies;

(ii) Valid and reliable diagnostic and progress-monitoring measures;

(iii) The systematic use of the assessment data to inform instruction, interventions, professional development, and continuous program improvement; and

(iv) Appropriate accommodations necessary to ensure that all children and youth, including disadvantaged students, are reliably and accurately assessed;

(4) Implements interventions to ensure that all children and youth, including both children and youth who have mastered the material ahead of their peers and children and youth struggling with the material, are served appropriately;

(5) Provides language- and text-rich classroom, school, and early learning program environments that engage and motivate children and youth in speaking, listening, reading, and writing; and

(6) Informs continuous improvement by monitoring program implementation and outcomes, including the effectiveness of professional development, and tracking implementation and outcomes at the LEA or early childhood education provider, school, classroom, and student levels.

Program Definitions: In addition to the definitions in the authorizing statute and in 34 CFR 77.1, we establish the following definitions to apply to the FY 2011 competition and any subsequent year in which we make awards from the list of unfunded applicants from this competition:

Comprehensive State literacy plan: The term "comprehensive State literacy plan" means a plan (which may be a component or modification of the plan submitted under the Striving Readers Comprehensive Literacy formula grant program, CFDA 84.371B) that addresses the pre-literacy and literacy needs of children from birth through grade 12, including limited-English-proficient students and students with disabilities; aligns policies, resources, and practices; contains clear instructional goals; and sets high expectations for all students and student subgroups.

Disadvantaged students: The term "disadvantaged students" means children and students at risk of educational failure, such as children and students who are living in poverty, who are limited-English-proficient, who are far below grade level or who are not on track to becoming college- or career-ready by graduation, who have left school before receiving a regular high school diploma, who are at risk of not graduating with a diploma on time, who are homeless, who are in foster care, who are pregnant or parenting teenagers, who have been incarcerated, who are new immigrants, who are migrant, or who have disabilities.

Effective literacy instruction: The term "effective literacy instruction" means developmentally appropriate, explicit, evidence-based, and systematic instruction that provides students with—

(i) Early development and grade-level mastery of (A) oral language skills, both listening and speaking, (B) phonological awareness, using a wide vocabulary, (C) conventional forms of grammar, and (D) academic language;

(ii) The ability to read regularly spelled words and high-frequency irregularly spelled words with automaticity and to decode regularly spelled unfamiliar words accurately, using phonemic awareness, print awareness, alphabet knowledge, and knowledge of English spelling patterns;

(iii) The ability to read texts accurately, fluently, and with comprehension, relying on knowledge of the vocabulary in those texts and of the background information that the students possess;

(iv) The ability to read with a purpose and the capacity to differentiate purposes and to select and apply comprehension strategies appropriate to achieving the purpose;

(v) An understanding of, and ability to adapt to, the varying demands of different genres, formats, and types of texts across the core content areas in order to comprehend texts of appropriate levels of complexity and content, including texts necessary for mastery of grade-level standards;

(vi) The ability to effectively access, critically evaluate, and appropriately synthesize information from a variety of sources and formats;

(vii) The development and maintenance of a motivation to read and write, as reflected in habits of reading and writing regularly and of discussing one's reading and writing with others; and

(viii) The ability to write clearly, accurately, and quickly so as to communicate ideas and deepen comprehension in ways that fit purpose, audience, occasion, discipline, and format; adhere to conventions of spelling and punctuation; and benefit from revision so as to improve clarity, coherence, logical development, and the precise use of language.

With respect to programs serving children birth through age five, the term "effective literacy instruction," means supporting young children's early language and literacy development through developmentally appropriate, explicit, intentional, and systematic

instruction, in language- and literacy-rich environments, that provides children with foundational skills and dispositions for literacy, such as—

(i) Rich vocabulary development;

(ii) Expressive language skills;

(iii) Receptive language skills;

(iv) Comprehension;

(v) Phonological awareness;

(vi) Print awareness;

(vii) Alphabet knowledge;

(viii) Book knowledge;

(ix) Emergent writing skills;

(x) Positive dispositions toward language and literacy-related activities; and

(xi) Other skills that correlate with later literacy achievement.

Evidence-based: The term "evidence–based" means—

(i) Based on a comprehensive, unbiased review and weighing of one or more evaluation studies that—

(A) Have been carried out consistent with the principles of scientific research [1];

(B) Have strong internal and external validity; and

(C) Support the direct attribution of one or more outcomes to the program, practice, or policy; or

(ii) In the absence of one or more studies described in paragraph (i) of this definition, based on a comprehensive, unbiased review and weighing of data analysis, research, or one or more evaluation studies of relevant programs, policies, or practices, that—

(A) Were carried out consistent with the principles of scientific research; and

(B) Are accompanied by strategies to generate more robust evidence over time through research, evaluation, and data analysis, including the measurement of performance with reliable process and outcome indicators and the implementation of evaluations with strong internal and external validity where feasible and appropriate.

Privacy requirements: The term "privacy requirements" means the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, and its implementing regulations in 34 CFR part 99, the Privacy Act, 5 U.S.C. 552a, as well as all applicable Federal, State, and local requirements regarding privacy.

Professional development: The term "professional development" means coordinated and aligned activities that are designed to increase the effectiveness of educators, which may include teachers, principals, other school leaders, specialized instructional support personnel, paraprofessionals, early childhood educators, and other school staff, and that—

(i) Are based, to the extent possible, on an analysis of data and evidence that indicates the needs of students and teachers;

(ii) Are evidence-based and implemented with meaningful tracking of impact on educator practices and effectiveness;

(iii) Foster individual and collective responsibility for improving student academic achievement;

(iv) Align with State academic content standards or State early learning standards, as appropriate, with LEA and school or early learning program improvement goals, and with school or early learning program instructional materials;

(v) Focus on understanding what and how students learn and on how to address students' learning needs, including by reviewing and analyzing student work and achievement data and adjusting instructional strategies, assessments, and materials based on that review and analysis;

(vi) Where appropriate, focus on improving both content knowledge and pedagogical skill;

(vii) Set clear educator learning goals based on student and teacher learning needs;

(viii) Address educator needs identified through evaluation, including by providing support for teachers and principals who earn evaluation ratings indicating the need for opportunities to improve their knowledge and skills;

(ix) Are designed to provide educators with the instructional strategies necessary to meet the needs of disadvantaged students, including limited-English-proficient students and students with disabilities;

(x) Are active, sustained, intensive, and classroom-or early learning program-focused in order to have a positive and lasting impact on classroom or early learning program instruction and educator effectiveness;

(xi) Are, in general, provided through school- or early learning program-based, job-embedded opportunities for educators to work collaboratively and transfer new knowledge into classroom or early learning program practice, such as through classroom coaching, data analysis teams, observations of classroom practice, and the provision of common planning time; and

(xii) Are, as appropriate—

(A) Designed to improve educators' ability to collect, manage, and analyze data to improve instruction, student support services, decision-making, school improvement efforts, early learning program quality improvement efforts, and accountability;

(B) Designed to provide educators with the knowledge and skills to work more effectively with families;

(C) Provided through workshops, courses, institutes, on-line learning, and other activities that advance and supplement school-based or early learning program-based professional development;

(D) Implemented with the involvement of external experts with relevant expertise, including content expertise; and

(E) Designed to provide joint professional development activities, for school staff and other early childhood educators in publicly funded center-based programs, that address the transition to elementary school, including issues related to school readiness across all major domains of early learning.

Universal design for learning (UDL): The term "universal design for learning", as defined under section 103 of the Higher Education Act of 1965, as amended, means a scientifically valid framework for guiding educational practice that—

(i) Provides flexibility in the ways information is presented, in the ways students respond or demonstrate knowledge and skills, and in the ways students are engaged; and

(ii) Reduces barriers in instruction, provides appropriate accommodations, supports, and challenges, and maintains high achievement expectations for all students, including students with

[1] For purposes of this notice, the term "principles of scientific research" has the meaning provided in section 200(18) of the Higher Education Act of 1965, as amended; that is, it means principles of research that—

(A) Apply rigorous, systematic, and objective methodology to obtain reliable and valid knowledge relevant to education activities and programs;

(B) Present findings and make claims that are appropriate to, and supported by, the methods that have been employed; and

(C) Include, appropriate to the research being conducted—

(i) Use of systematic, empirical methods that draw on observation or experiment;

(ii) Use of data analyses that are adequate to support the general findings;

(iii) Reliance on measurements or observational methods that provide reliable and generalizable findings;

(iv) Strong claims of causal relationships, only with research designs that eliminate plausible competing explanations for observed results, such as, but not limited to, random-assignment experiments;

(v) Presentation of studies and methods in sufficient detail and clarity to allow for replication or, at a minimum, to offer the opportunity to build systematically on the findings of the research;

(vi) Acceptance by a peer-reviewed journal or critique by a panel of independent experts through a comparably rigorous, objective, and scientific review; and

(vii) Consistency of findings across multiple studies or sites to support the generality of results and conclusions.

disabilities and students who are limited-English-proficient.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities, requirements, definitions, and selection criteria. Section 437(d)(1) of GEPA, however, allows the Secretary to exempt from rulemaking requirements, regulations governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program as provided under the Consolidated Appropriations Act, 2010 (Pub. L. 111–117) under the authority in section 1502 of the ESEA and therefore qualifies for this exemption. To receive public input on the structure of this competition, the Department held a public input meeting on November 19, 2010. This full-day meeting featured two panels of experts and elicited over 50 comments, both written and offered in person. In order to ensure timely grant awards, the Secretary has decided to forgo public comment on the priorities, additional requirements, definitions, and selection criteria under section 437(d)(1) of GEPA. These priorities, additional requirements, definitions, and selection criteria will apply to the FY 2011 grant competition and any subsequent year in which we make awards from the list of unfunded applicants from this competition.

Program Authority: Consolidated Appropriations Act, 2010 (Pub. L. 111–117) and 20 U.S.C. 6492.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, and 99.

Note: The regulations in 34 CFR part 79 apply to all applicants except Federally recognized Indian Tribes.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $178,000,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2012 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $3,000,000–$70,000,000.

Estimated Average Size of Awards: $25,000,000.

Estimated Number of Awards: 3–18.

Maximum Award: In order to balance the goal of stimulating comprehensive literacy reform by funding high-quality plans with the goal of recognizing a number of States that can serve as models for other States, the Department has developed mandatory budget limits by category of SEA awarded a grant under this program. These limits were determined by ranking every State according to its share of the national population of children in poverty ages 5 through 17 based on data from "Table 1: 2009 Poverty and Median Income Estimates—States" released by the Small Area Estimates Branch of the U.S. Census Bureau in December 2010. The Department identified the natural breaks in the data and then developed budget ranges for each category taking into consideration the total amount of funds available for awards under this program. These budget limits are mandatory for the SRCL competition. SRCL grantees will serve as models of best practices in comprehensive literacy education across the States and the country; accordingly, we want to ensure that the Secretary can fund, at an adequate level, a sufficient number of high-quality applications with available funding.

For the FY 2011 competition and any subsequent year in which we make awards from the list of unfunded applicants from this competition, the applicant's proposed budget must conform to the following budget limits:

Category 1—up to $70 million: California, Texas.

Category 2—up to $50 million: Florida, Georgia, Illinois, Michigan, New York, North Carolina, Ohio, Pennsylvania, Puerto Rico.

Category 3—up to $30 million: Alabama, Arizona, Indiana, Kentucky, Louisiana, Mississippi, Missouri, New Jersey, South Carolina, Tennessee, Virginia, Washington.

Category 4—up to $15 million: Arkansas, Colorado, Connecticut, Iowa, Kansas, Maryland, Massachusetts, Minnesota, Nevada, New Mexico, Oklahoma, Oregon, West Virginia, Wisconsin, Utah.

Category 5—up to $8 million: Alaska, Delaware, District of Columbia, Hawaii, Idaho, Maine, Montana, Nebraska, New Hampshire, North Dakota, Rhode Island, South Dakota, Vermont, Wyoming.

While each SEA applying for funds under this competition should develop a budget that is appropriate for the plan it outlines in its application, we will not consider an application if its budget request exceeds the budget limit provided in this notice for the applicant's category.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Budget Periods and Continuation Grants: Grants awarded under this competition may be for a project period of up to five years. Depending on the availability of funds, the Department will make continuation awards for years two and three of the project period in accordance with section 75.253 of EDGAR (34 CFR 75.253). However, to ensure that continuation funds will be used only for high-quality and effective projects, in determining whether to award continuation grants for years four and five the Department will consider the following factors: (1) Whether funds are available; (2) whether the grantee meets the requirements in section 75.253 of EDGAR; and (3) whether the grantee is achieving the intended outcomes of the grant and shows improvement against baseline measures on the following indicators:

(a) Demonstration of progress in the implementation of a comprehensive State literacy plan.

(b) Demonstration of increased alignment of Federal and State funds and programs to support a coherent approach to effective literacy instruction.

(c) Demonstration that it has provided high-quality technical assistance to subgrantees and implemented a rigorous monitoring process to ensure that SRCL subgrant funds are used to support effective literacy instruction.

(d) Demonstration that it collects, analyzes, and uses high-quality and timely data, especially on program participant outcomes, to improve instructional practices, policies, and student outcomes in early learning programs and in schools.

(e) Demonstration of improvement on the program performance measures as set out in *Performance Measures,* part 5 of section VI of this notice, to the extent such data is available.

III. Eligibility Information

1. *Eligible Applicants:* SEAs.

2. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet at: *http://www2.ed.gov/programs/strivingreaders-literacy/applicant.html,* or by contacting Miriam Lund, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3E245, Washington, DC 20202–6200. *Telephone:* (202) 401–2871 or by *e-mail: striving.readers.comprehensive.literacy@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the

Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Deadline for Notice of Intent to Apply: April 1, 2011.

Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to 50 pages, using the following standards:

- A "page" is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

Our reviewers will not read any pages of your application that exceed the page limit.

3. *Submission Dates and Times:*

Applications Available: March 10, 2011.

Deadline for Notice of Intent to Apply: April 1, 2011. We will be able to develop a more efficient process for reviewing grant applications if we are aware of the number of applicants that intend to apply for funding under this competition. Therefore, the Secretary strongly encourages each potential applicant to notify us of the applicant's intent to submit an application for funding by sending a short e-mail message providing the applicant organization's name and address. The Secretary requests that this e-mail be sent to *striving.readers.comprehensive.literacy@ed.gov* with "Intent to Apply" in the e-mail subject line. Applicants that do not provide this e-mail notification may still apply for funding.

Deadline for Transmittal of Applications: May 9, 2011.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* 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: July 5, 2011.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *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.gov RegistrationBrochure.pdf*).

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Striving Readers Comprehensive Literacy Grant program, CFDA number 84.371C, must be submitted electronically using 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.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for Striving Readers Comprehensive Literacy Grant program at www.Grants.gov. You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.371, not 84.371C).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your

application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.

• The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *http://www.G5.gov.*

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• You must attach any narrative sections of your application as files in a .PDF (Portable Document) format only. If you upload a file type other than 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.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Miriam Lund, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3E245, Washington, DC 20202. *FAX:* (202) 260–8969.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, *Attention:* (CFDA Number 84.371C), LBJ Basement Level 1, 400 Maryland Avenue, SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

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

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, *Attention:* (CFDA Number 84.371C), 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 maximum score for all of the selection criteria is 100 points. The maximum score for each criterion and subcriterion is indicated in parentheses. The selection criteria for this competition are as follows:

(A) *Quality of State-level activities.* (37 points) In determining the quality of State-level activities, the Secretary considers:

(i) How the SEA will carry out the required State-level activities (described in the *Additional Requirements* section of this notice) and how it will align those activities with its comprehensive State literacy plan (10 points).

(ii) The SEA's goals for improving student literacy outcomes throughout the State for all students (*e.g.,* limited-English-proficient students and students with disabilities), including a description of the data (which may include data gathered through a needs assessment) that the SEA has considered or will consider and a clear and credible path that the SEA will take to achieve these goals with the support of its LEAs (8 points).

(iii) How the SEA will provide technical assistance and support to its SRCL subgrantees (and, at its discretion, to other LEAs or early childhood education providers) to enable them to implement a high-quality comprehensive literacy program and to improve student achievement in core academic subjects (5 points).

(iv) How the SEA will evaluate the State's progress in improving achievement in literacy for children and youth from birth through grade 12, including disadvantaged students, including: (1) Whether the evaluation will be conducted by an independent evaluator (whose role in the project is limited solely to conducting the evaluation); (2) whether the evaluation will use methods that are thorough, feasible, and appropriate to the objectives of the proposed project; and (3) how the SEA will use evidence to inform and continuously improve the design and implementation of its activities (10 points).

(v) How the SEA will disseminate information on project outcomes, disaggregated by student subgroup, and in formats that are easily understood by, and accessible to, the public, and how the SEA will make that information useful to varied groups (such as families, educators, researchers, other experts, early childhood education providers, and State leaders) (4 points).

(B) *Quality of the State subgrant competition.* (28 points) In determining the quality of the applicant's proposed SRCL subgrant competition, the Secretary considers:

(i) The extent to which the SEA will run a rigorous, high-quality competition for subgrants, including how it will review and judge:

(a) The LEA's or early childhood education provider's capacity to successfully implement its proposal (3 points).

(b) The extent to which each SRCL subgrant applicant has proposed a comprehensive high-quality literacy program that meets all of the requirements set out in paragraph (d) of the *Additional Requirements* section in this notice and that (8 points):

(1) Addresses the needs of disadvantaged students and proposes to implement activities in schools and early learning programs with the highest levels of need and capacity for improvement.

(2) Is informed by a needs assessment described in the application and is designed to support effective teaching and to improve student achievement of struggling readers.

(3) Involves other agencies, nonprofit organizations, community-based organizations, and families in activities that promote the implementation of effective literacy instruction for disadvantaged students.

(c) The extent to which each SRCL subgrant applicant demonstrates that it will implement a coherent strategy to improve literacy instruction that aligns activities under the SRCL subgrant with literacy instruction supported with other Federal funds, including with funds the entity receives under Title I, Title II–A, and Title III of the ESEA and, as appropriate, the Head Start Act, the Individuals with Disabilities Education Act, and the Carl D. Perkins Career and Technical Education Act of 2006, and State and local funds (2 points).

(ii) The extent to which the SEA will give priority to LEAs or providers of early childhood education that propose to serve high-poverty schools or a high-poverty population, based on a definition of poverty and process for applying the priority provided by the State (6 points).

(iii) The extent to which the SEA will give priority to LEAs or providers of early childhood education whose applications are supported by the strongest available evidence (4 points).

(iv) The extent to which the SEA will develop or update a process, or use an existing process, to review and judge the evidence base and alignment with State standards for the curricula and materials that LEAs propose to use in implementing their subgrants, and how the SEA will make the process and results of any such review publicly available (5 points).

(C) *Project management.* (15 points) The Secretary considers the following factors in determining the quality of the project management plan:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks (6 points).

(ii) The qualifications, including relevant training and experience, of key personnel (5 points).

(iii) The extent to which the State will ensure a diversity of perspectives in the design and implementation of the proposed project, including those of: Families, teachers, early childhood education professionals, officials from other State and local agencies, Head Start Advisory Councils, professional organizations, institutions of higher education, community-based organizations, and libraries (4 points).

(D) *Adequacy of resources.* (20 points) The Secretary considers the following factors in determining the adequacy of resources for the proposed project:

(i) The extent to which the costs described in the SEA's budget are reasonable in relation to the number of objectives, design, and potential significance of the proposed project (10 points).

(ii) The quality of the SEA's plan to ensure that SRCL subgrant funds are allocated as follows:

- At least 15 percent to serve children from birth through age five.
- At least 40 percent to serve students in kindergarten through grade five.
- At least 40 percent to serve students in middle and high school, through grade 12, including an equitable distribution of funds between middle and high schools (4 points).

(iii) The extent to which the SEA will use the grant to leverage other State and Federal funds in order to maximize the impact of the grant and how it will support LEAs and early childhood education providers in integrating funds with other local, State, and Federal funds and in developing a plan for sustaining funding after the end of the subgrant (3 points).

(iv) The extent to which the SEA will award SRCL subgrants of sufficient size to support projects that improve instruction for a significant number of students in the high-need schools or early learning programs serving children birth through five that the SRCL subgrantee would serve (3 points).

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, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *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. *Transparency:* After awards are made under this competition, all of the submitted applications (both successful and unsuccessful), together with reviewer scores and comments for those applications, will be posted on the Department's Web site.

4. *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.*

5. *Performance Measures:* The Department has established the following Government Performance and Results Act of 1993 (GPRA) performance measures for the Striving Readers Comprehensive Literacy grant program:

(1) The percentage of participating 4-year-old children who achieve significant gains in oral language skills.

(2) The percentage of participating 5th-grade students who meet or exceed proficiency on State English language arts assessments under section 1111(b)(3) of the ESEA.

(3) The percentage of participating 8th-grade students who meet or exceed proficiency on State English language arts assessments under section 1111(b)(3) of the ESEA.

(4) The percentage of participating high school students who meet or exceed proficiency on State English language arts assessments under section 1111(b)(3) of the ESEA.

Alternative Measures

All States are required to report on Performance Measure 1 above. States have the option of either reporting on Performance Measures 2, 3, and 4 above, or reporting on the following growth measures:

(2) The percentage of participating 5th-grade students who meet or exceed proficiency on State English language arts assessments under section 1111(b)(3) of the ESEA, including those students who demonstrate adequate growth under the State's Department-approved growth model and are counted as meeting or exceeding proficiency for purposes of accountability determinations.

(3) The percentage of participating 8th-grade students who meet or exceed proficiency on State English/language arts assessments under section 1111(b)(3) of the ESEA, including those students who demonstrate adequate growth under the State's Department-approved growth model and are counted as meeting or exceeding proficiency for purposes of accountability determinations.

(4) The percentage of participating high school students who meet or exceed proficiency on the State English language arts assessments under section 1111(b)(3) of the ESEA, including those students who demonstrate adequate growth under the State's Department-approved growth model and are counted as meeting or exceeding proficiency for

purposes of accountability determinations.

All of the performance measures described in this section will include data disaggregated for disadvantaged students, including limited-English-proficient students and students with disabilities.

The measures described in this section constitute the Department's indicators of success for this program. Consequently, we advise an applicant for a grant under this program to give careful consideration to these measures in conceptualizing the approach and evaluation for its proposed project. Each grantee will be required to provide, in its annual performance and final reports, data about its progress in meeting these measures.

6. *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). In addition, in making continuation awards for years four and five, the Department will consider whether the grantee is achieving the intended outcomes of the grant and shows improvement against baseline data on specific indicators (listed in this notice under *Budget Periods and Continuation Grants*).

VII. Agency Contact

For Further Information Contact: Miriam Lund, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3E245, Washington, DC 20202–6200. *Telephone:* (202) 401–2871 or by *e-mail: striving.readers.comprehensive.literacy@ed.gov.*

If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the program contact person listed under *For Further Information Contact* in section VII of this notice.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: March 7, 2011.

Thelma Meléndez de Santa Ana,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2011–5545 Filed 3–9–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

RIN 1855–ZA07

Promise Neighborhoods Program

Catalog of Federal Domestic Assistance (CFDA) Number: 84.215P.

AGENCY: Office of Innovation and Improvement, Department of Education.

ACTION: Notice of proposed priorities, requirements, definitions, and selection criteria.

SUMMARY: The Secretary of Education (Secretary) proposes priorities, requirements, definitions, and selection criteria under the legislative authority of the Fund for the Improvement of Education Program (FIE), title V, part D, subpart 1, sections 5411 through 5413 of the Elementary and Secondary Education Act of 1965, as amended (ESEA). The Secretary may use one or more of these priorities, requirements, definitions, and selection criteria for Promise Neighborhoods competitions for fiscal year (FY) 2011 and later years.

We take this action to focus Federal assistance on projects that are designed to create a comprehensive continuum of solutions, including education programs and family and community supports, with great schools at the center. The continuum of solutions must be designed to significantly improve the educational and developmental outcomes of children and youth, from birth through college and to a career. We intend that these projects support organizations that focus on serving high-need neighborhoods, have a strategy to build a continuum of solutions, and have the capacity to achieve results.

DATES: We must receive your comments on or before April 11, 2011.

ADDRESSES: Address all comments about this notice to Jill Staton, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4W245, Washington, DC 20202–5970.

If you prefer to send your comments by e-mail, use the following address: *pn2011comments@ed.gov.* You must include the term "PN—Comments on FY 2011 Proposed Priority" in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Jill Staton. Telephone: (202) 453–6615 or by *e-mail: pn2011comments@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service, toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final priorities, requirements, definitions, and selection criteria, we urge you to identify clearly the specific proposed priority, requirement, definition, or selection criterion that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from the proposed priorities, requirements, definitions, and selection criteria. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice in room 4W335, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please

contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Purpose of Program: The Promise Neighborhoods program is carried out under the legislative authority of the FIE, title V, part D, subpart 1, sections 5411 through 5413 of the ESEA (20 U.S.C. 7243–7243b). FIE supports nationally significant programs to improve the quality of elementary and secondary education at the State and local levels and to help all children meet challenging State academic content and student academic achievement standards.

The purpose of the Promise Neighborhoods program is to significantly improve the educational and developmental outcomes of children and youth in our most distressed communities, and to transform those communities by—

(1) Identifying and increasing the capacity of eligible organizations (as defined in this notice) that are focused on achieving results for children and youth throughout an entire neighborhood;

(2) Building a complete continuum of cradle-through-college-to-career solutions (continuum of solutions) (as defined in this notice) of both educational programs and family and community supports (both as defined in this notice), with great schools at the center;

(3) Integrating programs and breaking down agency "silos" so that solutions are implemented effectively and efficiently across agencies;

(4) Developing the local infrastructure of systems and resources needed to sustain and scale up proven, effective solutions across the broader region beyond the initial neighborhood; and

(5) Learning about the overall impact of the Promise Neighborhoods program and about the relationship between particular strategies in Promise Neighborhoods and student outcomes, including through a rigorous evaluation of the program.

Background: The vision of this program is that all children and youth growing up in Promise Neighborhoods have access to great schools and strong systems of family and community support that will prepare them to attain an excellent education and successfully transition to college and a career.

A Promise Neighborhood is both a place and a strategy. A place eligible to become a Promise Neighborhood is a geographic area that is distressed, often facing inadequate access to high-quality early learning programs and services, struggling schools, low high-school and college graduation rates, high unemployment, crime, and indicators of poor health. These conditions contribute to and intensify the negative outcomes associated with children and youth living in poverty. Children who are from low-income families and grow up in neighborhoods of concentrated poverty face educational and life challenges above and beyond the challenges faced by children who are from low-income families who grow up in neighborhoods without a high concentration of poverty. A Federal evaluation of the reading and mathematics outcomes of elementary students in 71 schools in 18 districts and 7 States found that even when controlling for individual student poverty, there is a significant negative association between school-level poverty and student achievement.[1] The evaluation found that students have lower academic outcomes when a higher percentage of their same-school peers qualify for free and reduced-priced lunch (FRPL) compared to when a lower percentage of their same-school peers qualify for FRPL. The compounding effects of neighborhood poverty continue later in life: Another study found that, for children with similar levels of family income, growing up in a neighborhood where the number of families in poverty was between 20 and 30 percent increased the chance of downward economic mobility—moving down the income ladder relative to their parents—by more than 50 percent compared with children who grew up in neighborhoods with under 10 percent of families in poverty.[2]

A Promise Neighborhood is also a strategy for addressing the issues in distressed communities. Promise Neighborhoods are led by organizations that work to ensure that all children and youth in the target geographic area have access to the continuum of solutions needed to graduate from high school college- and career-ready. For this reason, each Promise Neighborhood grant must have several core features: Significant need in the neighborhood the grant serves, a strategy to build a continuum of solutions with strong schools at the center, and the capacity to achieve results.

While there are a number of organizations and communities that are working on developing Promise Neighborhoods strategies, these entities are at different stages of readiness to create a Promise Neighborhood. Therefore, we are proposing priorities, requirements, definitions, and selection criteria for both planning and implementation grants. The proposed priorities, requirements, and selection criteria are different for planning grant and implementation grant applicants, while the proposed definitions apply to both groups of applicants.

Planning grants would support eligible organizations that need to develop feasible plans to create a continuum of solutions with the potential to significantly improve the educational and developmental outcomes of children and youth in a neighborhood. These grants would support eligible organizations that demonstrate the need for implementation of a Promise Neighborhood strategy in the geographic areas they are targeting, a sound strategy for developing a feasible plan, and the capacity to develop the plan.

Under proposed Absolute Priority 1 for planning grants, Promise Neighborhoods planning grantees would undertake the following activities during the planning year:

(1) Conduct a comprehensive needs assessment and segmentation analysis (as defined in this notice) of children and youth in the neighborhood.

(2) Develop a plan to deliver a continuum of solutions with the potential to drive results. This includes building community support for and involvement in the development of the plan.

(3) Establish effective partnerships both to provide solutions along the continuum and to commit resources to sustain and scale up what works.

(4) Plan, build, adapt, or expand a longitudinal data system that will provide information that the grantee will use for learning, continuous improvement, and accountability.

(5) Participate in a community of practice (as defined in this notice).

Implementation grants would support eligible organizations in carrying out their plans to create a continuum of solutions that will significantly improve the educational and developmental outcomes of children and youth in the target neighborhood. These grants would aid eligible organizations that have developed a plan that demonstrates the need for implementation of a Promise Neighborhood strategy in the geographic area they are targeting, a sound strategy, and the capacity to implement the plan. Specifically, grantees would use implementation grant funds to develop

[1] Westat and Policy Studies Associate. *The longitudinal evaluation of school change and performance (LESCP) in title I schools.* Prepared for the U.S. Department of Education. Available January 2010 online at *http://www.policystudies.com/studies/school/lescp_vol2.pdf.*

[2] Sharkey, Patrick. "Neighborhoods and the Black-White Mobility Gap." Economic Mobility Project: An Initiative of The Pew Charitable Trusts, 2009.

the administrative capacity necessary to successfully implement a continuum of solutions, such as managing partnerships, integrating multiple funding sources, and supporting the data system. The majority of resources to provide solutions within the continuum of solutions would come from existing public and private funding sources that are integrated and aligned with the Promise Neighborhoods strategy.

Under proposed Absolute Priority 1 for implementation grants, Promise Neighborhoods implementation grantees would undertake the following activities during the implementation years:

(1) Implement a continuum of solutions that addresses neighborhood challenges, as identified in a needs assessment and segmentation analysis, and that will improve results for children and youth in the neighborhood.

(2) Continue to build and strengthen partnerships that will provide solutions along the continuum of solutions and that will commit resources to sustain and scale up what works.

(3) Collect data on indicators at least annually, and use and improve a data system for learning, continuous improvement, and accountability.

(4) Demonstrate progress on goals for improving systems, such as by making changes in policies and organizations, and by leveraging resources to sustain and scale up what works.

(5) Participate in a community of practice.

The intent of these priorities is to ensure that program funds are used by organizations with the capacity to achieve a core set of results for children and youth, improve systems to support achievement of the results, and leverage these and other resources to sustain and scale up what works. We are also proposing definitions that would clarify some of the terms used in the priorities and selection criteria, and selection criteria that would be used by peer reviewers to evaluate (a) The need in a neighborhood that would be served through a proposed project, (b) an organization's strategy to build a continuum of solutions, and (c) an organization's capacity to do the work effectively and efficiently. We are interested in receiving comments about the proposed priorities, definitions, and selection criteria. In particular, we are interested in whether the proposed indicators of need (as defined in this notice) in Absolute Priority 1 and in the selection criteria are the most appropriate indicators for ensuring that grantees serve neighborhoods with significant educational and family and community support needs. We also are interested in your comments about how to ensure that grantees implement strategies that address the needs in the targeted neighborhood; implement solutions that are based on the best available evidence; drive results for children and youth; and improve broader systems in the city and region to support the results. Finally, we are interested in your comments about how to ensure that projects include a management plan that will build an organization's capacity to use data, leverage resources, break down agency "silos," and create a local infrastructure to sustain and scale up the project beyond the initial neighborhood.

Consistent with the approach of the Promise Neighborhoods program, we believe that it is important for communities to develop a comprehensive neighborhood revitalization strategy that addresses neighborhood assets (as defined in this notice) that are essential to transforming distressed neighborhoods into healthy and vibrant communities of opportunity. Although not a proposed requirement for planning or implementation applicants, we believe that a Promise Neighborhood will be most successful when it is part of, and contributing to, an area's broader neighborhood revitalization strategy. We believe that only through the development of such comprehensive neighborhood revitalization plans that embrace the coordinated use of programs and resources in order to effectively address the interrelated needs within a community will the broader vision of neighborhood transformation occur.

Because a diverse group of communities could benefit from the Promise Neighborhoods program, the Secretary proposes an absolute priority for applications that propose to serve one or more rural communities only (as defined in this notice) and an absolute priority for applications that propose to serve one or more Indian tribes (as defined in this notice). Child poverty rates in rural areas are higher than in urban areas,[3] and more than one-fifth of the Nation's nearly 2,000 "dropout factories," in which the graduation rate is less than 60 percent, are located in rural areas.[4] Compared to White students, American Indian students have lower academic outcomes and higher poverty rates.[5] Moreover, American Indian and Alaska Native students have a graduation rate of less than 50 percent nationally.[6]

The Secretary also recognizes that a broad set of solutions is required to improve academic and developmental outcomes for children and youth and to transform communities. For that reason, the Secretary proposes priorities for applicants that propose to enhance, expand, or coordinate comprehensive and high-quality local early learning networks, include strategies to increase internet connectivity, improve access to the arts and humanities, or increase the availability of quality affordable housing as part of a strategy that is integrated with neighborhood transformation efforts. In recognition of the important role that adults play in the educational development of children, the Secretary proposes to include, in the FY 2011 competition, a priority for proposals that include a focus on family engagement in learning through adult education.

Finally, the Department of Justice (DOJ) is interested in reviewing the applications of Promise Neighborhoods implementation grantees that address public safety concerns through strategies that include prevention, intervention, enforcement, and reentry of offenders back into communities upon release from prison and jail. Further, subject to the availability of FY 2011 funds, DOJ intends to provide some Promise Neighborhoods implementation grantees with additional resources from the Byrne Criminal Justice Innovation program, to pursue their public safety strategies. We anticipate that applicants for a Promise Neighborhoods implementation grant that are also interested in being considered for funding by DOJ will be required to complete application materials for the Byrne Criminal Justice Innovation program. Additional details regarding the application process and requirements for the Byrne Criminal Justice Innovation program will be provided in the Promise Neighborhoods notice inviting applications.

Proposed Priorities

Types of Priorities: The Secretary proposes priorities for Promise Neighborhoods planning and implementation grants. The Department may choose to use one or more of these

[3] American Community Survey, 2006.

[4] Balfanz, Robert, Letgers, N. *Locating the Dropout Crisis: Which High Schools Produce the Nation's Dropouts?* Johns Hopkins University, 2004.

[5] Institute for Education Sciences. *Status and Trends in the Education of American Indians and Alaska Natives,* 2008.

[6] The Civil Rights Project. *The Dropout/Graduation Crisis Among American Indian and Alaska Native Students: Failure to Respond Places the Future of Native Peoples at Risk,* 2010.

priorities in any year in which we hold a competition for the Promise Neighborhoods program. We propose to require that all applicants for planning and implementation grants indicate in their application whether they are applying under Absolute Priority 1, Absolute Priority 2, or Absolute Priority 3. An applicant that applies under Absolute Priority 2 but is not eligible for funding under Absolute Priority 2, or applies under Absolute Priority 3 but is not eligible for funding under Absolute Priority 3, would be considered for funding under Absolute Priority 1.

If one or more of proposed Planning Priorities 4 through 8 or proposed Implementation Priorities 4 through 8 are included in a notice inviting applications, the priority or priorities that are included in the notice would be designated as absolute, competitive preference, or invitational priorities in that notice for the purposes of the competition for which the notice is inviting applications. We may choose, in the notice of final priorities, requirements, definitions, and selection criteria, to include the substance of these priorities in the selection criteria.

Under an absolute priority, as specified by 34 CFR 75.105(c)(3), we would consider only applications that meet the priority. Under a competitive preference priority, we would give competitive preference to an application by (1) awarding additional points, depending on how well the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)). With an invitational priority, we would signal our interest in receiving applications that meet the priority; however, consistent with 34 CFR 75.105(c)(1), we would not give an application that meets an invitational priority preference over other applications.

For purposes of notices inviting applications, we are considering whether to limit the total number of competitive preference priority points awarded to an applicant in a grant competition or whether to limit the total number of competitive preference priorities we will review and score in a grant competition. We invite comments on these issues to ensure that we are considering a wide variety of perspectives in determining our approach.

Proposed Planning Grant Priorities

Proposed Planning Grant Priority 1 (Absolute): Proposal To Develop a Promise Neighborhood Plan

We propose establishing a priority for an applicant to submit a proposal for how it will plan to create a Promise Neighborhood. This proposal must describe the need in the neighborhood, a strategy to build a continuum of solutions, and the applicant's capacity to achieve results. Specifically, an applicant must—

(1) Describe the geographically defined area to be served and the level of distress in that area based on indicators of need and other relevant indicators. Applicants may propose to serve multiple, non-contiguous geographically defined areas. In cases where target areas are not contiguous, the applicant must explain its rationale for including non-contiguous areas;

(2) Describe how it will plan to build a continuum of solutions based on the best available evidence including, where available, strong or moderate evidence (as defined in this notice) designed to significantly improve educational outcomes and to support the healthy development and well-being of children and youth in the neighborhood.[7] The success of the strategy will be based on the results, measured against the project indicators as defined in this notice and described in Table 1 and Table 2. The strategy must describe how the applicant will determine which solutions within the continuum of solutions to implement, and must include—

(a) High-quality early learning programs and services designed to improve outcomes across multiple domains of early learning (as defined in this notice) for children from birth through third grade;

(b) Ambitious, rigorous, and comprehensive education reforms that are linked to improved educational outcomes for children and youth in preschool through the 12th grade. Public schools served through the grant may include persistently lowest-achieving schools (as defined in this notice) or low-performing schools (as defined in this notice) that are not also persistently lowest-achieving schools. An applicant may serve an effective school or schools (as defined in this notice) but only if the applicant also serves at least one low-performing school (as defined in this notice) or persistently lowest-achieving school (as defined in this notice). An applicant must identify in its application the public school or schools that it would serve and the current status of reforms in the school or schools, including, if applicable, the type of intervention model being implemented. In cases where an applicant operates a school or partners with a school that does not serve all students in the neighborhood, the applicant must partner with at least one additional school or schools that also serves students in the neighborhood. An applicant proposing to work with a persistently lowest-achieving school must implement one of the four school intervention models (turnaround model, restart model, school closure, or transformation model) described in Appendix C of the Race to the Top notice inviting applications for new awards for FY 2010, 74 FR 59836, 59866 (November 18, 2009).

An applicant proposing to work with a low-performing school must implement ambitious, rigorous, and comprehensive interventions to assist, augment, or replace schools, which may include implementing one of the four school intervention models, or may include another model of sufficient ambition, rigor, and comprehensiveness to significantly improve academic and other outcomes for students. An applicant proposing to work with a low-performing school must use an intervention that addresses the effectiveness of teachers and leaders and the school's use of time and resources, which may include increased learning time (as defined in this notice);

Note regarding school reform strategies: So as not to penalize an applicant from working with a local educational agency (LEA) that has implemented rigorous reform strategies prior to the publication of this notice, an applicant is not required to propose a new reform strategy in place of an existing reform strategy in order to be eligible for a Promise Neighborhoods planning grant. For example, an LEA might have begun to implement improvement activities that meet many, but not all, of the elements of a transformation model of school intervention. In this case, the applicant could propose, as part of its Promise Neighborhood strategy, to work with the LEA as the LEA continues with its reforms;

(c) Programs that prepare students to be college- and career-ready; and

(d) Family and community supports (as defined in this notice).

To the extent feasible and appropriate, the plan to be developed by the applicant must describe how the applicant and its partners will leverage and integrate high-quality programs, related public and private investments, and existing neighborhood assets into the continuum of solutions.

[7] For the purposes of this notice, the Department uses the terms "neighborhood" and "geographic area" interchangeably.

Applicants must also describe how they will identify Federal, State, or local policies, regulations, or other requirements that would impede the applicant in achieving its goals and will report on those impediments to the Department and other relevant agencies.

As part of the description of how they will plan to build a continuum of solutions, applicants must describe how they will participate in, organize, or facilitate, as appropriate, communities of practice (as defined in this notice) for Promise Neighborhoods.

(3) Specify how it will conduct a comprehensive needs assessment and segmentation analysis of children and youth in the neighborhood during the planning grant project period and explain how it will use this needs assessment and segmentation analysis to determine the children with the highest needs and ensure that those children receive the appropriate services from the continuum of solutions. This explanation must include identifying and describing in the application both the educational indicators and the family and community support indicators that the applicant will use in conducting the needs assessment during the planning year. During the planning year, applicants must—

(a) Collect data for the educational indicators listed in Table 1 and use them as both program and project indicators;

(b) Collect data for the family and community support indicators in Table 2 and use them as program indicators; and

(c) Collect data for unique family and community support indicators, developed by the applicant, that align with the goals and objectives of projects and use them as project indicators or use the indicators in Table 2 as project indicators.

Note: Planning grant applicants are not required to propose solutions in their applications; however, they are required to describe how they will identify solutions, including the use of available evidence, during the planning year that will result in improvements on the project indicators.

TABLE 1—EDUCATION INDICATORS AND RESULTS THEY ARE INTENDED TO MEASURE

Indicator	Result
—# and % of children birth to kindergarten entry who have a place where they usually go, other than an emergency room, when they are sick or in need of advice about their health.	Children enter kindergarten ready to succeed in school.
—# and % of three-year-olds and children in kindergarten who demonstrate at the beginning of the program or school year age-appropriate functioning across multiple domains of early learning (as defined in this notice) as determined using developmentally-appropriate early learning measures (as defined in this notice).	
—# & % of children, from birth to kindergarten entry, participating in center-based or formal home-based early learning settings or programs, which may include Early Head Start, Head Start, child care, or publicly funded preschool	
—# & % of students at or above grade level according to State mathematics and reading or language arts assessments in at least the grades required by the ESEA (3rd through 8th and once in high school).	Students are proficient in core academic subjects.
—Attendance rate of students in 6th, 7th, 8th, and 9th grade	Students successfully transition from middle school grades to high school.
—Graduation rate (as defined in this notice)	Youth graduate from high school.
—# & % of Promise Neighborhood students who graduate with a regular high school diploma, as defined in 34 CFR 200.19(b)(1)(iv), and obtain postsecondary degrees, vocational certificates, or other industry-recognized certifications or credentials without the need for remediation	High school graduates obtain a postsecondary degree, certification, or credential.

TABLE 2—FAMILY AND COMMUNITY SUPPORT INDICATORS AND RESULTS THEY ARE INTENDED TO MEASURE

Indicator	Result
—# & % of children who participate in at least 60 minutes of moderate to vigorous physical activity daily and consume five or more servings of fruits and vegetables daily; or	Students are healthy.
—possible second indicator, to be determined (TBD) by applicant	
—# & % of students who feel safe at school and traveling to and from school, as measured by a school climate needs assessment (as defined in this notice); or	Students feel safe at school and in their community.
—possible second indicator, TBD by applicant.	
—Student mobility rate (as defined in this notice); or	Students live in stable communities.
—possible second indicator, TBD by applicant.	
—For children six months to kindergarten entry, the # and % of parents or family members who report that they read to their child three or more times a week;	Families and community members support learning in Promise Neighborhood schools.
—For children in kindergarten through the eighth grade, the # and % of parents or family members who report encouraging their child to read books outside of school; and	
—For children in the ninth through twelfth grades, the # and % of parents or family members who report talking with their child about the importance of college and career; or	
—possible second indicator TBD by applicant.	
—# & % of students who have school and home access (and % of the day they have access) to broadband internet (as defined in this notice) and a connected computing device; or	Students have access to 21st century learning tools.
—possible second indicator TBD by applicant	

Note: The indicators in Table 1 and Table 2 are not intended to limit an applicant from collecting and using data for additional indicators. Examples of additional indicators are—

(i) The # and % of children who participate in high-quality learning activities during out-of-school hours or in the hours after the traditional school day ends;

(ii) The # and % of children who are suspended or receive discipline referrals during the school year;

(iii) The share of housing stock in the geographically defined area that is rent-protected, publicly assisted, or targeted for redevelopment with local, State, or Federal funds; and

(iv) The # and % of children who are homeless or in foster care and who have an assigned adult advocate.

Note: While the Department believes there are many programmatic benefits of collecting data on every child in the proposed neighborhood, the Department will consider requests to collect data on only a sample of the children in the neighborhood for some indicators so long as the applicant describes in its application how it would ensure the sample would be representative of the children in the neighborhood;

(4) Describe the experience and lessons learned, and describe how the applicant will build the capacity of its management team and project director in all of the following areas:

(a) Working with the neighborhood and its residents, including with the schools described in paragraph (2) of this priority; the LEA in which the schools described in paragraph (2) are located; Federal, State, and local government leaders; and other service providers.

(b) Collecting, analyzing, and using data for decision-making, learning, continuous improvement, and accountability. The applicant must describe—

(i) Its proposal to plan to build, adapt, or expand a longitudinal data system that integrates student-level data from multiple sources in order to measure progress on educational and family and community support indicators for all children in the neighborhood, disaggregated by the subgroups listed in section 1111(b)(3)(C)(xiii) of the ESEA;

(ii) How the applicant will link the longitudinal data system to school-based, LEA, and State data systems; make the data accessible to program partners, researchers, and evaluators while abiding by Federal, State, and other privacy laws and requirements; and manage and maintain the system;

(iii) How the applicant will use rapid-time (as defined in this notice) data both in the planning year and, once the Promise Neighborhood strategy is implemented, for continuous program improvement; and

(iv) How the applicant will document the planning process, including by describing lessons learned and best practices;

(c) Creating formal and informal partnerships, for such purposes as providing solutions along the continuum of solutions and attaining resources to sustain and scale up what works. An applicant, as part of its application, must submit a preliminary memorandum of understanding, signed by each organization or agency with which it would partner in planning the proposed Promise Neighborhood. The preliminary memorandum of understanding must describe—

(i) Each partner's financial and programmatic commitment; and

(ii) How each partner's existing vision, theory of change (as defined in this notice), theory of action (as defined in this notice), and existing activities align with those of the proposed Promise Neighborhood strategy;

(d) The governance structure proposed for the Promise Neighborhood, including how the eligible entity's governing board or advisory board is representative of the geographic area proposed to be served (as defined in this notice), and how residents of the geographic area would have an active role in the organization's decision-making; and

(e) Securing and integrating funding streams from multiple public and private sources from the Federal, State, and local level. Examples of public funds include Federal resources from the U.S. Department of Education, such as the 21st Century Community Learning Centers program and title I of the ESEA, and from other Federal agencies, such as the U.S. Departments of Health and Human Services, Housing and Urban Development, Justice, Labor, and Treasury.

(5) Describe the applicant's commitment to work with the Department and with a national evaluator for Promise Neighborhoods to ensure that data collection and program design are consistent with plans to conduct a rigorous national evaluation of the Promise Neighborhoods program and of specific solutions and strategies pursued by individual grantees. This commitment must include, but need not be limited to—

(a) Ensuring that, through memoranda of understanding with appropriate entities, the national evaluator and the Department have access to relevant program and project data (e.g., administrative data and program and project indicator data), including data on a quarterly basis if requested by the Department;

(b) Developing, in consultation with the national evaluator, an evaluation strategy, including identifying a credible comparison group; and

(c) Developing, in consultation with the national evaluator, a plan for identifying and collecting reliable and valid baseline data for both program participants and a designated comparison group of non-participants.

Proposed Planning Grant Priority 2 (Absolute): Promise Neighborhoods in Rural Communities

We propose establishing a priority for applicants proposing to develop a plan for implementing a Promise Neighborhood strategy that (1) meets all of the requirements in Absolute Priority 1; and (2) proposes to serve one or more rural communities only.

Proposed Planning Grant Priority 3 (Absolute): Promise Neighborhoods in Tribal Communities

We propose establishing a priority for applicants proposing to develop a plan for implementing a Promise Neighborhood strategy that (1) meets all of the requirements in Absolute Priority 1; and (2) proposes to serve one or more Indian tribes (as defined in this notice).

Proposed Planning Grant Priority 4: Comprehensive Local Early Learning Network

We propose a priority for applicants proposing to develop a plan to expand, enhance, or modify an existing network of early learning programs and services to ensure that they are high-quality and comprehensive for children from birth through the third grade. The plan must also ensure that the network establishes a high standard of quality across early learning settings and is designed to improve health, social-emotional, and cognitive outcomes of young children. Distinct from the early learning solutions described in paragraph (2) of Absolute Priority 1, this priority would support proposals to develop plans that coordinate all early learning services and programs in the neighborhood, i.e., school-based early learning programs; district- or State-funded preschool programs; Early Head Start and Head Start; the local child care resource and referral agency, if applicable; Individuals with Disabilities Education Act (IDEA) services and programs; services through private providers; home visiting programs; and family, friend, or neighbor care in the Promise Neighborhood.

The coordinated local early learning network must address, or incorporate ongoing State-level efforts regarding, the major components of high-quality early learning programs and services, such as early learning and development standards, program quality standards, comprehensive assessment systems, workforce and professional development systems, health promotion, family and community engagement, a coordinated data

infrastructure, and a method of measuring, monitoring, evaluating, and improving program quality. For example, an applicant might address how the Promise Neighborhoods project will use the State's early learning standards, as applicable, and Head Start Child Development and Early Learning Framework (Framework), as applicable, to define the expectations of what children should know and be able to do before entering kindergarten. The Framework is available on the Office of Head Start's Web site at: *http://eclkc.ohs.acf.hhs.gov/hslc/ecdh/eecd/Assessment/Child%20Outcomes/HS_Revised_Child_Outcomes_Framework.pdf.* Similarly, an applicant that addresses this priority must discuss, where applicable, how the State's Quality Rating and Improvement System (QRIS), professional development and workforce infrastructure, and other State efforts would be incorporated into the Promise Neighborhood's plan for a comprehensive local early learning network.

The proposal to develop a plan for a high-quality and comprehensive local early learning network must describe the governance structure and how the applicant will use the planning year to plan solutions that address the major components of high-quality early learning programs and services as well as establish goals, strategies, and benchmarks to provide early learning programs and services that result in improved outcomes across multiple domains of early learning (as defined in this notice). An applicant addressing this priority must designate an individual responsible for overseeing and coordinating the early learning initiatives and must include a resume or position description and other supporting documentation to demonstrate that the individual designated, or individual hired to fill that designation, possesses the appropriate State certification, and has experience and expertise in managing and administering high-quality early learning programs, including in coordinating across various high-quality early learning programs and services.

Proposed Planning Grant Priority 5: Quality Internet Connectivity

We propose a priority for applicants proposing to develop plans to ensure that almost all students in the geographic area proposed to be served have broadband internet access (as defined in this notice) at home and at school, the knowledge and skills to use broadband internet access effectively, and a connected computing device to support schoolwork.

Proposed Planning Grant Priority 6: Arts and Humanities

We propose a priority for applicants proposing to develop plans to include opportunities for children and youth to experience and participate actively in the arts and humanities in their community so as to broaden, enrich, and enliven the educational, cultural, and civic experiences available in the neighborhood. Applicants may propose to develop plans for offering these activities in school and in out-of-school settings and at any time during the calendar year.

Proposed Planning Grant Priority 7: Quality Affordable Housing

We propose a priority for applicants proposing to serve geographic areas that were the subject of an affordable housing transformation pursuant to a Choice Neighborhoods or HOPE VI grant awarded by the U.S. Department of Housing and Urban Development during FY 2009 or later years. Applicants eligible for this priority must either (1) have received a Choice Neighborhoods or HOPE VI grant or (2) provide a memorandum of understanding with a recipient of Choice Neighborhoods or HOPE VI grant. The memorandum must indicate a commitment on the part of both grantees to coordinate planning and align resources to the greatest extent practicable.

Proposed Planning Grant Priority 8: Family Engagement in Learning Through Adult Education

We propose a priority for applicants proposing to develop plans that are coordinated with adult education providers serving neighborhood residents, such as those funded through the Adult Education and Family Literacy Act, as amended. Coordinated services may include adult basic and secondary education and programs that provide training and opportunities for family members and other members of the community to support student learning and establish high expectations for student educational achievement. Examples of services and programs include preparation for the General Education Development (GED) test; English literacy, family literacy, and work-based literacy training; or other training that prepares adults for postsecondary education and careers or supports adult engagement in the educational success of children and youth in the neighborhood.

Proposed Implementation Grant Priorities

Proposed Implementation Grant Priority 1 (Absolute): Submission of Promise Neighborhood Plan

We propose establishing a priority for applicants that submit a plan to create a Promise Neighborhood. The plan must describe the need in the neighborhood, a strategy to build a continuum of solutions, and the applicant's capacity to achieve results. Specifically, an applicant must—

(1) Describe the geographically defined area to be served and the level of distress in that area based on indicators of need and other relevant indicators. The statement of need in the neighborhood must be based, in part, on results of a comprehensive needs assessment and segmentation analysis (as defined in this notice). Applicants may propose to serve multiple, non-contiguous geographically defined areas. In cases where target areas are not contiguous, the applicant must explain its rationale for including non-contiguous areas;

(2) Describe the applicant's strategy for building a continuum of solutions that addresses neighborhood challenges as identified in the needs assessment and segmentation analysis. The continuum of solutions must be based on the best available evidence including, where available, strong or moderate evidence (as defined in this notice), and be designed to significantly improve educational outcomes and to support the healthy development and well-being of children and youth in the neighborhood. The success of the strategy will be measured by the results and project indicators as defined in this notice and described in Table 1 and Table 2. The applicant must propose clear and measurable annual goals during the grant period against which improvements will be measured using the indicators. The strategy must—

(a) Identify each solution that the project will implement within the proposed continuum of solutions, and must include—

(i) High-quality early learning programs and services designed to improve outcomes across multiple domains of early learning (as defined in this notice) for children from birth through third grade;

(ii) Ambitious, rigorous, and comprehensive education reforms that are linked to improved educational outcomes for children and youth in preschool through the 12th grade. Public schools served through the grant may include persistently lowest-achieving schools (as defined in this

notice) or low-performing schools (as defined in this notice) that are not also persistently lowest-achieving schools. An applicant may serve an effective school or schools (as defined in this notice) but only if the applicant also serves at least one low-performing school (as defined in this notice) or persistently lowest-achieving school (as defined in this notice). An applicant must identify in its application the public school or schools it would serve and describe the current status of reforms in the school or schools, including, if applicable, the type of intervention model being implemented. In cases where an applicant operates a school or partners with a school that does not serve all students in the neighborhood, the applicant must partner with at least one additional school that also serves students in the neighborhood. An applicant proposing to work with a persistently lowest-achieving school must implement one of the four school intervention models (turnaround model, restart model, school closure, or transformation model) described in Appendix C of the Race to the Top notice inviting applications for new awards for FY 2010, 74 FR 59836, 59866 (November 18, 2009).

An applicant proposing to work with a low-performing school must implement ambitious, rigorous, and comprehensive interventions to assist, augment, or replace schools, which may include implementing one of the four school intervention models, or may include another model of sufficient ambition, rigor, and comprehensiveness to significantly improve academic and other outcomes for students. An applicant proposing to work with a low-performing school must use an intervention that addresses the effectiveness of teachers and leaders and the school's use of time and resources, which may include increased learning time (as defined in this notice);

Note regarding school reform strategies: So as not to penalize an applicant from working with an LEA that has implemented rigorous reform strategies prior to the publication of this notice, an applicant is not required to propose a new reform strategy in place of an existing reform strategy in order to be eligible for a Promise Neighborhoods implementation grant. For example, an LEA might have begun to implement improvement activities that meet many, but not all, of the elements of a transformation model of school intervention. In this case, the applicant could propose, as part of its Promise Neighborhood strategy, to work with the LEA as the LEA continues with its reforms;

(iii) Programs that prepare students to be college- and career-ready; and

(iv) Family and community supports (as defined in this notice).

To the extent feasible and appropriate, the plan must describe how the applicant and its partners will leverage and integrate high-quality programs, related public and private investments, and existing neighborhood assets into the continuum of solutions. An application must also include an appendix that summarizes the evidence supporting each proposed solution and describes how the solution is based on the best available evidence, including, where available, strong or moderate evidence (as defined in this notice). In addition, an applicant must describe how the solution will be implemented; the partners that will participate in the implementation of each solution (in any case in which the applicant does not implement the solution directly); the estimated per-child cost, including administrative costs, to implement each solution; the estimated number of children, by age, in the neighborhood who will be served by each solution and how a segmentation analysis was used to target the children and youth to be served; and the source of funds that will be used to pay for each solution. In the description of the estimated number of children to be served, the applicant must include the percentage of all children of the same age group within the neighborhood proposed to be served by each solution.

Applicants must also describe how they will identify Federal, State, or local policies, regulations, or other requirements that would impede the applicant in achieving its goals and will report on those impediments to the Department and other relevant agencies.

As part of the description of their strategy to build a continuum of solutions, applicants must describe how they will participate in, organize, or facilitate, as appropriate, communities of practice for Promise Neighborhoods.

(b) Establish clear, annual goals for evaluating progress in improving systems, such as changes in policies, environments, or organizations that affect children and youth in the neighborhood. Examples of systems change could include a new school district policy to measure the results of family and community support programs, a new funding resource to support the Promise Neighborhoods strategy, or a cross-sector collaboration at the city level to break down municipal agency "silos" and partner with local philanthropic organizations to drive achievement of a set of results; and

(c) Establish clear, annual goals for evaluating progress in leveraging resources, such as the amount of monetary or in-kind investments from public or private organizations to support the Promise Neighborhoods strategy. Examples of leveraging resources are securing new or existing dollars to sustain and scale up what works in the Promise Neighborhood or integrating high-quality programs in the continuum of solutions. Applicants may consider, as part of their plans to scale up their Promise Neighborhood strategy, serving a larger geographic area by partnering with other applicants to the Promise Neighborhoods program from the same city or region;

(3) Explain how it used its needs assessment and segmentation analysis to determine the children with the highest needs and explain how it will ensure that each child in the neighborhood receives the appropriate services from the continuum of solutions. This includes identifying and describing in its application the educational indicators and family and community support indicators that the applicant used to conduct the needs assessment. Whether or not the implementation grant applicant received a Promise Neighborhoods planning grant, the applicant should describe how it—

(a) Collected data for the educational indicators listed in Table 1 and used them as both program and project indicators;

(b) Collected data for the family and community support indicators in Table 2 and used them as program indicators; and

(c) Collected data for unique family and community support indicators, developed by the applicant, that align with the goals and objectives of the project and used them as project indicators or used the indicators in Table 2 as project indicators.

An applicant must also describe how it will collect at least annual data on the indicators in Tables 1 and 2 and report those data to the Department.

TABLE 1—EDUCATION INDICATORS AND RESULTS THEY ARE INTENDED TO MEASURE

Indicator	Result
—# and % of children birth to kindergarten entry who have a place where they usually go, other than an emergency room, when they are sick or in need of advice about their health.	Children enter kindergarten ready to succeed in school.
—# and % of three-year-olds and children in kindergarten who demonstrate at the beginning of the program or school year age-appropriate functioning across multiple domains of early learning (as defined in this notice) as determined using developmentally-appropriate early learning measures (as defined in this notice).	
—# & % of children, from birth to kindergarten entry, participating in center-based or formal home-based early learning settings or programs, which may include Early Head Start, Head Start, child care, or publicly funded preschool.	
—# & % of students at or above grade level according to State mathematics and reading or language arts assessments in at least the grades required by the ESEA (3rd through 8th and once in high school).	Students are proficient in core academic subjects.
—Attendance rate of students in 6th, 7th, 8th, and 9th grade	Students successfully transition from middle school grades to high school.
—Graduation rate (as defined in this notice)	Youth graduate from high school.
—# & % of Promise Neighborhood students who graduate with a regular high school diploma, as defined in 34 CFR 200.19(b)(1)(iv), and obtain postsecondary degrees, vocational certificates, or other industry-recognized certifications or credentials without the need for remediation.	High school graduates obtain a postsecondary degree, certification, or credential.

TABLE 2—FAMILY AND COMMUNITY SUPPORT INDICATORS AND RESULTS THEY ARE INTENDED TO MEASURE

Indicator	Result
—# & % of children who participate in at least 60 minutes of moderate to vigorous physical activity daily and consume five or more servings of fruits and vegetables daily; or	Students are healthy.
—possible second indicator, to be determined (TBD) by applicant.	
—# & % of students who feel safe at school and traveling to and from school, as measured by a school climate needs assessment (as defined in this notice); or	Students feel safe at school and in their community.
—possible second indicator, TBD by applicant.	
—Student mobility rate (as defined in this notice); or	Students live in stable communities.
—possible second indicator, TBD by applicant	
—For children six months to kindergarten entry, the # and % of parents or family members who report that they read to their child three or more times a week;	Families and community members support learning in Promise Neighborhood schools.
—For children in the kindergarten through eighth grades, the # and % of parents or family members who report encouraging their child to read books outside of school; and	
—For children in the ninth through twelfth grades, the # and % of parents or family members who report talking with their child about the importance of college and career; or	
—possible second indicator TBD by applicant.	
—# & % of students who have school and home access (and % of the day they have access) to broadband internet (as defined in this notice) and a connected computing device; or	Students have access to 21st century learning tools.
—possible second indicator TBD by applicant.	

Note: The indicators in Table 1 and Table 2 are not intended to limit an applicant from collecting and using data for additional indicators. Examples of additional indicators are—

(i) The # and % of children who participate in high-quality learning activities during out-of-school hours or in the hours after the traditional school day ends;

(ii) The # and % of students who are suspended or receive discipline referrals during the year;

(iii) The share of housing stock in the geographically defined area that is rent-protected, publicly assisted, or targeted for redevelopment with local, State, or Federal funds; and

(iv) The # and % of children who are homeless or in foster care and who have an assigned adult advocate.

Note: While the Department believes there are many programmatic benefits of collecting data on every child in the proposed neighborhood, the Department will consider requests to collect data on only a sample of the children in the neighborhood for some indicators so long as the applicant describes in its application how it would ensure the sample would be representative of the children in the neighborhood.

(4) Describe the experience, lessons learned, and a plan to build capacity of the applicant's management team and project director in all of the following areas:

(a) Working with the neighborhood and its residents; the schools described in paragraph (2) of this priority; the LEA in which those schools are located; Federal, State, and local government leaders; and other service providers.

(b) Collecting, analyzing, and using data for decision-making, learning, continuous improvement, and accountability. The applicant must describe—

(i) Its longitudinal data system that integrates student-level data from multiple sources in order to measure progress on educational and family and community support indicators for all children in the neighborhood, disaggregated by the subgroups listed in section 1111(b)(3)(C)(xiii) of the ESEA;

(ii) How the applicant has linked the longitudinal data system to school-based, LEA, and State data systems; made the data accessible to program partners, researchers, and evaluators while abiding by Federal, State, and other privacy laws and requirements; and managed and maintained the system;

(iii) How the applicant has used rapid-time (as defined in this notice) data in prior years and, how it will continue to use those data once the Promise Neighborhood strategy is implemented, for continuous program improvement; and

(iv) How the applicant will document the implementation process, including

by describing lessons learned and best practices.

(c) Creating and strengthening formal and informal partnerships, for such purposes as providing solutions along the continuum of solutions and committing resources to sustaining and scaling up what works. Each applicant must submit, as part of its application, a memorandum of understanding, signed by each organization or agency with which it would partner in implementing the proposed Promise Neighborhood. The memorandum of understanding must describe—

(i) Each partner's financial and programmatic commitment; and

(ii) How each partner's existing vision, theory of change (as defined in this notice), theory of action (as defined in this notice), and current activities align with those of the proposed Promise Neighborhood;

(d) The governance structure proposed for the Promise Neighborhood, including how the eligible entity's governing board or advisory board is representative of the geographic area proposed to be served (as defined in this notice), and how residents of the geographic area would have an active role in the organization's decision-making.

(e) Integrating funding streams from multiple public and private sources from the Federal, State, and local level. Examples of public funds include Federal resources from the U.S. Department of Education, such as the 21st Century Community Learning Centers program and title I of the ESEA, and from other Federal agencies, such as the U.S. Departments of Health and Human Services, Housing and Urban Development, Justice, Labor, and Treasury.

(5) Describe the applicant's commitment to work with the Department and with a national evaluator for Promise Neighborhoods to ensure that data collection and program design are consistent with plans to conduct a rigorous national evaluation of the Promise Neighborhoods program and of specific solutions and strategies pursued by individual grantees. This commitment must include, but need not be limited to—

(a) Ensuring that, through memoranda of understanding with appropriate entities, the national evaluator and the Department have access to relevant program and project data sources (*e.g.,* administrative data and program and project indicator data), including data on a quarterly basis if requested by the Department;

(b) Developing, in consultation with the national evaluator, an evaluation strategy, including identifying a credible comparison group (as defined in this notice); and

(c) Developing, in consultation with the national evaluator, a plan for identifying and collecting reliable and valid baseline data for both program participants and a designated comparison group of non-participants.

Proposed Implementation Grant Priority 2 (Absolute): Promise Neighborhoods in Rural Communities

We propose establishing a priority for applicants that propose to implement a Promise Neighborhood strategy that (1) meets all of the requirements in Absolute Priority 1; and (2) serves one or more rural communities only.

Proposed Implementation Grant Priority 3 (Absolute): Promise Neighborhoods in Tribal Communities

We propose establishing a priority for applicants proposing to implement a Promise Neighborhood strategy that (1) meets all of the requirements in Absolute Priority 1; and (2) serves one or more Indian tribes (as defined in this notice).

Proposed Implementation Grant Priority 4: Comprehensive Local Early Learning Network

We propose a priority for plans that propose to expand, enhance, or modify an existing network of early learning programs and services to ensure that they are high-quality and comprehensive for children from birth through the third grade. The plan must also ensure that the network establishes a high standard of quality across early learning settings and is designed to improve health, social-emotional, and cognitive outcomes of young children. Distinct from the early learning solutions described in paragraph (2) of Absolute Priority 1, this priority would support implementation plans that coordinate all early learning services and programs in the neighborhood, i.e., school-based early learning programs; district- or State-funded preschool programs; Early Head Start and Head Start; the local child care resource and referral agency, if applicable; IDEA services and programs; services through private providers; home visiting programs; and family, friend, or neighbor care in the Promise Neighborhood.

The coordinated local early learning network must address, or incorporate ongoing State-level efforts regarding, the major components of high-quality early learning programs and services, such as early learning and development standards, program quality standards, comprehensive assessment systems, workforce and professional development systems, health promotion, family and community engagement, a coordinated data infrastructure, and a method of measuring, monitoring, evaluating, and improving program quality. For example, an applicant might address how the Promise Neighborhoods project will use the State's early learning standards, as applicable, and Head Start Child Development and Early Learning Framework (Framework), as applicable, to define the expectations of what children should know and be able to do before entering kindergarten. The Framework is available on the Office of Head Start's Web site at: *http://eclkc.ohs.acf.hhs.gov/hslc/ecdh/eecd/Assessment/Child%20Outcomes/HS_Revised_Child_Outcomes_Framework.pdf.* Similarly, an applicant that addresses this priority must discuss, where applicable, how the State's Quality Rating and Improvement System (QRIS), professional development and workforce infrastructure, and other State efforts would be incorporated into the Promise Neighborhood's plan for a comprehensive local early learning network.

The implementation plan for a high-quality and comprehensive local early learning network must describe the governance structure and the major components of high-quality early learning programs and services as well as include goals, strategies, and benchmarks to provide early learning programs and services that result in improvements across multiple domains of early learning. The plan must result from a needs assessment and segmentation analysis (as defined in this notice) and should reflect input from a broad range of stakeholders. An application addressing this priority must designate an individual responsible for overseeing and coordinating the early learning initiatives and must include a resume or position description and other supporting documentation to demonstrate that the individual designated, or individual hired to fill that designation, possesses the appropriate State certification, and has experience and expertise in managing and administering high-quality early learning programs, including in coordinating across various early learning programs and services.

Proposed Implementation Grant Priority 5: Quality Internet Connectivity

We propose a priority for applicants with plans to ensure that almost all

students in the geographic area proposed to be served have broadband internet access (as defined in this notice) at home and at school, the knowledge and skills to use broadband internet access effectively, and a connected computing device to support schoolwork.

Proposed Implementation Grant Priority 6: Arts and Humanities

We propose a priority for applicants with plans to include opportunities for children and youth to experience and participate actively in the arts and humanities in their community so as to broaden, enrich, and enliven the educational, cultural, and civic experiences available in the neighborhood. Applicants may include plans for offering these activities in school and out-of-school settings and at any time during the calendar year.

Proposed Implementation Grant Priority 7: Quality Affordable Housing

We propose a priority for applicants that propose to serve geographic areas that were the subject of an affordable housing transformation pursuant to a Choice Neighborhoods or HOPE VI grant awarded by the U.S. Department of Housing and Urban Development during FY 2009 or later years. Applicants eligible for this priority must either (1) have received a Choice Neighborhoods or HOPE VI grant or (2) provide a memorandum of understanding with a recipient of a Choice Neighborhoods or HOPE VI grant. The memorandum must indicate a commitment on the part of both grantees to coordinate implementation and align resources to the greatest extent practicable.

Proposed Implementation Grant Priority 8: Family Engagement in Learning Through Adult Education

We propose a priority for applicants with plans that are coordinated with adult education providers serving neighborhood residents, such as those funded through the Adult Education and Family Literacy Act, as amended. Coordinated services may include adult basic and secondary education and programs that provide training and opportunities for family members and other members of the community to support student learning and establish high expectations for student educational achievement. Examples of services and programs include preparation for the General Education Development (GED) test; English literacy, family literacy, and work-based literacy training; or other training that prepares adults for postsecondary education and careers, or supports adult engagement in the educational success of children and youth in the neighborhood.

Optional Supplemental Funding Opportunity

The U.S. Department of Justice (DOJ) intends to provide an optional, supplemental funding opportunity for Promise Neighborhoods implementation grantees with plans that propose to analyze and resolve public safety concerns associated with violence, gangs, and illegal drugs utilizing strategies that include prevention, intervention, enforcement, and reentry of offenders back into communities upon release from prison and jail. Under this opportunity, DOJ, through an interagency agreement with the Department of Education, would provide additional funds to some Promise Neighborhoods implementation grantees. Specifically, DOJ would consider supporting Promise Neighborhoods grantees with plans that align with local leadership in implementing and sustaining innovative solutions that incorporate evidence and research into local program and policy decisions to address and reduce persistent crime. Applicants with plans that address this opportunity would submit a supplemental DOJ Byrne Criminal Justice Innovation application as part of its Department of Education Promise Neighborhoods application.

Proposed Requirements

The Department proposes the following eligibility requirements for the Promise Neighborhoods program. We may apply one or more of these requirements in any year in which we conduct a competition for this program.

1. *Eligible Applicants:* To be eligible for a grant under this competition, an applicant must be an eligible organization (as defined in this notice). For purposes of Absolute Priority 3, an eligible applicant is an eligible organization that partners with an Indian tribe or is an Indian tribe that meets the definition of an eligible organization.

2. *Cost-Sharing or Matching:*

(a) *Planning grants.* To be eligible for a planning grant under this competition, an applicant must demonstrate that it has established a commitment from one or more entities in the public or private sector, which may include Federal, State, and local public agencies, philanthropic organizations, private businesses, or individuals, to provide matching funds for the planning process. An applicant for a planning grant must obtain matching funds or in-kind donations for the planning process equal to at least 50 percent of its grant award, except that an applicant proposing a project that meets *Absolute Priority 2: Promise Neighborhoods in Rural Communities* or *Absolute Priority 3: Promise Neighborhoods in Tribal Communities* must obtain matching funds or in-kind donations equal to at least 25 percent of the grant award.

(b) *Implementation Grants.* To be eligible for an implementation grant under this competition, an applicant must demonstrate that it has established a commitment from one or more entities in the public or private sector, which may include Federal, State, and local public agencies, philanthropic organizations, private businesses, or individuals, to provide matching funds for the implementation process. An applicant for an implementation grant must obtain matching funds or in-kind donations equal to at least 100 percent of its grant award, except that an applicant proposing a project that meets *Absolute Priority 2: Promise Neighborhoods in Rural Communities* or *Absolute Priority 3: Promise Neighborhoods in Tribal Communities* must obtain matching funds or in-kind donations equal to at least 50 percent of the grant award.

Eligible sources of matching include sources of funds used to pay for solutions within the continuum of solutions, such as Head Start programs, initiatives supported by the LEA, or public health services for children in the neighborhood. At least 10 percent of an implementation applicant's total match must be cash or in-kind contributions from the private sector, which may include philanthropic organizations, private businesses, or individuals.

(c) *Planning and Implementation Grants.* Both planning and implementation applicants must demonstrate a commitment of matching funds in the applications. The applicants must specify the source of the funds or contributions and in the case of a third-party in-kind contribution, a description of how the value was determined for the donated or contributed goods or service. Applicants must demonstrate the match commitment by including letters in their applications explaining the type and quantity of the match commitment with original signatures from the executives of organizations or agencies providing the match. The Secretary may consider decreasing the matching requirement in the most exceptional circumstances, on a case-by-case basis.

An applicant that is unable to meet the matching requirement must include in its application a request to the

Secretary to reduce the matching requirement, including the amount of the requested reduction, the total remaining match contribution, and a statement of the basis for the request. An applicant should review the Department's cost-sharing and cost-matching regulations, which include specific limitations in 34 CFR 74.23 applicable to non-profit organizations and institutions of higher education and 34 CFR 80.24 applicable to State, local, and Indian tribal governments, and the Office of Management and Budget (OMB) cost principles regarding donations, capital assets, depreciations and allowable costs. These circulars are available on OMB's Web site at *http://www.whitehouse.gov/omb/circulars/index.html.*

Proposed Definitions

We propose the following definitions for this program. We may apply one or more of these definitions in any year in which this program is in effect.

Broadband internet access means internet access sufficient to provide community members with the internet available when and where they need it and for the uses they require.

Community of practice means a group of grantees that agrees to interact regularly to solve a persistent problem or improve practice in an area that is important to them and the success of their project. Establishment of communities of practice under Promise Neighborhoods will enable grantees to meet, discuss, and collaborate with each other regarding grantee projects.

Continuum of cradle-through-college-to-career solutions or *continuum of solutions* means solutions that—

(1) Include programs, policies, practices, services, systems, and supports that result in improving educational and developmental outcomes for children from cradle through college to career;

(2) Are based on the best available evidence, including, where available, strong or moderate evidence (as defined in this notice);

(3) Are linked and integrated seamlessly (as defined in this notice); and

(4) Include both education programs and family and community supports.

Credible comparison group includes a comparison group formed by matching project participants with non-participants based on key characteristics that are thought to be related to outcomes. These characteristics include, but are not limited to: (1) Prior test scores and other measures of academic achievement (preferably the same measures that will be used to assess the outcomes of the project); (2) demographic characteristics, such as age, disability, gender, English proficiency, ethnicity, poverty level, parents' educational attainment, and single- or two-parent family background; (3) the time period in which the two groups are studied (*e.g.,* the two groups are children entering kindergarten in the same year as opposed to sequential years); and (4) methods used to collect outcome data (*e.g.,* the same test of reading skills administered in the same way to both groups).

Developmentally appropriate early learning measures means a range of assessment instruments that are used in ways consistent with the purposes for which they were designed and validated; appropriate for the ages and other characteristics of the children being assessed; designed and validated for use with children whose ages, cultures, languages spoken at home, socioeconomic status, abilities and disabilities, and other characteristics are similar to those of the children with whom the assessments will be used; and used in compliance with the measurement standards set forth by the American Educational Research Association (AERA), the American Psychological Association (APA), and the National Council for Measurement in Education (NCME) in the 1999 Standards for Educational and Psychological Testing.

Education programs means programs that include, but are not limited to—

(1) High-quality early learning programs or services designed to improve outcomes across multiple domains of early learning for young children. Such programs must be specifically intended to align standards, practices, strategies, or activities across as broad an age range as birth through third grade so as to ensure that young children enter kindergarten and progress through the early elementary school grades demonstrating age-appropriate functioning across the multiple domains;

(2) For children in preschool through the 12th grade, programs, policies, and personnel that are linked to improved educational outcomes. The programs, policies, and personnel—

(a) Must include effective teachers and effective principals;

(b) Must include strategies, practices, or programs that encourage and facilitate the evaluation, analysis, and use of student achievement, student growth (as defined in this notice), and other data by educators, families, and other stakeholders to inform decision-making;

(c) Must include college- and career-ready standards, assessments, and practices, including a well-rounded curriculum, instructional practices, strategies, or programs in, at a minimum, core academic subjects as defined in section 9101(11) of the ESEA, that are aligned with high academic content and achievement standards and with high-quality assessments based on those standards; and

(d) May include creating multiple pathways for students to earn regular high school diplomas (e.g., using schools that serve the needs of over-aged, under-credited, or other students with an exceptional need for flexibility regarding when they attend school or the additional supports they require; awarding credit based on demonstrated evidence of student competency; or offering dual-enrollment options); and

(3) Programs that prepare students for college and career success, which may include programs that—

(a) Create and support partnerships with community colleges, four-year colleges, or universities and that help instill a college-going culture in the neighborhood;

(b) Provide dual-enrollment opportunities for secondary students to gain college credit while in high school;

(c) Provide, through relationships with businesses and other organizations, apprenticeship opportunities to students;

(d) Align curricula in the core academic subjects with requirements for industry-recognized certifications or credentials, particularly in high-growth sectors;

(e) Provide access to career and technical education programs so that individuals can attain the skills and industry-recognized certifications or credentials for success in their careers; and

(f) Provide opportunities for all youth (both in and out of school) to achieve academic and employment success by improving educational and skill competencies and providing connections to employers. Such activities may include opportunities for on-going mentoring, supportive services, incentives for recognition and achievement, and opportunities related to leadership, development, decision-making, citizenship, and community service.

Effective school means a school that has—

(1) Significantly closed the achievement gaps between subgroups of students (as identified in section 1111(b)(3)(C)(xiii) of the ESEA) within the school or district; or

(2)(a) Demonstrated success in significantly increasing student academic achievement in the school for all subgroups of students (as identified in section 1111(b)(3)(C)(xiii) of the ESEA) in the school; and (b) made significant improvements in other areas, such as graduation rates (as defined in this notice) or recruitment and placement of effective teachers and effective principals.

Eligible organization means an organization that—

(1) Is representative of the geographic area proposed to be served (as defined in this notice);

(2) Is one of the following:

(a) A nonprofit organization that meets the definition of a nonprofit under 34 CFR 77.1(c), which may include a faith-based nonprofit organization.

(b) An institution of higher education as defined by section 101(a) of the Higher Education Act of 1965, as amended.

(c) An Indian tribe (as defined in this notice);

(3) Currently provides at least one of the solutions from the applicant's proposed continuum of solutions in the geographic area proposed to be served; and

(4) Operates or proposes to work with and involve in carrying out its proposed project, in coordination with the school's LEA, at least one public elementary or secondary school that is located within the identified geographic area that the grant will serve.

Family and community supports means—

(1) Child and youth health programs, such as physical, mental, behavioral, and emotional health programs (e.g., home visiting programs; Early Head Start; programs to improve nutrition and fitness, reduce childhood obesity, and create healthier communities);

(2) Safety programs, such as programs in school and out of school to prevent, control, and reduce crime, violence, drug and alcohol use, and gang activity; programs that address classroom and school-wide behavior and conduct; programs to prevent child abuse and neglect; programs to prevent truancy and reduce and prevent bullying and harassment; and programs to improve the physical and emotional security of the school setting as perceived, experienced, and created by students, staff, and families;

(3) Community stability programs, such as programs that—

(a) Increase the stability of families in communities by expanding access to quality, affordable housing, providing legal support to help families secure clear legal title to their homes, and providing housing counseling or housing placement services;

(b) Provide adult education and employment opportunities and training to improve educational levels, job skills and readiness in order to decrease unemployment, with a goal of increasing family stability;

(c) Improve families' awareness of, access to, and use of a range of social services, if possible at a single location;

(d) Provide unbiased, outcome-focused, and comprehensive financial education, inside and outside the classroom and at every life stage;

(e) Increase access to traditional financial institutions (*e.g.,* banks and credit unions) rather than alternative financial institutions (*e.g.,* check cashers and payday lenders);

(f) Help families increase their financial literacy, financial assets, and savings; and

(g) Help families access transportation to education and employment opportunities;

(4) Family and community engagement programs, such as family literacy programs and programs that provide adult education and training and opportunities for family members and other members of the community to support student learning and establish high expectations for student educational achievement; mentorship programs that create positive relationships between children and adults; and programs that provide for the use of such community resources as libraries, museums, and local businesses to support improved student educational outcomes; and

(5) 21st century learning tools, such as technology (e.g., computers and mobile phones) used by students in the classroom and in the community to support their education. This includes programs that help students use the tools to develop knowledge and skills in such areas as reading and writing, mathematics, research, critical thinking, communication, creativity, innovation, and entrepreneurship.

Graduation rate means the four-year or extended-year adjusted cohort graduation rate as defined by 34 CFR 200.19(b)(1).

Note: This definition is not meant to prevent a grantee from also collecting information about the reasons why students do not graduate from the target high school, *e.g.,* dropping out or moving outside of the school district for non-academic or academic reasons.

Increased learning time means using a longer school day, week, or year to significantly increase the total number of school hours. It is used to redesign the school's program in a manner that includes additional time for (a) instruction in core academic subjects as defined in section 9101(11) of the ESEA; (b) instruction in other subjects and enrichment activities that contribute to a well-rounded education, including, for example, physical education, service learning, and experiential and work-based learning opportunities that are provided by partnering, as appropriate, with other organizations; and (c) teachers to collaborate, plan, and engage in professional development within and across grades and subjects.

Indian tribe means any Indian or Alaska Native tribe, band, nation, pueblo, village or community that the Secretary of the Interior acknowledges to exist as an Indian tribe, 25 U.S.C. 479a and 479a–1.

Indicators of need means currently available data that describe—

(1) Education need, which means—

(a) All or a portion of the neighborhood includes or is within the attendance zone of a low-performing school that is a high school, especially one in which the graduation rate (as defined in this notice) is less than 60 percent or a school that can be characterized as low-performing based on another proxy indicator, such as students' on-time progression from grade to grade; and

(b) Other indicators, such as significant achievement gaps between subgroups of students (as identified in section 1111(b)(3)(C)(xiii) of the ESEA) within a school or LEA, high teacher and principal turnover, or high student absenteeism; and

(2) Family and community support need, which means—

(a) Percentages of children with preventable chronic health conditions (*e.g.,* asthma, poor nutrition, dental problems, obesity) or avoidable developmental delays;

(b) Immunization rates;

(c) Rates of crime, including violent crime;

(d) Student mobility rates;

(e) Teenage birth rates;

(f) Percentage of children in single-parent or no-parent families;

(g) Rates of vacant or substandard homes, including distressed public and assisted housing; or

(h) Percentage of the residents living at or below the Federal poverty threshold.

Linked and integrated seamlessly, with respect to the continuum of solutions, means solutions that have common outcomes, focus on similar milestones, support transitional time periods (*e.g.,* the beginning of kindergarten, the middle grades, or

graduation from high school) along the cradle-through-college-to-career continuum, and address time and resource gaps that create obstacles for students in making academic progress.

Low-performing schools means schools receiving assistance through title I of the Elementary and Secondary Education Act of 1965, as amended (ESEA), that are in corrective action or restructuring in the State, as determined under section 1116 of the ESEA, and the secondary schools (both middle and high schools) in the State that are equally as low-achieving as these Title I schools and are eligible for, but do not receive, Title I funds.

Moderate evidence means evidence from previous studies with designs that can support causal conclusions (*i.e.,* studies with high internal validity) but have limited generalizability (*i.e.,* moderate external validity) or from studies with high external validity but moderate internal validity.

Multiple domains of early learning means physical well-being and motor development; social-emotional development; approaches toward learning, which refers to the inclinations, dispositions, or styles, rather than skills, that reflect ways that children become involved in learning and develop their inclinations to pursue learning; language and literacy development, including emergent literacy; and cognition and general knowledge, which refers to thinking and problem-solving as well as knowledge about particular objects and the way the world works. Cognition and general knowledge include mathematical and scientific knowledge, abstract thought, and imagination.

Neighborhood assets means—

(1) Developmental assets that allow residents to attain the skills needed to be successful in all aspects of daily life (*e.g.,* educational institutions, early learning centers, and health resources);

(2) Commercial assets that are associated with production, employment, transactions, and sales (*e.g.,* labor force and retail establishments);

(3) Recreational assets that create value in a neighborhood beyond work and education (*e.g.,* parks, open space, community gardens, and arts organizations);

(4) Physical assets that are associated with the built environment and physical infrastructure (*e.g.,* housing, commercial buildings, and roads); and

(5) Social assets that establish well-functioning social interactions (*e.g.,* public safety and community engagement).

Persistently lowest-achieving school means, as determined by the State—

(1) Any school receiving assistance through Title I that is in improvement, corrective action, or restructuring and 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 that is less than 60 percent over a number of years; and

(2) 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 that is less than 60 percent over a number of years.

Program indicators are indicators that the Department will use only for research and evaluation purposes and for which an applicant is not required to propose solutions.

Project indicators are indicators for which an applicant proposes solutions intended to result in progress on the indicators.

Public officials means elected officials (*e.g.,* council members, aldermen and women, commissioners, State legislators, Congressional representatives, members of the school board), appointed officials (*e.g.,* members of a planning or zoning commission, or of any other regulatory or advisory board or commission), or individuals who are not necessarily public officials, but who have been appointed by a public official to serve on the Promise Neighborhoods governing board or advisory board.

Rapid-time, in reference to reporting and availability of locally-collected data, means that data are available quickly enough to inform current lessons, instruction, and related education programs and family and community supports.

Representative of the geographic area proposed to be served means that residents of the geographic area proposed to be served have an active role in decision-making and that at least one-third of the eligible entity's governing board or advisory board is made up of—

(1) Residents who live in the geographic area proposed to be served, which may include residents who are representative of the ethnic and racial composition of the neighborhood's residents and the languages they speak;

(2) Residents of the city or county in which the neighborhood is located but who live outside the geographic area proposed to be served, and who are low-income (which means earning less than 80 percent of the area's median income as published by the Department of Housing and Urban Development);

(3) Public officials (as defined in this notice) who serve the geographic area proposed to be served (although not more than one-half of the governing board or advisory board may be made up of public officials); or

(4) Some combination of individuals from the three groups listed in paragraphs (1), (2), and (3) of this definition.

Rural community means a neighborhood that—

(1) Is served by an LEA that is currently eligible under the Small Rural School Achievement (SRSA) program or the Rural and Low-Income School (RLIS) program authorized under Title VI, Part B of the ESEA. Applicants may determine whether a particular LEA is eligible for these programs by referring to information on the following Department Web sites. For the SRSA program: *http://www.ed.gov/programs/reapsrsa/eligible10/index.html.*

For the RLIS program: *http://www.ed.gov/programs/reaprlisp/eligible10/index.html;* or

(2) Includes only schools designated with a school locale code of 42 or 43. Applicants may determine school locale codes by referring to the following Department Web site: *http://nces.ed.gov/ccd/schoolsearch/.*

School climate needs assessment means an evaluation tool that measures the extent to which the school setting promotes or inhibits academic performance by collecting perception data from individuals, which could include students, staff, or families.

Segmentation analysis means the process of grouping and analyzing data from children and families in the geographic area proposed to be served according to indicators of need (as defined in this notice) or other relevant indicators.

Note: The analysis is intended to allow grantees to differentiate and more effectively target interventions based on what they learn about the needs of different populations in the geographic area.

Strong evidence means evidence from studies with designs that can support causal conclusions (*i.e.,* studies with high internal validity), and studies that,

in total, include enough of the range of participants and settings to support scaling up to the State, regional, or national level (*i.e.,* studies with high external validity).

Student achievement means—

(1) For tested grades and subjects:

(a) A student's score on the State's assessments under the ESEA; and, as appropriate,

(b) Other measures of student learning, such as those described in paragraph (2) of this definition, provided they are rigorous and comparable across classrooms and programs.

(2) For non-tested grades and subjects: alternative measures of student learning and performance, such as student scores on pre-tests and end-of-course tests; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across classrooms.

Student growth means the change in achievement data for an individual student between two or more points in time. Growth may also include other measures that are rigorous and comparable across classrooms.

Student mobility rate is calculated by dividing the total number of new student entries and withdrawals at a school, from the day after the first official enrollment number is collected through the end of the academic year, by the first official enrollment number of the academic year.

Note: This definition is not meant to limit a grantee from also collecting information about why students enter or withdraw from the school, *e.g.,* transferring to charter schools, moving outside of the school district for non-academic or academic reasons.

Theory of action means an organization's strategy regarding how, considering its capacity and resources, it will take the necessary steps and measures to accomplish its desired results.

Theory of change means an organization's beliefs about how its inputs, and early and intermediate outcomes, relate to accomplishing its long-term desired results.

Proposed Selection Criteria

We propose the following selection criteria for evaluating a planning and implementation grant application under the Promise Neighborhoods program. These criteria are designed to align with the absolute priority for planning and implementation grants. Thus, the "need for project" criterion aligns with the absolute priority requirement that applicants describe the need in the neighborhood. The "quality of project design" and "quality of project services" criteria align with the absolute priority requirement that applicants describe a strategy to build a continuum of solutions with strong schools at the center. The "quality of the management plan" criterion aligns with the absolute priority requirement that applicants describe their capacity to achieve results.

In the notice inviting applications, the application package, or both, we will announce the maximum possible points assigned to each criterion. We may apply one or more of these criteria in any year in which this program is in effect.

Proposed Planning Grants Selection Criteria

The proposed selection criteria for planning grant applicants are as follows:

(1) Need for project.

(a) The Secretary considers the need for the proposed project.

(b) In determining the need for the proposed project, the Secretary considers—

(i) The magnitude or severity of the problems to be addressed by the proposed project as described by indicators of need and other relevant indicators; and

(ii) The extent to which the geographically defined area has been described.

(2) Quality of the project design.

(a) The Secretary considers the quality of the design of the proposed project.

(b) In determining the quality of the design of the proposed project, the Secretary considers—

(i) The extent to which the continuum of solutions will be aligned with an ambitious, rigorous, and comprehensive strategy for improvement of schools in the neighborhood;

(ii) The extent to which the applicant describes a proposal to plan to create a complete continuum of solutions, including early learning through grade 12, college- and career-readiness, and family and community supports, without time and resource gaps that will prepare all children in the neighborhood to attain an excellent education and successfully transition to college and a career; and

(iii) The extent to which solutions leverage existing neighborhood assets and coordinate with other efforts, including programs supported by Federal, State, local, and private funds.

(3) Quality of project services.

(a) The Secretary considers the quality of the services to be provided by the proposed project.

(b) In determining the quality of the project services, the Secretary considers—

(i) The extent to which the applicant describes how the needs assessment and segmentation analysis, including identifying and describing indicators, will be used during the planning phase to determine each solution within the continuum; and

(ii) The extent to which the applicant describes how it will determine that solutions are based on the best available evidence including, where available, strong or moderate evidence, and ensure that solutions drive results and lead to changes on indicators.

(4) Quality of the management plan.

(a) The Secretary considers the quality of the management plan for the proposed project.

(b) In determining the quality of the management plan for the proposed project, the Secretary considers the experience, lessons learned, and proposal to build capacity of the applicant's management team and project director in all of the following areas—

(i) Working with the neighborhood and its residents; the schools described in paragraph (2)(b) of Absolute Priority 1; the LEA in which those schools are located; Federal, State, and local government leaders; and other service providers;

(ii) Collecting, analyzing, and using data for decision-making, learning, continuous improvement, and accountability;

(iii) Creating formal and informal partnerships, including the alignment of the visions, theories of action, and theories of change described in its memorandum of understanding; and

(iv) Integrating funding streams from multiple public and private sources, including its proposal to leverage and integrate high-quality programs in the neighborhood into the continuum of solutions.

Proposed Implementation Grants Selection Criteria

The proposed selection criteria for implementation grant applicants are as follows:

(1) Need for project.

(a) The Secretary considers the need for the proposed project.

(b) In determining the need for the proposed project, the Secretary considers—

(i) The magnitude or severity of the problems to be addressed by the proposed project as described by indicators of need and other relevant indicators identified in part by the needs assessment and segmentation analysis; and

(ii) The extent to which the geographically defined area has been described.

(2) Quality of the project design.

(a) The Secretary considers the quality of the design of the proposed project.

(b) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the continuum of solutions is aligned with an ambitious, rigorous, and comprehensive strategy for improvement of schools in the neighborhood.

(ii) The extent to which the applicant describes an implementation plan to create a complete continuum of solutions, including early learning through grade 12, college- and career-readiness, and family and community supports, without time and resource gaps, that will prepare all children in the neighborhood to attain an excellent education and successfully transition to college and a career.

(iii) The extent to which the applicant identifies existing neighborhood assets and programs supported by Federal, State, local, and private funds that will be used to implement a continuum of solutions.

(iv) The extent to which the applicant describes its implementation plan, including clear, annual goals for improving systems and leveraging resources as described in paragraph (2) of Absolute Priority 1.

(3) Quality of project services.

(a) The Secretary considers the quality of the services to be provided by the proposed project.

(b) In determining the quality of the project services, the Secretary considers—

(i) The extent to which the applicant describes how the needs assessment and segmentation analysis, including identifying and describing indicators, were used to determine each solution within the continuum;

(ii) The extent to which the applicant documents that proposed solutions are based on the best available evidence including, where available, strong or moderate evidence; and

(iii) The extent to which the applicant describes clear, annual goals for changes on indicators.

(4) Quality of the management plan.

(a) The Secretary considers the quality of the management plan for the proposed project.

(b) In determining the quality of the management plan for the proposed project, the Secretary considers the experience, lessons learned, and proposal to build capacity of the applicant's management team and project director in all of the following areas—

(i) Working with the neighborhood and its residents; the schools described in paragraph (2)(b) of Absolute Priority 1; the LEA in which those schools are located; Federal, State, and local government leaders; and other service providers;

(ii) Collecting, analyzing, and using data for decision-making, learning, continuous improvement, and accountability, including whether the applicant has a plan to build, adapt, or expand a longitudinal data system that integrates student-level data from multiple sources in order to measure progress;

(iii) Creating formal and informal partnerships, including the alignment of the visions, theories of action, and theories of change described in its memorandum of understanding; and

(iv) Integrating funding streams from multiple public and private sources, including its proposal to leverage and integrate high-quality programs in the neighborhood into the continuum of solutions.

Final Priority, Requirements, Definitions, and Selection Criteria

We will announce the final priorities, requirements, definitions, and selection criteria in a notice in the **Federal Register**. We will determine the final priorities, requirements, definitions, and selection criteria after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use one or more of these proposed priorities, requirements, definitions, and selection criteria, we invite applications through a notice in the **Federal Register.**

Executive Order 12866: Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and therefore subject to the requirements of the Executive Order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an "economically significant" rule); (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. The Secretary has determined that this regulatory action is significant under section 3(f) of the Executive order.

This notice has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this proposed regulatory action.

The potential costs associated with this proposed regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this proposed regulatory action, we have determined that the benefits of the proposed priority, requirements, definitions, and selection criteria justify the costs.

We have determined, also, that this proposed regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program. Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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 via the Federal Digital System at *http://www.gpo.gov/fdsys.*

Dated: March 7, 2011.

James H. Shelton, III,

Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. 2011–5543 Filed 3–9–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Energy Conservation Program for Consumer Products: Representative Average Unit Costs of Energy

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

ACTION: Notice.

SUMMARY: In this notice, the U.S. Department of Energy (DOE) is forecasting the representative average unit costs of five residential energy sources for the year 2011 pursuant to the Energy Policy and Conservation Act. The five sources are electricity, natural gas, No. 2 heating oil, propane, and kerosene.

DATES: The representative average unit costs of energy contained in this notice will become effective April 11, 2011 and will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT:

Mohammed Khan, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–7892, *Mohammed.Khan@ee.doe.gov*.

Francine Pinto, Esq. U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station GC–72, 1000 Independence Avenue, SW., Washington, DC 20585–0103, (202) 586–7432, *Francine.pinto@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: Section 323 of the Energy Policy and Conservation Act (Act) requires that DOE prescribe test procedures for the measurement of the estimated annual operating costs or other measures of energy consumption for certain consumer products specified in the Act. (42 U.S.C. 6293(b)(3)) These test procedures are found in Title 10 of the Code of Federal Regulations (CFR) part 430, subpart B.

Section 323(b)(3) of the Act requires that the estimated annual operating costs of a covered product be calculated from measurements of energy use in a representative average use cycle or period of use and from representative average unit costs of the energy needed to operate such product during such cycle. (42 U.S.C. 6293(b)(3)) The section further requires that DOE provide information to manufacturers regarding the representative average unit costs of energy. (42 U.S.C. 6293(b)(4)) This cost information should be used by manufacturers to meet their obligations under section 323(c) of the Act. Most notably, these costs are used to comply with Federal Trade Commission (FTC) requirements for labeling. Manufacturers are required to use the revised DOE representative average unit costs when the FTC publishes new ranges of comparability for specific covered products, 16 CFR part 305. Interested parties can also find information covering the FTC labeling requirements at *http://www.ftc.gov/appliances*.

DOE last published representative average unit costs of residential energy in a **Federal Register** notice entitled, "Energy Conservation Program for Consumer Products: Representative Average Unit Costs of Energy", dated March 18, 2010, 75 FR 13123. Effective April 11, 2011, the cost figures published on March 18, 2010, will be superseded by the cost figures set forth in this notice.

DOE's Energy Information Administration (EIA) has developed the 2011 representative average unit after-tax costs found in this notice. The representative average unit after-tax costs for electricity, natural gas, No. 2 heating oil, and propane are based on simulations used to produce the February, 2011, EIA *Short-Term Energy Outlook.* (EIA releases the *Outlook* monthly.) The representative average unit after-tax cost for kerosene is derived from its price relative to that of heating oil, based on the 2005–2009 averages for these two fuels. The source for these price data is the January, 2011, *Monthly Energy Review* DOE/EIA–0035(2011/01). The *Short-Term Energy Outlook* and the *Monthly Energy Review* are available on the EIA Web site at *http://www.eia.doe.gov*. For more information on the two sources, contact the National Energy Information Center, Forrestal Building, EI–30, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8800, *e-mail: infoctr@eia.doe.gov*.

The 2011 representative average unit costs under section 323(b)(4) of the Act are set forth in Table 1, and will become effective April 11, 2011. They will remain in effect until further notice.

Issued in Washington, DC, on March 3, 2011.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

TABLE 1—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FIVE RESIDENTIAL ENERGY SOURCES (2011)

Type of energy	Per million Btu [1]	In commonly used terms	As required by test procedure
Electricity	$34.14	11.65¢/kWh [2,3]	$.1165/kWh.
Natural Gas	11.01	$1.101/therm [4] or $11.29/MCF [5 6]	.00001101/Btu.
No. 2 Heating Oil	24.59	$3.41/gallon [7]	.00002459/Btu.
Propane	27.70	$2.53/gallon [8]	.00002770/Btu.
Kerosene	28.81	$3.89/gallon [9]	.00002881/Btu.

Sources: U.S. Energy Information Administration, *Short-Term Energy Outlook* (February 2011) and *Monthly Energy Review* (January 2011).
1. Btu stands for British thermal units.
2. kWh stands for kilowatt hour.
3. 1 kWh = 3,412 Btu.
4. 1 therm = 100,000 Btu. Natural gas prices include taxes.
5. MCF stands for 1,000 cubic feet.
6. For the purposes of this table, one cubic foot of natural gas has an energy equivalence of 1,025 Btu.
7. For the purposes of this table, one gallon of No. 2 heating oil has an energy equivalence of 138,690 Btu.
8. For the purposes of this table, one gallon of liquid propane has an energy equivalence of 91,333 Btu.
9. For the purposes of this table, one gallon of kerosene has an energy equivalence of 135,000 Btu.

[FR Doc. 2011–5501 Filed 3–9–11; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. CW–014]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to Samsung Electronics America, Inc. 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–014) that grants to Samsung Electronics America, Inc. (Samsung) a waiver from the DOE clothes washer test procedure for determining the energy consumption of clothes washers. Under today's decision and order, Samsung shall be required to test and rate its clothes washers with larger clothes containers using an alternate test procedure that takes this technology into account when measuring energy consumption.

DATES: This Decision and Order is effective March 10, 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.*

Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–71, 1000 Independence Avenue, SW., Washington, DC 20585–0103. *Telephone:* (202) 586–7796, *E-mail: mail to: Elizabeth.Kohl@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 Samsung 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 Samsung tests and rates such products using the alternate test procedure described in this notice. Today's decision prohibits Samsung from making representations concerning the energy efficiency of these products unless the product has been tested consistent with the provisions and restrictions in 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 March 3, 2011.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Decision and Order

In the Matter of: Samsung Electronics America, Inc. (Case No. CW–014)

I. Background and Authority

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions concerning energy efficiency. Part B of Title III provides for the "Energy Conservation Program for Consumer Products Other Than Automobiles." 42 U.S.C. 6291–6309.[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 that 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 residential clothes washers, the subject of today's notice, 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).

II. Samsung's Petition for Waiver: Assertions and Determinations

On July 20, 2010, Samsung 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, Samsung requested a waiver to test its clothes washers on the basis of the residential test procedures contained in 10 CFR part 430, Subpart B, Appendix J1, with a revised Table 5.1 extended to larger container volumes. Samsung's petition was published in the **Federal Register** on September 23, 2010. 75 FR 57937. DOE received no comments on the Samsung petition.

Samsung's petition seeks a waiver from the DOE test procedure because the mass of the test load used in the DOE test procedure is based on the basket volume of the test specimen, which is currently not defined for the basket sizes of the basic models cited in its waiver application. In the DOE test procedure, the relation between basket volume and test load mass is defined for basket volumes between 0 and 3.8 cubic feet. Samsung has designed a series of clothes washers that contain basket volumes greater than 3.8 cubic feet.

DOE has granted petitions for waiver and requests for interim waiver to other manufacturers for clothes washer basic models with capacities greater than 3.8 cubic feet. In addition to the interim waiver granted to Samsung (75 FR 57937, Sept. 23, 2010), DOE has granted interim waivers to Whirlpool Corporation (71 FR 48913, Aug. 22,

[1] Upon codification in the U.S. Code, Part B was re-designated Part A for editorial reasons.

2006), LG Electronics, Inc. (LG) (75 FR 71680, Nov. 24, 2010), the General Electric Company (GE) (75 FR 57915, Sept. 16, 2010), and Electrolux (75 FR 81258, December 27, 2010). DOE also granted the petitions for waiver submitted by Whirlpool (75 FR 69653, Nov. 15, 2010) and GE (75 FR 76968, Dec. 10, 2010).

Table 5.1 of Appendix J1 defines the test load sizes used in the test procedure as linear functions of the basket volume. Samsung has submitted a proposed revised table to extend the maximum basket volume from 3.8 cubic feet to 6.0 cubic feet, a table similar to one developed by the Association of Home Appliance Manufacturers (AHAM) and provided to DOE in comments on a proposed DOE residential clothes washer test procedure rulemaking. AHAM provided calculations to extrapolate Table 5.1 of the 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 ratio of 1/2.2 (or 0.45454545) to convert pounds to kilograms. Samsung used the more accurate conversion value of 0.45359237 (which Whirlpool also used in its similar petition), rounding the results in kilograms to two decimal places.

A similar Table 5.1 was also set forth in the notice of proposed rulemaking (NOPR) to amend the DOE test procedure, published September 21, 2010 (75 FR 57556). The Table 5.1 in the clothes washer NOPR has some small differences with the Table 5.1 used by Samsung and Whirlpool. The differences are due to rounding, and the largest difference is less than 0.5%. The Table 5.1 values in the alternative test procedure set forth in this waiver are 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.

III. Consultations With Other Agencies

DOE consulted with the Federal Trade Commission (FTC) staff concerning the Samsung petition for waiver. The FTC staff did not have any objections to granting a waiver to Samsung.

IV. Conclusion

After careful consideration of all the material that was submitted by Samsung, the waivers and interim waivers granted to Whirlpool, GE, LG, Electrolux and Samsung, DOE's proposed rule to amend the clothes washer test procedure, and consultation with FTC staff, it is ordered that:

(1) The petition for waiver submitted by Samsung Electronics America, Inc. (Case No. CW–014) is hereby granted as set forth in the paragraphs below.

(2) Samsung shall not be required to test or rate the following Samsung 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:

WA51A****; WA52A****; WA53A****; WA54A****; WA55A****; WA56A****; WF221***; WF231***; WF241***; WF251***; WF330***; WF331***; WF340***; WF350***; WF409***; WF410***; WF419***; WF421***; WF428***; WF431***; WF438***; WF441***; WF448***; WF451***; WF461***; WF471***; WF500***; WF510***; WF511***; WF512***; WF520***.

(3) Samsung 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 Samsung 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

TABLE 5.1—TEST LOAD SIZES—Continued

Container volume		Minimum load		Maximum load		Average load	
cu. ft. ≥ <	liter ≥ <	Lb	kg	Lb	kg	lb	kg
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).

(4) Representations. Samsung 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 decision and order applies only to those models specifically set out in the petition, not future models that may be manufactured by Samsung. Samsung 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. Grant of this waiver does not release Samsung from the certification requirements set forth at 10 CFR 430.62.

(6) This waiver shall remain in effect consistent with the provisions of 10 CFR430.27(m).

(7) 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.

Issued in Washington, DC, on March 3, 2011.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 2011–5506 Filed 3–9–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP11–107–000]

Leaf River Energy Center LLC; Notice of Application

On February 25, 2011, Leaf River Energy Center LLC (Leaf River), 53 Riverside Avenue, Westport, Connecticut 06880, filed with the Federal Energy Regulatory Commission (Commission) an application under section 7(c) of the Natural Gas Act (NGA), as amended, and part 157 of the Commission's regulations for an order amending the certificate of public convenience and necessity issued in Docket No. CP08–8–000 to authorize Leaf River to relocate and construct two of its certificated and not yet constructed storage caverns and to construct associated cavern piping corridors, access roads and related facilities, all as more fully detailed in the Application. Leaf River also seeks reaffirmation of its previously granted authorization to charge market-based rates for its storage and hub services, as well as various waivers granted in the order issuing certificate. Leaf River states that this amendment does not involve any change in capacity, pressures, injection rates or withdrawal rates authorized by the Commission in the original certificate order.

Questions regarding the application may be directed to James F. Bowe, Jr., Dewey & LeBoeuf LLP, 1101 New York Avenue, NW., Washington, DC 20005–4213, 202–346–7999 (phone), 202–346–8102 (fax), or *jbowe@dl.com*.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify Federal and

State agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all Federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental cementers will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental cementers will not be required to serve copies of filed documents on all other parties. However, the nonparty commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

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 seven 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) or TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 25, 2011.

Dated: March 4, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–5486 Filed 3–9–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2079–069]

Placer County Water Agency

Notice of Application Tendered for Filing with the Commission and Establishing Procedural Schedule for Licensing And Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License

b. *Project No.:* 2079–069

c. *Date Filed:* February 23, 2011

d. *Applicant:* Placer County Water Agency

e. *Name of Project:* Middle Fork American River Project

f. *Location:* The Middle Fork American River Project is located in Placer and El Dorado counties, almost entirely within the Tahoe and El Dorado National Forests. The project occupies 3,268 acres of federal lands administered by the U.S. Department of Agriculture—Forest Service.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r)

h. *Applicant Contact:* Andy Fecko, Project Manager, Placer County Water Agency, 144 Ferguson Road, Auburn, CA 95603; *Telephone:* (530) 823–4490.

i. *FERC Contact:* Carolyn Templeton, (202) 502–8785 or *carolyn.templeton@ferc.gov*

j. This application is not ready for environmental analysis at this time.

k. *The Project Description:* The Middle Fork American River Project (project) has two principal water storage reservoirs, French Meadows and Hell Hole. These reservoirs are located on the Middle Fork American River and the Rubicon River, respectively, and have a combined gross storage capacity of 342,583 acre-feet (ac-ft).

Starting at the highest elevation of the project, water is diverted from Duncan Creek at the Duncan Creek diversion and routed through the 1.5-mile-long Duncan Creek-Middle Fork tunnel into French Meadows reservoir (134,993 ac-ft of gross storage).

Flows in the Middle Fork American River are captured and stored in French Meadows reservoir along with diversions from Duncan Creek. From French Meadows reservoir, water is transported via the 2.6-mile-long French Meadows-Hell Hole tunnel, passed through the French Meadows powerhouse [installed generating capacity of 15.3 megawatts (MW)], and released into Hell Hole reservoir (207,590 ac-ft of gross storage). Flows in the Rubicon River are captured and stored in Hell Hole reservoir along with water released from French Meadows reservoir through French Meadows powerhouse. Water released from Hell Hole reservoir into the Rubicon River to meet instream flow requirements first pass through the Hell Hole powerhouse (installed generating capacity of 0.73 MW), which is located at the base of Hell Hole dam.

From Hell Hole reservoir, water is also transported via the 10.4-mile-long Hell Hole-Middle Fork tunnel, passed through the Middle Fork powerhouse (installed generating capacity of 122.4 MW), and released into the Middle Fork Interbay (175 ac-ft of gross storage). Between Hell Hole reservoir and Middle Fork powerhouse, water is diverted from the North and South Forks of Long Canyon creeks directly into the Hell Hole-Middle Fork tunnel. Water diverted from these creeks into the Hell Hole-Middle Fork tunnel can either be stored in Hell Hole reservoir or be used to augment releases from Hell Hole reservoir to the Middle Fork powerhouse.

Flows from the Middle Fork American River (including instream flow releases from French Meadows reservoir) are captured at Middle Fork interbay along with water released from Hell Hole reservoir through Middle Fork powerhouse. From Middle Fork Interbay, water is transported via the 6.7-mile-long Middle Fork-Ralston tunnel, passed through the Ralston Powerhouse (installed generating capacity of 79.2 MW), and released into the Ralston afterbay (2,782 ac-ft of gross storage).

Flows from the Middle Fork American River (including instream releases from Middle Fork interbay) and flows from the Rubicon River (including instream releases from Hell Hole reservoir) are captured in Ralston afterbay along with water transported from Middle Fork interbay through Ralston powerhouse. From Ralston afterbay, water is transported via the 400-foot-long Ralston-Oxbow tunnel, passed through the Oxbow powerhouse (installed generating capacity of 6.1 MW), and released from the project to the Middle Fork American River. The project has a total generation capacity of 224 MW.

l. *Locations of the Application:* A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. *Procedural Schedule:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Notice of Acceptance/Notice of Ready for Environmental Analysis	April 25, 2011.
Filing of recommendations, preliminary terms and conditions, and fishway prescriptions	June 24, 2011.
Commission issues Draft EA or EIS	December 21, 2011.
Comments on Draft EA or EIS	February 20, 2012.
Modified Terms and Conditions	April 20, 2012.
Commission Issues Final EA or EIS	July 19, 2012.

o. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: March 4, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–5488 Filed 3–9–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2309–019]

Jersey Central Power & Light Company and PSEG Fossil, LLC; Notice of Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2309–019.

c. *Date Filed:* February 18, 2011.

d. *Applicant:* Jersey Central Power & Light Company and PSEG Fossil, LLC.

e. *Name of Project:* Yards Creek Pumped Storage Project.

f. *Location:* The existing project is located on Yards Creek, in the Townships of Hardwick and Blairstown, Warren County, New Jersey. No federal lands are involved.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Timothy Oakes, Project Manager, Kleinschmidt Associates, 2 East Main Street, Strasburg, PA 17579; Telephone (717) 687–7211.

i. *FERC Contact:* Allyson Conner, (202) 502–6082 or *allyson.conner@ferc.gov*.

j. This application is not ready for environmental analysis at this time.

k. The existing Yards Creek Pumped Storage Hydroelectric Project consists of an upper and a lower reservoir with a total installed capacity of 420 megawatts (MW). The project produces an average annual generation of 753.7 gigawatthours (GWh). The average pumping power used by the project is 1,031.2 GWh.

The lower reservoir consists of: (1) An earthfill main dam located on Yards Creek, that is 1,404 feet (ft) long and 52 ft high with a crest at elevation of 832.5 ft; (2) the lower reservoir has a total storage capacity of 5,452 acre-ft at a spillway crest elevation of 818.5 ft and an usable storage capacity of 4,952 acre-ft with an additional 503 acre-ft in seasonal storage; (3) an auxiliary dike (i.e. Saddle Dam) located on the southeastern side of the lower reservoir is 2,091 ft long and 35 ft high; (4) an auxiliary reservoir located northeast of the lower reservoir with seasonal storage of 412 acre-ft formed by the auxiliary reservoir dam, which is 1,000 ft long and 20 ft high.

The upper reservoir consists of: (1) An earthfill dam that is 8,900 ft long and 70 ft high; (2)the upper reservoir has a total usable storage capacity of 4,763 acre-ft and a gross storage capacity of 5,013 acre-ft at elevation 1,555 ft; (3) water conveyance structures between the upper reservoir and lower reservoir (a 2,116-ft, 35-ft wide intake channel in the floor of the upper reservoir; a 95-ft high concrete intake structure with trashracks and stop logs; a 1,130-ft long, 20-ft diameter concrete-lined pressure tunnel; a 210-ft long, 19-ft diameter steel-lined pressure tunnel; a 144-ft long, 19-ft diameter concrete encased steel-lined transition section; a 478-ft long, 19-ft diameter steel penstock; an 8-ft reducer from 19-ft diameter to 18-ft penstock; a 1,582-ft long, 18-ft steel penstock; a 325-ft long trifurcated penstock, one penstock per pumping-generating unit that tapers from 10-ft diameter to 7-ft 2.5-inch diameter; 86.5-inch spherical guard valves at the entrance to each pump-turbine spiral case); (4) a 140-ft-long by 63.5-ft-wide underground concrete power house, containing 3 vertical shaft, Francis-type, reversible pump-turbine units, each with a nameplate generating capacity of 140 MW; and (5) appurtenant facilities.

The licensee proposes to raise the spillway crest elevation of the lower reservoir by 1 ft, from 818.5 ft to 819.5 ft, by adding wooden flashboards. The licensee also proposes raising the upper reservoir pool elevation 2 ft, from 1,555 ft to 1,557 ft, by allowing only 4 ft of freeboard to the dam crest elevation of 1,561 ft. As an additional precaution to existing monitors and controls, the licensee is proposing to install an overflow structure at the upper reservoir to prevent overtopping the non-overflow structures (dikes) in the event of high water levels. The structure would be installed for emergency backup purpose.

l. Locations of the Application: A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Procedural Schedule: The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Notice of Acceptance/Notice of Ready for Environmental Analysis.	April 19, 2011.
Filing of recommendations, preliminary terms and conditions, and fishway prescriptions.	June 18, 2011.
Commission issues Non-Draft EA.	October 16, 2011.
Comments on EA	November 15, 2011.
Modified Terms and Conditions.	January 14, 2012.

o. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: March 4, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–5489 Filed 3–9–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2479–011]

Pacific Gas and Electric Company; Notice of Application Tendered for Filing With the Commission, and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

Take notice that the following transmission line only project application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent License—Transmission Line Only.

b. *Project No:* P–2479–011.

c. *Date Filed:* February 22, 2011.

d. *Applicant:* Pacific Gas and Electric Company.

e. *Name of Project:* French Meadows Transmission Line Project.

f. *Location:* The French Meadows Transmission Line Project is located in Placer County, California, within the boundaries of the Eldorado and Tahoe National Forests.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Forrest Sullivan, Senior Project Manager, Pacific Gas and Electric Company, 5555 Florin Perkins Road, Sacramento, CA, 95826. *Tel:* (916) 386–5580.

i. *FERC Contact:* Mary Greene, (202) 502–8865 or *mary.greene@ferc.gov.*

j. *Status:* This application is not ready for environmental analysis at this time.

k. *Description of Project:* The Project is connected with The Middle Fork American River Hydroelectric Project, FERC Project No. 2079, owned and operated by the Placer County Water Agency (PCWA). The Project consists of a 3-phase, 60-kilovolt, wood-pole transmission line extending 13.27 miles from PCWA's French Meadows powerhouse switchyard to PCWA's Middle Fork powerhouse (feature of Project 2079). The Project includes a 3-phase, 60-kV transmission line extending approximately 900 feet from PCWA's Oxbow powerhouse (feature of Project 2079) to the interconnection at PG&E's Weimar #1 60 kV transmission line. The transmission line right-of-way is 40 feet in width for its entire length. The Project also includes a 230-kV tap at PCWA's Ralston powerhouse. The tap is wholly contained within the switchyard at Ralston powerhouse.

The French Meadows 60-kV transmission line is entirely within the boundaries of the Eldorado National Forest, and the Oxbow 60-kV tap is entirely within the boundaries of the Tahoe National Forest. The combined length of the two 60-kV transmission lines on National Forest System lands is 6.58 miles: 6.42 miles in the Eldorado National Forest and 0.16 mile in the Tahoe National Forest. Approximately 6.69 miles of the French Meadows 60-kV transmission line are located on private lands within the boundary of the Eldorado National Forest. The Oxbow tap is located entirely on National Forest System lands.

PG&E is not proposing to modify the existing Project and does not plan any changes to the operation or maintenance of the transmission line.

l. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

m. With this notice, we are initiating consultation with the California State Historic Preservation Officer (SHPO), as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

n. Procedural schedule and final amendments: This application will be processed according to the following Licensing Schedule. Revisions to the schedule will be made if the Commission determines it necessary to do so.

Milestone	Tentative date
Notice of Acceptance/Notice of Ready for Environmental Analysis	March 31, 2011.
Filing of recommendations, preliminary terms and conditions, and fishway prescriptions	May 30, 2011.
Commission issues EA	September 27, 2011.
Comments on EA	October 27, 2011.
Modified Terms and Conditions	December 26, 2012.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice soliciting final terms and conditions.

Dated: March 4, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–5482 Filed 3–9–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2661–082]

Pacific Gas and Electric Company; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a: *Application Type:* Request for temporary variance of the water surface elevation requirement, pursuant to Article 403 of the Hat Creek Hydroelectric Project.

b: *Project No.:* 2661–082.

c: *Date Filed:* February 10, 2011.

d: *Applicant:* Pacific Gas and Electric Company.

e: *Name of Project:* Hat Creek Hydroelectric Project (P–2661).

f: *Location:* The Hat Creek Hydroelectric Project is located on Hat Creek, near the town of Cassel, in Shasta County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h: *Applicant Contact:* Mr. Jason F.R. Vann, Pacific Gas and Electric Company, 245 Market Street, San Francisco, California 94105, Tel: (415) 973–3727.

i. *FERC Contact:* Kelly Houff, (202) 502–6393, *Kelly.Houff@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* 15 days from the issuance date of this notice.

All documents 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 at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. 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. Please include the project number (P–2661–082) on any documents or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* Pacific Gas and Electric Company (PG&E) is requesting a temporary variance of its water surface elevation requirement of Cassel Pond, pursuant to Article 403 of the license. PG&E proposes a temporary reduction of one foot, from 3,188.27 feet National Geodetic Vertical Datum (NVGD) ± 0.5 feet to 3,187.27 feet NVGD ± 0.5 feet. The purpose of the water surface elevation of Cassel Pond is to mitigate the new water leakage found on the downstream side of the embankment of Hat 1 Fore bay Dam. The water leakage is in the same general vicinity of drainage mitigation work performed in 2009. PG&E does not consider the leakage an immediate dam safety concern but needs to reduce the water surface elevation of Cassel Pond to actively investigate the cause of the leakage and perform corrective measures. The water elevation level variance would be in effect from the date of the Commission approval until PG&E can assess whether the source of the new leaks are related to the leaks observed in 2009, and can implement corrective measures. The estimated length of the elevation reduction is 6 to 8 months; however, the duration of the reduction depends on the time it takes to locate the root cause of the leakage and the time necessary to complete the corrective actions implemented.

l. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Federal, State, and local agencies are invited to file comments on the

described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: March 4, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–5483 Filed 3–9–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG11–63–000
Applicants: Macho Springs Power I, LLC
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Macho Springs Power I, LLC.
Filed Date: 03/02/2011
Accession Number: 20110302–5152
Comment Date: 5 p.m. Eastern Time on Wednesday, March 23, 2011

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–2128–003
Applicants: California Independent System Operator Corporation
Description: California Independent System Operator Corporation submits tariff filing per 35: 2011–03–02 CAISO's Convergence Bidding Compliance Filing to be effective 2/1/2011.
Filed Date: 03/02/2011
Accession Number: 20110302–5205
Comment Date: 5 p.m. Eastern Time on Wednesday, March 23, 2011

Docket Numbers: ER11–2288–001
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits tariff filing per 35: Compliance filing per Order in Docket No. ER11–2288 to be effective 2/1/2011.
Filed Date: 03/02/2011
Accession Number: 20110302–5194
Comment Date: 5 p.m. Eastern Time on Wednesday, March 23, 2011

Docket Numbers: ER11–3004–000
Applicants: Pacific Gas and Electric Company
Description: Pacific Gas and Electric Company submits tariff filing per 35.13(a)(2)(iii: Amendment to Wholesale Distribution Tariff: Generator Interconnection Procedures to be effective 3/3/2011.
Filed Date: 03/02/2011
Accession Number: 20110302–5175
Comment Date: 5 p.m. Eastern Time on Wednesday, March 23, 2011

Docket Numbers: ER11–3005–000
Applicants: NV Energy, Inc.
Description: NV Energy, Inc. submits tariff filing per 35: OATT Order 729, 729–A, 729–B Compliance—Attachment C to be effective 4/1/2011.
Filed Date: 03/02/2011
Accession Number: 20110302–5177
Comment Date: 5 p.m. Eastern Time on Wednesday, March 23, 2011

Docket Numbers: ER11–3006–000
Applicants: NV Energy, Inc.
Description: NV Energy, Inc. submits tariff filing per 35.13(a)(2)(iii: Service Agreement No. 10–01257 Amendment 1 SGIA to be effective 2/14/2011.
Filed Date: 03/02/2011
Accession Number: 20110302–5178
Comment Date: 5 p.m. Eastern Time on Wednesday, March 23, 2011

Docket Numbers: ER11–3007–000
Applicants: NV Energy, Inc.
Description: NV Energy, Inc. submits tariff filing per 35.12: Service Agreement No. 11–00018 to be effective 2/14/2011.
Filed Date: 03/02/2011
Accession Number: 20110302–5179
Comment Date: 5 p.m. Eastern Time on Wednesday, March 23, 2011

Docket Numbers: ER11–3008–000
Applicants: LG&E Energy Marketing Inc.
Description: LG&E Energy Marketing Inc. submits tariff filing per 35: Tariff Rev to Remove Certain MBR Restrictions to be effective 5/1/2011.
Filed Date: 03/03/2011
Accession Number: 20110303–5003
Comment Date: 5 p.m. Eastern Time on Thursday, March 24, 2011

Docket Numbers: ER11–3009–000
Applicants: Louisville Gas and Electric Company
Description: Louisville Gas and Electric Company submits tariff filing per 35: Tariff Rev to Remove Certain MBR Restrictions to be effective 5/1/2011.
Filed Date: 03/03/2011
Accession Number: 20110303–5007
Comment Date: 5 p.m. Eastern Time on Thursday, March 24, 2011

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed 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: March 3, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–5492 Filed 3–9–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP11–1823–000]

Public Utilities Commission of Nevada and Sierra Pacific Power Company v. Tuscarora Gas Transmission Company; Notice of Complaint

Take notice that on February 28, 2011, pursuant to section 5 of the Natural Gas Act, 15 USC 717d(a) (2006) and Rule 206 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 385.206 (2010), Public Utilities Commission of Nevada and Sierra Pacific Power Company (Complainants) filed a formal complaint against Tuscarora Gas Transmission Company (Tuscarora) (Respondent), alleging that Tuscarora's rates for jurisdictional services are unjust and unreasonable and asking the Commission to determine just and reasonable rates and to establish an interim rate reduction.

Complainants certify that copies of the complaint were served on individuals listed on the Commission's official service list.

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. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

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 March 18, 2011.

Dated: March 2, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–5414 Filed 3–9–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP11–25–000]

Questar Pipeline Company; Notice of Availability of the Environmental Assessment for the Proposed Mainline 104 Extension to Fidlar Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Mainline 104 Extension to Fidlar Project (Project) proposed by Questar Pipeline Company (Questar) in the above-referenced docket. Questar requests authorization to extend its existing Mainline 104 pipeline eastward by constructing, operating, and maintaining a natural gas transmission pipeline and ancillary facilities between Questar's Green River Block Valve and its Fidlar Compressor Station located in Uintah County, Utah. The purpose of the Project is to allow shippers greater access to Uinta basin natural gas supplies near the Fidlar Compressor Station.

The EA assesses the potential environmental effects of the construction and operation of the Project in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA). The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The U.S. Bureau of Indian Affairs (BIA), U.S. Bureau of Land Management (BLM), U.S. Fish and Wildlife Service, and Utah Public Lands and Policy Coordination Office participated as cooperating agencies in the preparation of the EA. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the NEPA analysis. The BIA and BLM will adopt and use the EA to consider the issuance of a right-of-way grant for the portion of the Project on tribal and federal lands, respectively.

Questar's proposed Project includes the following facilities:

- About 24.6 miles of 24-inch-diameter natural gas transmission pipeline;
- Three mainline block valves at mileposts (MP) 8.5, 14.5, and 24.6;
- One pig launcher/receiver at the Fidlar Compressor Station;
- Eight underground pipeline taps at MPs 3.1, 5.4, 6.3, 8.5, 12.7, 13.3, 16.9, and 20.9; and
- A measurement and control facility within the Fidlar Compressor Station.

The EA has been placed in the public files of the FERC and is available for public viewing on the FERC's Web site at *http://www.ferc.gov* using the eLibrary link. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Copies of the EA have been mailed to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; other interested individuals and groups; newspapers and libraries in the project area; and parties to this proceeding.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are properly recorded and considered prior to a Commission decision on the proposal, it is important that the FERC receives your comments in Washington, DC on or before April 4, 2011.

For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances, please reference the project docket number (CP11–25–000) with your submission. The Commission encourages electronic filing of

comments and has dedicated eFiling expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to Documents and Filings. An eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments electronically by using the eFiling feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making. A comment on a particular project is considered a "Comment on a Filing"; or

(3) You may file a paper copy of your comments at the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.

Although your comments will be considered by the Commission, simply filing comments will not serve to make the commenter a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC or on the FERC Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on "General Search" and enter the docket number excluding the last three digits in the Docket Number field (*i.e.,* CP11–25). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Dated: March 4, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–5485 Filed 3–9–11; 8:45 am]

BILLING CODE 6717–01–P

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL11–26–000]

Wabash Valley Power Association, Inc.; Notice of Petition for Declaratory Order

Take notice that on March 3, 2011, section 554(e) of the Administrative Procedure Act, 5 U.S.C. 554(e) and 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), Wabash Valley Power Association, Inc. (WVPA) filed a Petition Declaratory Order that finds (i) the Commission has exclusive jurisdiction over the Commission-approved Wabash Valley Electric Tariff Volume No. 1 (Formula Rate Tariff) and the related Wholesale Power Supply Contract between WVPA and Northeastern Rural Electric Membership Corporation (NREMC), filed as WVPA's Rate Schedule 27 (NREMC Rate Schedule) and the rates, terms and conditions thereunder; (ii) changes to the rates paid by NREMC under the Formula Rate Tariff and NREMC Rate Schedule are subject to approval of the applicable regulatory authorities and (iii) the Commission is the applicable regulatory authority with jurisdiction over the rates NREMC pays under the Formula Rate Tariff and the NREMC Rate Schedule and any objection to those rates.

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 Monday, April 4, 2011.

Dated: March 4, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–5487 Filed 3–9–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13968–000]

Qualified Hydro 36, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On January 3, 2011, Qualified Hydro 36, LLC filed an application, pursuant to Section 4(f) of the Federal Power Act, proposing to study the feasibility of the Kaskaskia Lock and Dam Hydroelectric Project No. 13968, to be located at the existing Kaskaskia Lock and Dam on the

Kaskaskia River, near the Town of Chester, in Randolph County, Illinois. The Kaskaskia Lock and Dam is owned by the United States government and operated by the U.S. Army Corps of Engineers.

The proposed project would consist of: (1) A new 330-foot-long by 150-foot-wide by 60 foot-high reinforced concrete powerhouse; (2) a new 100-foot-long by 100-foot-wide tailrace channel; (3) a new 100-foot-long by 100-foot-wide intake structure; (4) two horizontal bulb turbines with a combined capacity of 8.0 megawatts; (5) a new 50 foot by 60 foot, 10 MVA substation adjacent to the powerhouse; (6) a new-47,500 foot-long, 34 to 69-kilovolt transmission line; and (7) appurtenant facilities. The project would have an estimated annual generation of 28.0 gigawatt-hours.

Applicant Contact: Ramya Swaminathan, 33 Commercial Street, Gloucester, MA 01930, (978) 226–1531.

FERC Contact: Tyrone A. Williams, (202) 502–6331.

Deadline for filing comments, motions to intervene, and competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance date of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *(http://www.ferc.gov/docs-filing/ferconline.asp)* under the "eFiling" link. For a simpler method of submitting text only comments, click on "Quick Comment." For assistance, please contact FERC Online Support at *FERCOnlineSupport.gov;* call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly recommends electronic filing, documents may also be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.*

More information about this project, including a copy of the application can be viewed or printed on the "eLibrary" link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13968) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: March 4, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–5484 Filed 3–9–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket No.	File date	Presenter or requester
Prohibited:		
1. ER03–329–010 and ER07–597–005	2–22–11	Alfred Corbett.[1]
Exempt:		
1. Project No. 13123–002	2–24–11	LaShavio Johnson.
2. CP11–46–000	3–3–11	Melanie Stalder.[2]

[1] Memo to file regarding telephone call from representatives of NorthWestern Corporation.
[2] Record of e-mail correspondence.

Dated: March 3, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–5493 Filed 3–9–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER11–2936–000]

West Deptford Energy, LLC; Notice of Shortened Comment Period on Request for Special Procedures

[February 23, 2011]

On February 22, 2011, West Deptford Energy, LLC (WDE) filed a request for Commission determination that its unit-specific minimum capacity Sell Offer, which WDE proposes to offer into the May 2, 2011 Base Residual Auction in PJM Interconnection LLC's Reliability Pricing Model capacity market, is justified pursuant to PJM's Minimum Offer Price Rule. WDE requests that the Commission develop procedures for the protection of confidential bid-related information in the above-referenced proceeding. WDE also seeks a shortened comment period for its filing in order to expedite the Commission's consideration of its request for determination. In addition, WDE requests a separate, short notice period until March 1, 2011, for interested parties to file comments solely on the portion of WDE's filing requesting protection of confidential bid-related information and for special procedures.

By this notice, the date for filing interventions on the entire filing, as well as protests and comments on the portion of WDE's filing requesting protection of confidential bid-related information and for special procedures, is shortened to and includes March 4, 2011. Additional procedures for commenting on WDE's request for a Commission determination that WDE's Sell Offer is justified will be established at a later date.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–5428 Filed 3–9–11; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9278–3]

National Environmental Justice Advisory Council; Notification of Public Teleconference Meeting and Public Comment

AGENCY: Environmental Protection Agency.

ACTION: Notification of public teleconference meeting and public comment.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, the U.S. Environmental Protection Agency (EPA) hereby provides notice that the National Environmental Justice Advisory Council (NEJAC) will host a public teleconference meeting on Thursday, March 31, 2011, from 1 p.m. to 4 p.m., Eastern Time. The primary topic of discussion will be EPA's charge to the NEJAC on ensuring long-term engagement of communities in Gulf Coast eco-system restoration efforts. This NEJAC public teleconference meeting is open to the public. There will be a public comment period from 2:30 p.m. to 4 p.m., Eastern Time. Members of the public are encouraged to provide comments relevant to the topic of the meeting. Specifically, comments should respond to how best to:

1. Engage minority, low-income, and tribal/indigenous communities for input into decisions about Gulf Coast restoration plans, particularly for the impacts of such plans on permitting and how best to facilitate the participation of immigrant populations and communities with potential language barriers.

2. Consider indigenous, cultural, and historical concerns during restoration and recovery.

3. Identify any regulatory and policy hurdles that impede, complicate, or discourage sustained community engagement in decisions about restoration and recovery.

For additional information about registering to attend the meeting or to provide public comment, please see the "REGISTRATION" and **SUPPLEMENTARY INFORMATION** sections below. Due to a limited number of telephone lines, attendance will be on a first-come, first-served basis. There is no fee to attend, but pre-registration is required. Registration for the teleconference meeting closes at 11 a.m., Eastern Time, on Wednesday, March 23, 2011. The deadline to sign-up for public comment, or to submit written public comments, is also March 23, 2011.

DATES: The NEJAC teleconference meeting on March 31, 2011, will begin promptly at 1 p.m., Eastern Time.

Registration: To register by e-mail, send an e-mail to *March2011NEJAC Meeting@AlwaysPursuing Excellence.com* with "Register for the March-NEJAC Teleconference" in the subject line. Please provide your name, organization, city and state, e-mail address, and telephone number for follow-up. To register by Phone or Fax, send a fax (please print) or leave a voice message, with your name, organization, city and state, e-mail address, and telephone number to 877–773–1489. Please specify which meeting you are registering to attend (*e.g.,* NEJAC–March teleconference). Please also state whether you would like to be put on the list to provide public comment, and whether you are submitting written comments before the March 23 deadline. Non-English speaking attendees wishing to arrange for a foreign language interpreter may also make appropriate arrangements using the email address or telephone/fax number.

FOR FURTHER INFORMATION CONTACT: Questions or correspondence concerning the teleconference meeting should be directed to Mr. Aaron Bell, U.S. Environmental Protection Agency, by mail at 1200 Pennsylvania Avenue, NW., (MC2201A), Washington, DC 20460; by telephone at 202–564–1044; via e-mail at *Bell.Aaron@epa.gov;* or by fax at 202–564–1624. Additional information about the NEJAC and upcoming meetings is available on the following Web site: *http://www.epa.gov/environmentaljustice/nejac/meetings.html.*

SUPPLEMENTARY INFORMATION: The Charter of the NEJAC states that the advisory committee shall provide independent advice to the Administrator on areas that may include, among other things, "advice about broad, cross-cutting issues related to environmental justice, including environment-related strategic, scientific, technological, regulatory, and economic issues related to environmental justice."

A. *Public Comment:* Members of the public who wish to attend the March 31, 2011, public teleconference meeting or to provide public comment must pre-register by 11 a.m. Eastern Time on Wednesday, March 23. Individuals or groups making remarks during the public comment period will be limited to five minutes. To accommodate the large number of people who want to address the NEJAC, only one representative of a community, organization, or group will be allowed to speak. Written comments also can be submitted for the record. The suggested format for individuals providing public comments is as follows: A brief description of the concern and what you want the NEJAC to advise EPA to do; Name of Speaker; Name of Organization/Community; City and State; and E-mail address. Written comments received by 11 a.m. Eastern Time on Wednesday, March 23, 2011, will be included in the materials distributed to the members of the

NEJAC prior to the teleconference. Written comments received after that time will be provided to the NEJAC as time allows. All written comments should be sent to EPA's support contractor, APEX Direct, Inc., via e-mail or fax as listed in the **FOR FURTHER INFORMATION CONTACT** section above.

B. Information about Services for Individuals with Disabilities: For information about access or services for individuals with disabilities, please contact Ms. Estela Rosas, EPA Contractor, APEX Direct, Inc., at 877–773–1489 or via e-mail at *March2011NEJACmeeting@AlwaysPursuingExcellence.com.* To request special accommodations for a disability, please contact Ms. Rosas at least 7 working days prior to the meeting, to give EPA sufficient time to process your request. All requests should be sent to the address, e-mail, or phone/fax number listed in the "REGISTRATION" section above.

Dated: March 4, 2011.

Victoria Robinson,

Designated Federal Officer, National Environmental Justice Advisory Council.

[FR Doc. 2011–5537 Filed 3–9–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9278–2]

Science Advisory Board Staff Office; Notification of a Public Meeting of the SAB Drinking Water Committee Augmented for the Review of the Effectiveness of Partial Lead Service Line Replacements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public meeting of the SAB Drinking Water Committee Augmented for the Review of the Effectiveness of Partial Lead Service Line Replacements to review technical studies examining the effectiveness of partial lead service line replacements.

DATES: There will be a public meeting held on March 30, 2011 from 9 a.m. to 5 p.m. and March 31, 2011 from 8:30 a.m. to 4 p.m. (Eastern Time).

ADDRESSES: The face-to-face meeting will be held at the Westin Alexandria Hotel, 400 Courthouse Square, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain information concerning the public meeting may contact Mr. Aaron Yeow, Designated Federal Officer (DFO), EPA Science Advisory Board Staff Office (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; by telephone/voice mail at (202) 564–2050 or at *yeow.aaron@epa.gov.* General information about the SAB, as well as any updates concerning the meeting announced in this notice, may 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 DWC Augmented for the Review of the Effectiveness of Partial Lead Service Line Replacements will hold a public meeting to review technical studies examining the effectiveness of partial lead service line replacements. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Exposure to lead through drinking water results primarily from the corrosion of lead pipes and plumbing materials. EPA's Office of Water (OW) promulgated the Lead and Copper Rule (LCR) to minimize the amount of lead in drinking water. The LCR requires water systems that are not able to limit lead corrosion through treatment to replace service lines (pipes connecting buildings to water distribution mains) that are made from lead. Water systems must replace the portion of the lead service line owned by the system and offer to replace the customer's portion at the customer's cost. When customers do not replace their portion of the service line, the situation is called a "partial lead service line replacement." OW has requested the SAB to review and provide advice on recent studies examining the effectiveness of partial lead service line replacements. SAB's advice will guide EPA's determination of whether the scientific foundation for the regulatory requirement allowing the use of partial lead service line replacement may need to be modified in light of more recent scientific studies.

Availability of Meeting Materials: Agendas and materials in support of this meeting will be placed on the EPA Web site at *http://www.epa.gov/sab* in advance of the meeting. For technical questions and information concerning the review materials please contact Mr. Jeffrey Kempic of EPA's Office of Water at (202) 564–4880, or *kempic.jeffrey@epa.gov.*

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments for a federal advisory committee to consider as it develops advice for EPA. They should send their comments directly to the Designated Federal Officer for the relevant advisory committee. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public face-to-face meeting will be limited to five minutes. Each person making an oral statement should consider providing written comments as well as their oral statement so that the points presented orally can be expanded upon in writing. Interested parties should contact Mr. Aaron Yeow, DFO, in writing (preferably via e-mail) at the contact information noted above by March 23, 2011 for the face-to-face meeting, to be placed on the list of public speakers. *Written Statements:* Written statements should be supplied to the DFO via email at the contact information noted above by March 23, 2011 for the face-to-face meeting so that the information may be made available to the Panel members for their consideration. Written statements should be supplied in one of the following electronic formats: Adobe Acrobat PDF, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format. Submitters are requested to provide versions of signed documents, submitted with and without signatures, because the SAB Staff Office does not publish documents with signatures on its Web sites.

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Aaron Yeow at (202) 564–2050 or *yeow.aaron@epa.gov.* To request accommodation of a disability, please contact Mr. Yeow preferably at least ten days prior to each meeting to give EPA

as much time as possible to process your request.

Dated: March 3, 2011.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Staff Office.

[FR Doc. 2011–5535 Filed 3–9–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9278–1]

Science Advisory Board Staff Office; Notification of a Public Meeting of the Science Advisory Board Committee on Science Integration for Decision Making

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces a public meeting of the SAB Committee on Science Integration for Decision Making.

DATES: The meeting dates are March 29, 2011 from 9 a.m. to 5 p.m. and March 30, 2011 from 8:30 a.m. to 1 p.m. (Eastern Time).

ADDRESSES: The meeting will be held at the Westin Alexandria, 400 Courthouse Square, Alexandria, VA, 22314.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain further information about this meeting must contact Dr. Angela Nugent, Designated Federal Officer (DFO). Dr. Nugent may be contacted at the EPA Science Advisory Board (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or via telephone/voice mail; (202) 565–2218; fax (202) 564–2050; or e-mail at *nugent.angela@epa.gov.* General information about the EPA SAB, as well as any updates concerning the public meeting announced in this notice, may be found on the SAB Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, 5 U.S.C., App. 2 (FACA), notice is hereby given that the SAB Committee on Science Integration for Decision Making will hold a public meeting to discuss the results of fact-finding activities conducted as part of a study of science integration supporting EPA decision making. The SAB was established pursuant to 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 FACA. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: The goal of the committee is to develop an original study that provides recommendations to support and/or strengthen Agency's ability to integrate science to support environmental decisions. The committee previously held the following public meetings and teleconferences: a public meeting on June 9–10, 2009 (74 FR 23187–23188) to receive Agency briefings and develop an initial design for a study plan; a public teleconference on September 16, 2009 (74 FR 43696–43697) to approve the preliminary study plan; and a public meeting on March 30–31, 2010 (75 FR 9895) to discuss the results of fact-finding activities conducted as part of the study plan. The committee is holding the March 29–30, 2011 meeting to discuss a draft report based on their findings and the next steps to complete the study. Additional information about the study and the committee's activities meeting may be found on the SAB Web site at *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/Science%20Integration?OpenDocument.*

Availability of Meeting Materials: The agenda and other material in support of this upcoming meeting are posted 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 on the topic of this advisory activity for the SAB to consider during the advisory process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes per speaker. Interested parties should contact Dr. Nugent, DFO, in writing (preferably via e-mail) at the contact information noted above, by March 23, 2011 be placed on a list of public speakers for the meeting. *Written Statements:* Written statements should be received in the SAB Staff Office by March 23, 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 Dr. Nugent 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: March 3, 2011.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2011–5539 Filed 3–9–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9278–4]

Settlement Agreement for Recovery of Past Response Costs; 345 North 700 East, Richfield PCE Site, Richfield, Sevier County, UT

AGENCY: Environmental Protection Agency.

ACTION: Notice and request for public comment.

SUMMARY: In accordance with the requirements of section 122(i)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), 42 U.S.C. 9622(i)(1), notice is hereby given of a Settlement Agreement under Sections 104, 106(a), 107, and 122 of CERCLA, 42 U.S.C. 9604, 9606(a), 9607, and 9622, between the United States Environmental Protection Agency (EPA) and Jerry Thomas and Katrina Thomas (Settling Parties) regarding the Richfield PCE Site (Site), located at 345 North 700 East, Richfield, Sevier County, Utah. This Settlement Agreement proposes to compromise a claim the United States has at this Site for Past Response Costs, as those terms are defined in the Settlement Agreement. Under the terms of the Settlement Agreement, EPA and the Settling Parties agree that the Settling Parties have no ability to pay and the Settling Parties (1) agree not to assert any claims or causes of action against the United States or its contractors or employees with respect to the Site and (2) agree to record an executed environmental covenant, between Settling Parties, EPA and Utah Department of Environmental Quality, requiring certain activity and use limitations. In exchange, the Settling Parties will be granted a covenant not to

sue under section 107(a) of CERCLA, 42 U.S.C. 9607(a), with regard to reimbursement of Past Response Costs.

Opportunity for Comment: For thirty (30) days following the publication of this notice, EPA will consider all comments received and may modify or withdraw its consent to that portion of the Settlement Agreement, if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at the Superfund Record Center, EPA Region 8, 1595 Wynkoop Street, 3rd Floor, in Denver, Colorado.

DATES: Comments must be submitted on or before April 11, 2011.

ADDRESSES: The Settlement Agreement and additional background information relating to the settlement are available for public inspection at the Regional Records Center, EPA Region 8, 1595 Wynkoop Street, 3rd Floor, in Denver, Colorado. Comments and requests for a copy of the Settlement Agreement should be addressed to Virginia G. Phillips, Enforcement Specialist (8ENF–RC), Technical Enforcement Program, U.S. Environmental Protection Agency, 1595 Wynkoop Street, Denver, Colorado 80202–1129, and should reference the Richfield PCE Site in Sevier County, Utah.

FOR FURTHER INFORMATION CONTACT: Virginia Phillips, Enforcement Specialist, (8ENF–RC), Technical Enforcement Program, U.S. Environmental Protection Agency, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6197.

It is so agreed:

Andrew M. Gaydosh,

Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, U.S. Environmental Protection Agency, Region 8.

[FR Doc. 2011–5532 Filed 3–9–11; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

February 28, 2011.

Summary: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, and (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

Dates: Written Paperwork Reduction Act (PRA) comments should be submitted on or before May 9, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

Addresses: Direct all PRA comments to the Federal Communications Commission via e-mail to *PRA@fcc.gov.*

For Further Information Contact: Judith B. Herman, Office of Managing Director, (202) 418–0214. For additional information, contact Judith B. Herman, OMD, 202–418–0214 or e-mail *judith-b.herman@fcc.gov.*

Supplementary Information:

OMB Control Number: 3060–0298.

Title: Part 61, Tariffs (Other Than the Tariff Review Plan).

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 580 respondents; 1,160 responses.

Estimated Time per Response: 50 hours.

Frequency of Response: On occasion and biennial reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151–155, 201–205, 208, 251–271, 403, 502 and 503.

Total Annual Burden: 58,000 hours.

Total Annual Cost: $945,400.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: The information requested is not of a confidential nature. Respondents who believe certain information to be of a proprietary nature may solicit confidential treatment of their material in accordance with the procedures described in 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this expiring information collection after this comment period to the Office of Management and Budget (OMB) to obtain the full three year clearance from them. There is no change in the reporting requirements. There is a $46,400 increase adjustment in the annual cost. This is due to an increase in the Commission's filing fees.

Part 61 is designed to ensure that all tariffs filed by common carriers are formally sound, well organized, and provide the Commission and the public with sufficient information to determine the justness and reasonableness as required by the Communications Act of 1934, as amended, of the rates, terms and conditions of those tariffs.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–5522 Filed 3–9–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

February 28, 2011.

Summary: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents,

including the use of automated collection techniques or other forms of information technology, and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

Dates: Written Paperwork Reduction Act (PRA) comments should be submitted on or before May 9, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

Addresses: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to the Federal Communications Commission via e-mail to *PRA@fcc.gov.*

For Further Information Contact: Judith B. Herman, Office of Managing Director, (202) 418–0214. For additional information, contact Judith B. Herman, OMD, 202–418–0214 or e-mail *judith-b.herman@fcc.gov.*

Supplementary Information:

OMB Control Number: 3060–1005.

Title: Numbering Resource Optimization—Phase 3.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit and State, local or Tribal Government.

Number of Respondents and Responses: 17 respondents; 34 responses.

Estimated Time per Response: 40–50 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 153, 154, 201–205, 207–209, 218, 225–227, 251–252, 271 and 332.

Total Annual Burden: 830 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the Commission. If the Commission requests respondents to submit information which respondents believe is confidential, respondents may request confidential treatment of such information pursuant to 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) after this comment period to obtain the full, three year clearance from them. There is no change in the reporting and/or third party disclosure requirements. The Commission is reporting a 30 hour decrease adjustment in burden. This decrease is due to recalculations of the previous burdens submitted to OMB in 2008.

The Commission established a safety valve to ensure that carriers experiencing rapid growth in a given market will be able to meet customer demand. States may use this safety valve to grant requests from carriers that demonstrate the following:

(1) The carrier will exhaust its numbering resources in a market or rate area within three months (in lieu of six months-to-exhaust requirement); and

(2) Projected growth is based on the carrier's actual growth in the market or rate area, or in the carrier's actual growth in a reasonably comparable market, but only if that projected growth varies no more than 15 percent from historical growth in the relevant market.

The Commission lifted the ban on service-specific and technology-specific overlays (collectively, specialized overlays or SOs), allowing State commissions seeking to implement SOs to request delegated authority to do so on a case-by-case basis. To provide further guidance to State commissions, the Commission set forth the criteria that each request for delegated authority to implement a SO should address. This will enable us to examine the feasibility of SOs in a particular area, and determine whether the Commission's stated goals are likely to be met if the SO is implemented.

Specifically, State commissions should also specifically address the following:

(1) The technologies or services to be included in the SO;

(2) The geographic area to be covered;

(3) Whether the SO will be transitional;

(4) When the SO will be implemented and, if a transitional SO is proposed, when the SO will become an all-services overlay;

(5) Whether the SO will include take-backs;

(6) Whether there will be 10-digit dialing in the SO and the underlying area code(s);

(7) Whether the SO and underlying area code(s) will be subject to rationing; and

(8) Whether the SO will cover an area in which pooling is taking place.

The Commission uses the information it collects to assist the State commissions in carrying out their delegated authority over numbering resources.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–5525 Filed 3–9–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

March 1, 2011.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, and (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before May 9, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of

time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to the Federal Communications Commission via e-mail to *PRA@fcc.gov* and *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information, contact Cathy Williams on (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0548.

Title: Section 76.1708, Principal Headend; Sections 76.1709 and 76.1620, Availability of Signals; Section 76.56, Signal Carriage Obligations; Section 76.1614, Identification of Must-Carry Signals.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 11,000 respondents; 132,000 responses.

Estimated Time per Response: 0.5–1.0 hour.

Frequency of Response: Recordkeeping requirement; Third party disclosure requirement; On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 4(i), 614 and 615 of the Communications Act of 1934, as amended.

Total Annual Burden: 66,000 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: 47 CFR 76.56 requires cable television systems to carry signals of all qualified local Noncommercial Educational (NCE) sting carriage. As a result of this requirement, the following information collection requirements are needed for this collection:

47 CFR 76.1708 requires that the operator of every cable television system shall maintain for public inspection the designation and location of its principal headend. If an operator changes the designation of its principal headend, that new designation must be included in its public file.

47 CFR 76.1709(a) states effective June 17, 1993, the operator of every cable television system shall maintain for public inspection a file containing a list of all broadcast television stations carried by its system in fulfillment of the must-carry requirements pursuant to 47 CFR 76.56. Such list shall include the call sign; community of license, broadcast channel number, cable channel number, and in the case of a noncommercial educational broadcast station, whether that station was carried by the cable system on March 29, 1990.

47 CFR 76.1614 and 1709(c) states that a cable operator shall respond in writing within 30 days to any written request by any person for the identification of the signals carried on its system in fulfillment of the requirements of 47 CFR 76.56.

Additionally, 47 CFR 76.1620 states that if a cable operator authorizes subscribers to install additional receiver connections, but does not provide the subscriber with such connections, or with the equipment and materials for such connections, the operator shall notify such subscribers of all broadcast stations carried on the cable system which cannot be viewed via cable without a converter box and shall offer to sell or lease such a converter box to such subscribers. Such notification must be provided by June 2, 1993, and annually thereafter and to each new subscriber upon initial installation. The notice, which may be included in routine billing statements, shall identify the signals that are unavailable without an additional connection, the manner for obtaining such additional connection and instructions for installation.

OMB Control Number: 3060–0674.

Title: Section 76.1618, Basic Tier Availability.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents and Responses: 8,250 respondents; 8,250 responses.

Estimated Time per Response: 2.25 hour.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 4(i) and 632 of the Communications Act of 1934, as amended.

Total Annual Burden: 18,563 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: 47 CFR 76.1618 states that a cable operator shall provide written notification to subscribers of the availability of basic tier service to new subscribers at the time of installation. This notification shall include the following information: (a) That basic tier service is available; (b) the cost per month for basic tier service; and (c) a list of all services included in the basic service tier. These notification requirements are to ensure the subscribers are made aware of the availability of basic cable service at the time of installation.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–5524 Filed 3–9–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 ("PRA"), 44 U.S.C. 3501 *et seq.,* the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The FDIC, 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 renewal of existing information collections, as required by the PRA. On December 6, 2010 (75 FR 75675), the FDIC solicited public comment for a 60-day period on renewal of the following three information collections: Interagency Biographical and Financial Report (OMB No. 3064–0006), Interagency Bank Merger Act Application (OMB No. 3064–0015), Interagency Notice of Change in Control (OMB No. 3064–0019). No comments were received. Therefore, the FDIC hereby gives notice of submission of its renewal requests to OMB for review.

DATES: Comments must be submitted on or before April 11, 2011.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

• *http://www.FDIC.gov/regulations/laws/federal/notices.html.*

• *E-mail: comments@fdic.gov* Include the name of the collection in the subject line of the message.

• *Mail:* Gary A. Kuiper (202–898–3877), Counsel, Room F–1086, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

• *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gary A. Kuiper, at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal To Renew the Following Currently Approved Collections of Information

1. *Title:* Interagency Biographical and Financial Report.

OMB Number: 3064–0006.

Frequency of Response: On occasion.

Affected Public: Financial Institutions.

Estimated Number of Respondents: 619.

Estimated Time per Response: 4 hours.

Total Annual Burden: 2,476 hours.

General Description of Collection: The Interagency Biographical and Financial Report is submitted to the FDIC by each director or officer of a proposed or operating financial institution applying for federal deposit insurance as a state nonmember bank. The FDIC uses the information to evaluate the general character of bank management as required by the Federal Deposit Insurance Act (12 U.S.C. 1828(c)).

2. *Title:* Interagency Bank Merger Act Application.

OMB Number: 3064–0015.

Frequency of Response: On occasion.

Affected Public: FDIC Insured Institutions.

Estimated Number of Respondents: 241.

Estimated Time per Response: 23.5 hours.

Total Annual Burden: 5,664 hours.

General Description of Collection: The Federal Deposit Insurance Act (12 U.S.C. 1828(c)) requires the use of this application for insured institutions seeking a merger, consolidation, or other combining transaction between nonaffiliated parties as well as to effect a corporate reorganization between affiliated parties.

3. *Title:* Interagency Notice of Change in Control.

OMB Number: 3064–0019.

Frequency of Response: On occasion.

Affected Public: Financial Institutions.

Estimated Number of Respondents: 45.

Estimated Time per Response: 30 hours.

Total Annual Burden: 1350 hours.

General Description of Collection: The Notice is submitted by any person proposing to acquire ownership control of an insured state nonmember bank. The information is used by the FDIC to determine whether the competence, experience, or integrity of any acquiring person indicates it would not be in the interest of the depositors of the bank, or in the public interest, to permit such persons to control the bank.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the 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 the information collection on respondents, including the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 4th day of March, 2011.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2011–5381 Filed 3–9–11; 8:45 am]

BILLING CODE 6741–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update Listing of Financial Institutions in Liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing. This list (as updated from time to time in the **Federal Register**) may be relied upon as "of record" notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992 issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation Web site at *http://www.fdic.gov/bank/individual/failed/banklist.html* or contact the Manager of Receivership Oversight in the appropriate service center.

Dated: February 22, 2011.

Federal Deposit Insurance Corporation.

Pamela Johnson,

Regulatory Editing Specialist.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC Ref. No.	Bank name	City	State	Date closed
10343	Charter Oak Bank	Napa	CA	2/18/2011.
10344	Citizens Bank of Effingham	Springfield	GA	2/18/2011.
10345	Habersham Bank	Clarkesville	GA	2/18/2011.
10346	San Luis Trust Bank, FSB	San Luis Obispo	CA	2/18/2011.

[FR Doc. 2011–5396 Filed 3–9–11; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update Listing of Financial Institutions in Liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing. This list (as updated from time to time in the **Federal Register**) may be relied upon as "of record" notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992 issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation Web site at *http://www.fdic.gov/bank/individual/failed/banklist.html* or contact the Manager of Receivership Oversight in the appropriate service center.

Dated: February 28, 2011.

Federal Deposit Insurance Corporation.

Pamela Johnson,

Regulatory Editing Specialist.

INSTITUTIONS IN LIQUIDATION

(In alphabetical order)

FDIC Ref. No.	Bank name	City	State	Date closed
10347	Valley Community Bank	St. Charles	IL	2/25/2011.

[FR Doc. 2011–5394 Filed 3–9–11; 8:45 am]

BILLING CODE 6741–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE AND TIME: Tuesday, March 15, 2011, at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, *Telephone:* (202) 694–1220.

Shawn Woodhead Werth,

Secretary and Clerk of the Commission.

[FR Doc. 2011–5646 Filed 3–8–11; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS11–06]

Appraisal Subcommittee Notice of Meeting

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Notice of meeting.

Description: In accordance with Section 1104 (b) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, notice is hereby given that the Appraisal Subcommittee (ASC) will meet in open session for its regular meeting:

Location: OCC–250 E Street, SW., Room 7C/7CA, Washington, DC 20219.

Date: March 15, 2011.

Time: 10:30 a.m.

Status: Open.

Matters To Be Considered

Summary Agenda

February 9, 2011 minutes—Open Session.

(No substantive discussion of the above items is anticipated. These matters will be resolved with a single vote unless a member of the ASC requests that an item be moved to the discussion agenda.)

Discussion Agenda

Appraisal Foundation November 2010 Grant Reimbursement Request.

North Carolina Compliance Review.

Proposed Bulletin 2011–1 to State Appraisal Regulatory Officials on Certain Mandates In the Dodd-Frank Act.

Vice Chairman Vote.

How To Attend and Observe an ASC Meeting

E-mail your name, organization and contact information *meetings@asc.gov.* You may also send a written request via U.S. Mail, fax or commercial carrier to the Executive Director of the ASC, 1401 H Street, NW., Ste 760, Washington, DC 20005. Your request must be received no later than 4:30 p.m., ET, on the Monday prior to the meeting. If that Monday is a Federal holiday, then your request must be received 4:30 p.m., ET on the previous Friday. Attendees must have a valid government-issued photo ID and must agree to submit to reasonable security measures. The meeting space is intended to accommodate public attendees. However, if the space will not accommodate all requests, the ASC may refuse attendance on that reasonable basis. The use of any video or audio tape recording device, photographing device, or any other electronic or mechanical device designed for similar purposes is prohibited at ASC meetings.

Dated: March 7, 2011.

James R. Park,

Executive Director.

[FR Doc. 2011–5531 Filed 3–9–11; 8:45 am]

BILLING CODE P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS11–07]

Appraisal Subcommittee Notice of meeting

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Notice of meeting.

Description: In accordance with Section 1104(b) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, notice is hereby given that the Appraisal Subcommittee (ASC) will meet in closed session:

Location: OCC—250 E Street, SW., Room 7C/7CA, Washington, DC 20219.

Date: March 15, 2011.

Time: Immediately following the ASC open session.

Status: Closed.

Matters To Be Considered:

February 9, 2011 minutes—Closed Session.

Preliminary discussion of State Compliance Reviews.

Dated: March 7, 2011.

James R. Park,

Executive Director.

[FR Doc. 2011–5534 Filed 3–9–11; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

SUMMARY: Background. Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). 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 instrument(s) 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.

For Further Information Contact: 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.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Final approval under OMB delegated authority of the implementation of the following report:

Report title: Payment Systems Surveys: Ad Hoc Payments Systems Survey, Currency Quality Sampling Survey, Currency Quality Survey, and Currency Functionality Survey.

Agency form number: FR 3054a, FR 3054b, FR 3054c, and FR 3054d.

OMB control number: 7100–0332.

Frequency: Annual, semi-annual, and on occasion.

Reporters: Financial and nonfinancial businesses (banknote equipment manufacturers, or global wholesale bank note dealers).

Estimated annual reporting hours: FR 3054a: 15,000 hours; FR 3054b: 90 hours; FR 3054c: 1,500 hours; and FR 3054d: 960 hours.

Estimated average hours per response: FR 3054a: 15 hours; FR 3054b: 0.5 hours; FR 3054c: 30 hours; and FR 3054d: 48 hours.

Number of respondents: FR 3054a: 100; FR 3054b: 180; FR 3054c; 25; and FR 3054d: 20.

General description of report: These information collections are authorized pursuant to Section 11(d) of the Federal Reserve Act (12 U.S.C. 248(d)) and are voluntary. The ability of the Federal Reserve to maintain the confidentiality of information provided by respondents to the Payment Systems surveys would be determined on a case-by-case basis depending on the type of information provided for a particular survey. Depending upon the survey questions, confidential treatment could be warranted under section (b)(4) of the Freedom of Information Act (5 U.S.C. 552(b)(4)).

Abstract: The FR 3054a will be an event-driven survey used to obtain information specifically tailored to the Federal Reserve's operational and fiscal agency responsibilities. The FR 3054a could be conducted independently by the Federal Reserve, jointly with another government agency, or a Federal Reserve Bank. The FR 3054b will be an annual survey to assess the quality of currency in circulation and will be conducted jointly with the Federal Reserve Bank of San Francisco's Cash Product Office (CPO), the Federal Reserve Bank of Richmond's Currency Technology Office (CTO), and each Federal Reserve Bank's cash department. The FR 3054c will be a semi-annual survey to determine depository institutions' and Banknote Equipment Manufacturers' opinions of currency quality and would be conducted jointly with the CPO and CTO. The FR 3054d will be an annual survey to assess the functionality of Federal Reserve notes in banknote handling equipment. The FR 3054d data collected from BEMs will be used as input for future designs of Federal Reserve notes. The FR 3054d will be conducted jointly with the U.S. Treasury's Bureau of Engraving and Printing and the CTO. The FR 3054a, FR 3054b, FR 3054c, and FR 3054d will be sent to financial and nonfinancial businesses.

The Federal Reserve will use the data collected from these surveys to determine: (1) Demand for currency and coin, (2) market preferences regarding currency quality, (3) quality of currency in circulation, (4) features used by bank note authentication equipment to denominate and authenticate bank notes, and (5) whether changes to Federal Reserve Bank sorting algorithms are necessary to ensure that currency in circulation remains fit for commerce.

Current Actions: On December 28, 2010, the Federal Reserve published a notice in the **Federal Register** (75 FR 81607) requesting public comment for 60 days on the implementation of the FR 3054a, FR 3054b, FR 3054c, and FR 3054d surveys. The comment period for this notice expired on February 28, 2011. The Federal Reserve did not receive any comments; the surveys will be implemented as proposed.

Final approval under OMB delegated authority of the extension for three years, with revision, of the following reports:

1. Report title: Consumer Satisfaction Questionnaire, Federal Reserve Consumer Help—Consumer Survey, and Consumer Online Complaint Form.

Agency form number: FR 1379a, FR 1379b, and FR 1379c.

OMB control number: 7100–0135.

Frequency: Event generated.

Reporters: Consumers.

Estimated annual reporting hours: FR 1379a: 116 hours; FR 1379b: 167 hours; FR 1379c: 1,351 hours.

Estimated average hours per response: FR 1379a: 5 minutes; FR 1379b: 5 minutes; FR 1379c: 10 minutes.

Number of respondents: FR 1379a: 1,391; FR 1379b: 2,001; FR 1379c: 8,107.

General description of report: This information collection is voluntary and is authorized by law pursuant the Federal Trade Commission Improvement Act (15 U.S.C. 57(a)(f)). The FR 1379a is not considered confidential. The FR 1379b collects the respondent's name and the respondent may provide other personal information and information regarding his or her complaint in response to question five. The FR 1379c collects the respondent's third-party representative if the respondent has such a representative. Thus, some of the information collected on the FR 1379b and c is considered confidential under the Freedom of Information Act (5 U.S.C. 552(b)(4), (b)(6), (b)(7)).

Abstract: The FR 1379a questionnaire is sent to consumers who have filed complaints with the Federal Reserve against state member banks. The information is used to assess their satisfaction with the Federal Reserve's handling and written response to their complaint at the conclusion of an investigation. The FR 1379b questionnaire is sent as needed to consumers who contact the Federal Reserve Consumer Help (FRCH) to file a complaint or inquiry. The information is used to determine whether consumers are satisfied with the way the FRCH handled their complaint. Consumers use the FR 1379c to electronically submit a complaint against a financial institution to the FRCH.

Current Actions: On December 28, 2010, the Federal Reserve published a notice in the **Federal Register** (75 FR 81607) requesting public comment for 60 days on the extension, with revision, of this information collection. The comment period for this notice expired on February 28, 2011. The Federal Reserve did not receive any comments. The revisions will be implemented as proposed.

2. Report title: Application for Prior Approval to Become a Bank Holding Company or for a Bank Holding Company to Acquire an Additional Bank or Bank Holding Company, Notification for Prior Approval to Become a Bank Holding Company or for a Bank Holding Company to Acquire an Additional Bank or Bank Holding Company; and Notification for Prior Approval to Engage Directly or Indirectly in Certain Nonbanking Activities.

Agency form number: FR Y–3, FR Y–3N, and FR Y–4.

OMB control number: 7100–0121.

Frequency: Event generated.

Reporters: Corporations seeking to become bank holding companies (BHCs), or existing BHCs and state chartered banks that are members of the Federal Reserve System.

Estimated annual reporting hours: FR Y–3 Section 3(a)(1): 5,565 hours; FR Y–3 Section 3(a)(3) and 3(a)(5): 9,081 hours; FR Y–3N Section 3(a)(1), 3(a)(3), and 3(a)(5): 225 hours; FR Y–4 Complete notification: 936 hours; FR Y–4 Expedited notification: 90 hours; and FR Y–4 Post-consummation: 8 hours.

Estimated average hours per response: FR Y–3 Section 3(a)(1): 53 hours; FR Y–3 Section 3(a)(3) and 3(a)(5): 63.5 hours; FR Y–3N Section 3(a)(1), 3(a)(3), and 3(a)(5): 5 hours; FR Y–4 Complete notification: 12 hours; FR Y–4 Expedited notification: 5 hours; and FR Y–4 Post-consummation: 30 minutes.

Number of respondents: FR Y–3 Section 3(a)(1): 105; FR Y–3 Section 3(a)(3) and 3(a)(5): 143; FR Y–3N Section 3(a)(1), 3(a)(3), and 3(a)(5): 45; FR Y–4 Complete notification: 78; FR Y–4 Expedited notification: 18; and FR Y–4 Post-consummation: 16.

General description of report: These information collections are mandatory (12 U.S.C. 1842(a), 1844(b), 1843(j)). The information submitted in the FR Y–3, FR Y–3N, and FR Y–4 is considered to be public unless an institution requests confidential treatment for portions of the particular application or notification. Applicants may rely on any Freedom of Information Act (FOIA) exemption, but such requests for confidentiality must contain detailed justifications corresponding to the claimed FOIA exemption. Requests for confidentiality must be evaluated on a case-by-case basis.

Abstract: The Federal Reserve requires the submission of these filings for regulatory and supervisory purposes and to allow the Federal Reserve to fulfill its statutory obligations under the Bank Holding Company (BHC) Act of 1956. These filings collect information on proposals by bank holding companies involving formations, acquisitions, mergers, and nonbanking activities. The Federal Reserve must obtain this information to evaluate each individual transaction with respect to financial and managerial factors, permissibility, competitive effects, net public benefits, and the impact on the convenience and needs of affected communities.

Current Actions: On December 28, 2010, the Federal Reserve published a notice in the **Federal Register** (75 FR 81607) requesting public comment for 60 days on the extension, with minor revision, of this information collection. The comment period for this notice expired on February 28, 2011. The Federal Reserve did not receive any comments. The revision will be implemented as proposed.

Final approval under OMB delegated authority of the extension for three years, without revision, of the following reports:

1. Report title: Annual Daylight Overdraft Capital Report for U.S. Branches and Agencies of Foreign Banks.

Agency form number: FR 2225.

OMB control number: 7100–0216.

Frequency: Annual.

Reporters: Foreign banks with U.S. branches or agencies.

Estimated annual reporting hours: 45 hours.

Estimated average hours per response: 1 hour.

Number of respondents: 45.

General description of report: This information collection is authorized pursuant to sections 11(i), 16, and 19(f) of the Federal Reserve Act (12 U.S.C. 248(i), 248–1, and 464). A foreign banking organization (FBO) is required to respond in order to obtain or retain a benefit, i.e., in order for the U.S. branch or agency of an FBO to establish and maintain a non-zero net debit cap. The information submitted by respondents is not confidential; however, respondents may request confidential treatment for portions of the report. Data may be considered confidential and exempt from disclosure under section (b)(4) of the Freedom of Information Act if it constitutes commercial or financial information and it would customarily not be released to the public by the person from whom it was obtained (5 U.S.C. 552(b)(4)).

Abstract: This report was implemented in March 1986 as part of the procedures used to administer the Federal Reserve's Payments System Risk (PSR) policy. A key component of the PSR policy is a limit, or a net debit cap, on an institution's negative intraday balance in its Reserve Bank account. The Federal Reserve calculates an institution's net debit cap by applying the multiple associated with the net debit cap category to the institution's capital. For FBOs, a percentage of the FBO's capital measure, known as the U.S. capital equivalency, is used to calculate the FBO's net debit cap.

Currently, an FBO with U.S. branches or agencies may voluntarily file the FR 2225 to provide the Federal Reserve with its capital measure. Because an FBO that files the FR 2225 may be able to use its total capital in determining its U.S capital equivalency measure, which

is then used to calculate its net debit cap, an FBO seeking to maximize its daylight overdraft capacity may find it advantageous to file the FR 2225. An FBO that does not file FR 2225 may use an alternative capital measure based on its nonrelated liabilities.

Current Actions: On December 28, 2010, the Federal Reserve published a notice in the **Federal Register** (75 FR 81607) requesting public comment for 60 days on the extension, with revision, of the Annual Daylight Overdraft Capital Report for U.S. Branches and Agencies of Foreign Banks. The comment period for this notice expired on February 28, 2011. The Federal Reserve did not receive any comments.

2. Report title: International Applications and Prior Notifications under Subparts A and C of Regulation K.

Agency form number: FR K–1.

OMB control number: 7100–0107.

Frequency: Event generated.

Reporters: State member banks, Edge and agreement corporations, bank holding companies, and certain FBOs.

Estimated annual reporting hours: Attachments A and B, 161 hours; Attachments C through G, 120 hours; Attachments H and I, 558 hours; Attachment J, 30 hours; Attachment K, 20 hours.

Estimated average hours per response: Attachments A and B, 11.5 hours; Attachments C through G, 10 hours; Attachments H and I, 15.5 hours; Attachment J, 10 hours; Attachment K, 20 hours.

Number of respondents: Attachments A and B, 7; Attachments C through G, 6; Attachments H and I, 12; Attachment J, 3; Attachment K, 1.

General description of report: This information collection is mandatory pursuant to sections 25 and 25A of the Federal Reserve Act (12 U.S.C. 601–604(a), 611–631) and sections 4(c)(13), 4(c)(14), and 5(c) of the BHC Act (12 U.S.C. 1843(c)(13), 1843(c)(14), 1844(c)). The information submitted in the FR K–1 is considered to be public unless an institution requests confidential treatment for portions of the particular application or notification. Applicants may rely on any FOIA exemption, but such requests for confidentiality must contain detailed justifications corresponding to the claimed FOIA exemption. Requests for confidentiality must be evaluated on a case-by-case basis.

Abstract: Subpart A of Regulation K governs the foreign investments and activities of member banks, Edge and agreement corporations, bank holding companies, and certain investments by foreign organizations. Subpart C of Regulation K governs investments in export trading companies. The FR K–1 information collection contains eleven attachments for the application and notification requirements embodied in Subparts A and C of Regulation K. The Federal Reserve requires these applications for regulatory and supervisory purposes and to allow the Federal Reserve to fulfill its statutory obligations under the Federal Reserve Act and the BHC Act of 1956.

Current Actions: On December 28, 2010, the Federal Reserve published a notice in the **Federal Register** (75 FR 81607) requesting public comment for 60 days on the extension, without revision, of the International Applications and Prior Notifications under Subparts A and C of Regulation K. The comment period for this notice expired on February 28, 2011. The Federal Reserve did not receive any comments.

3. Report title: International Applications and Prior Notifications Under Subpart B of Regulation K.

Agency form number: FR K–2.

OMB control number: 7100–0284.

Frequency: Event generated.

Reporters: Foreign banks.

Estimated annual reporting hours: 630 hours.

Estimated average hours per response: 35 hours.

Number of respondents: 18.

General description of report: This information collection is mandatory pursuant to sections 7, 10, and 13 of the International Banking Act (12 U.S.C. 3105, 3107, 3108). The applying or notifying organization may request that portions of the information contained in the FR K–2 be afforded confidential treatment. To do so, applicants must demonstrate how the information for which confidentiality is requested would fall within the scope of one or more of the exemptions contained in the Freedom of Information Act. Any such request would have to be evaluated on a case-by-case basis.

Abstract: Foreign banks are required to obtain the prior approval of the Federal Reserve to establish a branch, agency, or representative office; to acquire ownership or control of a commercial lending company in the United States; or to change the status of any existing office in the United States. The Federal Reserve uses the information, in part, to fulfill its statutory obligation to supervise FBOs with offices in the United States.

Current Actions: On December 28, 2010, the Federal Reserve published a notice in the **Federal Register** (75 FR 81607) requesting public comment for 60 days on the extension, without revision, of the International Applications and Prior Notifications Under Subpart B of Regulation K. The comment period for this notice expired on February 28, 2011. The Federal Reserve did not receive any comments.

4. Report title: Application for a Foreign Organization to Acquire a U.S. Bank or Bank Holding Company.

Agency form number: FR Y–3F.

OMB control number: 7100–0119.

Frequency: Event generated.

Reporters: Any company organized under the laws of a foreign country seeking to acquire a U.S. subsidiary bank or BHC.

Estimated annual reporting hours: Initial application, 90 hours; subsequent application, 490 hours.

Estimated average hours per response: Initial application, 90 hours; subsequent application, 70 hours.

Number of respondents: Initial application, 1; subsequent application, 7.

General description of report: This information collection is required to obtain or retain a benefit under sections 3(a), 3(c), and 5(a) through 5(c) of the BHC Act (12 U.S.C. 1842(a), (c), 1844(a)–(c)). The information provided in the application is not confidential unless the applicant specifically requests confidentiality and the Federal Reserve approves the request.

Abstract: Under the BHC Act, submission of this application is required for any company organized under the laws of a foreign country seeking to acquire a U.S. subsidiary bank or BHC. Applicants must provide financial and managerial information, discuss the competitive effects of the proposed transaction, and discuss how the proposed transaction would enhance the convenience and needs of the community to be served. The Federal Reserve uses the information, in part, to fulfill its supervisory responsibilities with respect to FBOs in the United States.

Current Actions: On December 28, 2010, the Federal Reserve published a notice in the **Federal Register** (75 FR 81607) requesting public comment for 60 days on the extension, without revision, of the Application for a Foreign Organization to Acquire a U.S. Bank or Bank Holding Company. The comment period for this notice expired on February 28, 2011. The Federal Reserve did not receive any comments.

Board of Governors of the Federal Reserve System, March 7, 2011.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2011–5514 Filed 3–9–11; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 4, 2011.

A. Federal Reserve Bank of Atlanta (Clifford Stanford, Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30309:

1. *Teche Holding Company,* New Iberia, Louisiana; to become a bank holding company by acquiring 100 percent of the outstanding shares of Teche Federal Bank, New Iberia, Louisiana.

Board of Governors of the Federal Reserve System, March 7, 2011.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2011–5458 Filed 3–9–11; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day–11–11BI]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

FoodNet Non-O157 Shiga toxin-Producing *E. coli Study:* Assessment of Risk Factors for Laboratory-Confirmed Infections and Characterization of Illnesses by Microbiological Characteristics—New—National Center for Emerging and Zoonotic Infectious Diseases, Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Each year many Shiga toxin-producing *E. coli* (STEC) infections occur in the United States, ranging in severity from mild diarrhea, to hemorrhagic colitis and in some cases, life-threatening hemolytic uremic syndrome (HUS). HUS occurs most frequently following infection with serogroup O157; 6% of patients with this type of STEC infection develop HUS, with highest occurrence in children aged < 5 years. HUS has a fatality rate of approximately 5%; up to 25% of HUS survivors are left with chronic kidney damage. STEC are broadly categorized into two groups by their O antigens, STEC O157 and non-O157 STEC. The serogroup O157 is most frequently isolated and most strongly associated with HUS. Risk factors for STEC O157 infections in the United States and internationally have been intensely studied. Non-O157 STEC are a diverse group that includes all Shiga toxin-producing *E. coli* of serogroups other than O157. Over 50 STEC serogroups are known to have caused human illness. Numerous non-O157 outbreaks have been reported from throughout the world and clinical outcomes in some patients can be as severe as those seen with STEC O157 infections, however, little is known about the specific risk factors for infections due to non-O157 STEC serogroups. More comprehensive understanding of risk factors for sporadic non-O157 STEC infections is needed to inform prevention and control efforts. The FoodNet case-control study will be the first multistate investigation of non-outbreak-associated non-O157 STEC infections in the United States. It will investigate risk factors for non-O157 STEC infections, both as a group and individually for the most common non-O157 STEC serogroups. In addition, the study will characterize the major known virulence factors of non-O157 STEC to assess how risk factors and clinical features vary by virulence factor profiles. As the largest, most comprehensive, and most powerful study of its kind, it could make an important contribution towards better understanding of non-O157 STEC infections and to providing science-based recommendations for interventions to prevent these infections.

Persons with non-O157 STEC infections who are identified as part of routine public health surveillance and randomly selected healthy persons in the patients' communities (to serve as controls) will be contacted and offered enrollment into this study. Participation is completely voluntary and there is no cost for enrollment. The total estimated annualized burden is 268 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Patients	161	1	25/60
Controls	483	1	25/60

Catina Conner,

Acting Reports Clearance Officer, Centers for Disease Control and Prevent.

[FR Doc. 2011–5460 Filed 3–9–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0479]

Mark E. Van Wormer: Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (the FD&C Act) permanently debarring Mark E. Van Wormer, MD, from providing services in any capacity to a person that has an approved or pending drug product application. We base this order on a finding that Dr. Van Wormer was convicted of a felony under Federal law for conduct relating to the regulation of a drug product under the FD&C Act. Dr. Van Wormer was given notice of the proposed permanent debarment and an opportunity to request a hearing within the timeframe prescribed by regulation. In a January 1, 2011, letter to FDA, Dr. Van Wormer notified FDA that he did not plan to seek a hearing and therefore has waived his right to a hearing concerning this action.

DATES: This order is effective March 10, 2011.

ADDRESSES: Submit applications for special termination of debarment to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kenny Shade, Office of Regulatory Affairs (HFC–230), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–796–4640.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(a)(2)(B) of the FD&C Act (21 U.S.C. 335a(a)(2)(B)) requires debarment of an individual if FDA finds that the individual has been convicted of a felony under Federal law for conduct otherwise relating to the regulation of any drug product under the FD&C Act.

On December 13, 2007, the U.S. District Court, District of New Mexico, entered judgment against Dr. Van Wormer for felony misbranding a drug while held for sale in violation of 21 U.S.C. 333(a)(2), 331(k) and 352(i)(3).

FDA's finding that debarment is appropriate is based on the felony conviction referenced herein for conduct relating to the regulation of a drug product. The factual basis for the conviction is as follows: Dr. Van Wormer is a physician licensed by the New Mexico State Board of Medicine, and he owned and operated the Union County Medical Center, also known as the Union County Medical, Diagnostic Imaging and Laser Surgery Center, PC, and the Physicians GreatSkin® Clinic.

From on or about January 13, 2004, through on or about November 9, 2004, Dr. Van Wormer advertised the use of Allergan's approved BOTOX for use in treatment of forehead wrinkles. However, during that time he knowingly used TRI-toxin, an unapproved botulinum toxin type A product, that he purchased from Toxin Research International, Inc. (TRI), a company in Tucson, AZ.

Dr. Van Wormer purchased approximately 20 vials of the TRI-toxin, which he injected into his patients. He did not inform his patients that they were being injected with an unapproved substance, and patients were charged as if they were receiving the approved drug product. Dr. Van Wormer injected approximately 120 patients with the unapproved TRI-toxin.

As a result of his convictions, on December 17, 2010, FDA sent Dr. Van Wormer a notice by certified mail proposing to permanently debar him from providing services in any capacity to a person that has an approved or pending drug product application. The proposal was based on a finding, under section 306(a)(2)(B) of the FD&C Act, that Dr. Van Wormer was convicted of a felony under Federal law for conduct relating to the regulation of a drug product under the FD&C Act. The proposal also offered Dr. Van Wormer an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Dr. Van Wormer submitted a letter dated January 1, 2011, acknowledging receipt of the proposal to debar and noting that he did not plan to seek a further hearing regarding the matter and thereby has waived his opportunity for a hearing and any contentions concerning his debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Director, Office of Enforcement, Office of Regulatory Affairs, under section 306(a)(2)(B) of the FD&C Act, under authority delegated to the Director (Staff Manual Guide 1410.35), finds that Mark E. Van Wormer has been convicted of a felony under Federal law for conduct relating to the regulation of a drug product under the FD&C Act.

As a result of the foregoing finding and based on his notification of acquiescence, Dr. Van Wormer is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application under sections 505, 512, or 802 of the FD&C Act (21 U.S.C. 355, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective (*see* **DATES**), (*see* section 306(c)(1)(B), (c)(2)(A)(ii), (c)(2)(B) of the FD&C Act and section 201(dd) of the FD&C Act (21 U.S.C.321(dd))). Any person with an approved or pending drug product application who knowingly employs or retains as a consultant or contractor, or otherwise uses the services of Dr. Van Wormer, in any capacity during Dr. Van Wormer's debarment, will be subject to civil money penalties (section 307(a)(6) of the FD&C Act (21 U.S.C. 335b(a)(6))). If Dr. Van Wormer provides services in any capacity to a person with an approved or pending drug product application during his period of debarment, he will be subject to civil money penalties (section 307(a)(7) of the FD&C Act). In addition, FDA will not accept or review any abbreviated new drug applications submitted by or with the assistance of Dr. Van Wormer during his period of debarment (section 306(c)(1)(B) of the FD&C Act).

Any application by Dr. Van Wormer for special termination of debarment under section 306(d)(4) of the FD&C Act should be identified with Docket No. FDA–2010–N–0479 and sent to the Division of Dockets Management (*see* **ADDRESSES**). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j).

Publicly available submissions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: *February 16, 2011.*

Howard Sklamberg,

Director, Office of Enforcement, Office of Regulatory Affairs.

[FR Doc. 2011–5498 Filed 3–9–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; *telephone:* 301/496–7057; *fax:* 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

System and Method for Automatic Speed Adaptation Control of a Treadmill

Description of Invention: The invention offered for further commercial development relates to the coupling of virtual reality technology with a treadmill to implement goal-oriented walking practices effectively and to promote improved learning skills during gait training. The technology will be useful in rehabilitation of individuals with gait impairments resulting from Parkinson's disease, Traumatic Brain Injury, Stroke, Cerebral Palsy, and Spinal Cord Injury. In order to allow patients practice (*e.g.,* voluntary change of walking speed in a natural way), software has been developed that automatically updates the velocity of a treadmill following the intention of the person walking on the treadmill. The invention uses a swing foot velocity measurement to control the velocity of the treadmill which can quickly and precisely detect the user's intention of changing walking velocity. Swing foot velocity measurement allows users to voluntarily change walking velocity while they have a realistic feel of walking (such as over-ground walking). We are seeking a CRADA collaborator to expand implementation of the invention into a fully integrated system that can control treadmill velocity in real time and can be reliably adapted to typical commercial treadmills.

Applications:

- Rehabilitation of individuals with gait impairments as a complication of Parkinson's disease, traumatic brain injury, stroke, cerebral palsy, or spinal cord injury.
- The technology can also be used for walking through architectural models, for educational purposes (student walk through historical sites or geological surfaces), military or law enforcement training, gaming, motor and sensory rehabilitation, and exercise and recreation.

Development Status: Development partner with experience designing virtual reality environments is sought for a CRADA collaboration.

Inventors: Hyung S. Park (NIH/CC) and Jung Won Yoon.

Relevant Publications:

1. Lichtenstein L, Barabas J, Woods RL, Peli E. A feedback control interface for treadmill locomotion in virtual environments. ACM Trans Appl Percept. 2007 Jan;4(1):Article No. 7; doi 10.1145//1227134.1227141.
2. Souman JL, Giordano PR, Frissen I, De Luca A, Ernst MO. Making virtual walking real: Perceptual evaluation of a new treadmill control algorithm. ACM Trans Appl Percept. 2010 Feb;7(2):Article No. 11; doi 10.1145//1670671.1670675.
3. Christensen RR, Hollerbach JM, Xu Y, Meek SG. Inertial force feedback for the treadport locomotion interface. Presence: Teleoperators and Virtual Environments. 2000 Feb;9(1):1–14; doi:10.1162/105474600566574.
4. von Zitzewitz J, Bernhardt M, Riener R. A novel method for automatic treadmill speed adaptation. IEEE Trans Neural Syst Rehabil Eng. 2007 Sep;15(3):401–409. [PubMed: 17894272]
5. Farnet MG. Treadmill having an automatic speed control system. U.S. Patent 5,368,532 issued November 29, 1994.
6. Potash RL, Jentges CJ, Burns SK, Potash RJ. Adaptive treadmill. U.S. Patent 5,314,391 issued May 24, 1994.
7. Minetti AE, Boldrini L, Brusamolin L, Zamparo P, McKee T. A feedback-controlled treadmill (treadmill-on-demand) and the spontaneous speed of walking and running in humans. J Appl Physiol. 2003 Aug;95(2):838–843. [PubMed: 12692130]

Patent Status: HHS Reference No. E–046–2011/0—One aspect of the overall invention currently exists in software form, for which the U.S. Government will not be seeking patent protection.

Licensing Status: Available for licensing.

Licensing Contacts:

- Uri Reichman, PhD, MBA; 301–435–4616; *UR7a@nih.gov*.
- Michael Shmilovich, Esq.; 301–435–5019; *ShmilovichM@mail.nih.gov*.

Collaborative Research Opportunity: The National Institutes of Health Clinical Center is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize "A system and method for automatic speed adaptation control of a treadmill for patients." Please contact Dr. Hyung S. Park at 301–451–7533 for more information.

Method for the Detection of a Subdural Hematoma Using a Handheld Hematoma Detector and Discriminator

Description of Invention: The invention offered for licensing and further development is a device and method for detecting hematomas. The device is based on near infrared light emitted perpendicularly into a tissue from a non-stationary emitter and on continuous detection of the reflected light with a non-stationary probe. The device is designed as a handheld detector that can be used either in an ER or at the scene of an accident, which will allow the Doctor or EMT to diagnose hematoma for patients with a Traumatic Brain Injury at the scene. Furthermore, this device can be utilized to discriminate between subdural and epidural hematoma. The invention also discloses a novel method of data analysis. The specific combination and sequences of data analysis are performed to discriminate healthy tissue from tissue perfused with blood. In addition, an interface to a laptop will be provided that creates a 3D surface image of the location of the hematoma is displayed. This invention will result in a better triage and treatment for patients with Traumatic Brain Injury (TBI) and fills a must filled gap in TBI health care.

Applications:

- Diagnosis for hematoma
- Early screening and triage for diagnosis of hemorrhage from head trauma
- At-the-scene diagnostic
- On-going patient monitoring
- Neurosurgical procedure preparation
- The device will be useful in combat critical care and/or third world care where CT may not be readily available
- Potential use of the device in a field deployable sense

Advantages:

- Improved capabilities of accurately diagnosing hematoma
- At-the-scene detection capabilities
- The device is inexpensive, simple in its design and easy to operate

• Potential improvement in medical procedures

Development Status:

• The invention is fully developed

• May need to develop a prototype for testing on phantoms

Inventors: Jason D. Riley (NICHD) *et al.*

Patent Status:

• U.S. Provisional Application No. 61/286, 626 filed 15 Dec 2009 (HHS Reference No. E–010–2010/0–US–01)

• PCT Application No. PCT/US2010/060506 filed 15 Dec 2010 (HHS Reference No. E–010–2010/0–PCT–02)

Licensing Status: Available for licensing.

Licensing Contacts:

• Uri Reichman, PhD, MBA; 301–435–4616; *UR7a@nih.gov*.

• Michael Shmilovich, Esq.; 301–435–5019; *ShmilovichM@mail.nih.gov*.

Collaborative Research Opportunity: The National Institute of Child Health and Human Development, Section on Biomedical Stochastic Physics, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize the topic of this invention or related laboratory interests. Please contact Alan Hubbs, PhD at 301–594–4263 or *hubbsa@mail.nih.gov* for more information.

System and Method for Monitoring and Controlling Radio Frequency Signals in Interventional Devices

Description of Invention: The invention offered for licensing and commercial development is in the field of Interventional Magnetic Resonance Imaging ("iMRI"). More specifically the invention discloses interventional devices in which the heat generated at the device during the imaging process can be controlled to not exceed acceptable levels.

Interventional devices may heat up significantly during an interventional MRI procedure as a result of an RF induced current on the device. The RF induced current is caused by the coupling between the interventional device and RF electrical fields generated by the MRI. As the magnitude of the induced RF signal increases, the amount of heat that is generated also increases. The system of the present invention measures the induced RF signal and changes a decoupling capacitor value by using a varactor and a control circuit to adjust the impedance of the device and thus controls the magnitude of the RF signal. This unique design renders the device and the procedures done with it safe.

Applications:

• Interventional cardiology

• MRI guided surgery

Advantages: The device may fundamentally enable any "active" MRI catheter device to be safe during real-time MRI guided interventional procedures. Automated feedback loops between RF power applied by the MRI scanner and measured power detected inside the MRI catheter coil can be used to assure safety of "active" MRI catheter devices.

Development Status: In development. Prototype is being built.

Inventors: Ozgur Kocaturk and Merdim Sonmez (NHLBI).

Relevant Publication: Overall WR, Pauly JM, Stang PP, Scott GC. Ensuring safety of implanted devices under MRI using reversed RF polarization. Magn Reson Med. 2010 Sep;64(3):823–833. [PubMed: 20593374]

Patent Status: U.S. Provisional Application No. 61/430,311 filed 07 Jan 2011 (HHS Reference No. E–034–2011/0–US–01)

Licensing Status: Available for licensing.

Licensing Contact:

• Uri Reichman, PhD, MBA; 301–435–4616; *UR7a@nih.gov.*

• Michael Shmilovich, Esq.; 301–435–5019; *ShmilovichM@mail.nih.gov.*

Collaborative Research Opportunity: The National Heart, Lung, and Blood Institute is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize safety interventional devices during iMRI procedures. Please contact Peg Koelble at *koelblep@nhlbi.nih.gov* for more information.

Single Channel MRI Guidewire

Description of Invention: The invention offered for licensing and commercial development is in the field of Interventional Magnetic Resonance Imaging ("iMRI"). More specifically the invention discloses a guidewire for magnetic resonance imaging with a single channel design to reduce complexity and to provide conspicuous tip visibility under MRI. In the design of the present device, the guidewire body includes an antenna formed from a rod and a helical coil coupled together. The helical coil can have multiple windings without a gap between the windings. The rod passes through the windings of the helical coil and is coupled to the helical coil using a conductive joint positioned at an end of the rod and at an end of the helical coil. Insulation can be positioned between the rod and the windings of the helical coil. The configuration allows visibility of the antenna along the length of a rod, except where it enters the windings of the coil. Thus, the tip visibility is enhanced as being separated from the rod.

Applications:

• Interventional cardiology

• MRI guided surgery

Advantages:

• The unique design of the device and its dipole antenna, provide a lower profile guidewire (such as coronary 0.014: guidewire) and it is therefore safer and more convenient to use compared with existing guidewires.

• The modified dipole antenna of the device can combine the distinct tip signal profile typical of loop antennae with the whole-shaft visibility of dipole antennae, all operating on a single receiver channel. This overcomes challenges both of conspicuity and of undesirable coupling of comparable two-channel devices that causes heating.

Development Status: In development. Prototype is being built.

Inventors: Merdim Sonmez, Ozgur Kocaturk, and Christina E. Saikus (NHLBI)

Relevant Publications:

1. Kocaturk O, Kim AH, Saikus CE, Guttman MA, Faranesh AZ, Ozturk C, Lederman RJ. Active two-channel 0.035" guidewire for interventional cardiovascular MRI. J Magn Reson Imaging. 2009 Aug;30(2):461–465. [PubMed: 19629968]
2. Qian D, El-Sharkawy AM, Atalar E, Bottomley PA. Interventional MRI: tapering improves the distal sensitivity of the loopless antenna. Magn Reson Med. 2010 Mar;63(3):797–802. [PubMed: 20187186]

Patent Status: U.S. Provisional Application No. 61/429,833 filed 05 Jan 2011 (HHS Reference No. E–274–2010/0–US–01)

Related Technology: U.S. Patent Application No. 12/810,481 filed 24 Jun 2010 (HHS Reference No. E–209–2007/0–US–03), entitled "Active 0.035 Guidewire with Two Separate Channels"

Licensing Status: Available for licensing.

Licensing Contact:

• Uri Reichman, PhD, MBA; 301–435–4616; *UR7a@nih.gov.*

• Michael Shmilovich, Esq.; 301–435–5019; *ShmilovichM@mail.nih.gov.*

Collaborative Research Opportunity: The National Heart, Lung, and Blood Institute is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize technology involving single channel MRI guidewires. Please contact Peg Koelble at

koelblep@nhlbi.nih.gov for more information.

Active Adaptive Detuning Systems To Improve Safety of Interventional Devices

Description of Invention: The invention offered for licensing and commercial development is in the field of Interventional Magnetic Resonance Imaging ("iMRI"). More specifically the invention discloses interventional devices in which the heat generated at the device during the imaging process can be controlled to not exceed acceptable levels.

Active MRI compatible intravascular devices contain RF antenna so that they are visible under MRI. However, these metallic structures may heat up significantly during interventional MRI procedures due to eddy current formation over the conductive transmission lines. The electrical field coupling between interventional devices and RF transmission coils strongly depend on the device position and orientation within the bore and insertion length of the device. Currently, conventional detuning circuit is used to decouple the conductive intravascular device during RF transmission phase of the MRI by activating the circuit with a PIN diode. However, conventional passive techniques do not adapt for each possible orientation or insertion length of the device. The current invention provides for a new active detuning system that adapts its circuit component to limit heating for every possible orientation and insertion length. The system reads out the received current signal value during RF transmission phase and changes the decoupling capacitor value by using varactor and integrated circuit components to reach new resonant condition (very high impedance).

Applications:

- Interventional cardiology
- MRI guided surgery

Advantages: The device may fundamentally enable any "active" MRI catheter device (independent of the orientation and insertion length of the device) to be safe during real-time MRI guided interventional procedures.

Development Status: In development. Prototype is being built.

Inventors: Ozgur Kocaturk (NHLBI).

Patent Status: U.S. Provisional Application No. 61/360,998 filed 07 Jul 2010 (HHS Reference No. E–114–2010/0–US–01)

Relevant Publication: Overall WR, Pauly JM, Stang PP, Scott GC. Ensuring safety of implanted devices under MRI using reversed RF polarization. Magn Reson Med. 2010 Sep;64(3):823–833. [PubMed: 20593374]

Licensing Status: Available for licensing.

Licensing Contact:

- Uri Reichman, PhD, MBA; 301–435–4616; *UR7a@nih.gov.*
- Michael Shmilovich, Esq.; 301–435–5019; *ShmilovichM@mail.nih.gov.*

Collaborative Research Opportunity: The National Heart, Lung, and Blood Institute is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. Please contact Peg Koelble at *koelblep@nhlbi.nih.gov* for more information.

Dated: March 4, 2011.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2011–5511 Filed 3–9–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Mouse Models of Host Responses.

Date: April 5, 2011.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817.

Contact Person: Brandt Randall Burgess, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, DHHS/NIH/NIAID, 6700B Rockledge Drive, MSC 7616, Bethdesda, MD 20892, 301–451–2584, *bburgess@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 4, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–5505 Filed 3–9–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: AIDS Predoctoral and Postdoctoral.

Date: March 29, 2011.

Time: 11 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: New York Marriott East Side, 525 Lexington Avenue at 49th Street, New York, NY 10017.

Contact Person: Shiv A Prasad, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301–443–5779, *prasads@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict Computational Genetics and Genomics.

Date: March 29, 2011.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Malgorzata Klosek, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188, MSC 7849, Bethesda, MD 20892, (301) 435–2211, *klosekm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Presynaptic Mechanisms of Neural Plasticity.

Date: March 29–31, 2011.

Time: 12 p.m. to 8 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Joanne T Fujii, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7850, Bethesda, MD 20892, (301) 435–1178, *fujiij@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: AIDS/HIV Innovative Research Applications.

Date: March 30, 2011.

Time: 11 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Kenneth A Roebuck, PhD, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Mitochondrial Metabolism.

Date: April 4–5, 2011.

Time: 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Michael H Chaitin, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892, (301) 435–0910, *chaitinm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Biological Chemistry and Macromolecular Biophysics.

Date: April 4–5, 2011.

Time: 11 a.m. to 10 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Nuria E Assa-Munt, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4164, MSC 7806, Bethesda, MD 20892, (301) 451–1323, *assamunu@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–10–225: Yeast Genome Resource.

Date: April 5–7, 2011.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: University of Washington, 4333 Brooklyn Avenue, NE., Seattle, WA 98195.

Contact Person: Janet M Larkin, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1102, MSC 7840, Bethesda, MD 20892, 301–806–2765, *larkinja@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA: RM–10–010: Transformative R01 Roadmap Review.

Date: April 6, 2011.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Baltimore Marriott Waterfront, 700 Aliceanna Street, Baltimore, MD 21202.

Contact Person: John L. Bowers, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4170, MSC 7806, Bethesda, MD 20892, (301) 435–1725, *bowersj@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 4, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–5509 Filed 3–9–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, Research Centers in Trauma, Burn and Perioperative Injury.

Date: April 8, 2011.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room 3AN12B, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Brian R. Pike, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18, Bethesda, MD 20892, 301–594–3907, *pikbr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: March 3, 2011.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–5513 Filed 3–9–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Clinical Center; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the NIH Advisory Board for Clinical Research.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended to discuss personnel matters, the disclosure of which would constitute a clearly unwarranted invasion of privacy.

Name of Committee: NIH Advisory Board for Clinical Research.

Date: March 28, 2011.

Open: 10 a.m. to 1:15 p.m.

Agenda: To review the FY12 Clinical Center Budget.

Place: National Institutes of Health, Building 10, 10 Center Drive, Medical Board Room 4–2551, Bethesda, MD 20892.

Closed: 1:15 p.m. to 2 p.m.

Agenda: To review and evaluate to discuss personnel matters.

Place: National Institutes of Health, Building 10, 10 Center Drive, Medical Board Room 4–2551, Bethesda, MD 20892.

Contact Person: Maureen E Gormley, Executive Secretary, Mark O. Hatfield Clinical Research Center, National Institutes of Health, Building 10, Room 6–2551, Bethesda, MD 20892, (301) 496–2897.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Dated: March 3, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–5510 Filed 3–9–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussion 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 Eye Institute Special Emphasis Panel, NEI Clinical Applications II.

Date: April 11, 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: Anne E. Schaffner, PhD, Chief, Scientific Review Branch, Division of Extramural Research, National Eye Institute, National Institutes of Health, 5635 Fishers Lane, Suite 1300, MSC 9300, 301–451–2020, *aes@nei.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: March 4, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–5507 Filed 3–9–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; MBRS Score Meeting.

Date: April 4, 2011.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room 3AN12B, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Margaret J. Weidman, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18B, Bethesda, MD 20892, 301–594–3663, *weidmanma@nigms.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Develop.m.ental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: March 3, 2011.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–5503 Filed 3–9–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences Strategic Planning

AGENCY: National Institutes of Health (NIH), National Institute of Environmental Health Sciences (NIEHS), Department of Health and Human Services (HHS).

ACTION: Request for comments and nominations

SUMMARY: The NIEHS is updating its strategic plan. To anticipate, meet, and set priorities for environmental health research, training, resources, and technologies, NIEHS requests input from scientists, staff, stakeholders, members of the public, and all interested parties. The goal of this strategic planning process is to define an overarching Vision Statement, Strategic Goals, and Implementation Strategies for the NIEHS. To begin the process, the institute is asking for the online submission of Visionary Ideas. In addition, the NIEHS seeks the nomination of interested individuals to participate in a Stakeholder Community Workshop to identify, discuss, and develop the draft strategic goals that will form the basis of the Strategic Plan. The current NIEHS Strategic Plan can be viewed at: *http://www.niehs.nih.gov/about/od/strategicplan/strategicplan2006/index.cfm.*

DATES: Submit Visionary Ideas and nominations for participation in the Community Workshop to the NIEHS online at *http://strategicplan.niehs.nih.gov* on or before April 30, 2011, COB (5 p.m. Pacific Time).

ADDRESSES: Visionary Ideas, other comments, and nominations for meeting participation are strongly encouraged to be submitted online at the NIEHS Strategic Planning Web site: *http://www.niehs.nih.gov/about/od/strategicplan/index.cfm.* They may also be submitted by e-mail to *ehs-strategic-plan@niehs.nih.gov* or by mail to the: Office of the Deputy Director, NIEHS/NIH/HHS, P.O. Box 12233, Maildrop B2–06, Research Triangle Park, NC 27709.

FOR FURTHER INFORMATION CONTACT: Dr. Sheila Newton, Office of Policy, Planning and Evaluation; P: 919–541–4343, *e-mail: newton1@niehs.nih.gov.*

SUPPLEMENTARY INFORMATION:

Background

The mission of the NIEHS is to reduce the burden of human illness and

disability by understanding how the environment influences the development and progression of human disease. The NIEHS achieves its mission through multidisciplinary biomedical research programs and prevention and intervention efforts. NIEHS research is disseminated to inform evidence-based environmental health policies to prevent disease and protect health. The NIEHS also focuses on communication strategies that encompass training, education, technology transfer, and community engagement. To read more background and follow the progress of this planning process, visit the NIEHS Strategic Planning Web site at

Request for Visionary Ideas

The NIEHS seeks Visionary Ideas from staff, stakeholders, and all interested parties to inform its Strategic Planning. Visionary Ideas are thoughts on the *http://strategicplan.niehs.nih.gov* mission, purpose, direction, goals, leadership, and responsibilities of the Institute. Input received in response to this request will be collected online at *http://strategicplan.niehs.nih.gov* from March through April 2011, and may be publicly viewed and commented on at this Web site.

Request for Nomination of Community Workshop Participants

The NIEHS invites nominations of individuals to participate in a Stakeholder Community Workshop to discuss strategic planning in more detail. To nominate yourself or someone else, go to *http://www.niehs.nih.gov/about/od/strategicplan/nomination/index.cf.* Nominations should be submitted on or before COB (5 p.m. Pacific Time) April 30, 2011.

Dated: March 1, 2011.

Linda S. Birnbaum,

Director, National Institute of Environmental Health Sciences and National Toxicology Program.

[FR Doc. 2011–5536 Filed 3–9–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the combined meeting of the Substance Abuse and Mental Health Services Administration's (SAMHSA) four National Advisory Councils (the SAMHSA National Advisory Council (NAC), the Center for Mental Health Services NAC, the Center for Substance Abuse Prevention NAC, and the Center for Substance Abuse Treatment NAC), SAMHSA's Advisory Committee for Women's Services, and SAMHSA's Tribal Technical Advisory Committee on March 29, 2011.

The Councils were established to advise the Secretary, Department of Health and Human Services (HHS), the Administrator, SAMHSA, and Center Directors, concerning matters relating to the activities carried out by and through the Centers and the policies respecting such activities.

Under Section 501 of the Public Health Service Act, the Advisory Committee for Women's Services (ACWS) is statutorily mandated to advise the SAMHSA Administrator and the Associate Administrator for Women's Services on appropriate activities to be undertaken by SAMHSA and its Centers with respect to women's substance abuse and mental health services.

Pursuant to Presidential Executive Order No. 13175, November 6, 2000, and the Presidential Memorandum of September 23, 2004, SAMHSA established the Tribal Technical Advisory Committee for working with Federally-recognized Tribes to enhance the government-to-government relationship, honor Federal trust responsibilities and obligations to Tribes and American Indian and Alaska Natives. The SAMHSA TTAC serves as an advisory body to SAMHSA.

The meeting will include a report from the SAMHSA Administrator and discussions related to SAMHSA's FY 2012 Budget, SAMHSA's Strategic Initiatives, and the revamped Mental Health and Substance Abuse Prevention and Treatment Block Grant application.

The meeting is open to the public. However, attendance is limited to space availability. Public comments are welcome. The meeting may be accessed via Webcast. To attend on site, obtain the call-in number and access code, submit written or brief oral comments, or request special accommodations for persons with disabilities, please register on-line at *http://nac.samhsa.gov/Registration/meetingsRegistration.aspx*, or communicate with SAMHSA's Committee Management Officer, Ms. Toian Vaughn (*see* contact information below).

Substantive program information may be obtained after the meeting by accessing the SAMHSA Committee Web site, *http://nac.samhsa.gov/,* or by contacting Ms. Vaughn.

Committee Names: Substance Abuse and Mental Health Services Administration National Advisory Council. Center for Mental Health Services National Advisory Council. Center for Substance Abuse Prevention National Advisory Council. Center for Substance Abuse Treatment National Advisory Council. SAMHSA's Advisory Committee for Women's Services. SAMHSA Tribal Technical Advisory Committee.

Date/Time/Type: March 29, 2011, 8:30 a.m.–5:30 p.m. (OPEN).

Place: SAMHSA, 1 Choke Cherry Road, SAMHSA Conference Rooms, Rockville, Maryland 20857.

Contact: Toian Vaughn, M.S.W., Committee Management Officer and Designated Federal Official, SAMHSA National Advisory Council, 1 Choke Cherry Road, Rockville, Maryland 20857, Telephone (240) 276–2307, *Fax:* (240) 276–1024 and *E-mail: toian.vaughn@samhsa.hhs.gov.*

The Substance Abuse and Mental Health Services Administration National Advisory Council will meet on March 30. The meeting will include the Administrator's report and follow up discussions related to the March 29 SAMHSA Joint Advisory Committee meeting.

The meeting is open to the public. However, attendance is limited to space availability. Public comments are welcome. To attend on-site, submit written or brief oral comments, or request special accommodations for persons with disabilities, please register at the SAMHSA Committees' Web site at *http://nac.samhsa.gov/Registration/meetingsRegistration.aspx*, or communicate with the SAMHSA Council's Designated Federal Official, Ms. Toian Vaughn (see contact information below).

Committee Name: Substance Abuse and Mental Health Services Administration National Advisory Council.

Date/Time/Type: March 30, 2011, 8:30 a.m.–12 p.m. (OPEN).

Place: SAMHSA, 1 Choke Cherry Road, Sugarloaf Conference Room, Rockville, Maryland 20857.

Contact: Toian Vaughn, M.S.W., Committee Management Officer and Designated Federal Official, SAMHSA National Advisory Council, 1 Choke Cherry Road, Rockville, Maryland 20857, Telephone (240) 276–2307, *Fax:* (240) 276–1024 and *E-mail: toian.vaughn@samhsa.hhs.gov.*

The Center for Mental Health Services National Advisory Council will meet on March 30. The meeting will include the Director's report, follow up discussions on SAMHSA's Strategic Initiative Paper, an update on the Institute on Medicine in Schools Programs Study, an update

on the Mental Health Transformation State Incentive Grant Evaluation results, and presentations on SAMHSA's Mental Illness Messaging activities and Mental Health "First Aid."

The meeting is open to the public. However, attendance is limited to space availability. Public comments are welcome. To attend on-site, submit written or brief oral comments, or request special accommodations for persons with disabilities, please register at the SAMHSA Committees' Web site at *http://nac.samhsa.gov/Registration/meetingsRegistration.aspx*, or communicate with the CMHS Council's Designated Federal Official, Ms. Carol Watkins (*see* contact information below).

Committee Name: Center for Mental Health Services National Advisory Council.

Date/Time/Type: March 30, 2011, 1:30 p.m.–5 p.m. (OPEN).

Place: SAMHSA, 1 Choke Cherry Road, Sugarloaf Conference Room, Rockville, Maryland 20857.

Contact: Carol Watkins, Designated Federal Official, CMHS National Advisory Council, 1 Choke Cherry Road, Rockville, Maryland 20857, Telephone (240) 276–2254, *Fax:* (240) 276–1395 and *E-mail: carol.watkin2@samhsa.hhs.gov.*

The Center for Substance Abuse Prevention National Advisory Council will meet on March 30. The meeting will include the executive leadership exchange; follow up discussion related to SAMHSA's Strategic Initiative for Prevention Paper, and presentations on CSAP's appropriation and budget.

The meeting is open to the public. However, attendance is limited to space availability. To attend on-site, submit written or brief oral comments, or request special accommodations for persons with disabilities, please register at the SAMHSA Committees' Web site at *http://nac.samhsa.gov/Registration/meetingsRegistration.aspx*, or communicate with the CSAP Council's Designated Federal Official, LTJG Michael Muni (*see* contact information below).

Committee Name: Center for Substance Abuse Prevention National Advisory Council.

Date/Time/Type: March 30, 2011, 1:30 p.m.–4:30 p.m. (OPEN).

Place: SAMHSA, 1 Choke Cherry Road, Rock Creek Conference Room, Rockville, Maryland 20857.

Contact: Michael Muni, Designated Federal Official, CSAP National Advisory Council, 1 Choke Cherry Road, Rockville, Maryland 20857, Telephone (240) 276–2559, *Fax:* (240) 276–2430 and *E-mail: Michael.muni@samhsa.hhs.gov.*

The Center for Substance Abuse Treatment National Advisory Council will meet on March 30. The meeting will include the Director's report and SAMHSA's FY 2012 Budget, and other administrative and program developments.

The meeting is open to the public. However, attendance is limited to space availability. Public comments are welcome. To attend on-site, or request special accommodations for persons with disabilities, please register at the SAMHSA Committees' Web site at *http://nac.samhsa.gov/Registration/meetingsRegistration.aspx*, or communicate with the CSAT Council's Designated Federal Official, Ms. Cynthia Graham (*see* contact information below).

Committee Name: Center for Substance Abuse Treatment National Advisory Council.

Date/Time/Type: March 30, 2011, 1 p.m.–5 p.m. (OPEN).

Place: SAMHSA, 1 Choke Cherry Road, Seneca Conference Room, Rockville, Maryland 20857.

Contact: Cynthia Graham, Designated Federal Official, CSAT National Advisory Council, 1 Choke Cherry Road, Rockville, Maryland 20857, Telephone (240) 276–1692, *Fax:* (240) 276–1690, *E-mail: cynthia.graham@samhsa.hhs.gov.*

The Substance Abuse and Mental Health Services Administration's Advisory Committee for Women's Services Committee (ACWS) will meet on March 30. The meeting will include a follow up discussion on SAMHSA's Strategic Initiatives Paper, review of gender-specific data in national trends of substance abuse related factors and the Trauma Peer Engagement Guide, updates from ACWS members, and other program developments.

Attendance by the public will be limited to space available. Public comments are welcome. To attend on site, submit written or brief oral comments, or to request special accommodations for persons with disabilities, please register at the SAMHSA Committees' Web site at *http://nac.samhsa.gov/Registration/meetingsRegistration.aspx*, or communicate with the ACWS Designated Federal Officer, Ms. Nevine Gahed (*see* contact information below).

Substantive meeting information and a roster of Committee members may be obtained either by accessing the SAMHSA Committees' Web site at *http://nac.samhsa.gov/WomenServices/index.aspx*, or by contacting Ms. Gahed. The transcript for the meeting will be available on the SAMHSA Committees' Web site within three weeks after the meeting.

Committee Name: SAMHSA's Advisory Committee for Women's Services.

Date/Time/Type: Wednesday, March 30, 2011, from 12:30 p.m.–4:30 p.m. (OPEN).

Place: 1 Choke Cherry Road, Great Falls Conference Room, Rockville, Maryland 20857.

Contact: Nevine Gahed, Designated Federal Officer, SAMHSA Advisory Committee for Women's Services, 1 Choke Cherry Road, Room 8–1058, Rockville, Maryland 20857, *Telephone:* (240) 276–2331; *FAX:* (240) 276–2010 and *E-mail: nevine.gahed@samhsa.hhs.gov.*

The Substance Abuse and Mental Health Services Administration Tribal Technical Advisory Committee (TTAC) will meet on March 30. The meeting will include a SAMHSA Administrator report and a presentation and discussion by the Principal Advisor for Tribal Affairs at the Department of Health and Human Services TTAC. The agenda will also include updates on SAMHSA's Health Reform activities; on SAMHSA's budget and legislative developments, and a status report on the Tribal Law and Order Act.

The meeting is open to the public. However, attendance is limited to space availability. Public comments are welcome. To attend on-site, submit written or brief oral comments, or request special accommodations for persons with disabilities, please register at the SAMHSA Committees' Web site at *http://nac.samhsa.gov/Registration/meetingsRegistration.aspx*, or communicate with the SAMHSA's Senior Advisor for Tribal Affairs, Ms. Sheila Cooper (see contact information below).

Committee Name: Substance Abuse and Mental Health Services Administration's Tribal Technical Advisory Committee.

Date/Time/Type: March 30, 2011, 8:30 p.m.–5 p.m. (OPEN).

Place: SAMHSA, 1 Choke Cherry Road, 8–1070 Conference Room, Rockville, Maryland 20857.

Contact: Sheila Cooper, Senior Advisor for Tribal Affairs, SAMHSA Tribal Technical Advisory Committee, 1 Choke Cherry Road, Rockville, Maryland 20857, Telephone (240) 276–2005, *Fax:* (240) 276–2010 and *E-mail: sheila.cooper@samhsa.hhs.gov.*

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 2011–5448 Filed 3–9–11; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2011–0005]

Agency Information Collection Activities: Proposed Collection; Comment Request, 1660–0062; State/Local/Tribal Hazard Mitigation Plans

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 60-day notice and request for comments; extension, without change, of a currently approved information collection; OMB No. 1660–0062.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed extension, without change, of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning State, Local and Tribal mitigation plan requirements to support administration of hazard mitigation assistance programs.

DATES: Comments must be submitted on or before May 9, 2011.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *http://www.regulations.gov* under Docket ID FEMA–2011–0005. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street, SW., Room 835, Washington, DC 20472–3100.

(3) *Facsimile.* Submit comments to (703) 483–2999.

(4) *E-mail.* Submit comments to *FEMA-POLICY@dhs.gov.* Include Docket ID FEMA–2011–0005 in the subject line.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Frederick Sharrocks, Branch Chief, Assessment and Planning Branch, Risk Analysis Division, Federal Insurance and Mitigation Administration, (202) 646–2796 for additional information. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION: Section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5165, as amended by the Disaster Mitigation Act of 2000 (DMA 2000), Public Law 106–390, provides new and revitalized approaches to mitigation planning. The Stafford Act provides a framework for linking pre-and post-disaster mitigation planning and initiatives with public and private interests to ensure an integrated, comprehensive approach to disaster loss reduction. Title 44 CFR part 201 provides the mitigation planning requirements for State, local and Indian Tribal governments to identify the natural hazards that impact them, to identify actions and activities to reduce any losses from hazards, and to establish a coordinated process to implement the plan, taking advantage of a wide-range of resources.

Collection of Information

Title: State/Local/Tribal Hazard Mitigation Plans.

Type of Information Collection: Extension, without change, of a currently approved information collection.

OMB Number: 1660–0062.

Form Titles and Numbers: None.

Abstract: The purpose of State, Local and Tribal Hazard Mitigation Plan requirements is to support the administration of FEMA Mitigation grant programs, and contemplate a significant State, Local and Tribal commitment to mitigation activities, comprehensive mitigation planning, and strong program management. Implementation of plans, pre-identified cost-effective mitigation measures will streamline the disaster recovery process. Mitigation plans are the demonstration of the goals, priorities to reduce risks from natural hazards.

Affected Public: State, local or Tribal Government.

Estimated Total Annual Burden Hours: 768,320 hours.

ESTIMATED ANNUALIZED BURDEN HOURS AND COSTS

Type of respondent	Form name/form number	Number of respondents	Number of responses per respondent	Total Number of responses	Avg. burden per response (in hours)	Total annual burden (in hours)	Avg. hourly wage rate	Total annual respondent cost
State, Local or Tribal Government.	New Plan Development (includes local and Tribal).	56	5	280	2080	582,400	$43.54	$25,357,696
State, Local or Tribal Government.	Mitigation Plan Updates (includes local and Tribal).	56	10	560	320	179,200	43.54	7,802,368
State, Local or Tribal Government.	Mitigation Plans Review by States (includes local and Tribal).	56	15	840	8	6,720	43.54	292,588
Total		56		1680		768,320		33,452,652

Estimated Cost: There are no operation and maintenance, or capital and start-up costs associated with this collection of information.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) Evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and

clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Dated: March 3, 2011.

Lesia M. Banks,

Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2011–5416 Filed 3–9–11; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2011–0009]

Agency Information Collection Activities: Proposed Collection; Comment Request, 1660–0039; FEMA Form 078–0–2A, National Fire Academy (NFA) Long-Term Evaluation Student/Trainee; FEMA Form 078–0–2, NFA Long-Term Evaluation Supervisors

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 60-day notice and request for comments; extension, without change, of a currently approved information collection; OMB No. 1660–0039; FEMA Form 078–0–2A (Presently FEMA Form 95–59), NFA Long-Term Evaluation Student/Trainee; FEMA Form 078–0–2 (Presently FEMA Form 95–58), NFA Long-Term Evaluation Supervisors.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed extension, without change, of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the long-term evaluation forms used to evaluate all NFA resident training.

DATES: Comments must be submitted on or before May 9, 2011.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *http://www.regulations.gov* under Docket ID FEMA–2011–0009. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street, SW., Room 835, Washington, DC 20472–3100.

(3) *Facsimile.* Submit comments to (703) 483–2999.

(4) *E-mail.* Submit comments to *FEMA-POLICY@dhs.gov.* Include Docket ID FEMA–2011–0009 in the subject line.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Laura Chevalier, Program Analyst, U.S. Fire Administration, 301–447–1614, for additional information. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION: The NFA is mandated under the Fire Prevention and Control Act of 1974 (Pub. L. 93–498) to provide training and education to the Nation's fire service and emergency service personnel. The state-of-the-art programs offered by the NFA serve as models of excellence and state and local fire service agencies rely heavily on the curriculum to train their personnel. To maintain the quality of these training programs, it is critical that courses be evaluated after students have had the opportunity to apply the knowledge and skills gained from their training.

Collection of Information

Title: National Fire Academy Long-term Evaluation Form for Supervisors and National Fire Academy Long-term Evaluation Form for Students/Trainees.

Type of Information Collection: Extension, without change, of a currently approved information collection.

OMB Number: OMB No. 1660–0039.

Form Titles and Numbers: FEMA Form 078–0–2A, NFA Long-Term Evaluation Student/Trainee; FEMA Form 078–0–2, NFA Long-Term Evaluation Supervisors.

Abstract: The National Fire Academy Long-Term Evaluation Form will be used to evaluate all National Fire Academy (NFA) on-campus resident training courses. Course graduates and their supervisors will be asked to evaluate the impact of the training on both individual job performance and the fire and emergency response department/community where the student works. The data provided by students and supervisors is used to update existing NFA course materials and to develop new courses that reflect the emerging issues/needs of the Nation's fire service.

Affected Public: State, local or Tribal Government.

Estimated Total Annual Burden Hours: 697.5 burden hours.

ANNUAL HOUR BURDEN

Data collection activity/instrument	No. of respondents	Frequency of responses	Hour burden per response	Annual responses	Total annual burden hours
NFA Long Term Evaluation Students/Trainees/FEMA Form 078–0–2A (Formerly FEMA Form 95–59)	2,250	1	.2	2,250	450
NFA Long Term Evaluation Supervisors/FEMA Form 078–0–2 (Formerly FEMA Form 95–58)	2,250	1	.11	2,250	247.5
Total	4,500			4,500	697.5

Estimated Cost: There are no annual start-up or capital costs.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) Evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Dated: March 3, 2011.

Lesia M. Banks,

Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2011–5418 Filed 3–9–11; 8:45 am]

BILLING CODE 9110–45–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2011–0003]

Agency Information Collection Activities: Proposed Collection; Comment Request, 1660–0058; Fire Management Assistance Grant Program

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 60-day notice and request for comments; extension, without change, of a currently approved information collection; OMB No. 1660–0058; FEMA Form 078–0–1 (previously FEMA Form 90–58), Request for Fire Management Assistance Declaration; FEMA Form 089–0–24 (previously FEMA Form 90–133), Request for Fire Management Sub-grant; FEMA Form 078–0–2 (previously FEMA Form 90–32), Principal Advisor's Report.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed extension, without change, of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the Fire Management Assistance Grant Program.

DATES: Comments must be submitted on or before May 9, 2011.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *http://www.regulations.gov* under Docket ID FEMA–2011–0003. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street, SW., Room 835, Washington, DC 20472–3100.

(3) *Facsimile.* Submit comments to (703) 483–2999.

(4) *E-mail.* Submit comments to *FEMA-POLICY@dhs.gov.* Include Docket ID FEMA–2011–0003 in the subject line.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Allen Wineland, Program Analyst, Federal Emergency Management Agency, 202–646–3661 for additional information. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION: The information collection is required for Fire Management Assistance Grant Program (FMAGP) eligibility determinations, grants management, and compliance with other Federal laws and regulations. 44 CFR part 204 specifies the information collections necessary to facilitate the provision of assistance under the FMAGP. FMAGP was established under Section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5187, as amended by section 303 of the Disaster Mitigation Act of 2000, and authorizes the President to provide assistance to any State or local government for the mitigation, management, and control of any fire on public or private forest land or grassland that threatens such destruction as would constitute a major disaster.

Collection of Information

Title: Fire Management Assistance Grant Program.

Type of Information Collection: Extension, without change, of a currently approved information collection.

OMB Number: 1660–0058.

Form Titles and Numbers: FEMA Form 078–0–1 (previously FEMA Form 90–58), Request for Fire Management Assistance Declaration; FEMA Form 089–0–24 (previously FEMA Form 90–133), Request for Fire Management Sub-grant; FEMA Form 078–0–2 (previously FEMA Form 90–32), Principal Advisor's Report.

Abstract: The information collection is required to make grant eligibility determinations for the Fire Management Assistance Grant Program (FMAGP). These eligibility-based grants and subgrants provide assistance to any eligible State, Tribal Government, or local government for the mitigation, management, and control of a fire on public or private forest land or grassland that is threatening such destruction as would constitute a major disaster. The data/information gathered in the forms is used to determine the severity of the threatening fire, current and forecast weather conditions, and associated factors related to the fire and its potential threat as a major disaster.

Affected Public: State, local, or Tribal Government.

Estimated Total Annual Burden Hours: 810.5 hours.

ESTIMATED ANNUALIZED BURDEN HOURS AND COSTS

Type of respondent	Form name/form number	Number of respondents	Number of responses per respondent	Total Number of responses	Average burden per response (in hours)	Total annual burden (in hours)	Avg. hourly wage rate	Total annual respondent cost
State, Local or Tribal Government.	FEMA-State Agreement and Amendment.	25	4	100	0.4 hours (24 minutes).	40	$52.56	$2,102.40
State, Local or Tribal Government.	State Administrative Plan for Fire Management Assistance.	25	1	25	8 hours	200	52.56	10,512.00
State, Local or Tribal Government.	Request for Fire Management Assistance Declaration, FEMA Form 078–0–1 (Previously FF 90–58).	25	4	100	1 hour	100	52.56	5,256.00
State, Local or Tribal Government.	Request for Fire Management Assistance Sub-grant, FEMA Form 089–0–24 (Previously FF 90–133).	25	4	100	0.3 hours (18 minutes).	30	52.56	1,576.80
State, Local or Tribal Government.	Principal Advisor's Report, FEMA Form 078–0–2 (Previously FF 90–32).	25	4	100	3 hours	300	52.56	15,768
State, Local or Tribal Government.	Appeal Letter	3	1	3	1 hour	3	52.56	157.68
State, Local or Tribal Government.	Duplication of Benefits Letter.	25	4	100	1 hour	100	52.56	5,256.00
State, Local or Tribal Government.	Training Sessions.	25	1	25	1.5 hours (90 minutes).	37.5	52.56	1,971.00
Total	.....	178	.....	553	.....	810.5	.....	42,599.88

Estimated Cost: There are no annual operation, maintenance, capital or startup costs associated with this collection.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) Evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Dated: March 3, 2011.

Lesia M. Banks,

Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2011–5419 Filed 3–9–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1952–DR; Docket ID FEMA–2011–0001]

California; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of California (FEMA–1952–DR), dated January 26, 2011, and related determinations.

DATES: *Effective Date:* March 3, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of California is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of January 26, 2011.

Madera and Mariposa Counties for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–5420 Filed 3–9–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Request for Entry or Departure for Flights to and From Cuba

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: 1651–0134.

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 Request for Entry or Departure for Flights to and from Cuba. 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 9, 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: Request for Entry or Departure for Flights To and From Cuba.

OMB Number: 1651–0134.

Form Number: None.

Abstract: Until recently, direct flights between the United States and Cuba were required to arrive or depart from one of three named U.S. airports: John F. Kennedy International Airport, Los Angeles International Airport, and Miami International Airport. On January 28, 2011, Customs and Border Protection's (CBP) regulations were amended to allow additional U.S. airports that are able to process international flights to request approval of CBP to process authorized flights between the United States and Cuba.

To be eligible to request approval to accept flights to and from Cuba, an airport must be an international airport, landing rights airport, or user fee airport, as defined and described in part 122 of the CBP regulations, and have adequate and up-to-date staffing, equipment and facilities to process international traffic.

In order for an airport to seek approval to allow arriving and departing flights from Cuba, the port authority must send a written request to CBP requesting permission. Information about the program and how to apply may be found at *http://www.cbp.gov/xp/cgov/newsroom/highlights/cuba_flights.xml.*

This information collection is authorized by 19 U.S.C. 1433, 1644a, 8 U.S.C 1103, and provided for by 19 CFR 122.153.

Current Actions: This submission is being made to extend the expiration date of this information collection with a change to the burden hours resulting from revised estimates by CBP of the number of respondents. There is no change to the information being collected.

Type of Review: Extension (with change)

Affected Public: Businesses.

Estimated Number of Respondents: 30.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 30.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 30.

Dated: March 3, 2011.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2011–5437 Filed 3–9–11; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Automated Commercial Environment Trade Survey

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; Establishment of a new collection of information.

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: Automated Commercial Environment Trade Survey.

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 9, 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: Automated Commercial Environment Trade Survey.

OMB Number: Will be assigned upon approval.

Form Number: None.

Abstract: CBP plans to conduct a survey of commercial entities, including Non-Vessel Operating Common Carriers, Freight Forwarders, Foreign Trade Zones, Filers (to include Brokers and Self-Filers), Importers, Carriers and Sureties, regarding their use of and experience with the Automated Commercial Environment (ACE) system. This voluntary survey will be conducted over the internet by e-mail and/or telephone invitation. The survey will include questions about current, as well as future ACE functionalities. The results and analysis of the survey responses will be used to characterize the trade community's experience with ACE and inform future functionality deployments.

Current Actions: CBP proposes to establish a new collection of information.

Type of Review: Approval of a new collection of information.

Affected Public: Businesses.

Estimated Number of Respondents: 1,000.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 500.

Dated: March 4, 2011.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2011–5436 Filed 3–9–11; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Cancellation of Customs Broker Licenses

AGENCY: U.S. Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: General Notice.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 U.S.C. 1641) and the U.S. Customs and Border Protection regulations (19 CFR 111.45), the following Customs broker licenses and all associated permits are revoked with prejudice.

Name	License #	Issuing port
Gregory Manuelian	09305	New York
Marquis Clearance Services, Ltd.	06207	New York

Dated: February 28, 2011.

Daniel Baldwin,

Assistant Commissioner, Office of International Trade.

[FR Doc. 2011–5451 Filed 3–9–11; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management, Regulation and Enforcement

Notice on Outer Continental Shelf Oil and Gas Lease Sales

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

ACTION: List of Restricted Joint Bidders; Correction.

SUMMARY: The Bureau of Ocean Energy Management, Regulation and Enforcement published a notice in the **Federal Register** on February 9, 2011, entitled: "List of Restricted Joint Bidders" that contained an error. We are correcting the name of an oil company listed under Group VIII in that notice.

FOR FURTHER INFORMATION CONTACT: Samuel T. Cable, 703–787–1322.

Correction

In the **Federal Register** of February 9, 2011, in FR Doc. 2011–2791, on page 7230, in the first column, correct the third line in the Group VIII section to read:

Statoil USA E&P Inc.

Dated: March 3, 2011.

Robert P. LaBelle,

Associate Director for Offshore Energy and Minerals Management.

[FR Doc. 2011–5408 Filed 3–9–11; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–R–2010–N189; 40136–1265–0000–S3]

Piedmont National Wildlife Refuge, Jones and Jasper Counties, GA; Final Comprehensive Conservation Plan and Finding of No Significant Impact for Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the availability of our final comprehensive conservation plan (CCP) and finding of no significant impact (FONSI) for the environmental assessment for Piedmont National Wildlife Refuge (NWR). In the final CCP, we describe how we will manage this refuge for the next 15 years.

ADDRESSES: You may obtain a copy of the CCP by writing to: Ms. Carolyn Johnson, Piedmont NWR, 718 Juliette Road, Round Oak, GA 31038. The CCP may also be accessed and downloaded from the Service's Web site: *http://southeast.fws.gov/planning/* under "Final Documents."

FOR FURTHER INFORMATION CONTACT: Ms. Carolyn Johnson; telephone: 478/986–5441.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we finalize the CCP process for Piedmont NWR. We started this process through a notice in the **Federal Register** on April 4, 2008 (73 FR 18552).

Piedmont NWR was established in 1939 through an Executive Order of President Franklin D. Roosevelt. Other establishing authorities included the Migratory Bird Conservation Act, Bankhead-Jones Farm Tenant Act, and the Refuge Administration Act. The refuge was established as a "combination wildlife and game-management demonstration area" to demonstrate that wildlife could be restored on worn out, eroded lands. The refuge is primarily forested and provides habitat for the endangered red-cockaded woodpecker and associated wildlife species of concern. Prescribed burning and timber thinning are used to ensure that quality pine habitat is maintained for red-cockaded woodpeckers, neotropical migratory songbirds, and other native wildlife. Hardwood stands provide excellent habitat for neotropical migratory songbirds, turkeys, squirrels, and other woodland wildlife.

Compatibility determinations for hunting; fishing; environmental education and interpretation; wildlife observation and photography; boating; camping (associated with big game hunts, scouts, and other youth organizations only); firewood cutting; forest management; off-road vehicles (confined to wheelchair for mobility only); research; training; and walking, jogging, and bicycling are available in the CCP.

Background

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Administration Act.

Comments

We made copies of the Draft CCP/EA available for a 30-day public review and comment period via a **Federal Register** on May 13, 2010 (75 FR 26979). We received 16 comments on the Draft CCP/EA.

Selected Alternative

The Draft CCP/EA identified and evaluated four alternatives for managing the refuge. After considering the comments we received and based on the professional judgment of the planning team, we selected Alternative B for implementation.

Under Alternative B, we will place emphasis on restoring and improving resources needed for wildlife and habitat management and providing enhanced and compatible wildlife-dependent public use opportunities. We will continue to monitor and manage the red-cockaded woodpecker population, with a goal of an annual increase in population of 3 to 5 percent.

We will increase wildlife surveys to include breeding birds, bald eagles, furbearers, resident birds, raptors, reptiles and amphibians. We will initiate basic inventories for fish species and invertebrates, including dragonflies, crayfish, and mussels. We will continue to collect quail, turkey, and deer data through managed hunts and surveys, and reinstate turkey brood counts. We will increase efforts to maintain a deer population of 30 to 35 deer per-square-mile, with a balanced sex ratio.

We will expand habitat management by modifying forest management strategies to benefit wildlife and habitat diversity. We will continue to maintain current fire management programs but intensify management of a 5,000-acre Piedmont savanna focus area, with smaller burn units on a 2-year rotation. We will prioritize the need for removal of invasive plants and animals and enhance wildlife openings and roadsides for early successional habitat diversity. For aquatic species, we will continue to implement Georgia's Best Management Practices for Forestry, but will also survey streams to identify species. We will continue to manage the impoundments as demonstration areas for waterfowl and implement a water management program to enhance habitat and wildlife diversity.

We will revise the current visitor services plan and update signs, brochures, exhibits, and Web sites. Kiosks and an automated phone system will be added. Opportunities for wildlife observation, wildlife photography, environmental education and interpretation, and outreach will be expanded. We will continue to maintain and where possible expand hunting and fishing opportunities. We will maintain our current law enforcement program and, in addition, revise the law enforcement plan and reinstate the law enforcement outreach program. We will document additional historic sites and update current GIS data to provide for better resource protection. We will evaluate the potential of expanding the refuge acquisition boundary to meet our goals and objectives in accordance with current Service policy. We will seek partnerships to monitor the impacts of climate change on refuge resources and adapt management as needed to conserve the native wildlife and habitats.

Additional staff will be required to accomplish the goals of the CCP and support both Piedmont and Bond Swamp NWRs. This will include reinstating an assistant forester and an interpretive park ranger and adding the following: Biologist, forestry technician, park ranger (law enforcement), refuge operations specialist, prescribed fire/fuels technician, engineering equipment operator, and two seasonal forestry technicians (firefighters). We will continue to promote partnerships and work with adjacent private landowners to support our goals and objectives. We will expand our volunteer program to include more resident interns.

Authority

This notice is published under the authority of the National Wildlife

Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: September 22, 2010.

Mark J. Musaus,

Acting Regional Director.

Editorial Note: This document was received in the Office of the Federal Register on March 7, 2011.

[FR Doc. 2011–5450 Filed 3–9–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[USGS–GX11AA0000A1300]

Announcement of the U.S. Geological Survey Science Strategy Planning Feedback Process

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of Feedback Process

SUMMARY: The U.S. Geological Survey is creating 10-year strategies for each of its Mission Areas: Climate and Land Use Change, Core Science Systems, Ecosystems, Energy and Minerals, Environmental Health, Natural Hazards, and Water. This process involves gathering input from the public on draft strategy documents and questions that will inform the creation of these documents. Feedback can be offered at *http://www.usgs.gov/start_with_science.*

DATES: The comment period on questions and drafts closes at midnight on October 16, 2011.

FOR FURTHER INFORMATION CONTACT: Listed below are contacts for each USGS Mission Area:

- Global Change

Virginia Burkett: 318–256–5628, *virginia_burkett@usgs.gov.*
Dave Kirtland: 703–648–4712, *dakirtland@usgs.gov.*

- Core Science Systems

Sky Bristol: 303–202–4181, *sbristol@usgs.gov.*
Chip Euliss: 701–253–5564, *ceuliss@usgs.gov.*

- Ecosystems

Gary Brewer: 304–724–4507, *gbrewer@usgs.gov.*
Ken Williams: 703–648–4260, *byron_ken_williams@usgs.gov.*

- Energy and Minerals

Jon Kolak: 703–648–6972, *jkolak@usgs.gov.*
Rich Ferrero: 206–220–4574, *rferrero@usgs.gov.*

- Environmental Health

Herb Buxton: 609–771–3944, *hbuxton@usgs.gov.*
Patti Bright: 703–648–4238, *pbright@usgs.gov.*

- Natural Hazards

Lucy Jones: 626–583–7817, *jones@usgs.gov.*
Bob Holmes: 573–308–3581, *bholmes@usgs.gov.*

- Water

Eric Evenson: 609–771–3904, *eevenson@usgs.gov.*
Randy Orndorff: 703–648–4316, *rorndorf@usgs.gov.*

SUPPLEMENTARY INFORMATION: Feedback can be offered and additional information accessed at *http://www.usgs.gov/start_with_science.*

Dated: March 3, 2011.

Barbara Wainman,

USGS Associate Director for Communications and Publishing.

[FR Doc. 2011–5455 Filed 3–9–11; 8:45 am]

BILLING CODE 4311–AM–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–685]

In the Matter of Certain Flash Memory and Products Containing Same Notice of Request for Statements on the Public Interest

Section 337 of the Tariff Act of 1930 provides that if the Commission finds a violation it shall exclude the articles concerned from the United States:

> unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. § 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is interested in further development of the record on the public interest in its investigations. Accordingly, the parties are invited to file submissions of no more than five (5) pages concerning the public interest in light of the administrative law judge's Recommended Determination on Remedy and Bonding issued in this investigation on February 28, 2011. Comments should address whether issuance of a limited exclusion order and/or a cease and desist order in this investigation could 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 a limited exclusion order and/or a cease and desist order within a commercially reasonable time.

Any submissions are due on April 4, 2011.

By order of the Commission.

Issued: March 7, 2011.

James R. Holbein,

Acting Secretary to the Commission.

[FR Doc. 2011–5533 Filed 3–9–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–11–006]

Government In the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: March 15, 2011 at 11 a.m.

PLACE: Room 110, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: none
2. Minutes
3. Ratification List
4. Vote in Inv. Nos. 731–TA–1063, 1064, and 1066–1068 (Review)(Frozen Warmwater Shrimp from Brazil, China, India, Thailand, and Vietnam). The Commission is currently scheduled to transmit its determinations and Commissioners' opinions to the Secretary of Commerce on or before March 30, 2011.
5. Outstanding action jackets:

(1.) Document No. GC–10–281 concerning Inv. No. 337–TA–722 (Certain Automotive Vehicles and Designs Therefore).

(2.) Document No. GC–11–011 concerning Inv. No. 337–TA–568 (Remand)(Certain Products and Pharmaceutical Compositions Containing Recombinant Human Erythropoetin).

(3.) Document No. GC–11–013 concerning Inv. No. 337–TA–587 (Remand)(Certain Connecting Devices ("Quick Clamps") for Use with Modular Compressed Air Conditioning Units, Including Filters, Regulators, and Lubricators ("FRL's") That are Part of Larger Pneumatic Systems and the FRL Units They Connect).

(4.) Document No. GC–11–045 concerning Inv. No. 1205–9 (Certain Festive Articles).

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting. Earlier Notification of this meeting was not possible.

By order of the Commission.

Issued: March 7, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011–5676 Filed 3–8–11; 4:15 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Under the Clean Air Act, Comprehensive Environmental Response, Compensation, and Liability Act and the Resource Conservation and Recovery Act

Notice is hereby given that on March 4, 2011, a proposed Consent Decree and Settlement Agreement (the "Non-Owned Site Settlement Agreement") in the bankruptcy matter, *Motors Liquidation Corp, et al., f/k/a General Motors Corp., et al.,* Jointly Administered Case No. 09–50026 (REG), was lodged with the United States Bankruptcy Court for the Southern District of New York. The Parties to the Non-Owned Site Settlement Agreement are debtors Motors Liquidation Corporation, formerly known as General Motors Corporation, Remediation and Liability Management Company, Inc., and Environmental Corporate Remediation Company, Inc. (collectively, "Old GM") and the United States of America. The Settlement Agreement resolves claims and causes of action of the Environmental Protection Agency ("EPA") against Old GM under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9601–9675, and the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6901 *et seq.* with respect to the following sites:

1. The Casmalia Resources Superfund Site in California;
2. The Operating Industries, Inc. Landfill Superfund Site in California;
3. The Army Creek Landfill Superfund Site in Delaware;
4. The Delaware Sand & Gravel Superfund Site in Delaware;
5. The Lake Calumet Superfund Site in Illinois;
6. The Waukegan Manufactured Gas & Coke Plant Superfund Site in Illinois;
7. The Doepke Holliday Disposal Superfund Site in Kansas;
8. The 68th Street Dump Superfund Site in Maryland;
9. The Maryland Sand, Gravel, and Stone Superfund Site in Maryland;
10. The Spectron Superfund Site in Maryland;
11. The Dearborn Refining Site in Michigan;
12. The Flint West a/k/a Chevy in The Hole Site in Michigan;
13. The Forest Waste Disposal Superfund Site in Michigan;
14. The H. Brown Company Superfund Site in Michigan;
15. The Reclamation Oil Company Site in Michigan;
16. The Rose Township Dump Superfund Site in Michigan;
17. The Springfield Township Dump Superfund Site in Michigan;
18. The Ventron/Velsicol Superfund Site in New Jersey;
19. The Atlantic Resources Corporation Superfund Site in New Jersey;
20. The Sealand Restoration Inc. Superfund Site in New York;
21. The Tri-Cities Barrel Superfund Site in New York;
22. The Massena Superfund Site in New York;
23. The Mercury Refining Superfund Site located in New York;
24. The Tremont City Barrel Fill Site in Ohio;
25. The Cardington Road Superfund Site in Ohio;
26. The Ford Road Landfill Superfund Site in Ohio;
27. The Valleycrest Landfill Site in Ohio;
28. The South Dayton Dump & Landfill Superfund Site in Ohio;
29. The Chemical Recovery Systems Site in Ohio;
30. The Lammers Barrel Superfund Site in Ohio;
31. The Malvern TCE Superfund Site in Pennsylvania;
32. The Tonolli Corporation Superfund Site in Pennsylvania;
33. The Jacks Creek/Sitkin Smelting Corporation Superfund Site in Pennsylvania; and
34. The Breslube-Penn Superfund Site in Pennsylvania.

The Settlement Agreement also resolves civil penalty claims for failure to maintain adequate financial assurance for closure, post-closure and third party liability pursuant to RCRA Sections 3004(a) and (t), 42 U.S.C. 6924(a) and (t) with respect to the following facilities:

1. Cadillac/Luxury Car Engineering and Manufacturing, (Formerly Fiero), Pontiac, Michigan.
2. Cadillac/Luxury Car Engineering and Manufacturing, Flint, Michigan;
3. GM Former Allison Gas Turbine (AGT) Division, Indianapolis, Indiana;
4. GM Locomotive Group, LaGrange, Illinois;
5. GM Powertrain Group, Defiance, Ohio;
6. GM Truck Group, Shreveport, Louisiana;
7. GMC GM Technical Center, Warren, Michigan;
8. Lansing Automotive Division, Lordstown, Ohio;
9. Powertrain Group Saginaw Metal Castings, Saginaw, Michigan;
10. Worldwide Facilities Group—MFD, Lordstown, Ohio;
11. Worldwide Facilities Group, Anderson, Indiana;
12. Worldwide Facilities Group, Coldwater Road, Flint, Michigan;
13. Worldwide Facilities Group, Elyria, Ohio; and
14. Worldwide Facilities Group, Moraine, Ohio.

The Settlement Agreement also resolves civil penalty claims resulting from RCRA inspections at the following automotive assembly plants:

1. The Pontiac East Assembly Plant, also known as the "Pontiac Assembly Center," 2100 South Opdyke Road, Pontiac, Michigan;
2. The Orion Assembly Plant, 4555 Giddings Road, Lake Orion, Michigan;
3. The Moraine Assembly Plant, 2601 West Stroop Road, Moraine, Ohio;
4. The Wilmington Assembly Plant, 801 Boxwood, Wilmington, Delaware;
5. The Doraville Facility, 3900 Motors Industrial Way, Doraville, Georgia;
6. The Fairfax Assembly Plant, 3201 Fairfax Trafficway, Kansas City, Kansas;
7. The Wentzville Assembly Plant, 1500 East Route "A," Wentzville, Missouri; and
8. The GM Lansing Car Assembly Plant, 401 N. Verlinden Avenue, Lansing, Michigan.

Finally, the Settlement Agreement resolves civil penalty claims under the Clean Air Act ("CAA") 42 U.S.C. 7401–7671q with respect to manufacturing new automotive engines and selling or introducing them into commerce.Under the Non-Owned Site Settlement Agreement, EPA will receive an allowed general unsecured claim of $36,290,270 for environmental remediation at twenty-nine non-owned sites and civil penalties for CAA and RCRA violations at multi-regional sites. EPA will also receive a total cash amount of $4,613,322 from bonds, and work up to

the amount of $10.5 million in accordance with bond requirements at six non-owned sites.

The Department of Justice will receive, for a period of fifteen days from the date of this publication, comments relating to the Non-Owned Site Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either emailed to *pubcommentees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *In re Motors Liquidation Corp., et al.,* D.J. Ref. 90–11–3–09754. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The Non-Owned Site Settlement Agreement may be examined at the Office of the United States Attorney, 86 Chambers Street, 3rd Floor, New York, New York 10007, and at the U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. During the public comment period, the Non-Owned Site Settlement Agreement may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* Copies of the Non-Owned Site Settlement Agreement 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 $6.75 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, please forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2011–5445 Filed 3–9–11; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States and State of Texas v. United Regional Health Care System; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with the United States District Court for the Northern District of Texas, Wichita Falls Division, in *United States of America and State of Texas* v. *United Regional Health Care System,* Civil Action No. 7:11–cv–00030–O. On February 25, 2011, the United States filed a Complaint alleging that United Regional Health Care System has entered, maintained, and enforced exclusionary contracts with commercial insurers that effectively prevent those insurers from contracting with United Regional's competitors in violation of Section 2 of the Sherman Act, 15 U.S.C. 2. The proposed Final Judgment, filed at the same time as the Complaint, prohibits United Regional from using agreements with commercial health insurers that improperly inhibit insurers from contracting with United Regional's competitors.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection at the Department of Justice, Antitrust Division, Antitrust Documents Group, 450 Fifth Street, NW., Suite 1010, Washington, DC 20530 (*telephone:* 202–514–2481), on the Department of Justice's Web site at *http://www.usdoj.gov/atr,* and at the Office of the Clerk of the United States District Court for the Northern District of Texas, Wichita Falls Division. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Joshua H. Soven, Chief, Litigation I Section, Antitrust Division, U.S. Department of Justice, 450 Fifth Street, NW., Suite 4100, Washington, DC 20530 (*telephone:* 202–307–0827).

Patricia A. Brink,

Director of Civil Enforcement.

In the United States District Court for the Northern District of Texas, Wichita Falls Division

United States of America and State of Texas, Plaintiffs, v. United Regional Health Care System, Defendant.

Case No.: 7:11–cv–00030.
Judge: Reed C. O'Connor.
Filed: Feb. 25, 2011.
Description: Antitrust.

Complaint

The United States of America, acting under the direction of the Attorney General of the United States, and the State of Texas, by and through the Texas Attorney General, bring this civil antitrust action to enjoin defendant United Regional Health Care System ("United Regional") from entering into, maintaining, or enforcing contracts with commercial health insurers that effectively prevent those insurers from contracting with United Regional's competitors, in violation of Section 2 of the Sherman Act, 15 U.S.C. 2, and to remedy the effects of its unlawful conduct. Plaintiffs allege as follows:

I. Nature of the Action

1. United Regional has monopoly power in two relevant product markets in Wichita Falls, Texas and the surrounding area: (1) The sale of general acute-care inpatient hospital services ("inpatient hospital services") to commercial health insurers, and (2) the sale of outpatient surgical services to commercial health insurers. United Regional has an approximately 90% share of the market for inpatient hospital services sold to commercial insurers and a greater than 65% share of the market for outpatient surgical services sold to commercial insurers. All health insurance companies in the relevant geographic market consider United Regional a "must-have" hospital for health plans because it is by far the largest hospital in the region and the only local provider of certain essential services.

2. United Regional has maintained its monopoly power in the relevant markets by entering into contracts with commercial health insurers that exclude United Regional's competitors in the Wichita Falls area from the insurers' health-care provider networks ("exclusionary contracts"). These exclusionary contracts effectively prevent insurers from contracting with hospitals and other health-care facilities

that compete with United Regional by requiring the insurers to pay a substantial pricing penalty if they also contract with United Regional's competitors. Most commercial health insurers must pay United Regional 13% to 27% more for its services if they do not use United Regional exclusively. The effects of this pricing penalty are to make the cost of including a competing hospital or other health-care facility in an insurer's network prohibitively expensive and not commercially viable, and to exclude equally-efficient rivals.

3. United Regional's exclusionary contracts have reduced competition and enabled United Regional to maintain its monopoly power in the provision of inpatient hospital services and outpatient surgical services. They have done so by (1) Delaying and preventing the expansion and entry of United Regional's competitors, likely leading to higher health-care costs and higher health insurance premiums; (2) limiting price competition for price-sensitive patients, likely leading to higher health-care costs for those patients; and (3) reducing quality competition between United Regional and its competitors. In this case, there is no valid procompetitive business justification for United Regional's exclusionary contracts.

4. United Regional's exclusionary contracts unlawfully maintain United Regional's monopoly power in the relevant markets in violation of Section 2 of the Sherman Act, 15 U.S.C. 2.

II. Defendant, Jurisdiction, Venue, and Interstate Commerce

5. United Regional is a nonprofit corporation organized and existing under the laws of the State of Texas, with its principal place of business in Wichita Falls, Texas.

6. Plaintiff United States brings this action pursuant to Section 4 of the Sherman Act, 15 U.S.C. 4, and plaintiff State of Texas brings this action pursuant to Section 16 of the Clayton Act, 15 U.S.C. 26, to prevent and restrain United Regional's violations of Section 2 of the Sherman Act, 15 U.S.C. 2.

7. This Court has subject matter jurisdiction over this action under Section 4 of the Sherman Act, 15 U.S.C. 4; Section 16 of the Clayton Act, 15 U.S.C. 26; and 28 U.S.C. 1331, 1337(a), and 1345.

8. United Regional maintains its principal place of business and transacts business in this District. United Regional entered into the agreements at issue in this District, and committed the acts complained of in this District. United Regional's conduct has had anticompetitive effects and will continue to have anticompetitive effects in this District. Consequently, this Court has personal jurisdiction over the defendant, and venue is proper in this District under Section 12 of the Clayton Act, 15 U.S.C. 22, and 28 U.S.C. 1391.

9. United Regional is engaged in, and its activities substantially affect, interstate trade and commerce. It contracts with providers of commercial health insurance located outside of Texas to be included in their provider networks. These providers of commercial health insurance make substantial payments to United Regional in interstate commerce.

III. Relevant Markets

A. Relevant Product Markets

(1) The Sale of Inpatient Hospital Services to Commercial Health Insurers

10. The sale of inpatient hospital services to commercial health insurers is a relevant product market.

11. Inpatient hospital services are a broad group of medical and surgical diagnostic and treatment services that include an overnight stay in the hospital by the patient. Inpatient hospital services *exclude* (1) Services at hospitals that serve solely children, military personnel or veterans; (2) services at outpatient facilities that provide same-day service only; and (3) psychiatric, substance abuse, and rehabilitation services. Although individual inpatient hospital services are not substitutes for each other (*e.g.,* obstetrics and cardiac services are not substitutes for each other), the various individual inpatient hospital services can be aggregated for analytic convenience.

12. The market for the sale of inpatient hospital services to commercial health insurers excludes outpatient services because health plans and patients would not substitute outpatient services for inpatient services in response to a sustained price increase. There are no other reasonably interchangeable services for inpatient hospital services.

13. Commercial health insurers include managed-care organizations (such as Blue Cross Blue Shield, Aetna, United Healthcare, CIGNA, Accountable, or other HMOs or PPOs), rental networks (such as Beech Street, Texas True Choice, Multiplan, and PHCS), and self-funded plans. Rental networks serve as a secondary network used by health insurance companies looking for network coverage or discounts outside of their own networks or by self-insured employers; they are used by small and mid-sized health insurance companies to offer clients national coverage. Self-funded plans may access provider networks through managed-care organizations or rental networks. Although not all of these are risk-bearing entities, they can be referred to collectively as "commercial health insurers." Commercial health insurers *do not* include government payers (Medicare, Medicaid, and TRICARE).

14. The market for the sale of inpatient hospital services to commercial health insurers *excludes* sales of such services to government payers. The primary government payers are the federal government's Medicare program (coverage for the elderly and disabled), the joint federal and state Medicaid programs (coverage for low-income persons), and the federal government's TRICARE program (coverage for military personnel and families). The federal government sets the rates and schedules at which the government pays health-care providers for services provided to individuals covered by Medicare, Medicaid, and TRICARE. These rates are not subject to negotiation.

15. In contrast, commercial health insurers negotiate rates with health-care providers and sell health insurance policies to organizations and individuals, who pay premiums for the policies. Generally, the rates that commercial health insurers pay health-care providers are substantially higher than those paid by government payers (Medicare, Medicaid, and TRICARE).

16. There are no reasonable substitutes or alternatives to inpatient hospital services sold to commercial health insurers. A health-care provider's negotiations with commercial health insurers are separate from the process used to determine the rates paid by government payers, and health-care providers could, therefore, target a price increase just to commercial health insurers. Commercial health insurers cannot shift to government rates in response to an increase in rates for inpatient hospital services sold to commercial health insurers, and patients who are ineligible for Medicare, Medicaid, or TRICARE cannot substitute those programs for commercial health insurance in response to a price increase for commercial health insurance. Consequently, a hypothetical monopolist provider of inpatient hospital services sold to commercial health insurers could profitably maintain supracompetitive prices for those services over a sustained period of time.

(2) The Sale of Outpatient Surgical Services to Commercial Health Insurers

17. The sale of outpatient surgical services to commercial health insurers is a relevant product market.

18. Outpatient surgical services are a broad group of surgical diagnostic and surgical treatment services that do not require an overnight stay in a hospital. Outpatient surgical services are typically performed in a hospital or other specialized facility, such as a free-standing ambulatory surgery center that is licensed to perform outpatient surgery. Outpatient surgical services are distinct from procedures routinely performed in a doctor's office. Outpatient surgical services *exclude* services at hospitals or other facilities that serve solely children, military personnel, or veterans. Although individual outpatient surgical services are not substitutes for each other (*e.g.,* orthopedic and gastroenterological surgical services are not substitutes for one another), the various individual outpatient surgical services can be aggregated for analytic convenience.

19. The market for the sale of outpatient surgical services to commercial health insurers excludes inpatient hospital services; because health plans and patients would not substitute inpatient care for outpatient surgical services in response to a sustained price increase. There are no other reasonably interchangeable services for outpatient surgical services.

20. There are no reasonable substitutes or alternatives to outpatient surgical services sold to commercial health insurers. A health-care provider's negotiations with commercial health insurers are separate from the process used to determine the rates paid by government payers, and health-care providers could, therefore, target a price increase just to commercial health insurers. Commercial health insurers cannot shift to government rates in response to an increase in rates for outpatient surgical services sold to commercial health insurers, and patients who are ineligible for Medicare, Medicaid, or TRICARE cannot substitute those programs for commercial health insurance in response to a price increase for commercial health insurance. Consequently, a hypothetical monopolist provider of outpatient surgical services sold to commercial health insurers could profitably maintain supracompetitive prices for those services over a sustained period of time.

B. Relevant Geographic Market

21. The relevant geographic market for each of the relevant product markets alleged above is no larger than the Wichita Falls Metropolitan Statistical Area ("MSA"). The Wichita Falls MSA is comprised of Archer, Clay, and Wichita counties. MSAs are geographic areas defined by the U.S. Office of Management and Budget for use in Federal statistical activities.

22. Wichita Falls is the largest city in the Wichita Falls MSA. According to the 2008 estimates of the Census Bureau, the Wichita Falls MSA has a population of about 150,000. About 100,000 of these people reside in the city of Wichita Falls, which is located in Wichita County near the border of the three counties that compose the Wichita Falls MSA. Wichita Falls is in north central Texas, about a two-hour drive from the nearest metropolitan areas: Dallas-Fort Worth, Texas, and Oklahoma City, Oklahoma.

23. Commercial health insurers contract to purchase inpatient hospital services and outpatient surgical services in the geographic area in which their health plan beneficiaries are likely to seek medical care. Health plan beneficiaries typically seek medical care close to their homes or workplaces. Very few plan beneficiaries who live in the Wichita Falls MSA travel outside its borders to seek inpatient hospital services or outpatient surgical services. For example, in 2008, only about 10% of inpatient discharges of residents of the Wichita Falls MSA were from hospitals not located in the Wichita Falls MSA. Commercial health insurers that sell policies to beneficiaries in the Wichita Falls MSA cannot reasonably purchase inpatient hospital services or outpatient surgical services outside the Wichita Falls MSA as an alternative to serve those beneficiaries. Consequently, hospitals and health-care facilities outside the Wichita Falls MSA do not compete with health-care providers located in the Wichita Falls MSA for the sale of the relevant products in a manner that would constrain the pricing or other behavior of Wichita Falls health-care providers.

24. Competition for the sale of inpatient hospital services to commercial health insurers from providers located outside the Wichita Falls MSA would not be sufficient to prevent a hypothetical monopolist provider of inpatient hospital services to commercial health insurers located in the Wichita Falls MSA from profitably maintaining supracompetitive prices for those services over a sustained period of time.

25. Competition for the sale of outpatient surgical services to commercial health insurers from providers located outside the Wichita Falls MSA would not be sufficient to prevent a hypothetical monopolist provider of outpatient surgical services to commercial health insurers located in the Wichita Falls MSA from profitably maintaining supracompetitive prices for those services over a sustained period of time.

IV. Hospitals and Outpatient Surgical Facilities in the Wichita Falls MSA

A. Acute-Care Hospitals

26. There are two general acute-care hospitals in Wichita Falls—United Regional and Kell West Regional Hospital ("Kell West"). Two additional hospitals, Electra Memorial Hospital ("Electra Memorial") and Clay County Memorial Hospital ("Clay Memorial"), are outside Wichita Falls, but within the Wichita Falls MSA.

(1) United Regional

27. United Regional is a 369-bed general acute-care hospital that offers a wide range of inpatient and outpatient services. United Regional has 14 operating rooms, a laboratory, a 24-hour emergency department, and a Level III trauma center, among other facilities. It offers comprehensive cardiac care and has a childbirth center. United Regional is a private nonprofit hospital, not a public hospital. Its net patient revenues for 2009 were approximately $265 million.

28. Commercial health insurers that offer health insurance within the Wichita Falls MSA consider United Regional a "must have" hospital because it is by far the largest hospital in the region and the only provider of some essential services, such as cardiac surgery, obstetrics, and high-level trauma care.

29. United Regional was formed in October 1997 by the merger of what were then the only two general acute-care hospitals in Wichita Falls—Wichita General Hospital ("Wichita General") and Bethania Regional Health Care Center ("Bethania"). To complete the 1997 merger, Wichita General and Bethania sought and obtained an antitrust exemption from the Texas Legislature. The Legislature enacted Tex. Health & Safety Code Ann. § 265.037(d), which provides that a county-city hospital board "existing in a county with a population of more than 100,000 and a municipality with a population of more than 75,000 * * * may purchase, construct, receive, lease, or otherwise acquire hospital facilities,

including the sublease of one or more hospital facilities, regardless of whether the action might be considered anticompetitive under the antitrust laws of the United States or this state." In an attempt to qualify for the antitrust exemption enacted by the legislature, Wichita General and Bethania Regional entered into a leasing arrangement that involved the Wichita County-City of Wichita Falls, Texas Hospital Board ("County-City Board").

(2) Kell West

30. Kell West Regional is a 41-bed general acute-care hospital that opened in January 1999, partially as a competitive response to the merger that created United Regional. Kell West provides a wide range of inpatient and outpatient surgical and medical treatments. Kell West has eleven operating rooms, a laboratory, four intensive care beds, and a 24-hour emergency department. Kell West currently does not provide several services that United Regional provides, including, in particular, cardiac surgery and obstetrics. However, United Regional considers Kell West to be a significant competitor.

(3) Other Inpatient Facilities

31. Electra Memorial is a 22-bed hospital located in Electra, Texas, more than 30 miles west of Wichita Falls. Electra Memorial offers a much narrower range of inpatient hospital services and outpatient surgical services than either United Regional or Kell West. United Regional does not consider Electra Memorial to be a significant competitor, but instead as a source of referrals.

32. Clay Memorial is a 25-bed hospital located in Henrietta, Texas, more than 15 miles east of Wichita Falls. Clay Memorial offers a much narrower range of inpatient hospital services and outpatient surgical services than either United Regional or Kell West. United Regional does not consider Clay Memorial to be a significant competitor, but instead as a source of referrals.

B. Outpatient Surgical Facilities

33. United Regional, Kell West, Electra Memorial, and Clay Memorial all provide outpatient surgical services, although those provided by Electra Memorial and Clay Memorial are more limited than those provided by United Regional and Kell West. Maplewood Ambulatory Surgery Center ("Maplewood") provides outpatient surgical services focusing solely on surgical procedures for pain remediation. Texoma Outpatient Surgery Center only performs eye surgeries. The North Texas Surgi-Center provided some outpatient surgical services in Wichita Falls from 1985 to 2008. It was excluded from some commercial health insurers' networks by United Regional's exclusionary contracts. The Surgi-Center closed in December 2008.

34. There are no other providers of outpatient surgical services in the Wichita Falls MSA.

C. Potential Expansion by Competitors

35. Both Kell West and Maplewood have significant excess capacity. Kell West has the capacity to more than double the number of total patients it serves without any additional physical expansion. In addition, Kell West was intended by its owners to become a full-service hospital. To this end, Kell West has devoted most of its surplus funds to expansion projects. In 2002, Kell West nearly tripled in size, expanding from 15 to 41 beds. In 2005, it added two emergency exam rooms; in 2007, a four-bed intensive care unit; in 2008, an on-site laundry facility; and in 2009, four additional operating rooms.

36. Kell West's owners originally intended to expand Kell West into a 70-bed hospital with an intensive care unit, OB suite, and cardiology department. Today, Kell West has 41 beds. As alleged below, likely because of United Regional's exclusionary contracts, it has not been able to expand into several service lines that it has considered opening, including obstetrics, pediatrics, oncology, industrial medicine, and neurology. Doctors in the Wichita Falls community have expressed interest in treating additional patients at Kell West if it could expand into new services.

37. Maplewood currently operates its outpatient surgery center only three days per week and could easily add at least one day more per week to its schedule to accommodate additional patients.

V. United Regional's Monopoly Power

A. United Regional has monopoly power in the two relevant product markets in the Wichita Falls MSA: (1) The sale of inpatient hospital services to commercial health insurers and (2) the sale of outpatient surgical services to commercial health insurers. Since the 1997 merger between Wichita General and Bethania, United Regional has dominated both product markets in the Wichita Falls MSA, and its prices have climbed. It is currently one of the most expensive hospitals in Texas.

B. Inpatient Hospital Services

38. United Regional is by far the largest provider of inpatient hospital services in the Wichita Falls MSA. United Regional's share of inpatient hospital services sold to commercial health insurers is approximately 90% (based on admissions) in the Wichita Falls MSA.

39. An analysis prepared for United Regional by a major insurer concluded that the payments from commercial health insurers for inpatient hospital services in Wichita Falls are at least 50% higher than the average amounts paid in seven other comparable cities in Texas. Another commercial health insurer estimated that it pays United Regional almost 70% more than what it pays hospitals in the Dallas-Fort Worth area for inpatient hospital services. This insurer's analysis found that the "inpatient allowed per day adjusted for case mix" (a measure that adjusts for differences in the type and severity of services performed) was $4,143 on average in Wichita Falls, compared to $3,254 in Dallas-Fort Worth. The analysis also found that hospital prices in Wichita Falls are, on average, significantly higher for inpatient services than prices in five other comparable MSAs in Texas. United Regional is also significantly more expensive than Kell West, its primary competitor in Wichita Falls. For services that are offered by both hospitals, United Regional's average per-day rate for inpatient services sold to commercial health insurers is about 70% higher than Kell West's.

C. Outpatient Surgical Services

40. United Regional is also by far the largest provider of outpatient surgical services in the Wichita Falls MSA. United Regional's share of outpatient surgical services sold to commercial health insurers is more than 65% (based on visits) in the Wichita Falls MSA.

41. United Regional's prices for outpatient surgical services are also among the highest in Texas. One

commercial health insurer calculated that United Regional's prices for all outpatient services were in the top 10% of the 279 Texas hospitals that submitted outpatient claims to that insurer. Of the 100 Texas hospitals submitting the largest number of outpatient claims to that insurer in 2007, the insurer found that United Regional was the fourth most expensive outpatient provider in the state. Another analysis by a commercial health insurer shows that hospital prices in Wichita Falls are, on average, significantly higher for outpatient services than prices in five other comparable MSAs in Texas. Maplewood, a nearby competitor, charges much lower prices for outpatient surgical services than United Regional charges for the same services. Prices at the North Texas Surgi-Center, an ambulatory surgery center in Wichita Falls that performed a wide range of outpatient surgical services but closed in December 2008, were also significantly lower than prices charged by United Regional for identical procedures.

42. In the Wichita Falls MSA, significant barriers to the entry of new hospital and outpatient facilities as well as barriers to the expansion of existing facilities help preserve United Regional's monopoly power. For hospitals, barriers to entry include the expense and difficulty of building a hospital, recruiting and hiring qualified staff and physicians, building a reputation in the community, and gaining accreditation from relevant accrediting organizations. For outpatient facilities, the same barriers exist, but to a lesser extent. For both hospital and outpatient facilities, the barriers to entry are substantial when combined with the additional entry barriers imposed by United Regional's exclusionary contracts.

VI. United Regional Has Willfully Maintained Its Monopoly Power Through the Use of Anticompetitive Exclusionary Contracts

A. The Exclusionary Contracts and Their Terms

43. All of United Regional's exclusionary contracts share the same anticompetitive feature: a pricing penalty ranging from 13% to 27% if an insurer contracts with Kell West or other competing facilities. Specifically, the contracts provide for a higher discount off billed charges (*e.g.,* 25%) if United Regional is the only local hospital or outpatient surgical provider in the insurer's network. The contracts provide for a much smaller discount (*e.g.,* 5% off billed charges) if the commercial health insurer adds another competing local health-care facility, such as Kell West or Maplewood. A penalty that reduces an insurer's discount from 25% to 5% (for adding a rival facility) increases the insurer's price from 75% to 95% of billed charges—a 27% increase over the discounted price.

44. The 13% to 27% pricing penalty applies if an insurer contracts with competing facilities within a specific geographic area delineated by each contract. Though the scope of the geographic limitation differs between contracts, every exclusionary contract designates an area that is no larger than Wichita County, and prevents commercial health insurers from contracting with competing facilities within that area. For example, one contract prevents the commercial health insurer from contracting with competing facilities within ten miles of the City of Wichita Falls. Two contracts describe the geographic limitation as within 15 miles of the City of Wichita Falls. One contract designates certain zip codes located within Wichita County, and three contracts designate Wichita County in its entirety. In every case, Kell West, Maplewood, and the now-closed Surgi-Center fall within the geographic zone of exclusion defined by the contracts.

45. United Regional adopted the exclusionary contracts in direct response to the competitive threat presented by Kell West, the North Texas Surgi-Center, and other local outpatient surgical facilities to United Regional's monopoly position in the Wichita Falls MSA. United Regional began considering the possibility of moving to exclusionary contracts at around the time Kell West began operations. Shortly thereafter, United Regional began entering contracts with commercial health insurers that effectively prevented them from contracting with Kell West and other local health-care facilities for both inpatient and outpatient services.

46. By 1999, within three months after Kell West opened for business, United Regional had obtained exclusionary contracts from five commercial health insurers. United Regional has continued to enter into exclusionary contracts with insurers up to the present day. As of 2010, United Regional had entered into exclusionary contracts with a total of eight commercial health insurers. In each instance, it was United Regional that required the exclusionary provisions in the contract—not the insurer.

47. One of the earlier contracts provides as follows:

Exclusive Agreement. The rates set forth in Exhibit A [80% of billed charges] are contingent upon [INSURER] not entering into another agreement with an acute care facility, hospital or ambulatory surgery center, directly or indirectly, for the provision of inpatient services and/or outpatient services in Wichita Falls, Texas or within ten miles of Wichita Falls, Texas. If [INSURER] enters into another agreement with an acute care facility, hospital, or ambulatory surgery Center for the provision of inpatient services and/or outpatient services in Wichita Falls, Texas or within a ten mile radius of Wichita Falls, Texas, Clients shall immediately and automatically begin reimbursing Hospital, for Covered Services rendered by Hospital to Participants, one hundred percent (100%) of Hospital's billed charges . * * *

48. A more recent agreement between United Regional and another insurer describes a similar arrangement:

At this time, [INSURER] elects the Tier 1 Option (defined below). Hospital shall be compensated at seventy-five percent (75%) of billed charges for covered services. However, upon the Effective Date and during the term of this Agreement, if [INSURER] elects to enter into a new contract with another general acute care facility, ambulatory surgery center or radiology center in [a] 15 mile radius of United Regional Health Care System ("Hospital") located at 1600 11th St., Wichita Falls, Texas, [INSURER] shall notify Hospital thirty (30) days in advance of the effective date of such new contract. On the effective date of such contract, the Tier 1 Option Hospital Reimbursement Schedule shall be void and the reimbursement rates will revert to 95% of billed charges for all inpatient and outpatient services at United Regional Health Care System, its affiliates, and joint ventures [] where United Regional has a majority ownership interest.

1. Tier One Option: Hospital is the sole in-network facility (including only general acute care facilities, ambulatory surgery centers or radiology center[s]) within a 15 mile radius of Hospital located at 1600 11th St., Wichita Falls, Texas and Hospital shall be compensated at seventy-five percent (75%) of billed charges for covered services. Payor will deduct any applicable Copayments, Deductibles, or Coinsurance from payment due to Hospital.

2. Tier 2 Option: Hospital is not the sole in-network facility for general acute care, ambulatory surgery center or radiology center within a 15 mile radius of Hospital located at 1600 11th St., Wichita Falls, Texas and Hospital shall be compensated at ninety-five percent (95%) of billed charges for covered services. Payor will deduct any applicable Copayment, Deductibles, or Coinsurance from payment due to Hospital.

49. United Regional has broadened the scope of the exclusionary provisions over time. All eight of the exclusionary contracts effectively prevent the commercial health insurer from contracting with hospital competitors (for inpatient or outpatient services) within a certain geographic proximity to United Regional. Seven of the eight

exclusionary contracts also effectively prevent the commercial health insurer from contracting with outpatient surgery centers. United Regional added provisions excluding additional outpatient facilities such as radiology centers to five of the more recent contracts.

50. Although the earlier contracts (signed before 2001) describe the pricing in these agreements in terms of "exclusivity" or an "exclusive agreement," more recent contracts use the phrase "tiered compensation schedule." Regardless of the label, the contracts share the same anticompetitive feature; they impose a significant pricing penalty if an insurer does not enter into an exclusive arrangement with United Regional.

51. Every commercial health insurer that has entered into one of United Regional's exclusionary contracts would prefer an open network in which its customers have a choice of hospitals and outpatient surgical facilities. Most, if not all, of these insurers have sought to add Kell West or another outpatient provider to their networks. In every case, United Regional has threatened the insurer with prices so high that the insurer would not be able to compete with other health insurers offering insurance in the Wichita Falls area. As a result, notwithstanding their preferences, each health insurer contracted exclusively with United Regional because the insurer could not offer a commercially viable product if it paid the higher prices that United Regional would charge if the insurer chose to include in its network one or more of United Regional's competitors. One national commercial health insurer, for example, agreed to enter into an exclusionary contract in 2010 because it determined that it could not otherwise offer a commercially viable product in the Wichita Falls MSA.

52. United Regional has entered into exclusionary contracts with most commercial health insurers currently providing health insurance to residents of the Wichita Falls area. For more than twelve years, the only major insurer without an exclusionary contract has been Blue Cross Blue Shield of Texas ("Blue Cross"), the largest commercial health insurer in Wichita Falls and in Texas. For two rental networks, which combined account for less than 5% of the commercially insured lives in Wichita Falls, United Regional offered only the higher nonexclusive rates without an exclusive provision. In late 2010, after plaintiffs began their investigation, one other rental network switched from an exclusive agreement with United Regional to a non-exclusive arrangement.

53. All exclusionary contracts entered into between 1998 and 2010 are still in force and are essentially "evergreen" contracts, automatically renewed yearly unless terminated by one of the parties.

B. United Regional's Exclusionary Contracts Foreclosed Its Rivals From the Most Profitable Health-Insurance Contracts

54. United Regional has effectively foreclosed its rivals from many of the most profitable health-insurance contracts in Wichita Falls—contracts that are crucial for its rivals to effectively compete.

55. Inclusion in health insurer networks is critical because patients generally seek health-care services from "in-network" providers and thereby incur substantially lower out-of-pocket costs than if the patients use out-of-network providers. Patients do so because, typically, a health insurer charges a member substantially lower co-payments or other charges when the member uses an in-network provider.

56. By effectively denying its competitors critical in-network status, United Regional likely substantially reduces the number of patients who would otherwise use Kell West and other United Regional competitors. More importantly, United Regional's contracts effectively deny access to a substantial percentage of the most profitable patients—those with commercial health insurance.

57. It is substantially more profitable for hospitals to serve patients with commercial health insurance than Medicare, Medicaid, or TRICARE patients, because government plans pay significantly less than commercial health insurers. This is true in the Wichita Falls MSA. All commercial health plans in the Wichita Falls MSA pay United Regional at least *double* the Medicare payment rate, and all but one insurer (Blue Cross) pay United Regional more than *triple* the Medicare payment rate.

58. Consequently, patients covered by government plans are not adequate substitutes for commercially insured patients. In fact, United Regional, like many other hospitals, depends on payments from commercial health insurers to compensate for the comparatively low payments it receives from government payers. The low payment rates from government payers provide little or no contribution margin to offset United Regional's overhead expenses.

59. By 2010, the insurers that had exclusionary contracts with United Regional accounted for approximately 35% to 40% of all payments that United Regional received from commercial health insurers.

60. Most of the remaining commercial payments are attributable to a single commercial health insurer—Blue Cross—which has a 55% to 65% share of the commercially insured lives in the Wichita Falls MSA. In the relevant market, serving Blue Cross patients is far less profitable than serving patients covered by other commercial health insurers. Because of its size, Blue Cross negotiates the deepest discounts; thus, it pays United Regional and other providers in the relevant market substantially less than other commercial health insurers.

61. Because the insurers that have exclusionary contracts with United Regional pay the highest rates, these insurers account for a substantial share of the profits that would otherwise be available to competing health-care providers. In particular, these insurers account for approximately 30% to 35% of the profits that United Regional earns from *all* payers—including government payers such as Medicare, Medicaid, and TRICARE—even though they account for only about 8% of United Regional's total patient volume.

62. If the commercial health insurers that have exclusionary contracts with United Regional added Kell West and other health-care providers to their networks, these providers would earn substantially higher profits than they do now. For example, if only 10% of these insurers' patients switched from United Regional to Kell West, and these insurers paid Kell West 30% less than they currently pay United Regional, Kell West's profits would still likely increase by more than 40%.

C. United Regional's Exclusionary Contracts Likely Have Caused Substantial Anticompetitive Effects

63. United Regional's exclusionary contracts have reduced competition and enabled United Regional to maintain its monopoly power in the provision of inpatient hospital services and outpatient surgical services. By effectively preventing most commercial health insurers from including in their networks other inpatient and outpatient facilities, such as Kell West, the North Texas Surgi-Center, Maplewood, and others, United Regional has (1) delayed and prevented the expansion and entry of United Regional's competitors, likely leading to higher health-care costs and higher health insurance premiums; (2) limited price competition for price-sensitive patients, likely leading to higher health-care costs for those

patients; and (3) reduced quality competition between United Regional and its competitors.

(1) The Exclusionary Contracts Likely Delayed and Prevented Expansion and Entry

64. The exclusionary contracts have likely delayed and prevented competitors from expanding in or entering the relevant markets, leading to higher health-care costs and higher health-insurance premiums. As alleged above, United Regional's exclusionary contracts effectively prevent virtually all commercial health insurers from contracting with many of United Regional's competitors, including Kell West. If United Regional had not imposed its exclusionary contracts, these insurers likely would have contracted with Kell West, Maplewood, and other competitors in the Wichita Falls MSA (and with providers that otherwise might have entered the market), giving the competitors in-network access to the patients covered by commercial health insurers—the patients that are the most profitable to health-care providers.

65. Furthermore, physicians treating patients covered by commercial health insurers that have been effectively prevented from contracting with United Regional's competitors would likely have referred more patients to these competitors, and more patients would likely have chosen to use them. In addition to referrals of patients insured by commercial health insurers with exclusionary contracts, such referrals would have likely included additional referrals of Blue Cross patients and patients covered by Medicare, Medicaid, and TRICARE. Many doctors engage in "block-booking," finding it most efficient to perform all of a given day's surgeries and other procedures at the same facility. This, in turn, would have given United Regional's competitors higher patient volumes and utilization, increased revenues, and substantially higher profits.

66. The higher volumes and profits obtained from serving additional patients insured by commercial health insurers—the patients that are the most profitable to health-care providers—as well as additional Blue Cross patients and additional Medicare, Medicaid or TRICARE patients, likely would have allowed Kell West and other competitors to expand. This expansion would enable the competitors to compete more effectively with United Regional, likely resulting in more competition and lower health-care costs.

67. Kell West likely would have expanded sooner into certain services, and would also likely have added more beds and additional services, such as additional intensive care capabilities, cardiology services, and obstetric services. Kell West has considered expansion into these additional services on numerous occasions, but has been limited in its ability to expand due to its lack of in-network access to commercially insured patients. Kell West also would likely fill its significant excess capacity for the services it already provides if it had access to the commercial health insurers that currently have exclusionary contracts with United Regional.

68. If Maplewood had similar in-network access to those commercial health insurers, it would likely add one or more days to its schedule in order to serve additional patients. Maplewood currently operates only three days a week.

69. The lack of in-network access to commercially insured patients also likely has delayed and prevented Kell West from expanding by attracting an outside investor or buyer. For example, with in-network access to commercial health insurance contracts, Kell West would be more attractive to a larger hospital system, which would invest in the expansion of Kell West's services. As a physician-owned hospital, Kell West became subject in March 2010 to certain restrictions on expansion imposed by federal health-care reform legislation, *see* 42 U.S.C. 1395nn(i)(1)(B), that would not apply if Kell West were acquired by a non-physician investor. The existence of the exclusionary contracts makes such an acquisition less likely.

70. United Regional's exclusionary contracts also inhibit new providers from entering the market. Potential entrants are dissuaded from entering the market because they cannot obtain contracts with many of the commercial health insurers who have customers in that market. At least one potential entrant that is considering entering the outpatient surgical services market believes that it will not be able to do so without contracts with virtually all area commercial health insurers. United Regional's exclusionary contracts currently prevent such access.

71. By limiting the expansion or entry of competitors, United Regional's exclusionary contracts have helped it to maintain its monopoly and likely increased the cost of providing medical care to residents in the Wichita Falls area. Because the exclusionary contracts likely limited competitors' expansion and entry, and thereby reduced insurers' bargaining leverage with United Regional, the contracts likely have enabled United Regional to continue to demand higher prices from commercial health insurers free from competitive discipline.

72. The costs of medical care are typically 80% or more of an insurer's costs, and hospital costs are a substantial portion of medical care costs. The price of hospital services at individual hospitals directly affects health insurance premiums for the customers that use those hospitals. Accordingly, insurers' hospital costs are an important element of insurers' ability to offer competitive prices.

73. The higher payment rates demanded by United Regional from commercial health insurers are borne in part by Wichita Falls employers and residents in the form of higher insurance premiums. Insurance premiums in Wichita Falls are among the highest in Texas. Blue Cross's premiums in Wichita Falls exceed its premiums anywhere else in the state, including Dallas, and its employee premium rate in Wichita Falls is significantly higher than in Amarillo and Odessa, two cities similar in size to Wichita Falls.

(2) The Exclusionary Contracts Likely Have Limited Price Competition for Price-Sensitive Patients

74. United Regional's contracts have also likely reduced competition for price-sensitive patients in the relevant markets. Certain patients select a hospital based on price because the prices charged can affect the patient's out-of-pocket costs. For example, in 2008, United Regional lowered its list price for gynecological surgeries because it was concerned that too many price-sensitive patients were choosing Kell West or the North Texas Surgi-Center for these surgeries to avoid United Regional's high prices. Exclusionary contracts that effectively prevent insurers from including providers such as Kell West in commercial health insurers' networks make it less likely that a commercially insured patient would switch to Kell West in response to a price increase by United Regional, and hence reduce this constraint on United Regional's prices. Consequently, the exclusionary contracts likely enable United Regional to charge higher prices for many services.

(3) The Exclusionary Contracts Likely Have Reduced Quality Competition Between United Regional and Its Competitors

75. Patients and physicians often choose among hospitals and other health-care providers based on the

provider's quality and reputation, including quality of care (reflected in past performance on clinical measures such as mortality rates) and quality of service (reflected in non-clinical characteristics that may appeal to patients, including amenities such as physical surroundings, staff hospitality, and other services). Because there is a financial penalty for using out-of-network providers, patients with health insurance provided by insurers with exclusionary contracts are less likely to choose out-of-network providers, even if the patient believes the out-of-network provider offers superior quality to United Regional.

76. If United Regional's competitors became in-network providers for more commercially insured patients, each of those competitors would have the incentive to make additional improvements in quality to attract those patients to its facility. United Regional, in turn, would also have the incentive to improve its quality in order to keep patients from choosing Kell West or another competitor. Therefore, without the exclusionary contracts, United Regional and its competitors would have increased incentives to make additional quality improvements, and the overall level of quality of health care in the Wichita Falls area likely would be higher. Moreover, such quality improvements would benefit all patients, not just those with commercial health insurance.

D. United Regional's Exclusionary Contracts Have the Potential To Exclude Equally-Efficient Competitors

77. United Regional's exclusionary contracts have likely excluded equally-efficient competitors. When the entire "discount" that a commercial health insurer receives in exchange for agreeing to exclusivity is allocated to the patient volume that United Regional would likely lose to a competitor in the absence of the exclusionary contracts (the "contestable patient volume"), it is clear that United Regional is selling services to commercial health insurers for the contestable volume at a price below its own marginal costs. A competing hospital, therefore, would need to offer a price below United Regional's marginal cost to induce a commercial health insurer to turn down exclusivity.

78. Put differently, because the contestable patient volume is likely a small portion of a commercial health insurer's total volume at United Regional and because the pricing penalty in United Regional's contracts is so large, a commercial health insurer would not find it commercially reasonable to enter into a contract with a competing hospital in the Wichita Falls area, unless that hospital were to offer a price below United Regional's marginal cost. As a result, United Regional's exclusionary contracts likely exclude equally-efficient competitors.

E. The Exclusionary Contracts Lack a Valid Procompetitive Business Justification

79. In this case, there is no valid procompetitive business justification for United Regional's exclusionary contracts. United Regional did not use the contracts to achieve any economies of scale or other efficiencies as a result of any additional patient volume that it obtained from the contracts. Moreover, as alleged above, United Regional's contracts set prices for the contestable patient volume at a level below its own incremental costs, which (1) illustrates that the contracts are not simply lower prices in exchange for volume, and (2) cannot be justified by economies of scale in any event.

VII. Violations Alleged

Monopolization in Violation of Sherman Act § 2

80. Plaintiffs repeat and reallege the allegations of paragraphs 1 through 80 above with the same force and effect as though said paragraphs were set forth here in full.

81. United Regional possesses monopoly power in the relevant product markets in the Wichita Falls MSA.

82. United Regional has willfully maintained and abused its monopoly power in the relevant markets through its exclusionary contracts with commercial health insurers.

83. Each exclusionary contract between United Regional and a commercial health insurer constitutes an act by which United Regional willfully exploits and maintains its monopoly power in the relevant product markets in the Wichita Falls MSA.

84. In this case, there is no valid procompetitive business justification for United Regional's use of the exclusionary contracts described above.

85. United Regional's exclusionary contracts violate Section 2 of the Sherman Act, 15 U.S.C. 2.

VIII. Request For Relief

Wherefore, Plaintiffs request:

(a) That the Court adjudge and decree that United Regional acted unlawfully to maintain a monopoly in violation of Section 2 of the Sherman Act, 15 U.S.C. 2;

(b) That the Court permanently enjoin United Regional, its officers, directors, agents, employees, and successors, and all other persons acting or claiming to act on its behalf, directly or indirectly, from seeking, negotiating for, agreeing to, continuing, maintaining, renewing, using, or enforcing, or attempting to enforce exclusionary contracts with health insurance companies and others;

(c) That the Court reform existing contracts to remove the exclusionary provisions; and

(d) That Plaintiffs be awarded the costs of this action and such other relief as may be appropriate and as the Court may deem just and proper.

Dated: February 25, 2011.

Respectfully submitted,

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In the United States District Court for the Northern District of Texas, Wichita Falls Division

United States of America and State of Texas, *Plaintiffs, v.* United Regional Health Care System, *Defendant.*

Case No.: 7:11–cv–00030.

Judge: Reed C. O'Connor.

Filed: Feb. 25, 2011.

Description: Antitrust.

Competitive Impact Statement

Plaintiff United States of America ("United States"), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA" or "Tunney Act"), 15 U.S.C. § 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On February 25, 2011, the United States and the State of Texas filed a civil antitrust lawsuit against Defendant United Regional Health Care System ("United Regional") challenging United Regional's contracts with commercial health insurers that effectively prevent insurers from contracting with United Regional's competitors ("exclusionary contracts"). The Complaint alleges that United Regional has unlawfully used these contracts to maintain its monopoly for hospital services, in violation of Section 2 of the Sherman Act, 15 U.S.C. 2.

With the Complaint, the United States and the State of Texas filed a proposed Final Judgment that enjoins United Regional from using exclusionary contracts. The United States, the State of Texas, and United Regional have stipulated that the proposed Final Judgment may be entered after compliance with the APPA, unless the United States withdraws its consent. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendant and the Challenged Conduct

This case is about competition for the sale of hospital services in Wichita Falls, Texas, and its surrounding areas. The Defendant, United Regional, is a general acute-care hospital located in Wichita Falls. With 369 beds, United Regional is by far the largest hospital in the region and the only provider of some essential services, such as cardiac surgery, obstetrics, and high-level trauma care.

United Regional was formed in October 1997 by the merger of Wichita General Hospital and Bethania Regional Health Care Center. At the time of that merger, there were no other general acute-care hospitals in Wichita Falls and only one small outpatient surgery center. Soon after the merger, however, a group of doctors began planning for a competing hospital called Kell West Regional Hospital ("Kell West"). Kell West opened in January 1999 and is now a 41-bed general acute-care hospital, located about six miles from United Regional. Kell West provides a wide range of inpatient and outpatient procedures, but does not provide some key services offered by United Regional such as cardiac surgery and obstetrics.

Beginning in 1998, United Regional responded to the competitive threat posed by Kell West and other outpatient-surgery facilities by systematically entering into exclusionary contracts with commercial health insurers. The precise terms of these contracts vary, but all share the same anticompetitive feature: a significant pricing penalty if an insurer contracts with competing facilities within a region that is no larger than Wichita County.[1] In general, the contracts offer a substantially larger discount off billed charges (*e.g.,* 25%) if United Regional is the only local hospital or outpatient surgical provider in the insurer's network; and the contracts provide for a much smaller discount (*e.g.,* 5% off billed charges) if the insurer contracts with one of United Regional's rivals.[2]

Within three months after Kell West opened in January 1999, United Regional had entered into exclusionary contracts with five commercial health insurers, and by 2010, it had exclusionary contracts with eight insurers. In each instance, it was United Regional that required the exclusionary provisions in the contract—not the insurer. The only major insurer that did not sign an exclusionary contract with United Regional was Blue Cross Blue Shield of Texas ("Blue Cross"), by far the largest insurer in Wichita Falls and in Texas.

The Complaint alleges that because United Regional is a "must have" hospital for any insurer that wants to sell health insurance in the Wichita Falls area, and because the penalty for contracting with United Regional's rivals was so significant, most insurers entered into exclusionary contracts with United Regional. Consequently, United Regional's rivals could not obtain contracts with most insurers, except Blue Cross, which substantially hindered their ability to compete and helped United Regional maintain its monopoly in the relevant markets, to the detriment of consumers.

The Complaint alleges that by effectively preventing most commercial health insurers from including in their networks other inpatient and outpatient facilities, United Regional has (1) Delayed and prevented the expansion and entry of United Regional's competitors, likely leading to higher health-care costs and higher health insurance premiums; (2) limited price competition for price-sensitive patients, likely leading to higher health-care costs for those patients; and (3) reduced quality competition between United Regional and its competitors.

B. The Relevant Markets

The Complaint alleges two distinct relevant product markets: (1) the market for general acute-care inpatient hospital services ("inpatient hospital services") sold to commercial health insurers, and (2) the market for outpatient surgical services sold to commercial health insurers. In each case, the relevant geographic market is no larger than the Wichita Falls Metropolitan Statistical Area ("MSA").

1. The Sale of Inpatient Hospital Services to Commercial Health Insurers

The sale of inpatient hospital services to commercial health insurers is a relevant product market. Inpatient hospital services are a broad group of medical and surgical diagnostic and treatment services that include an overnight stay in the hospital by the patient. For purposes of the Complaint, inpatient hospital services *exclude* (1) Services at hospitals that serve solely children, military personnel or veterans; (2) services at outpatient facilities that provide same-day service only; and (3) psychiatric, substance abuse, and rehabilitation services. There are no reasonable substitutes for inpatient hospital services.

As alleged in the Complaint, the term "commercial health insurers" refers to *private* third-party payers that provide access to health-care providers, such as managed-care organizations, rental networks, and self-funded plans. The term does not include sales to *public*

[1] One contract excludes facilities within ten miles of the City of Wichita Falls; two contracts exclude facilities within fifteen miles of the City of Wichita Falls; one contract excludes facilities within certain zip codes in Wichita County; and three contracts exclude facilities located anywhere in Wichita County. Some contracts also exempt specific facilities that would otherwise be covered by the exclusionary provisions; for example, some contracts allow insurers to contract with Electra Memorial Hospital, a small hospital located more than 30 miles from Wichita Falls (but within Wichita County) that would have otherwise been excluded.

[2] Hospitals and insurers often negotiate contracts in which the price that the insurer pays is expressed as a discount off the hospital's list prices (also called "chargemaster" or "billed charges"). Thus, a penalty that reduces an insurer's discount from 25% to 5% (for adding a rival facility) increases the insurer's price from 75% to 95% of billed charges—a 27% increase.

third-party payers—Medicare, Medicaid, and TRICARE.

There is a key difference between the government plans and commercial health insurers. The government unilaterally sets the rates that it pays for Medicare, Medicaid, and TRICARE beneficiaries—rates that are non-negotiable. In contrast, commercial health insurers negotiate their rates with individual health-care providers. Therefore, health-care providers can target a price increase to commercial health insurers, and these insurers cannot avoid the price increase by shifting to government rates. Furthermore, patients who are ineligible for Medicare, Medicaid, or TRICARE cannot substitute into those programs in response to a price increase for commercial health insurance. Thus, a hypothetical monopolist provider of inpatient hospital services sold to commercial health insurers could profitably maintain supracompetitive prices for those services over a sustained period of time.

2. The Sale of Outpatient Surgical Services to Commercial Health Insurers

The sale of outpatient surgical services to commercial health insurers is also a relevant product market. This market is distinct from the market for inpatient hospital services because, as alleged in the Complaint, inpatient hospital services are not reasonable substitutes for outpatient surgical services, and there are no other reasonable substitutes for outpatient surgical services. Furthermore, as with inpatient hospital services, the prices of outpatient surgical services sold to commercial health insurers are determined by negotiations between health-care providers and insurers, while the government unilaterally sets the rates that it pays for outpatient surgical services for Medicare, Medicaid, and TRICARE beneficiaries. Thus, a hypothetical monopolist provider of outpatient surgical services sold to commercial health insurers could profitably maintain supracompetitive prices for those services over a sustained period of time.

3. Relevant Geographic Market: No Larger Than the Wichita Falls MSA

The relevant geographic market for both inpatient hospital services and outpatient surgical services is no larger than the Wichita Falls MSA, which comprises three counties in north central Texas: Archer, Clay, and Wichita. Wichita Falls—the largest city in the MSA, with a population of about 100,000—is more than a two-hour drive and at least 100 miles from the nearest metropolitan areas: Dallas-Ft. Worth, Texas, and Oklahoma City, Oklahoma. Because patients typically seek medical care close to their homes or workplaces, very few patients who live in the Wichita Falls MSA travel outside its borders to seek inpatient hospital services or outpatient surgical services; and providers of those services located outside the Wichita Falls MSA do not compete to any substantial degree in the Wichita Falls MSA for the sale of those services. Thus, as the Complaint alleges, competition for the sale of inpatient hospital services and outpatient surgical services to commercial health insurers from providers located outside the Wichita Falls MSA would not be sufficient to prevent a hypothetical monopolist provider of those services in the Wichita Falls MSA from profitably maintaining supracompetitive prices for those services over a sustained period of time.

C. Monopoly Power

Section 2 of the Sherman Act, 15 U.S.C. 2, makes it unlawful for a firm to "monopolize." The offense of monopolization under Section 2 has two elements: "(1) the possession of monopoly power in the relevant market and (2) the willful * * * maintenance of that power as distinguished from growth or development as a consequence of a superior product, business acumen, or historic accident." *United States* v. *Grinnell Corp.,* 384 U.S. 563, 570–71 (1966). The Supreme Court has defined monopoly power as "the power to control prices or exclude competition." *United States* v. *E. I. du Pont de Nemours & Co.,* 351 U.S. 377, 391 (1956).

Monopoly power may be established by evidence that a firm has profitably raised prices above the competitive level. *See United States* v. *Microsoft Corp.,* 253 F.3d 34, 51 (D.C. Cir. 2001). In the absence of such direct proof, monopoly power may be inferred from circumstantial evidence, including "a firm's possession of a dominant share of a relevant market that is protected by entry barriers." *Id.* When evaluating monopoly power, relying on current market share alone can sometimes be misleading. But generally, evidence of dominant market share, without countervailing evidence of the possibility of competition from new entrants, is sufficient to show monopoly power. *Id.*

In this case, there is strong direct and circumstantial evidence that United Regional has monopoly power in the relevant markets. First, there is direct evidence that United Regional has charged supracompetitive prices for a sustained period of time. As explained above, United Regional was formed in 1997 by the merger of Wichita General Hospital and Bethania Regional Health Care Center, a merger that eliminated competition between what were then the only two general acute-care hospitals in Wichita Falls. Since that merger, United Regional has been the "must-have" hospital for insurers in the Wichita Falls MSA and has increased its prices to the point that it is now one of the most expensive hospitals in Texas. One commercial health insurer estimated that it pays United Regional almost 70% more than what it pays hospitals in the Dallas-Fort Worth area for inpatient hospital services. In Wichita Falls, United Regional's average per-day rate for inpatient hospital services sold to commercial health insurers is about 70% higher than Kell West's for the services that are offered by both hospitals. Similarly, the Complaint alleges that United Regional's prices for outpatient surgical services are also among the highest in Texas. Yet, despite United Regional's supracompetitive prices, neither Kell West nor other smaller facilities has had a significant competitive impact on United Regional.

Second, market-share data provide circumstantial evidence of United Regional's monopoly power. The Complaint alleges that United Regional has a dominant share of the markets for both inpatient hospital services and outpatient surgical services sold to commercial health insurers. United Regional's share of inpatient hospital services sold to commercial health insurers is approximately 90% in the Wichita Falls MSA, and its share of outpatient surgical services sold to commercial health insurers is more than 65% in that same region. These shares have remained relatively constant for more than a decade while United Regional's prices have risen. Furthermore, as the Complaint alleges, both relevant product markets have significant barriers to entry—including United Regional's exclusionary contracts. During the last twelve years, no new firms other than Kell West have entered the relevant product markets in the Wichita Falls MSA.

D. Exclusionary Conduct

Possessing monopoly power does not by itself constitute "monopolization." *See Grinnell,* 384 U.S. at 570–71. Rather, Section 2 of the Sherman Act makes it unlawful to *maintain* monopoly power through exclusionary conduct. *See Verizon Commc'ns, Inc.* v. *Law Offices of Curtis V. Trinko, LLP,* 540 U.S. 398, 407 (2004); *Microsoft,* 253 F.3d at 58.

The general test for exclusionary conduct is set forth in *United States* v. *Microsoft Corp.* First, a plaintiff must show that a monopolist's conduct has had an "anticompetitive effect." *Id.* Second, if a plaintiff proves an anticompetitive effect, the monopolist may proffer a non-pretextual "procompetitive justification" for its conduct. *Id.* at 59. Third, if the monopolist's procompetitive justification is unrebutted, the plaintiff "must demonstrate that the anticompetitive harm of the conduct outweighs the procompetitive benefit." *Id.*

The Complaint alleges that United Regional's exclusionary contracts reduced competition and enabled United Regional to maintain its monopoly in the relevant markets by foreclosing its rivals from many of the most profitable health-insurance contracts in Wichita Falls—contracts that are crucial for its rivals to effectively compete.

1. The Exclusionary Contracts Likely Caused Anticompetitive Effects by Foreclosing United Regional's Rivals From the Most Profitable Health-Insurance Contracts

A competitor is "foreclosed" from competition when it is denied or disadvantaged in its access to significant sources of input or distribution. *See United States* v. *Dentsply Int'l, Inc.,* 399 F.3d 181, 189–90 (3d Cir. 2005). In this case, the foreclosure analysis properly focuses on the profitability of the various payment sources available to health-care providers. Thus, while the relevant product markets are limited to hospital services sold to commercial patients, the foreclosure analysis in this case must account for the ability of health-care providers to serve patients covered by other sources of payment (most significantly, the government plans). If United Regional's competitors could easily replace the profits lost by the exclusionary contracts with additional profits from patients covered by government plans or other payment sources, it is unlikely that the exclusionary contracts would produce anticompetitive effects.

But as the Complaint explains, profits from the government plans are not an adequate substitute for the lost profits from the excluded insurers, making the excluded insurers "significant sources of input or distribution." *Id.* Commercial health insurers pay hospitals and other health-care providers substantially more than the government plans: in the Wichita Falls MSA, all commercial health insurers pay United Regional at least *double* the Medicare payment rate, and all but one insurer (Blue Cross) pay United Regional more than *triple* the Medicare payment rate. Consequently, to simply calculate the percentage of the total commercial and public-payer lives that the exclusionary contracts deny United Regional's competitors is not an accurate method to assess the contracts' effect on competition. Rather, a more appropriate approach is to assess the degree to which the contracts have foreclosed access to payments for commercially insured patients and account for the foreclosed percentage of profits from all payers.

As the Complaint alleges, by 2010, the insurers that had exclusionary contracts with United Regional accounted for approximately 35% to 40% of all payments United Regional received from commercial health insurers.[3] Most of the remaining commercial payments are attributable to just one insurer—Blue Cross, which pays the lowest rates due to its size.

Because the excluded insurers pay the highest rates, these insurers account for a substantial share of the profits that would otherwise be available to competing health-care providers. In particular, these insurers account for approximately 30% to 35% of the profits that United Regional earns from *all* payers—including the government payers—even though they account for only about 8% of United Regional's total patient volume. The Complaint alleges that if the excluded insurers added Kell West and other health-care providers to their networks, these providers would earn substantially higher profits than they do now, increasing their ability to compete against United Regional. For example, if only 10% of these insurers' patients switched from United Regional to Kell West, and these insurers paid Kell West 30% less than they currently pay United Regional, Kell West's profits would still likely increase by more than 40%.

2. The Exclusionary Contracts Have Led to Higher Prices and Reduced Quality Competition in the Relevant Markets

By denying United Regional's competitors access to the most profitable commercial insurance contracts, United Regional has increased prices and reduced quality competition in the relevant markets in three ways.

First, the exclusionary contracts have likely delayed and prevented the expansion and entry of United Regional's competitors. For example, without the exclusionary contracts, Kell West likely would have used the profits that it obtained from contracts with the excluded commercial health insurers to expand sooner, and would also likely have added more beds and additional services, such as additional intensive-care capabilities, cardiology services, and obstetric services. Kell West has considered expansion into additional services on numerous occasions, but has been limited in its ability to expand due to its lack of access to commercially insured patients. This effect on entry and expansion has reduced the options available to insurers, likely leading to higher prices for hospital services and higher health-insurance premiums.

Second, the exclusionary contracts have likely limited price competition for price-sensitive patients. Even with the exclusionary contracts, some price competition has already occurred. For example, in 2008 United Regional lowered its list price for gynecological surgeries because it was concerned that too many price-sensitive patients were choosing Kell West and the North Texas Surgi-Center to avoid United Regional's high prices. But because insured patients generally avoid obtaining health-care services from out-of-network providers, the exclusionary contracts make it less likely that many commercially insured patients would switch to another provider in response to a price increase by United Regional. In the absence of the exclusionary contracts—with the risk that United Regional would lose some of its most profitable patients—this type of price competition would likely increase.

Third, the contracts have likely reduced quality competition between United Regional and its competitors. Just as the exclusionary contracts make it less likely that some patients will choose rival facilities based on price, they have also made it less likely that some patients will choose other providers based on quality. If United Regional's competitors became in-network providers for more commercially insured patients, each of those competitors would have the incentive to make additional improvements in quality to attract those patients to its facility; and United Regional, in turn, would also have the incentive to improve its quality in order to keep patients from choosing Kell West or another competitor. Therefore, as the Complaint alleges, without the

[3] These "foreclosure" percentages likely underestimate the impact of the exclusionary contracts on United Regional's competitors. As the Complaint alleges, some doctors engage in "block booking," performing surgeries and other procedures at the same facility on a given day. Without the exclusionary contracts, these doctors could be able to refer all their patients on a given day—including patients covered by Blue Cross or the government payers—to one of United Regional's rivals.

exclusionary contracts, United Regional and its competitors would have increased incentives to make additional quality improvements, and the overall level of quality of health care in the Wichita Falls area likely would be higher.

3. The Exclusionary Contracts Fail an Appropriate Price-Cost Test

The exclusionary contracts challenged in this case closely resemble *de facto* exclusive-dealing arrangements. Although the contracts technically offer commercial health insurers a choice between non-exclusivity and exclusivity, in reality the non-exclusive rates were not a commercially feasible option for insurers, and not one insurer opted for the non-exclusive rate for more than twelve years. Thus, as with exclusive dealing, the primary concern is not with the relationship between United Regional's prices and costs, but with the degree of economic foreclosure caused by its contracting practices.

Yet, while United Regional's contracts resemble exclusive dealing, they do not achieve economic foreclosure through purely exclusive contracts, but through pricing terms—discounts tied to exclusivity. In general, these types of discounts can be either procompetitive or anticompetitive. Discounts tied to exclusivity can be procompetitive if they result from "competition on the merits," in which rival suppliers compete on price so that the most efficient firm will win additional consumers. In contrast, they can be anticompetitive if they would prevent equally or more efficient rivals from attracting additional consumers. Given that such discounts can either benefit or harm consumers, it is useful to analyze them with a "price-cost" test, which helps distinguish between procompetitive and anticompetitive discounts.

In this case, the appropriate price-cost test resembles the "discount-attribution" test adopted in *Cascade Health Solutions* v. *PeaceHealth,* 515 F.3d 883 (9th Cir. 2008). The discount-attribution test applies when a defendant faces competition for only a portion of the services that it sells, but offers a discount that applies to all of its services. In *PeaceHealth,* the court warned that such discounts "can exclude a rival [] who is equally efficient at producing the competitive product simply because the rival does not sell as many products as the bundled discounter." *Id.* at 909. Thus, in the context of bundled discounts, the court held that the proper test requires "the full amount of the discounts given by the defendant on the bundle [to be] allocated to the competitive product or products." *Id.* at 906. If the resulting prices are still above the defendant's incremental cost for providing those services, the discount is likely procompetitive. By contrast, if the prices are below the defendant's incremental cost—and would therefore tend to exclude an equally-efficient provider of those services—the "anticompetitive-effects" prong of the *Microsoft* framework would be satisfied.

To accurately determine whether United Regional's discounted prices are above cost, however, the entire discount should be attributed not to the entire volume of the "competitive product[s]," as suggested by the court in *PeaceHealth, id.* at 909, but rather to the patients that United Regional would actually be at risk of losing if an insurer were to choose non-exclusivity (the "contestable volume").[4] Under some factual circumstances, the contestable volume may consist of the entire volume of the overlap services (those services that both the defendant and its competitors provide). This would be the case if a customer that chooses non-exclusivity would likely obtain *all* of its purchases of the competitive products from a rival supplier. Under other circumstances, however, such as in this case, the contestable volume is likely smaller than the entire volume of the "competitive product" because "the rival producer of the competitive product cannot contest all of the monopolist's sales of that product." *See* Mark S. Popofsky, *Section 2, Safe Harbors, and the Rule of Reason,* 15 Geo. Mason L. Rev. 1265, 1294 (2008).

Though measuring the contestable volume may in some cases be impractical, here the contestable volume can be estimated by examining patient usage patterns from Blue Cross and Medicare, two major payers that are not subject to exclusivity. Based on the share of patient volume that United Regional receives from Blue Cross and Medicare, the likely contestable volume is approximately 10% of the patient volume that United Regional receives from the payers that have signed exclusionary contracts. This is partly because competing providers offer a more limited portfolio of services, and partly because, as usage patterns from Blue Cross and Medicare patients suggest, many patients are likely to choose care at United Regional even for services that competing providers offer.

When, for each of United Regional's exclusionary contracts, the entire discount that the insurer receives in exchange for exclusivity is applied to the contestable volume, the resulting price is below any plausible measure of United Regional's incremental costs. In other words, because the contestable volume is small relative to the large difference between the exclusive and non-exclusive rates in United Regional's contracts, a competing hospital would need to offer a price below United Regional's incremental costs for an insurer to profitably turn down United Regional's offer of exclusivity. As a result, United Regional's discounts would likely exclude an equally-efficient competitor.

4. The Exclusionary Contracts Lack a Valid Procompetitive Business Justification

As stated above, "even if a company exerts monopoly power, it may defend its practices by establishing a business justification." *Dentsply,* 399 F.3d at 196. The plaintiff bears the burden of establishing that "the monopolist's conduct * * * has the requisite anticompetitive effect"; when that burden is met, it shifts to the defendant to "proffer a 'procompetitive justification' for its conduct." *Microsoft,* 253 F.3d at 58–59. A business justification will not be accepted where it is pretextual, *see, e.g., Eastman Kodak Co.* v. *Image Technical Servs., Inc.,* 504 U.S. 451, 484 (1992), nor is the fact that the action was taken "in furtherance of [the company's] economic interests" sufficient to meet this burden, *see, e.g., LePage's Inc.* v. *3M,* 324 F.3d 141, 163 (3d Cir. 2003) (en banc).

Here, the Complaint alleges that there is no valid procompetitive business justification for United Regional's exclusionary contracts, making it unnecessary to determine whether "the anticompetitive harm of the conduct outweighs the procompetitive benefit." *Microsoft,* 253 F.3d at 59. United Regional did not use the contracts to achieve any economies of scale or other efficiencies as a result of the additional patient volume that it obtained from the contracts. Moreover, as described above, United Regional's contracts set prices for the contestable patient volume at a level below its own incremental costs, which (1) illustrates that the contracts are not simply lower prices in exchange for volume, and (2) cannot be justified by economies of scale in any event.

III. Explanation of the Proposed Final Judgment

The prohibitions and required conduct in the proposed Final Judgment

[4] *See* Gianluca Faella, *The Antitrust Assessment of Loyalty Discounts and Rebates,* 4(2) J. Compet. L. & Econ. 375, 379 (2008) ("A useful indicator of the practice's foreclosure effect is the incremental price of the contestable portion of the customer's demand.").

achieve all the relief sought from United Regional in the Complaint, and thus fully resolve the competitive concerns raised by the exclusionary contracts challenged in this lawsuit.

A. Prohibited Conduct

Section IV of the proposed Final Judgment seeks to restore competition between health-care providers in the Wichita Falls MSA by prohibiting United Regional from using exclusivity terms in its contracts. In particular, Section IV.A prohibits United Regional from (1) conditioning the prices or discounts that it offers to commercial health insurers on whether those insurers contract with other health-care providers, such as Kell West; and (2) preventing insurers from entering into agreements with United Regional's rivals. Section IV.B prohibits United Regional from taking any retaliatory actions against an insurer that enters (or seeks to enter) into an agreement with a rival health-care provider.

In addition to prohibiting United Regional from conditioning its discounts on exclusivity, Section IV.C prohibits United Regional from offering other types of "conditional volume discounts" that could have the same anticompetitive effects as the challenged conduct. "Conditional volume discounts" are prices, discounts, or rebates offered to a commercial health insurer *on condition* that the volume of that insurer's purchases from United Regional meets or exceeds a specified threshold. For example, United Regional may not offer discounts that are applied retroactively when a customer reaches a specified threshold (sometimes referred to as "first-dollar" discounts). The retroactive nature of these discounts can disguise below-cost pricing that excludes equally-efficient competitors and smaller entrants, resulting in a loss of competition and harm to consumers. Similarly, United Regional may not offer market-share discounts, *i.e.* discounts conditioned on an insurer's purchases at United Regional meeting a specified percentage of that insurer's total purchases, whether they apply retroactively or not, because such discounts can also be a form of anticompetitive pricing. By contrast, as explained further below, United Regional may offer incremental discounts that apply solely to purchases above a specified threshold if those discounts are above cost.[5]

Finally, United Regional may not use provisions in its insurance contracts that discourage insurers from offering products that encourage members to use other in-network providers (besides United Regional). Although United Regional did not include these types of provisions in the contracts at issue in this case, this section of the proposed Final Judgment is designed to make the proposed remedy more effective.

B. Permissible Conduct

To ensure that United Regional can engage in procompetitive discounting and other pricing practices, Section V.A(1) of the proposed Final Judgment allows United Regional to sell its hospital services at any price or discount, provided that such prices or discounts do not violate the prohibitions in Section IV. United Regional may still offer different prices to different commercial health insurers, and it may consider an insurer's previous or anticipated overall size or volume when negotiating prices or discounts.

Section V.A(2) allows United Regional to offer above-cost incremental volume discounts, a certain type of conditional volume discount that is unlikely to cause anticompetitive harm. By permitting above-cost incremental volume discounts, the Final Judgment ensures that United Regional can engage in procompetitive efforts to compete for additional patient volume, while preventing United Regional from offering discounts that have the potential to exclude an equally-efficient competitor. Furthermore, unlike other kinds of conditional discounts, it is feasible to determine whether an incremental volume discount is above cost simply by comparing the incremental prices with the incremental costs without also having to determine the magnitude of the contestable volume.

Under the terms of the proposed Final Judgment, an incremental volume discount is deemed above cost if the discounted prices for each service line, expressed as a percentage of billed charges, are greater than United Regional's Cost-to-Charge Ratio, defined as the ratio of total costs (for all services) to total charges, as reported to the Centers for Medicare and Medicaid Services. For example, United Regional may offer to accept payments equal to 75% of billed charges for the first $10 million of gross charges from a particular insurer, and 40% of billed charges for any charges in excess of $10 million. In 2009, United Regional reported total charges of approximately $807 million, and total costs of approximately $207 million, implying a Cost-to-Charge Ratio of approximately 26%. Because the discounted prices for each service line (40% of billed charges) exceed the hospital's Cost-to-Charge Ratio (26% of billed charges), this offer would be above cost and permitted under the proposed Final Judgment.

Section V.D allows United Regional to renegotiate or terminate its contracts according to the provisions in those contracts. However, United Regional may not terminate a contract because an insurer contracted with another health-care facility, and, as required in VI.B, United Regional must honor the discounts conditioned on exclusivity—regardless of whether an insurer contracts with another health-care facility—unless or until United Regional's existing contracts are renegotiated or terminated. If United Regional notifies the insurer of its intent to renegotiate, United Regional is not required to provide that discount for more than 270 days after the notice is given.

C. Required Conduct

Section VI.A requires United Regional to (1) notify in writing each commercial health insurer that has an agreement with United Regional that the Final Judgment has been entered, and (2) send each of these insurers a copy of the Final Judgment.

As discussed above, Section VI.B requires United Regional to honor its current discounts conditioned on exclusivity unless or until such contracts are renegotiated or terminated. For example, if, when the Complaint is filed, an agreement allowed for a 25% discount with exclusivity and a 5% discount without exclusivity, United Regional must offer its services to that insurer at the 25% discount—even if the insurer contracts with other health-care facilities—until the agreement is renegotiated or terminated. However, as explained above, if United Regional notifies the insurer of its intent to renegotiate, United Regional is not required to provide the discount for longer than 270 days after the notice is given.

D. Compliance

Section VII of the proposed Final Judgment contains several provisions to ensure United Regional's compliance with the proposed Final Judgment. First, under Section VII.A, United Regional is required to designate an antitrust compliance officer. That officer is required to provide a copy of the Final Judgment to key United Regional personnel and develop procedures to ensure United Regional's compliance with the Final Judgment.

[5] As specified in Section II.F, however, an incremental volume discount may not be a market-share discount.

Second, to facilitate monitoring of United Regional's compliance with the proposed Final Judgment, Section VII grants the United States and the State of Texas access, upon reasonable notice, to United Regional's records and documents relating to matters contained in the proposed Final Judgment. Within 270 days after the entry of the Final Judgment, United Regional is required to submit a written report explaining the actions it has taken to comply with the Final Judgment, including the status and results of its negotiations with commercial health insurers. Furthermore, for one year after entry of the Final Judgment, United Regional must provide the Department of Justice and the State of Texas copies of all new or revised agreements with insurers within fourteen days of such agreements being executed. United Regional must make its employees available for interviews or depositions about such matters. Moreover, upon request, United Regional must answer interrogatories and prepare written reports relating to matters contained in the proposed Final Judgment.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against Defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States, the State of Texas, and United Regional have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time before the Court's entry of judgment. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to: Joshua H. Soven, Chief, Litigation I Section, Antitrust Division, United States Department of Justice, 450 Fifth Street, NW., Suite 4100, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

As an alternative to the proposed Final Judgment, the United States considered proceeding to a full trial on the merits against United Regional. The United States is satisfied, however, that the prohibitions and requirements contained in the proposed Final Judgment will fully address the competitive concerns set forth in the Complaint against United Regional. The proposed Final Judgment achieves all or substantially all of the relief the United States would have obtained through litigation against United Regional and avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment "is in the public interest." 15 U.S.C. 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

(A) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) The impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to "broad discretion to settle with the defendant within the reaches of the public interest." *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see also United States* v. *SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public-interest standard under the Tunney Act); *United States* v. *InBev N.V./S.A.,* No. 08–1965 (JR), 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires "into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanisms to enforce the final judgment are clear and manageable.").[6]

As the United States Court of Appeals for the District of Columbia Circuit has held, a court considers under the APPA, among other things, the relationship between the remedy secured and the specific allegations set forth in the United States' complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States* v. *BNS Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th

[6] The 2004 amendments substituted "shall" for "may" in directing relevant factors for courts to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. 16(e) (2004), with 15 U.S.C. 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments "effected minimal changes" to Tunney Act review).

Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.DC 2001). Courts have held that:

> [t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "*within the reaches of the public interest*." More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[7] In determining whether a proposed settlement is in the public interest, a district court "must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations." *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also Microsoft,* 56 F.3d at 1461 (noting the need for courts to be "deferential to the government's predictions as to the effect of the proposed remedies"); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.DC 2003) (noting that the court should grant due respect to the United States' "prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case").

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.'" *United States* v. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983); *see also United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States "need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms." *SBC Commc'ns,* 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and does not authorize the court to "construct [its] own hypothetical case and then evaluate the decree against that case." *Microsoft,* 56 F.3d at 1459; *see also InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 ("the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged"). Because the "court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place," it follows that "the court is only authorized to review the decree itself," and not to "effectively redraft the complaint" to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. As the United States District Court for the District of Columbia recently confirmed in *SBC Communications,* courts "cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power." *SBC Commc'ns,* 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of using consent decrees in antitrust enforcement, adding the unambiguous instruction that "[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene." 15 U.S.C. 16(e)(2). This language effectuates what Congress intended when it enacted the Tunney Act in 1974. As Senator Tunney explained: "[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process." 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather, the procedure for the public-interest determination is left to the discretion of the court, with the recognition that the court's "scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings." *SBC Commc'ns,* 489 F. Supp. 2d at 11.[8]

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Respectfully submitted,

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Dated: February 25, 2011.

Certificate of Service

On February 25, 2011, I, Scott I. Fitzgerald, electronically submitted a copy of the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system for the court. I hereby certify that I caused a copy of the foregoing document to be served upon Defendant United Regional Health Care System electronically or by another means authorized by the Court of the Federal Rules of Civil Procedure.

Scott I. Fitzgerald (WA Bar #39716),

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In the United States District Court for the Northern District of Texas, Wichita Falls Division

United States of America and State of Texas, Plaintiffs, v. United Regional Health Care System, Defendant.

Case No.: 7:11-cv-00030.

Judge: Reed C. O'Connor.

[7] *Cf. BNS,* 858 F.2d at 464 (holding that the court's "ultimate authority under the [APPA] is limited to approving or disapproving the consent decree"); *United States* v. *Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to "look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass"); *see generally Microsoft,* 56 F.3d at 1461 (discussing whether "the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' ").

[8] *See United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.DC 2000) (noting that the "Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone"); *United States* v. *Mid-Am. Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977) ("Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances."); S. Rep. No. 93–298 at 6 (1973) ("Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.").

Filed: Feb. 25, 2011.
Description: Antitrust.

[Proposed] Final Judgment

Whereas, Plaintiffs, the United States of America and the State of Texas, filed their Complaint on February 25, 2011, alleging that Defendant, United Regional Health Care System, has unlawfully maintained its monopoly by entering into exclusionary agreements with commercial health insurers, harming competition and consumers in violation of Section 2 of the Sherman Act, 15 U.S.C. 2; and

Whereas, Plaintiffs and Defendant, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law; and

Whereas, Plaintiffs require Defendant to agree to undertake certain actions and refrain from certain conduct for the purpose of remedying the anticompetitive effects alleged in the Complaint;

Now therefore, before any testimony is taken, without trial or adjudication of any issue of fact or law, without this Final Judgment constituting any evidence against or admission by Defendant regarding any issue of fact or law, and upon consent of the parties to this action, it is *ordered, adjudged, and decreed:*

I. Jurisdiction

This Court has jurisdiction over the subject matter of this action and over Defendant. The Complaint states a claim upon which relief may be granted against Defendant under Section 2 of the Sherman Act, 15 U.S.C. 2.

II. Definitions

As used in this Final Judgment:

A. "Commercial Health Insurer" (or "Insurer") means a Person providing commercial health insurance or access to health-care provider networks, including but not limited to managed-care organizations, rental networks (*i.e.*, Persons that lease, rent, or otherwise provide direct or indirect access to a proprietary network of healthcare providers), and self-funded plans, regardless of whether that Person bears any risk or makes any payment relating to the provision of health care. The term "Commercial Health Insurer" (or "Insurer") includes Insurers that provide Medicare Advantage plans, but does not include Medicare, Medicaid, or TRICARE, or entities that otherwise contract on their behalf.

B. "Conditional Volume Discount" means a price, discount, or rebate that is offered to a Commercial Health Insurer *on condition* that the volume of that Insurer's Purchases from Defendant meets or exceeds a specified threshold.

C. "Cost-to-Charge Ratio" means the ratio of Defendant's total operating expenses to its total patient charges, for all service lines in aggregate, as reported to the Centers for Medicare & Medicaid Services pursuant to 42 U.S.C. 1395g and 42 CFR 413.20(b).

D. "Hospital Services" include (1) acute-care diagnostic and therapeutic inpatient services and (2) acute-care diagnostic and therapeutic outpatient services, including but not limited to ambulatory surgery and radiology services.

E. "Hospital-Services Provider" means any provider of Hospital Services, including but not limited to facilities that provide Hospital Services solely on an outpatient basis.

F. "Incremental Volume Discount" means a Conditional Volume Discount that is offered to a Commercial Health Insurer for which the price, discount, or rebate applies only to Purchases *above* the specified threshold. For purposes of this Final Judgment, the term "Incremental Volume Discount" does not include any price, discount, or rebate that is offered on condition that the Insurer's Purchases of Hospital Services from Defendant meet or exceed a specified percentage threshold of that Insurer's Purchases of Hospital Services in a defined geographic area.

G. "Person" means any natural person, corporation, company, partnership, joint venture, firm, association, proprietorship, agency, board, authority, commission, office, or other business or legal entity, whether private or governmental.

H. "Purchase," when used in reference to a Commercial Health Insurer's purchase of Hospital Services, includes but is not limited to arrangements between Commercial Health Insurers and Hospital-Services Providers pursuant to which the parties agree to the prices, discounts, and other terms on which Hospital Services are to be provided to patients, insurers, and self-funded employers, regardless of whether the Commercial Health Insurer that is party to the arrangement directly receives or pays for the Hospital Service.

I. "Service Line" means (1) for inpatient services, each of the mutually-exclusive major diagnosis categories (MDCs) as defined by the Centers for Medicare & Medicaid Services, and (2) for outpatient services, the "admit service area" as used in the Defendant's course of business to identify outpatient service lines.

J. The terms "and" and "or" have both conjunctive and disjunctive meanings.

III. Applicability and Interpretation

A. This Final Judgment applies to the Defendant; its directors, officers, managers, agents, employees, successors, and assigns; its controlled subsidiaries, divisions, groups, affiliates, and partnerships; and all other Persons in active concert or participation with the Defendant who receive actual notice of this Final Judgment by personal service or otherwise. For purposes of this Final Judgment, an entity is controlled by Defendant if Defendant holds 50% or more of the entity's voting securities, has the right to 50% or more of the entity's profits, has the right to 50% or more of the entity's assets on dissolution, or has the contractual power to designate 50% or more of the directors or trustees of the entity.

B. The purpose of this Final Judgment is to prevent and remedy the use by Defendant of allegedly unlawful exclusionary agreements that limit competition for the sale of Hospital Services. This Final Judgment shall be interpreted to promote that purpose and not to limit it.

IV. Prohibited Conduct

A. Defendant shall not enter into, adopt, maintain, or enforce any term in any agreement that directly or indirectly:

(1) Conditions any price or discount offered to or paid by any Commercial Health Insurer on that Insurer's not entering into an agreement for the Purchase of Hospital Services from, or including in a provider network, another Hospital-Services Provider; or

(2) Prohibits any Commercial Health Insurer from entering into an agreement for the Purchase of Hospital Services from, or including in a provider network, another Hospital-Services Provider.

B. Defendant shall not take, or threaten to take, any actions to discriminate, retaliate, or punish any Commercial Health Insurer because that Insurer agrees, obtains, or seeks to agree or obtain Hospital Services from another Hospital-Services Provider, including but not limited to:

(1) Terminating any agreement with the Commercial Health Insurer;

(2) Offering less favorable terms and conditions to the Commercial Health Insurer; or

(3) Refusing to enter into an agreement with the Commercial Health Insurer.

C. Defendant shall not offer or agree to sell Hospital Services to any Commercial Health Insurer at a Conditional Volume Discount, except as allowed by Section V.A(3).

D. Defendant shall not offer or agree to any term in an agreement with a Commercial Health Insurer that prohibits the Insurer from offering products that encourage members to use other in-network Hospital-Services Providers; nor shall Defendant take, or threaten to take, any actions to discriminate, retaliate, or punish any Commercial Health Insurer for offering such products, including but not limited to the retaliatory actions listed in Section IV.B(1)–(3).

V. Permitted Conduct

A. Nothing in this Final Judgment shall prohibit Defendant from offering or agreeing to sell Hospital Services to:

(1) Any Commercial Health Insurer at any price or discount, provided that such prices or discounts do not violate the prohibitions in Section IV;

(2) Different Commercial Health Insurers at different prices or discounts, provided that such prices or discounts do not violate the prohibitions in Section IV;

(3) Any Commercial Health Insurer at an Incremental Volume Discount, provided that the discounted prices are above cost. For purposes of this decree, this above-cost requirement is satisfied if the discounted prices for each Service Line that apply to purchases above the specified threshold, expressed as a percentage of billed charges (the "discounted prices"), are greater than the Defendant's Cost-to-Charge Ratio based on the most recent report submitted to the Centers for Medicare & Medicaid Services before the date on which the Insurer and Defendant executed the contract. Provided, however, that after three years from the date the contract is effective, and for every three-year period thereafter, the discounted prices must be greater than the Defendant's Cost-to-Charge Ratio based on the most recent report submitted to the Centers for Medicare & Medicaid Services before the beginning of the three-year period.

B. Nothing in this Final Judgment shall prohibit Defendant from considering a Commercial Health Insurer's previous or anticipated overall size or volume when negotiating a price or discount.

C. Nothing in this Final Judgment shall prohibit Defendant from participating in a Commercial Health Insurer's preferred provider network or other forms of limited-provider panels provided that such activity does not violate the prohibitions in Section IV.

D. Except as prohibited by Section IV.B, and subject to the requirement in Section VI.B, Defendant and any Commercial Health Insurer may renegotiate or terminate their agreements according to the notice and termination provisions in such agreements.

VI. Required Conduct

A. Within 15 days after entry of this Final Judgment, Defendant shall notify in writing each Commercial Health Insurer with which Defendant has an agreement that this Final Judgment has been entered, enclosing a copy of this Final Judgment.

B. Defendant shall provide Hospital Services to each Commercial Health Insurer at the discount previously conditioned on exclusivity, even if any such Insurer enters into agreements with other Hospital-Services Providers, unless and until such discount is renegotiated according to Section V.D; provided, however, that Defendant is not required to provide such discount for greater than 270 days after Defendant notifies Insurer of its intent to renegotiate the contract.

VII. Compliance and Access

A. Defendant shall appoint an Antitrust Compliance Officer within seven days of entry of this Final Judgment, and a successor within thirty days of a predecessor's vacating the appointment, with responsibility for implementing an antitrust compliance program to ensure Defendant's compliance with this Final Judgment.

B. Each Antitrust Compliance Officer appointed pursuant to Section VII.A shall:

(1) Within 15 days after this Final Judgment takes effect, provide a copy of this Final Judgment to each of Defendant's directors and officers, and to each employee whose job responsibilities relate in any substantive way to negotiating or reviewing agreements with Commercial Health Insurers for the Purchase of Hospital Services;

(2) Distribute in a timely manner a copy of this Final Judgment to any Person who succeeds to, or subsequently holds, a position of director or officer or an employee whose job responsibilities relate in any substantive way to negotiating or reviewing agreements with Commercial Health Insurers for the Purchase of Hospital Services; and

(3) Within 60 days after this Final Judgment takes effect, develop and implement the procedures necessary to ensure Defendant's compliance with this Final Judgment. Such procedures shall ensure that questions from any of Defendant's directors, officers, or employees about this Final Judgment can be answered by counsel as the need arises.

C. For purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally-recognized privilege, from time to time authorized representatives of the U.S. Department of Justice or the Office of the Texas Attorney General (including their consultants and other retained persons) shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division or the Office of the Texas Attorney General and on reasonable notice to Defendant, be permitted:

(1) access during Defendant's office hours to inspect and copy, or, at the option of the United States or the State of Texas, to require Defendant to provide hard copy or electronic copies of all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendant, relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, Defendant's officers, employees, or agents, who may have their counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee without restraint or interference by Defendant.

D. Within 270 days after the entry of this Final Judgment, Defendant shall submit to the United States and the State of Texas a written report setting forth its actions in compliance with this Final Judgment, specifically describing (1) the status and results of all negotiations with Commercial Health Insurers, and (2) the compliance procedures adopted pursuant Section VII.B(3) of this Final Judgment. For any new or revised agreement with any Commercial Health Insurer that is executed within one year of the entry of this Final Judgment, Defendant shall submit to the United States and the State of Texas a copy of such agreement within fourteen days from the date the agreement is executed.

E. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division or the Office of the Texas Attorney General, Defendant shall submit written reports or respond to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment. Written reports authorized under this paragraph may, at the sole discretion of the United States, require Defendant to conduct, at its cost, an independent

audit or analysis relating to any of the matters contained in this Final Judgment.

F. No information or documents obtained by the means provided in this section shall be divulged by the United States or the State of Texas to any Person other than an authorized representative of (1) the executive branch of the United States or (2) the Office of the Texas Attorney General, except in the course of legal proceedings to which the United States or the Office of the Texas Attorney General is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

G. If at the time information or documents are furnished by Defendant to the United States or the State of Texas, Defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure," then the United States and the State of Texas shall give Defendant fourteen days' notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding), except as otherwise required by law or court order.

VIII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

IX. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire seven years from the date of its entry.

X. Public-Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, any comments thereon, and the United States' response to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: _____

Court approval subject to procedures set forth in the Antitrust Procedures and Penalties Act, 15 U.S.C. 16.

_____

United States District Judge

[FR Doc. 2011–5529 Filed 3–9–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (BJA) Docket No. 1547]

Meeting of the Department of Justice Global Justice Information Sharing Initiative Federal Advisory Committee

AGENCY: Office of Justice Programs (OJP), Justice.

ACTION: Notice of meeting.

SUMMARY: This is an announcement of a meeting of the Department of Justice (DOJ) Global Justice Information Sharing Initiative (Global) Federal Advisory Committee (GAC) to discuss the Global Initiative, as described at *http://www.it.ojp.gov/global.*

DATES: The meeting will take place on Wednesday, April 20, 2011, from 8:30 a.m. to 4 p.m. ET.

ADDRESSES: The meeting will take place at the Embassy Suites Washington, DC—Convention Center Hotel, 900 Tenth Street, NW., Washington, DC 20001, *Phone:* (202) 739–2001.

FOR FURTHER INFORMATION CONTACT: J. Patrick McCreary, Global Designated Federal Employee (DFE), Bureau of Justice Assistance, Office of Justice Programs, 810 Seventh Street, Washington, DC 20531; *Phone:* (202) 616–0532 [**Note:** This is not a toll-free number]; *E-mail: James.P.McCreary@usdoj.gov.*

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Due to security measures, however, members of the public who wish to attend this meeting must register with Mr. J. Patrick McCreary at the above address at least (7) days in advance of the meeting. Registrations will be accepted on a space available basis. Access to the meeting will not be allowed without registration. All attendees will be required to sign in at the meeting registration desk. Please bring photo identification and allow extra time prior to the meeting.

Anyone requiring special accommodations should notify Mr. McCreary at least seven (7) days in advance of the meeting.

Purpose

The GAC will act as the focal point for justice information systems integration activities to help facilitate development and coordination of national policy, practices, and technical solutions in support of the Administration's justice priorities.

The GAC will guide and monitor the development of the Global information sharing concept. It will advise the Assistant Attorney General, OJP; the Attorney General; the President (through the Attorney General); and local, state, tribal, and federal policymakers. The GAC will also advocate for strategies for accomplishing a Global information sharing capability.

Interested persons whose registrations have been accepted may be permitted to participate in the discussions at the discretion of the meeting chairman and with approval of the DFE.

J. Patrick McCreary,

Global DFE, Bureau of Justice Assistance, Office of Justice Programs.

[FR Doc. 2011–5452 Filed 3–9–11; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

TA–W–71,287	MASCO BUILDER CABINET GROUP INCLUDING ON–SITE LEASED WORKERS FROM RESERVES NETWORK AND RELIABLE STAFFING, JACKSON, OHIO.
TA–W–71,287A	MASCO BUILDER CABINET GROUP INCLUDING ON–SITE LEASED WORKERS FROM RESERVES NETWORK AND RELIABLE STAFFING WAVERLY, OHIO.
TA–W–71,287B	MASCO BUILDER CABINET GROUP INCLUDING ON–SITE LEASED WORKERS FROM RESERVES NETWORK AND RELIABLE STAFFING SEAL TOWNSHIP, OHIO.

TA–W–71,287C	MASCO BUILDER CABINET GROUP INCLUDING ON–SITE LEASED WORKERS FROM RESERVES NETWORK AND RELIABLE STAFFING, SEAMAN, OHIO.

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 16, 2009, applicable to workers of Masco Builder Cabinet Group including on-site leased workers from Reserves Network, Jackson, Ohio. The workers produce cabinets and cabinet frames. The notice was published in the **Federal Register** on December 11, 2009 (74 FR 65797). The notice was amended on December 22, 2010 to include other company locations. The notice was published in the **Federal Register** on January 12, 2011 (76 FR 2145).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The company reports that workers leased from Reserves Network and Reliable Staffing were employed at the Jackson, Waverly, Seal Township, and Seaman, Ohio locations of Masco Building Cabinet Group. The Department has determined that these workers were sufficiently under the control of Masco Builder Cabinet Group to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Reserves Network and Reliable Staffing working on-site at the Jackson, Waverly, Seal Township and Seaman, Ohio, locations of Masco Builder Cabinet Group.

The amended notice applicable to TA–W–71,287 is hereby issued as follows:

"All workers of Masco Builder Cabinet Group, including on-site leased workers from Reserves Network and Reliable Staffing, Jackson, Ohio (TA–W–71,287), Waverly, Ohio (TA–W–71,287A), Seal Township, Ohio (TA–W–71,287B) and Seaman, Ohio (TA–W–71,287C) who became totally or partially separated from employment on or after June 11, 2008, through October 16, 2011, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended."

Signed at Washington, DC this 24th day of February, 2011.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–5479 Filed 3–9–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–71,433]

Syncreon USA, Formerly Known as TDS US Automotive, Belvidere, IL; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 12, 2010, applicable to workers of Syncreon USA, Belvidere, Illinois. The workers provide metering, sequencing, kitting, and delivery services. The notice was published in the **Federal Register** on April 23, 2010 (75 FR 21353).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that some workers separated from employment at Syncreon USA had their wages reported through a separate unemployment insurance (UI) tax account under the name TDS US Automotive.

Accordingly, the Department is amending this certification to properly reflect this matter.

The amended notice applicable to TA–W–71,433 is hereby issued as follows:

All workers of Syncreon USA, formerly known as TDS US Automotive, Belvidere, Illinois, who became totally or partially separated from employment on or after June 16, 2008, through March 12, 2012, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 24th day of February, 2011.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–5480 Filed 3–9–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,458]

Continental Structural Plastics, Including On-Site Leased Workers From Kelly Services and Doepker Group, Inc., Formerly Known As Time Staffing, North Baltimore, OH; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on December 31, 2008, applicable to workers of Continental Structural Plastics, North Baltimore, Ohio. The workers produce exterior body panels and under body structural components for automobiles. The notice was published in the **Federal Register** on January 26, 2009 (74 FR 4463). The notice was amended on December 17, 2010 to include on-site leased workers. The notice was published in the **Federal Register** on January 3, 2011 (76 FR 175)

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that Time Staffing is now known as Doepker Group, Inc., and that the worker group includes on-site leased workers who had their wages reported through an unemployment insurance (UI) tax account under either name.

Accordingly, the department is amending this certification to properly reflect this matter. The intent of the Department's certification is to include all workers of the subject firm who were adversely affected as an upstream supplier to a trade certified primary firm.

The amended notice applicable to TA–W–64,458 is hereby issued as follows:

All workers of Continental Structural Plastics, including on-site leased workers from Kelly Services and Doepker Group, Inc., formerly known as Time Staffing, North Baltimore, Ohio, who became totally or partially separated from employment on or after November 11, 2007, through December 31, 2010, are eligible to apply for adjustment

assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 24th day of February, 2011.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–5478 Filed 3–9–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–75,120A]

Steelcase, Inc., North America Division, Including On-Site Leased Workers From Manpower, Inc., Grand Rapids, MI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 4, 2011, applicable to workers of Steelcase, Inc., North America Division, including on-site leased workers from Manpower, Inc., Grand Rapids, Michigan. The notice was published in the **Federal Register** on February 24, 2011 (76 FR 10399).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of office furniture.

The review shows that on December 9, 2008, a certification of eligibility to apply for adjustment assistance was issued for all workers of Steelcase, Inc., Global Headquarters, Grand Rapids, Michigan, separated from employment on or after November 20, 2007 through December 9, 2010. The notice was published in the **Federal Register** on December 30, 2008 (73 FR 79914).

In order to avoid an overlap in worker group coverage, the Department is amending the January 18, 2010 impact date established for TA–W–75,120A to read December 10, 2010.

The amended notice applicable to TA–W–75,120 and TA–W–75,120A are hereby issued as follows:

All workers of Steelcase, Inc., North America Division, including on-site leased workers from Manpower, Inc., Grand Prairie, Texas (TA–W–75,120), who became totally or partially separated from employment on or after January 18, 2010 through February 4, 2013, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended and

All workers of Steelcase, Inc., North America Division, including on-site leased workers from Manpower, Inc., Grand Rapids, Michigan (TA–W–75,120A), who became totally or partially separated from employment on or after December 10, 2010 through February 4, 2013, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 24th day of February 2011.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–5473 Filed 3–9–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of *February 14, 2011 through February 18, 2011.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and

a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
74,339	Sitel Operating Corporation, Sitel Worldwide Corporation	Memphis, TN	July 1, 2009.
74,713	Chii, DBA Lifetime Coatings, Manpower	Quincy, IL	September 20, 2009.
74,974	TI Automotive, Leased Workers from Manpower, Aerotek, and Spherion.	Chesterfield, MI	December 5, 2009.
75,048	Premier Technical Plastics, Leased Workers from Manpower	Minden, LA	December 23, 2009.
75,168	Hearth and Home Technologies, Inc	Colville, WA	January 28, 2010.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
74,745	Continental Graphics Corporation, CDG Datagraphics; The Boeing Company; Leased Workers Excell and Harvey Nash.	Bellevue, WA	October 15, 2009.
74,751	Eaton Corporation, Clutch Division	Auburn, IN	October 6, 2009.
74,812	Heraeus Noblelight de Puerto Rico, Inc	Cayey, PR	October 28, 2009.
74,813	Eastman Kodak Company (GCG), Electrographic Print Solutions; Leased Workers from Adecco and Datrose.	Spencerport, NY	October 29, 2009.
74,901	Hawker Beechcraft Corporation, Hawker Beachcraft International SVC, Rapid Surplus Parts, etc.	Wichita, KS	November 11, 2009.
75,006	EMD Serono Biotech Center, Inc., EMD Serono Research Institute, On Assignment Lab Support & Randstad.	Billerica, MA	December 15, 2009.
75,017	Nokia, Inc., Nokia Group, ATC Logistics and Electronics	Fort Worth, TX	December 17, 2010.
75,039	Auto-trol Technology Corporation, Coretechs	Westminster, CO	December 21, 2009.
75,058	Electrolux Home Care Products, Inc., Electrolux Central Vacuum Systems; AB Electrolux.	Webster City, IA	February 24, 2011.
75,058A	Manpower, Electrolux Home Care Products, Inc	Webster City, IA	December 24, 2009.
75,086	Callaway Golf Company, Operations Division, Volt Services Group	Carlsbad, CA	January 10, 2010.
75,094	Alstyle Apparel, Ennis, Inc	Anaheim, CA	January 12, 2010.
75,103	Sun Mountain Sports, Inc., Plastic Injection Molding Division; Leased Workers from Labor Ready.	Missoula, MT	January 11, 2010.

TA–W No.	Subject firm	Location	Impact date
75,110	Propex Operating Company, LLC, Leased Workers from The Pollard Agency and PFMI.	Hazlehurst, GA	January 18, 2010.
75,111	Affiliated Computer Services, Inc., Human Capital Management Colustions Unit, Xerox Corp.	Schaumburg, IL	January 18, 2010.
75,126	Blue Cross Blue Shield of North Carolina, Commercial and Government Operations Division; Leased Workers Manpower, etc.	Durham, NC	December 20, 2009.
75,137	John Crane, Inc	Cranston, RI	January 24, 2010.
75,147	Elkay Manufacturing	Broadview, IL	January 28, 2010.
75,171	Dex One, West Division, Advantage XPO	Tucson, AZ	February 2, 2010.
75,171A	Dex One, West Division, Advantage XPO	Colorado Springs, Englewood, CO.	February 2, 2010.
75,171B	Dex One, West Division, Advantage XPO	West Des Moines, IA	February 2, 2010.
75,171C	Dex One, West Division, Advantage XPO	Maple Grove, MN	February 2, 2010.
75,171D	Dex One, West Division, Advantage XPO	Albuquerque, NM	February 2, 2010.
75,171E	Dex One, West Division, Advantage XPO	Spokane, Tacoma and Vancouver, WA.	February 2, 2010.
75,172	Dex One, East Division, Advantage XPO	Fort Myers, Maitland and Ocala, FL.	February 2, 2010.
75,172A	Dex One, East Division, Advantage XPO	Arlington Heights, Chicago, Lombard, etc., IL.	February 2, 2010.
75,172B	Dex One, East Division, Advantage XPO	Fayetteville and Morrisville, NC	February 2, 2010.
75,172C	Dex One, East Division, Advantage XPO	Las Vegas, NV	February 2, 2010.
75,172D	Dex One, East Division, Advantage XPO	Carlisle and Dunmore, PA	February 2, 2010.
75,172E	Dex One, East Division, Advantage XPO	Bristol, TN	February 2, 2010.
75,176	Lynx Medical Systems, Coding Services Div., Ingenix, Wages Previously Under FEIN 91–1263758.	Bellevue, WA	February 3, 2010.
75,178	Simpson Door Company, Simpson Investment Company	McCleary, WA	December 20, 2010.
75,180	Contract Pharmaceuticals Limited Niagra (CPL Niagra), SPS Temporaries and Imagine Staffing.	Buffalo, NY	February 4, 2010.
75,192	Core Industries, Inc., d/b/a Star Trac, Aerotek, Helpmates, Mattson & Empire Staffing.	Irvine, CA	February 8, 2010.
75,244	Carrier Air Conditioning, United Technologies Corporation, Commercial Divisions.	Tyler, TX	January 27, 2011.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
74,865	Johnson Controls, Inc., Working On-Site at Hewlett Packard Company.	Corvallis, OR	November 9, 2009.
75,033	Indianapolis Metal Center, General Motors, Wages Previously Under Fein 38–0572515, Aerotek etc.	Indianapolis, IN	December 20, 2009.
75,227	Dana Structural Manufacturing LLC, Structures Division; Leased Workers from Manpower.	Longview, TX	February 10, 2010.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criterion under paragraph (a)(1), or (b)(1), or (c)(1) (employment decline or threat of separation) of section 222 has not been met.

TA–W No.	Subject firm	Location	Impact date
75,053	C. Fassinger & Sons Mfg. Co., LLC	New Castle, PA.	
75,107	Hewlett Packard Company, Global Business Intelligence Unit	Fort Collins, CO.	

The investigation revealed that the criteria under paragraphs(a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
73,718	Medica	Minnetonka, MN.	
74,254	National Carton & Coating Company, Leased Workers from CBS/Staffmark.	Xenia, OH.	

TA–W No.	Subject firm	Location	Impact date
74,634	A. H. Schreiber Company, Inc.	Bristol, TN.	
74,706	Busch Agricultural Resources, LLC, Anheuser-Busch, Inc.	Manitowoc, WI.	
74,756	Fort McDowell Yavapai Materials, Plants 1, 3 and 20	Fort McDowell, AZ	September 27, 2009.
74,756A	Fort McDowell Yavapai Materials, Plants 4 and 70	Buckeye, AZ	September 27, 2009.
74,756B	Fort McDowell Yavapai Materials, Plant 40	Scottsdale, AZ	September 27, 2009.
74,756C	Fort McDowell Yavapai Materials, Plant 50	Glendale, AZ	September 27, 2009.
74,756D	Fort McDowell Yavapai Materials, Plant 60	Queen Creek, AZ	September 27, 2009.
74,772	HEITEC, Inc., Including Workers Wages that are Reported Under Hacker Engineering, Inc.	Palm Desert, CA.	
75,027	K.W.S., Inc.	Cheboygan, MI.	

The investigation revealed that the criteria under paragraphs (b)(2) and (b)(3) (public agency acquisition of services from a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
74,979	City of Walla Walla, Development Services Department	Walla Walla, WA.	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
74,853	Kurz-Kasch	South Boston, VA	

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA–W No.	Subject firm	Location	Impact date
74,438	Bruss North America, Inc.	Orion, MI.	
74,978	Western Union, LLC, Operations Division	St. Charles, MO.	

The following determinations terminating investigations were issued because the petitions are the subject of ongoing investigations under petitions filed earlier covering the same petitioners.

TA–W No.	Subject firm	Location	Impact date
75,187	Dex One	Morrisville, NC.	

I hereby certify that the aforementioned determinations were issued during the period of *February 14, 2011 through February 18, 2011.* Copies of these determinations may be requested under the Freedom of Information Act. Requests may be submitted by fax, courier services, or mail to FOIA Disclosure Officer, Office of Trade Adjustment Assistance (ETA), U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 or to *foiarequest@dol.gov.* These determinations also are available on the Department's Web site at *http://www.doleta.gov/tradeact* under the searchable listing of determinations.

Dated: March 2, 2011.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–5475 Filed 3–9–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of

determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of February 22, 2011 through February 25, 2011.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) the acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the Federal Register under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the Federal Register; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W number	Subject firm	Location	Impact date
74,789	Convergys Corporation, Customer Management	Orem, UT	September 29, 2009.

TA–W number	Subject firm	Location	Impact date
75,158	Penske Logistics, LLC, Customer Service Dept., General Electric, Kelly Temporary Services, etc.	El Paso, TX	January 31, 2010.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W number	Subject firm	Location	Impact date
74,797	Martin Mills, Inc., Jeanerette Distribution Center; Fruit of the Loom; Leased Workers Spherion.	Jeanerette, LA	
74,902	Abbott Diabetes Care, Inc., Leased Workers of Manpower	Alameda, CA	November 18, 2009.
75,007	Serigraph, Inc., Integrated Graphics Group; Leased Workers from Seek Inc.	West Bend, WI	December 15, 2009.
75,152	Pratt and Whitney, Cheshire Engine Center; United Technologies Corp.; Leased Workers Belcan, etc.	Cheshire, CT	January 11, 2010.
75,154	Apex Tool Group, LLC, Leased Workers from Staffmark	Monroe, NC	January 24, 2010.
75,190	Compucredit Holdings Corporation, Credit Cards—Collections Division; Leased Workers Axiom and Resource Mosaic.	Atlanta, GA	February 8, 2010.
75,200	RBC Manufacturing Corporation, West Plains Division, Regal Beloit Corporation.	West Plains, MO	January 27, 2011.
75,201	Abbott Laboratories, Diagnostics Division; Leased Workers from Manpower, Comsys, Apex, etc.	Irving, TX	February 9, 2010.
75,202	Welco Technologies, Western Sky Division, Electromech Technologies, Nesco Services Co.	Maysville, KY	February 9, 2010.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W number	Subject firm	Location	Impact date
74,631	General Motors Components Holdings LLC	Lockport, NY	September 26, 2010.
75,128	Olympic Fabrication, LLC, Sealaska Corporation	Shelton, WA	January 20, 2010.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs(a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W number	Subject firm	Location	Impact date
74,581	CMC Joist and Deck, CMC Joist Fabrication, Inc	New Columbia, PA	
74,744	Ingersoll Rand Company, Formerly Trane Company, Residential Solutions.	Fort Smith, AR	
74,785	Southeast Missouri Hospital	Cape Girardeau, MO	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W number	Subject firm	Location	Impact date
75,246	Deluxe Laboratories	Hollywood, CA	
75,246A	Deluxe Laboratories	Burbank, CA	

The following determinations terminating investigations were issued because the petitions are the subject of ongoing investigations under petitions filed earlier covering the same petitioners.

TA–W number	Subject firm	Location	Impact date
75,213	The Hartford Financial Services Group, Inc., EIT/TSS/Application Configuration Support Division.	Hartford, CT	

I hereby certify that the aforementioned determinations were issued during the period of February 22, 2011 through February 25, 2011. Copies of these determinations may be requested under the Freedom of Information Act. Requests may be submitted by fax, courier services, or mail to FOIA Disclosure Officer, Office of Trade Adjustment Assistance (ETA), U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 or *tofoiarequest@dol.gov.* These determinations also are available on the Department's website at *http://www.doleta.gov/tradeact* under the searchable listing of determinations.

Dated: March 3, 2011.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–5477 Filed 3–9–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 21, 2011.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 21, 2011.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 3rd day of March 2011.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[6 TAA petitions instituted between 2/22/11 and 2/25/11]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
80005	Abbott Laboratories (Company)	South Pasadena, CA	02/22/11	02/18/11
80006	Mitel, Inc. (Workers)	Chandler, AZ	02/22/11	02/18/11
80007	Specialty Shearing and Dyeing Inc. (Company)	Greenville, SC	02/22/11	02/21/11
80008	Twin County Ford (Workers)	Woodlawn, VA	02/23/11	02/22/11
80009	Carstone Industries, Inc. (Company)	Somerset, KY	02/23/11	02/22/11
80010	Durham Manufacturing Company (Company)	Durham, CT	02/24/11	02/23/11

[FR Doc. 2011–5472 Filed 3–9–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 21, 2011.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 21, 2011.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment

Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 18th day of February 2011.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[74 TAA petitions instituted between 2/14/11 and 2/18/11]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
75245	Biomerieux, Inc. (Company)	Wilsonville, OR	02/14/11	02/11/11.
75246	Deluxe Laboratories (State/One-Stop)	Hollywood, CA	02/14/11	02/11/11.
75246A	Deluxe Laboratories (State/One-Stop)	Burbank, CA	02/14/11	02/11/11.
75247	Jones Apparel Group (Workers)	El Paso, TX	02/14/11	02/11/11.
75248	Groupe SEB (Union)	Eighty Four, PA	02/14/11	02/10/11.
75249	JC Penney (State/One-Stop)	Rio Rancho, NM	02/14/11	02/11/11.
75250	Burner Systems International (Company)	Chattanooga, TN	02/14/11	02/11/11.
75251	JPMorgan Chase (State/One-Stop)	Fort Worth, TX	02/14/11	02/11/11.
75252	Goodyear Tire and Rubber Company (Union)	Union City, TN	02/14/11	02/10/11.
75253	Hewlett Packard (State/One-Stop)	Omaha, NE	02/14/11	02/11/11.
75254	Cima Labs (State/One-Stop)	Eden Prairie, MN	02/14/11	02/11/11.
75255	Cooper Standard Automotive, Inc. (Union)	Bowling Green, OH	02/14/11	02/10/11.
75256	Cooper Standard (Workers)	New Lexington, OH	02/14/11	02/02/11.
75257	Walsh Trucking (State/One-Stop)	Dillard, OR	02/14/11	02/11/11.
75258	Kaz, Inc. (Company)	Hudson, NY	02/14/11	02/11/11.
75259	Four Star Plastics (Company)	Richmond, KY	02/14/11	02/11/11.
75260	Pittsburgh Corning Corporation (Workers)	Port Allegany, PA	02/14/11	02/10/11.
75261	Highmark West Virginia, Inc. including employees who work from home in WV (Company).	Parkersburg, WV	02/14/11	02/11/11.
75262	Highmark, including locations in Pittsburgh, Erie, Johnstown & Wkrs from home (Company).	Camp Hill, PA	02/14/11	02/11/11.
75263	Mac Steel Service Centers USA (Workers)	Liverpool, NY	02/14/11	02/11/11.
75264	City of Firsts Community F.C. (Union)	Kokomo, IN	02/14/11	02/11/11.
75265	Domtar Paper Company (Company)	Langhorne, PA	02/14/11	02/11/11.
75266	Maine Bucket Company (State/One-Stop)	Lewiston, ME	02/14/11	02/11/11.
75267	AK Steel Corporation (Ashland Works Coke Plant) (Union)	Ashland, KY	02/14/11	02/11/11.
75268	Nestle Nutrition/Health Care Nutrition (State/One-Stop)	St. Louis Park, MN	02/14/11	02/11/11.
75269	Evergreen Solar, Inc. (Company)	Devens, MA	02/14/11	02/11/11.
75270	Sterling Life Insurance (State/One-Stop)	Bellingham, WA	02/14/11	02/11/11.
75271	Broyhill Furniture Industries, Inc., Corporate Office (Company).	Lenoir, NC	02/14/11	02/11/11.
75272	Evergreen Solar, Inc. (Company)	Marlboro, MA	02/14/11	02/11/11.
75273	Harsco Rail (State/One-Stop)	Fairmont, MN	02/15/11	02/14/11.
75274	Abbott Laboratories (Company)	Abbott Park, IL	02/15/11	02/14/11.
75275	Anthem Blue Cross, A Wellpoint, Inc. Company (Company)	Woodland Hills, CA	02/15/11	02/14/11.
75276	Associated Tube USA (Company)	Elizabethtown, KY	02/15/11	02/14/11.
75277	Steelcase, Inc. (State/One-Stop)	Caledonia, MI	02/15/11	02/01/11.
75278	Wellman Dynamics (State/One-Stop)	Plymouth, MN	02/15/11	02/14/11.
75279	Hewlett Packard (Workers)	Roseville, CA	02/15/11	02/13/11.
75280	YKK Snap Fasteners America, Inc. (State/One-Stop)	Lawrenceburg, KY	02/15/11	02/14/11.
75281	South Central Service (Workers)	Berea, KY	02/15/11	02/14/11.
75282	I.C. System (State/One-Stop)	Mason City, IA	02/15/11	02/14/11.
75283	HP Enterprise Services, LLC (State/One-Stop)	Cupertino, CA	02/15/11	02/11/11.
75284	CGI (State/One-Stop)	Andover, MA	02/15/11	02/14/11.
75285	VisLink, Inc. (Company)	Vista, CA	02/15/11	02/14/11.
75286	Moulton Logistics Management (State/One-Stop)	Van Nuys, CA	02/15/11	02/11/11.
75287	Anchorage Daily News (State/One-Stop)	Anchorage, AK	02/15/11	02/14/11.
75288	AT&T (Workers)	Old Bridge, NJ	02/15/11	02/11/11.
75289	American Food and Vending (Union)	Union City, TN	02/15/11	02/14/11.
75290	CSC (Company)	Schaumburg, IL	02/15/11	02/14/11.
75291	CCI Systems, Inc. (Workers)	Iron Mountain, MI	02/15/11	02/14/11.
75292	ConocoPhillips Company (Company)	Nikiski, AK	02/15/11	02/14/11.
75293	Carauster Corporation (Workers)	Austell, GA	02/15/11	02/14/11.
75294	Marathon Oil (State/One-Stop)	Anchorage, AK	02/15/11	02/14/11.
75295	Katahdin Paper Company, LLC (Company)	East Millinocket, ME	02/15/11	02/14/11.
75296	S4Carlisle Publishing Services (Company)	Dubuque, IA	02/15/11	02/14/11.
75297	ESA Laboratories (State/One-Stop)	Chelmsford, MA	02/15/11	02/14/11.
75298	Solix, CMR, LLC (State/One-Stop)	Charleston, IL	02/15/11	02/14/11.
75299	Thomson Reuters (State/One-Stop)	Forth Worth, TX	02/15/11	02/14/11.
75300	Key Plastics, LLC (Company)	Hartford City, IN	02/15/11	02/14/11.
75301	Springs Global US, Inc. (Company)	Fort Mill, SC	02/15/11	02/14/11.
75302	Udelhoven (State/One-Stop)	Anchorage, AK	02/15/11	02/14/11.
75303	Gildan (State/One-Stop)	Hopkinsville, KY	02/15/11	02/14/11.
75304	Meritor Heavy Vehicle Systems (Workers)	Heath, OH	02/15/11	01/27/11.

APPENDIX—Continued

[74 TAA petitions instituted between 2/14/11 and 2/18/11]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
75305	UDR, Inc. (Workers)	Glen Allen, VA	02/15/11	02/09/11.
75306	Elmet Technologies (State/One-Stop)	Lewiston, ME	02/15/11	02/14/11.
75307	BSH Home Appliances, Inc. (Workers)	New Bern, NC	02/15/11	02/14/11.
75308	C.R. Bard, Inc. (State/One-Stop)	Queensbury, NY	02/15/11	02/14/11.
75309	Dallas Group of America, Inc. (Company)	Jeffersonville, IN	02/15/11	02/14/11.
75310	Benetec, Inc. (State/One-Stop)	Irving, TX	02/15/11	02/14/11.
75311	Agilent Technologies, Inc. (State/One-Stop)	Loveland, CO	02/15/11	02/14/11.
75312	RJ Reynolds Tobacco Company (State/One-Stop)	Winston Salem, NC	02/16/11	02/08/11.
75313	Vodafone Americas (Company)	Walnut Creek, CA	02/16/11	02/04/11.
80001	Mercer (US) Inc. (Workers)	Chicago, IL	02/18/11	02/15/11.
80002	Babcock & Wilcox Power Generation Group, Inc. (Workers).	Barberton, OH	02/18/11	02/15/11.
80003	Electronic Arts (State/One-Stop)	Playa Vista, CA	02/18/11	02/15/11.
80004	Sensata Technologies (Company)	Freeport, IL	02/18/11	02/15/11.

[FR Doc. 2011–5474 Filed 3–9–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Veterans' Employment and Training Service

Fiscal Year (FY) 2011 through FY 2013 Stand Down Grant Requests

AGENCY: Veterans' Employment and Training Service, U.S. Department of Labor.

ACTION: Announcement of funds available under the Homeless Veterans' Reintegration Program (HVRP) to support local Stand Down events in FY 2011 and tentatively available to support events in FY 2012, and FY 2013.

Funding Opportunity No: 17–805.

SUMMARY: The U.S. Department of Labor (USDOL), Veterans' Employment and Training Service (VETS) supports local Stand Down events that assist homeless Veterans. A Stand Down is an event held in a local community where homeless Veterans are provided with a wide variety of social services. VETS is now accepting applications for grant awards to fund Stand Down events in FY 2011. Stand Down funding is a non-competitive grant awarded on a first-come, first-served basis until available funding is exhausted.

Under this announcement, VETS anticipates that up to $600,000 will be available to award approximately seventy grants in each of the three fiscal years covered by this solicitation. The Federal fiscal year is the accounting period of the federal government. It begins on October 1st and ends on September 30th of the next calendar year. A maximum of $10,000 per multi-day event or $7,000 for a one-day event can be awarded. Availability of Stand Down grant funding each fiscal year will be dependent upon Congressional appropriation. Stand Down grant funding is awarded for a specific event on a specific date. Organizations planning Stand Down events in subsequent fiscal years must submit a complete, new application for grant funding if desired, and should not assume the application will automatically be approved.

Applications for Stand Down funds will be accepted from State Workforce Agencies, State and local Workforce Investment Boards, Veterans Service Organizations (VSOs), local public agencies, and non-profit organizations including community and faith-based organizations. The USDOL is not authorized to award grant funds to organizations that are registered with the Internal Revenue Service (IRS) as a 501(c)(4) organization.

All applications for Stand Down grant funding must be submitted to the appropriate State Director for Veterans' Employment and Training (DVET) at least ninety (90) days prior to the event. Address and contact information for each State DVET can be found at: *http://www.dol.gov/vets/aboutvets/contacts/main.htm.* Events approved for grant funding in any fiscal year must be held prior to December 31st of the following fiscal year. For example, all Stand Down events awarded funding for FY 2011 (October 1, 2010 through September 30, 2011) must be held on or before December 31, 2011.

Stand Down grant awards are contingent upon a Federal appropriation or a continuing resolution each Federal fiscal year. Therefore, applications submitted after July 1st for events to be held after September 30th may be held for consideration for funding contingent upon Federal funding availability. Grant applicants should not obligate requested grant funding toward Stand Down expenses unless officially notified of a grant award.

SUPPLEMENTARY INFORMATION:

I. Funding Opportunity Description

Stand Down is a military term referring to an opportunity to achieve a brief respite from combat. Troops assemble in a base camp to receive new clothing, hot food, and a relative degree of safety before returning to the front. Today more than 160 organizations across the country partner with local businesses, government agencies, and community- and faith-based service providers to hold Stand Down events for homeless Veterans and their families in the local community.

Each year, the Assistant Secretary for Veterans' Employment and Training awards HVRP grants to expedite the reintegration of homeless Veterans into the labor force through programs that enhance employment and training opportunities and promote self-sufficiency. The critical services provided at a Stand Down may supply the catalyst a homeless Veteran needs to take steps to reintegrate into society by improving job readiness and opportunities for employment. Typically, services available at these events include temporary shelter, showers, haircuts, meals, clothing, hygiene care kits, medical examinations, immunizations, legal advice, State identification cards, veteran benefit information, training program information, employment services, and referral to other supportive services.

Stand Down funding is a non-competitive grant awarded on a first-come, first-served basis until available funding is exhausted. For the purpose of a Stand Down grant award, applicants must describe a plan that clearly

demonstrates that grant funding will be used to purchase or rent goods and services for homeless Veterans only. While both Veteran and non-veteran participants may attend Stand Down events, grant funding can only be used to purchase goods and services, to include food and meals, for the Veterans that participate. The following minimum services should be provided to those participants:

- Department of Veterans Affairs (VA) medical and mental health services;
- Department of Labor—State Workforce Agency employment and training services to include Disabled Veterans' Outreach Program (DVOP) specialist and Local Veterans' Employment Representative (LVER) participation where available;
- An assortment of hot and/or cold foods;
- An assortment of clothing appropriate for the local climate; and
- Referral services to secure emergency housing on-the-spot.

II. Allowable Costs

Stand Down grant funds must be used to enhance employment and training opportunities or to promote the self-sufficiency of homeless Veterans through paid work. The homeless do not always have access to basic hygiene supplies necessary to maintain their health and confidence. Lack of shelter limits their ability to prepare for and present themselves at job interviews or be contacted for follow-up. Basic services such as showers, haircuts, attention to health concerns and other collaborative services provided at Stand Down can give the homeless participants a greater sense of self, improving their chances of securing and maintaining employment. Therefore, grant funds may be used to support Stand Down activities such as:

- The purchase of food, bottled water, clothing, sleeping bags, one-person tents, backpacks filled with non-perishable foods, hygiene care kits, and non-prescription reading glasses for Veteran participants;
- The purchase of gift cards for food, minor time-limited legal services, consumer credit services, and gasoline gift cards for Veteran participants;
- The purchase of job search media such as employment guides or literature in hard copy or on portable storage media, etc);
- Special one-time costs for the duration of the Stand Down event such as rental of facilities and/or tents, electricity, equipment, portable toilets and communications or internet access;
- The purchase of janitorial supplies, kitchen supplies, and advertising materials such as event posters;
- The hiring of security personnel;
- The rental of transportation equipment (bus, van, car, taxi, etc.) and/or purchase of gasoline to provide transportation of homeless Veterans to and from the Stand Down event; and
- The purchase or rental of other pertinent items and services for homeless Veteran participants and their families as deemed appropriate by VETS.

III. Funding Restrictions

Stand Down grant funds may not be used to pay for administrative costs and administrative and/or programmatic staff. Stand Down grant funds may not be used to purchase t-shirts, hats, or other clothing items for volunteers, pen sets, military and veteran type patches/medals, memento gifts for staff members, visitors, or volunteers, or any other supplementary/replacement item(s) that has not been approved by the DVET. Applicants must provide details for every planned expenditure in the budget narrative. Any planned expenses listed only as "other" or "miscellaneous" must be clarified prior to processing the grant application.

Stand Down grant funding cannot be used to pay for health care related expenses. All medical examinations, to include dental and optometry examinations, should be provided by the VA or other community provider. Purchase of prescription eye wear and dental work is considered a medical care expense and is not allowable. Non-prescription reading glasses are considered an allowable expense. Applicants should explore all opportunities to secure health related services through the local VA Medical Center or VA Outpatient Clinic.

VETS reserves the right to disapprove any proposed cost not consistent with the funding restrictions in this announcement.

IV. Award Information

The maximum amount that can be awarded to support a local Stand Down event is $10,000 per applicant per fiscal year. If the event is held for one (1) day, the maximum amount that can be awarded is $7,000. An applicant is normally allowed one grant award per fiscal year.

V. Eligibility Information

1. Eligible Applicants

The following organizations may apply for grants under this solicitation: State and local Workforce Boards, VSOs, local public agencies, and non-profit organizations including community and faith-based organizations. Organizations registered with the Internal Revenue Service as a 501(c)(4) organizations are not eligible to apply for this funding opportunity.

2. Cost Sharing or Matching

Cost sharing and matching funds are not required. However, VETS strongly encourages applicants to leverage other available resources to maximize the goods and services provided to homeless Veteran participants at Stand Down events.

3. Other Eligibility Requirements

A. All applicants for Federal funding are required to include a Dun and Bradstreet Number (DUNS) with their application. Applicants can obtain a DUNS number at: *http://www.dnb.com* or by phone at 1–866–705–5711.

B. After receiving a DUNS number, all grant applicants must register as a vendor with the Central Contractor Registration (CCR) at: *http://www.ccr.gov* or by phone at 1–888–227–2423. The CCR should become active within 24 hours of completion. Applicants with questions regarding registration should contact the CCR Assistance Center at 1–888–227–2423. After registration, grant applicants will receive a confirmation number. The grantee listed point of contact will also receive a Trader Partnership Identification Number (TPIN) via mail. The TPIN is, and should remain, a confidential password.

VI. Application Content

To be considered responsive, all applications for Stand Down grant funding must include:

1. An original applicant letter requesting Stand Down funds signed in blue ink. The applicant letter must include an attestation that the individual who signed the SF 424 is authorized to enter into an agreement with the USDOL;
2. A Program Narrative that states the need for the Stand Down, geographical area to be served, estimated number of homeless Veterans to be served, their needs, and expected results of the Stand Down, and the role of the DVOP specialist, LVER and other One-Stop Career Center staff. It must also include a timeline for completion of all Stand Down event activities. The timeline must clearly indicate critical dates in the planning, execution, and follow-up process and if applicable, demonstrate the need to draw down awarded funding in advance of the event date (funding will be made available for

draw down no earlier than 30 days prior to the event date). The timeline must include the date the post-event report is due to the DVET (30 days following the end of the Federal fiscal quarter in which the Stand Down was held) as explained in Section VIII below;

3. Original Standard Form (SF) 424, Application for Federal Assistance, (OMB No. 4040–0004) signed in blue ink. The SF–424 can be downloaded from *http://www.grants.gov* or at Appendix A as described in X below. **Note:** The Grant Officer will only accept the most current version of the SF 424 (the current version expires in 2012). Versions of the form with expiration dates that have passed will not be accepted;

4. SF 424A, Budget Information—Non-Construction Programs (OMB No. 4040–0006). The SF–424A can be downloaded from *http://www.grants.gov* or at Appendix B as described in X below;

5. Budget Narrative—A detailed description of each planned expenditure listed on the SF 424A. The description should describe or indicate the methodology used to determine the cost estimates such as price per quantity, if the item will be purchased or rented, and whether the items will be utilized by the participants or assist the volunteer(s) at the event. As a cost category VETS does not accept categories designated only as "Other" or "Miscellaneous." Budget narratives must clearly itemize all expenditures;

6. Original signed Assurances and Certifications Signature Page, described at Appendix C in X below;

7. Survey on Ensuring Equal Opportunity for Applicants (OMB No. 1894–0010), described as Appendix D in X below;

8. A copy of the Central Contractor Registration confirmation number. Please do not send the Trader Partnership Identification Number (*see* Section III. 3. A.);

9. Letters of support, particularly from the local One-Stop Career Centers and/or DVOP specialists and LVER staff, VA, Department of Housing and Urban Development (HUD) or the local Continuum of Care (COC), VSOs, State and local government agencies, local businesses, and local non-profit organizations including community-based and faith-based organizations; and

10. If applicable, a copy of the Internal Revenue Service documentation indicating approval of non-profit status, for example: 501(c)(3), 501(c)(19) etc.

VII. Award Administration Information

Stand Down funding is a non-competitive grant awarded on a first-come, first-served basis until available funding is exhausted. Funding is subject to approval by the Grant Officer, depending on such factors as urban, rural and geographic balance, the availability of funds, prior performance and which proposals are most advantageous to the Government. If approved, the Grant Officer will notify the grantee through a grant award letter.

The grantee will also receive a financial form to complete in order for the USDOL Office of Financial Management Operations to set-up an account in the Health and Human Services, Payment Management System (HHS/PMS). The grantee must submit the completed form as directed in order to be able to electronically draw down awarded funding. The form should be returned via FedEx, UPS, or other non-U.S. Postal Service provider to avoid processing delays. Questions or problems relating to the funding paperwork or processes should be referred to the USDOL Office of Financial Management Operations at (202) 693–4479.

After setting up the account, the grantee will be able to draw down funds to reimburse approved expenses already incurred and to cover approved expenses that will be paid within three (3) days of the draw down. Funds requested for draw down through the HHS/PMS are directly deposited into the designated account within 24 hours of the request. Since grantees may draw funds down in more than one quarter, up to and after the date of the Stand Down event, grantees are required to complete a Federal Financial Report (SF 425) no later than forty-five (45) days after the end of each quarter in which all or part of their grant award was received (February 14th, May 15th, August 14th, and November 14th). Instructions for completing this requirement are provided in the HHS/PMS information packet. Grantees must print hard copies of all SF 425s submitted to HHS/PMS and include them with the post-event report submitted to the appropriate DVET/GOTR (as described in VIII. below).

VIII. Required Post-Event Activities and Reporting

All Stand Down awarded funds should be drawn down by the grantee within 90 calendar days of the Stand Down event. Otherwise, the Department of Labor may reallocate these funds for other purposes if practicable. All Stand Down funds awarded for any fiscal year must be electronically drawn down by no later than November 30th of the following fiscal year. In other words, if a Stand Down is held on July 12, 2011 (FY 2011), all funds should be drawn down within 90 days or by October 10, 2011. They must be drawn down before November 30, 2011 (FY 2012).

No later than thirty (30) calendar days after the end of the Federal fiscal quarter in which the Stand Down is held, grantees must report actual event activities and expenditures to the appropriate DVET and to the USDOL Office of Procurement Services. For example, if a Stand Down is held on July 27th, it is held in the Federal fiscal quarter that ends on September 30th. Therefore the post-event report is due to the DVET no later than October 30th. The required content of the report will be provided to grantees with the Special Grant Provisions made available with the grant award letter.

Grantees that anticipate experiencing any delay in submitting this report should immediately contact the appropriate DVET and provide a justification to request an extension. If VETS disapproves a particular expenditure, the grantee will be notified in writing with an explanation for the disapproval and instructions to electronically return the funds to the HHS/PMS account within 15 calendar days if already drawn down.

Any failure to comply with the guidance and reporting requirements set forth in the Stand Down Special Grant Provisions provided with the Grant Award letter may be taken into consideration in future funding award decisions by the U.S. Department of Labor, Veterans' Employment and Training Service.

IX. Agency Contacts

Questions regarding this announcement should be directed to the DVET in your State. Contact information for each DVET is located in the VETS Staff Directory at the following webpage: *http://www.dol.gov/vets/aboutvets/contacts/main.htm.*

X. Other Information

All HVRP grantees awarded 1st year grant awards as of July 1, 2010 are eligible for a separate non-competitive Stand Down grant award. Competitive HVRP grantees awarded July 1, 2008 and July 1, 2009 are authorized to utilize existing funds for Stand Down purposes.

Appendices: (Located on the VETS homepage at: *http://www.dol.gov/vets.* Follow link for Stand Down Grants and Required Forms under Competitive Grants:

Appendix A: Application for Federal Assistance, SF–424
Appendix B: Budget Information, SF–424A
Appendix C: Assurances and Certifications Signature Page
Appendix D: Survey on Ensuring Equal Opportunity for applicants

1. *Acknowledgement of USDOL Funding.*

A. *Printed Materials/Intellectual Property:* In all circumstances, the following must be displayed on printed materials prepared by the grantee while in receipt of USDOL grant funding: "Preparation of this item was funded by the United States Department of Labor under Grant No. [Insert the appropriate grant number]." All printed materials must also include the following notice: "This workforce product was funded by a grant awarded by the U.S. Department of Labor's Veterans' Employment and Training Service. The product was created by the grantee and does not necessarily reflect the official position of the U.S. Department of Labor and/or the Veterans' Employment and Training Service. The U.S. Department of Labor and/or the Veterans' Employment and Training Service makes no guarantees, warranties, or assurances of any kind, express or implied, with respect to such information, including any information on linked sites and including, but not limited to, accuracy of the information or its completeness, timeliness, usefulness, adequacy, continued availability, or ownership. This product is copyrighted by the institution that created it. Internal use by an organization and/or personal use by an individual for non-commercial purposes are permissible. All other uses require the prior authorization of the copyright owner."

B. *Public references to grant:* When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds must clearly state:

- The percentage of the total costs of the program or project, which will be financed with Federal money;
- The dollar amount of Federal financial assistance for the project or program; and
- The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

C. *Use of USDOL Logo:* The Grant Officer must approve the use of the USDOL logo. In addition, once approval is given the following guidance is provided:

- The USDOL logo may be applied to USDOL-funded material prepared for distribution, including posters, videos, pamphlets, research documents, national survey results, impact evaluations, best practice reports, and other publications of global interest. The grantee(s) must consult with USDOL on whether the logo may be used on any such items prior to final draft or final preparation for distribution. In no event will the USDOL logo be placed on any item until USDOL has given the Grantee permission to use the logo on the item.
- All documents must include the following notice: "This documentation does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government."

2. *OMB Information Collection No 1225–0086, Expires November 30, 2012:*

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. Public reporting burden for this collection of information is estimated to average 20 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimated or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, to the attention of Michel Smyth, Departmental Clearance Officer, 200 Constitution Avenue, NW., Room N1301, Washington, DC 20210. Comments may also be e-mailed to *DOL_PRA_PUBLIC@dol.gov.*

This information is being collected for the purpose of awarding a grant. The information collected through this "Solicitation for Grant Applications" will be used by the Department of Labor to ensure that grants are awarded to the applicant best suited to perform the functions of the grant. Submission of this information is required in order for the applicant to be considered for award of this grant. Unless otherwise specifically noted in this announcement, information submitted in the respondent's application is not considered to be confidential.

Please do not send your completed application to the omb. send it to the sponsoring agency as specified in this solicitation.

Signed at Washington, DC, March 2, 2011.

Cassandra Mitchell,

Grant Officer.

[FR Doc. 2011–5347 Filed 3–9–11; 8:45 am]

BILLING CODE 4510–79–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (11–021)]

Notice of Intent to Grant Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant Exclusive License.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant an exclusive license in the United States to practice the inventions described and claimed in USPN 6,730,498 B1, Production of Functional Proteins: Balance of Shear Stress and Gravity and NASA Case No. MSC–22859–1 to GNetX Expression, LLC, having its principal place of business in Baytown, Texas 77520. The fields of use may be limited to the production of biomolecules and proteins. The patent rights in the invention have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Patent Counsel, Office of Chief Counsel, 2101 NASA Parkway, Houston, Texas 77058, Mail Code AL; Phone (281) 483–3021; Fax (281) 483–6936.

FOR FURTHER INFORMATION CONTACT: Theodore U. Ro, Intellectual Property Attorney, Office of Chief Counsel, 2101 NASA Parkway. Phone (281) 244–7148; Fax (281) 483–6936. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov/.*

Dated: March 3, 2011.

Michael C. Wholley,

General Counsel.

[FR Doc. 2011–5406 Filed 3–9–11; 8:45 am]

BILLING CODE P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; National Council on the Arts 172nd Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on March 24–25 2011 in Rooms 716 and M–09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting, from 5 p.m. to 5:30 p.m. on Thursday, March 24th in Room 716 and from 9 a.m. to 11 a.m. on Friday, March 25th in Room M–09 (ending times are approximate), will be open to the public on a space available basis. The Thursday agenda will include review and voting on applications and guidelines. On Friday, the meeting will begin with opening remarks by the Chairman, followed by presentations on *Arts Education: Engaging New Audiences and Interagency Partnerships.* The meeting will adjourn following concluding remarks and announcement of voting results.

A portion of this meeting, from 9 a.m. to 11 a.m. on Friday, March 25th, will be webcast. The webcast can be accessed by going to Art Works blog at *http://www.arts.gov/artworks.*

If, in the course of the open session discussion, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b, and in accordance with the determination of the Chairman of November 10, 2009. Additionally, discussion concerning purely personal information about individuals, submitted with grant applications, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b.

Any interested persons may attend, as observers, Council discussions and reviews that are open to the public. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY–TDD 202/682–5429, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from the Office of Communications, National Endowment for the Arts, Washington, DC 20506, at 202/682–5570.

Dated: March 4, 2011.

Kathy Plowitz-Worden,

Panel Coordinator, Office of Guidelines and Panel Operations.

[FR Doc. 2011–5438 Filed 3–9–11; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2010–0332]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on November 15, 2010.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* DOE/NRC Form 740M, "Concise Note" and NUREG/BR–0006, Revision 7, "Instructions for Completing Nuclear Material Transaction Reports, (DOE/NRC Forms 741 and 740M)".

3. *Current OMB approval number:* 3150–0057.

4. *The form number if applicable:* Form 740M.

5. *How often the collection is required:* DOE/NRC Form 740M is requested as necessary to inform the U.S. or the International Atomic Energy Agency (IAEA) of any qualifying statement or exception to any of the data contained in other reporting forms required under the U.S.—IAEA Safeguards Agreement.

6. *Who will be required or asked to report:* Persons licensed to possess specified quantities of special nuclear material or source material, and licensees of facilities on the U.S. Eligible Facilities List who have been notified in writing by the NRC that they are subject to 10 CFR Part 75.

7. *An estimate of the number of annual responses:* 150.

8. *The estimated number of annual respondents:* 15.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 113.

10. *Abstract:* Licensees affected by Part 75 and related sections of Parts 40, 50, 70, and 150 are required to submit DOE/NRC Form 740M to inform the U.S. or the IAEA of any qualifying statement or exception to any of the data contained in any of the other reporting forms required under the U.S.—IAEA Safeguards Agreement. The use of Form 740M enables the NRC to collect, retrieve, analyze, and submit the data to IAEA to fulfill its reporting responsibilities.

The public may examine and have copied for a fee publicly available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by April 11, 2011. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Christine J. Kymn, Desk Officer, Office of Information and Regulatory Affairs (3150–0057), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *Christine.J.Kymn@omb.eop.gov* or submitted by telephone at 202–395–4638.

The NRC Clearance Officer is Tremaine Donnell, 301–415–6258.

Dated at Rockville, Maryland, this 3rd day of March 2011.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2011–5496 Filed 3–9–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–025 and 52–026; NRC–2008–0252]

Southern Nuclear Operating Company; Notice of Availability of Application for a Combined License

On March 28, 2008, Southern Nuclear Operating Company (SNC), acting on behalf of itself and Georgia Power Company, Oglethorpe Power Corporation (an Electric Membership Corporation), Municipal Electric Authority of Georgia, and the City of Dalton, Georgia, an incorporated municipality in the State of Georgia acting by and through its Board of Water, Light and Sinking Fund Commissioners (Dalton Utilities), herein referred to as the applicant, filed with the U.S. Nuclear Regulatory Commission (NRC, the Commission) pursuant to Section 103 of the Atomic Energy Act and title 10 of the *Code of Federal Regulations* (10 CFR) part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants," an application for combined licenses (COLs) for two AP1000 advanced passive pressurized water reactors at the Vogtle Electric Generating Plant (VEGP) site located in Burke County, Georgia. The reactors are to be identified as VEGP Units 3 and 4. The application is currently under review by the NRC staff.

An applicant may seek a COL in accordance with subpart C of 10 CFR part 52. The information submitted by the applicant includes certain administrative information, such as financial qualifications submitted pursuant to 10 CFR 52.77, as well as technical information submitted pursuant to 10 CFR 52.79. This notice is being provided in accordance with the requirements found in 10 CFR 50.43(a)(3).

A copy of the application is available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and via the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. The accession number for the application cover letter is ML081050133. Other publicly available documents related to the application, including revisions filed after the initial submission, are also posted in ADAMS. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov*. The application is also available at *http://www.nrc.gov/reactors/new-reactors/col.html*.

Dated at Rockville, Maryland, this 3rd day of March, 2011.

For the Nuclear Regulatory Commission.

Ravindra Joshi,

Senior Project Manager, AP10000 Projects Branch 1, Division of New Reactor Licensing, Office of New Reactor.

[FR Doc. 2011–5495 Filed 3–9–11; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This gives notice of OPM decisions granting authority to make appointments under Schedules A, B, and C in the excepted service as required by 5 CFR 213.103.

FOR FURTHER INFORMATION CONTACT: Roland Edwards, Senior Executive Resource Services, Employee Services, 202–606–2246.

SUPPLEMENTARY INFORMATION: Appearing in the listing below are the individual authorities established under Schedules A, B, and C between January 1, 2011, and January 31, 2011. These notices are published monthly in the **Federal Register** at *http://www.federalregister.gov/*. A consolidated listing of all authorities as of June 30 is also published each year. The following Schedules are *not* codified in the Code of Federal Regulations. These are agency-specific exceptions.

Schedule A

No Schedule A authorities to report during January 2011.

Schedule B

No Schedule B authorities to report during January 2011.

Schedule C

The following Schedule C appointments were approved during January 2011.

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF AGRICULTURE.	Office of the Assistant Secretary for Congressional Relations.	Staff Assistant	DA110007	1/14/2011
	Office of Communications	Press Secretary	DA110013	1/31/2011
DEPARTMENT OF COMMERCE	Office of White House Liaison	Deputy Director, Office of White House Liaison.	DC110025	1/7/2011
	Office of Business Liaison	Senior Advisor	DC110028	1/20/2011
DEPARTMENT OF THE NAVY	Office of the Under Secretary of the Navy.	Special Assistant	DN110010	1/5/2011
DEPARTMENT OF EDUCATION	Office of Vocational and Adult Education.	Confidential Assistant	DB110018	1/28/2011
	Office of the Secretary	Confidential Assistant	DB110017	1/28/2011
	Office of the Under Secretary	Deputy Director of the White House Initiative on Tribal Colleges and Universities.	DB110022	1/28/2011
	Office of Planning, Evaluation and Policy Development.	Special Assistant	DB110024	1/28/2011
DEPARTMENT OF ENERGY	Office of Management	Director, Office of Scheduling and Advance.	DE110016	1/5/2011

Agency name	Organization name	Position title	Authorization No.	Effective date
	Office of the Secretary	Special Assistant	DE110023	1/6/2011
	Under Secretary for Science	Special Assistant	DE110035	1/28/2011
GENERAL SERVICES ADMINISTRATION.	Great Lakes Region	Regional Administrator	GS110006	1/7/2011
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of the Secretary	Special Assistant	DH110022	1/20/2011
	Office of the General Counsel	Special Assistant	DH110031	1/7/2011
	Office of the Assistant Secretary for Planning and Evaluation.	Senior Advisor Center for Faith-Based and Neighborhood Partnerships.	DH110033	1/20/2011
DEPARTMENT OF HOMELAND SECURITY.	Office of the Assistant Secretary for Policy.	Director, Homeland Security Advisory Council.	DM110056	1/27/2011
	Office of the Assistant Secretary for Public Affairs.	Press Secretary	DM110060	1/27/2011
	Office of the Assistant Secretary for Public Affairs.	Assistant Press Secretary	DM110065	1/27/2011
	Office of the Assistant Secretary for Public Affairs.	Assistant Press Secretary	DM110064	1/27/2011
	Office of the Assistant Secretary for Public Affairs.	Director of Special Projects	DM110061	1/27/2011
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Office of Housing	Special Assistant	DU110012	1/6/2011
DEPARTMENT OF THE INTERIOR.	Secretary's Immediate Office	Deputy Director, Intergovernmental Affairs.	DI110022	1/31/2011
DEPARTMENT OF JUSTICE	Office of Legislative Affairs	Attorney Advisor	DJ110034	1/26/2011
DEPARTMENT OF LABOR	Office of Congressional and Intergovernmental Affairs.	Deputy Director of Intergovernmental Affairs.	DL110011	1/28/2011
OFFICE OF MANAGEMENT AND BUDGET.	Legislative Affairs	Deputy for Legislative Affairs (House).	BO110005	1/21/2011
	Office of Information and Regulatory Affairs.	Counselor	BO110008	1/21/2011
SMALL BUSINESS ADMINISTRATION.	Office of the Administrator	Senior Advisor for Intergovernmental Affairs.	SB110011	1/21/2011
	Office of Congressional and Legislative Affairs.	Assistant Administrator for Congressional and Legislative Affairs.	SB110012	1/21/2011
	Office of the Administrator	Special Assistant and Scheduler	SB110016	1/21/2011
	Office of the Administrator	Director of Scheduling and Advance.	SB110015	1/20/2011
	Office of Capital Access	Deputy Associate Administrator for Capital Access.	SB110014	1/20/2011
DEPARTMENT OF THE TREASURY.	Assistant Secretary for Financial Markets.	Senior Advisor	DY110039	1/31/2011
	Secretary of the Treasury	Special Assistant	DY110040	1/31/2011
	Secretary of the Treasury	Chief of Staff	DY110042	1/31/2011
	Assistant Secretary (Public Affairs)	Media Affairs Specialist	DY110043	1/31/2011
DEPARTMENT OF VETERANS AFFAIRS.	Office of the Secretary and Deputy	Special Assistant	DV110007	1/12/2011

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2011–5519 Filed 3–9–11; 8:45 am]

BILLING CODE 6325–39–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2011–16 and CP2011–53; Order No. 690]

Change in Postal Prices

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request for a change in prices to Parcel Select Contract 1. This notice addresses procedural steps associated with this filing.

DATES: *Comments are due:* March 11, 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 the **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:

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I. Introduction

On March 1, 2011, the Commission approved the Postal Service's request to add Parcel Select Contract 1 to the competitive product list.[1] Parcel Select

[1] Order No. 686, Order Approving Parcel Select Contract 1 Negotiated Service Agreement, March 1, 2011.

Contract 1 is an agreement between the Postal Service and StartSampling, Inc. (StartSampling) to license and distribute the "Sample Showcase" box.[2] The Sample Showcase box is a Postal Service-branded parcel box designed to contain product samples and other advertising material from companies who wish to advertise their goods and services. *Id.* Attachment B at 1.

On March 3, 2011, the Postal Service filed notice of a change in prices to Parcel Select Contract 1, which amends the terms of the agreement.[3] The Notice includes four attachments:

- Attachment A—a redacted version of Governors' Decision No. 11–3, certification of the Governors' vote, and an analysis of the amendment;[4]
- Attachment B—a redacted version of the Addendum to Licensing and Shipping Services Agreement Between the United States Postal Service and StartSampling Regarding Sample Showcase (Addendum);
- Attachment C—a certified statement of compliance with 39 U.S.C. 3633(a); and
- Attachment D—an application for non-public treatment of materials filed under seal.

The Postal Service included a redacted version of the supporting financial documentation as separate Excel files. The Postal Service filed the unredacted Governors' Decision No. 11–3, Addendum, and supporting financial documentation under seal. *Id.* at 1–2.

Substantively, the Notice seeks approval of the Addendum, which establishes an alternative per-piece charge for Sample Showcase boxes that comply with certain weight and revenue restrictions. The alternative per-piece charge equals the applicable published postage rate and the costs to the Postal Service of procuring the Sample Showcase box. *Id.* Attachment B at 1. StartSampling will pay the Postal Service based on the revenue it derives from companies for placing product samples or other advertising material in the box. For each box mailed at the alternative per-piece charge, the Postal Service will receive a portion of that revenue exceeding StartSampling's costs in mailing the box. *Id.* Attachment B at 2.

The Addendum also enables StartSampling to mail certain Sample Showcase boxes previously prohibited under the agreement as long as those boxes meet specific content restrictions. The Postal Service states that the Addendum will become effective the day the Commission completes its review of the Notice. *Id.* at 1.

II. Notice of Filings

The Commission reopens Docket Nos. MC2011–16 and CP2011–53 to consider the issues raised by the Notice. Interested persons may submit comments on whether the Notice is consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, as well as 39 CFR part 3015. Comments are due no later than March 11, 2011. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints John P. Klingenberg to serve as Public Representative in this proceeding.

III. Ordering Paragraphs

It is ordered:

1. The Commission reopens Docket Nos. MC2011–16 and CP2011–53 to consider the matters raised by the Notice.
2. Pursuant to 39 U.S.C. 505, John P. Klingenberg is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public for this aspect of these dockets.
3. Comments by interested persons in these proceedings are due no later than March 11, 2011.
4. The Secretary shall arrange for publication of this notice and order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2011–5409 Filed 3–9–11; 8:45 am]

BILLING CODE 7710–FW–P

[2] Request of the United States Postal Service to Add Parcel Select Contract 1 to Competitive Product List and Notice of Filing (Under Seal) of Contract and Supporting Data, December 23, 2010, at 1.

[3] Notice of United States Postal Service of Change in Prices Pursuant to Amendment to Parcel Select Contract 1, March 3, 2011 (Notice).

[4] Decision of the Governors of the United States Postal Service on Establishment of Rate and Class Not of General Applicability for Parcel Select Service (Governors' Decision No. 11–3), February 28, 2011.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64033; File No. SR–BATS–2011–008]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Exchange, Inc.

March 4, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on March 1, 2011, BATS Exchange, Inc. (the "Exchange" or "BATS") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes [sic] amend the fee schedule applicable to Members[5] and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c). While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on March 1, 2011.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify the "Options Pricing" section of its fee schedule to: (i) Adopt a definition for average daily volume, or "ADV"; (ii) introduce a tiered pricing structure applicable to the fees for removing liquidity from the BATS options market ("BATS Options"); (iii) expand and modify the program that provides a rebate specifically for orders that set either the national best bid (the "NBB") or the national best offer (the "NBO") subject to average daily volume requirements; and (iv) make clarifying changes to the standard routing section of the fee schedule.

(a) Definition of ADV

In order to accommodate certain changes described below, the Exchange proposes to adopt a definition of average daily volume, or ADV, for purposes of the fee schedule. The Exchange is not proposing any substantive change to its calculation of ADV, which is currently applicable only to the NBBO Setter Rebate, as described below. Instead, the Exchange is proposing the definition to provide more clarity and for ease of reference throughout the fee schedule. As proposed, ADV will mean average daily volume calculated as the number of contracts added or removed, combined, per day on a monthly basis. The Exchange proposes to make clear in the definition of ADV that routed contracts are not included in the Exchange's calculation of ADV, but rather, only volume executed on the Exchange counts towards a Member's ADV.

(b) Tiered Pricing To Access Liquidity

The Exchange currently charges $0.25 per contract for customer orders and $0.35 per contract for Firm and Market Maker orders that remove liquidity from BATS Options. The Exchange proposes to increase the standard fee for removing liquidity to $0.28 per contract for customer orders and $0.38 per contract for Firm and Market Maker orders. The Exchange also proposes to adopt two tiers through which Members can realize lower liquidity removal fees, as further described below.

First, the Exchange proposes to charge $0.25 per contract for a Customer order and $0.35 per contract for a Firm or Market Maker order that removes liquidity from the BATS Options order book where the Member has an ADV of 50,000 or more contracts. Accordingly, the Exchange is not proposing to change the charge to remove liquidity from BATS Options for Members with an ADV of 50,000 or more.

Second, the Exchange proposes to charge $0.27 per contract for a Customer order and $0.37 per contract for a Firm or Market Maker order that removes liquidity from the BATS Options order book where the Member has an ADV of 15,000 or more, but fewer than 50,000 contracts. Thus, for Members with ADV of between 15,000 and 49,999 contracts, Members will be charged $0.02 more per contract for their orders than such Members are charged today.

(c) Expansion and Modification of NBBO Setter Rebate Program

The Exchange currently offers a rebate upon execution for all orders that add liquidity that sets either the NBB or NBO (the "NBBO Setter Rebate") [6] so long as the Member submitting the order achieves an ADV of 20,000 contracts executed during the calendar month. The NBBO Setter Rebate currently offered by the Exchange is $0.50 per contract. The Exchange proposes to increase the ADV requirement for this $0.50 rebate to 50,000 contracts and to create a second tier eligible for a NBBO Setter Rebate. The new NBBO Setter Rebate for Members with a lower ADV will be a $0.40 rebate and will apply where the Member has an ADV of 15,000 or more, but fewer than, 50,000 contracts. The Exchange also proposes to make clear on the fee schedule that the NBBO Setter Rebate, whether based on the lower or the higher ADV level, supersedes any other applicable liquidity rebates.

(d) Clarifications to Routing Pricing

Currently, the BATS Options fees for Standard Best Execution Routing or Destination Specific Order routing fees are dependent on the venues at which such orders are executed. Certain venues offer pricing that the Exchange has defined as "Make/Take" in certain issues and then pricing under a more traditional pricing structure (hereafter, "Classic" pricing). As defined on the fee schedule, Make/Take pricing refers to executions at the identified Exchange under which "Post Liquidity" or "Maker" rebates ("Make") are credited by that exchange and "Take Liquidity" or "Taker" fees ("Take") are charged by that exchange. The Exchange proposes certain changes to its routing schedule in order to further delineate between executions in Make/Take issues and Classic issues at the options exchanges that maintain both types of pricing, specifically, NYSE Arca, the International Stock Exchange, and NASDAQ OMX PHLX. The Exchange is not proposing any changes to the pricing of its standard routing or destination specific routing strategies. In addition to these changes, the Exchange is proposing to add an additional page break to its fee schedule and to indicate that the options pricing section continues onto page three of the version of the fee schedule maintained on its Web site.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[7] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[8] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive.

The changes to Exchange execution fees and rebates proposed by this filing are intended to attract order flow to BATS Options by offering competitive pricing, especially for those who add liquidity that sets the NBB or NBO. As a general matter, the Exchange believes that the NBBO Setter Program benefits all Members with the potential of increased and aggressively priced liquidity at the Exchange. The expansion of the NBBO Setter Program to Members with a lower ADV threshold (albeit with a lower rebate) will result in increased payments that will benefit some Members due to the increased revenue those Members will receive. With the increase to the current threshold of 20,000 contracts ADV to 50,000 contracts ADV, some Members will no longer qualify for the highest potential rebate, though they will still receive a higher rebate than otherwise offered by the Exchange. The Exchange believes that the NBBO Setter Rebate is

[6] An order that is entered at the most aggressive price both on the BATS Options book and according to then current OPRA data will be determined to have set the NBB or NBO for purposes of the NBBO Setter Rebate without regard to whether a more aggressive order is entered prior to the original order being executed.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

analogous to similar proposals designed to encourage market participants to submit aggressively priced orders previously implemented at other options exchanges.[9] Additionally, the Exchange believes that the proposed NBBO Setter Rebate, now in place on BATS Options for two months, has and will continue to incentivize the entry of more aggressive orders that will create tighter spreads, benefitting both Members and public investors.

The Exchange also believes that its proposed use of a volume threshold to qualify for the NBBO Setter Rebate and to qualify for lower liquidity removal fees is analogous to tiered pricing structures that are in place at other exchanges.[10] While the establishment of tiered pricing for removing liquidity from the BATS Options order book will result in a small increase for some Members, this fee still remains lower than other markets with similar fee structures, such as the NASDAQ Options Market and NYSE Arca in Make/Take Issues. Currently, for many of the transactions occurring on the Exchange, the Exchange either does not earn a fee because it charges the same fee to the liquidity remover as it rebates the liquidity maker.[11] The increase in liquidity removal fees so that the Exchange is earning a small fee will provide the Exchange with additional revenue to both fund the NBBO Setter Rebate and to fund its operations generally. Volume-based discounts such as the liquidity removal fee tiers proposed in this filing have been widely adopted in the cash equities markets, and are equitable and not unreasonably discriminatory because they are open to all members on an equal basis and provide discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery process. Accordingly, the Exchange believes that the proposal is not unreasonably discriminatory because it is consistent with the overall goals of enhancing market quality. Finally, the Exchange believes that the adoption of a definition for ADV and the proposed clarifications to the standard routing pricing section of the fee schedule will help to avoid potential confusion regarding the Exchange's fee schedule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

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.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A)(ii) of the Act[12] and Rule 19b–4(f)(2) thereunder,[13] the Exchange has designated this proposal as establishing or changing a due, fee, or other charge applicable to the Exchange's Members and non-members, which renders the proposed rule change effective upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–BATS–2011–008 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–BATS–2011–008. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2011–008 and should be submitted on or before March 31, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–5441 Filed 3–9–11; 8:45 am]

BILLING CODE 8011–01–P

[9] *See* Securities Exchange Act Release No. 61869 (April 7, 2010), 75 FR 19449 (April 14, 2010) (SR–ISE–2010–25) (notice of filing and immediate effectiveness to amend fees applicable to the International Securities Exchange, including providing increased rebates to market makers for being on the NBB or NBO for at least 80% during a given month); Securities Exchange Act Release No. 61987 (April 27, 2010), 75 FR 24771 (May 5, 2010) (SR–C2–2010–001) (notice of filing and immediate effectiveness to establish fees applicable to C2 Options Exchange, including providing Preferred Market Makers with participation entitlements when they are at the NBBO, regardless of time priority).

[10] *See* Securities Exchange Act Release No. 57253 (February 1, 2008), 73 FR 7352 (February 7, 2008) (SR–Phlx–2008–08) (notice of filing and immediate effectiveness to amend fees applicable to the Philadelphia Stock Exchange, including adopting a tiered floor broker options subsidy based on meeting specified trading volume requirements).

[11] *See* E-mail from Anders Franzon, VP, Associate General Counsel, BATS, to Johnna B. Dumler, Special Counsel, Commission, dated March 2, 2011.

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(f)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64036; File No. SR–EDGX–2011–05]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGX Exchange, Inc. Fee Schedule

March 4, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2011, the EDGX Exchange, Inc. (the "Exchange" or the "EDGX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its fees and rebates applicable to Members [3] of the Exchange pursuant to EDGX Rule 15.1(a) and (c). All of the changes described herein are applicable to EDGX Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.directedge.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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Reduction in Rebate on EDGX for Adding Liquidity

Currently, on EDGX, there is a rebate of $0.0026 per share provided for adding liquidity in securities at or above $1.00. The Exchange proposes to reduce this rebate to $0.0023 per share. Conforming changes are proposed on Flags B, V, Y, 3, and 4 to reflect this reduced rebate.

Changes to the Mega Tier

Currently, Members can qualify for the Mega Tier [4] and be provided a $0.0032 rebate per share for liquidity added on EDGX if the Member on a daily basis, measured monthly, posts 0.75% of the Total Consolidated Volume ("TCV") in average daily volume. TCV is defined as volume reported by all exchanges and trade reporting facilities to the consolidated transaction reporting plans for Tapes A, B and C securities.

First, the Exchange proposes to add clarifying language to the definition of TCV (in footnote 1) to explain that when TCV is calculated for Members, it is based on the month prior to the month in which the fees are calculated. So, when the calculation of TCV is done for March 2011 billing for February 2011 trading activity, the appropriate TCV is based on February 2011 figures.

The Exchange also proposes to provide an additional way for a Member to receive a $0.0032 rebate per share for liquidity added on EDGX. If a Member, on a daily basis, measured monthly, posts 15,000,000 shares more than their February 2011 average daily volume, provided that their February 2011 average daily volume equals or exceeds 1,000,000 shares added to EDGX, then the Member will receive a $0.0032 rebate per share.

Proposed Changes Associated With Routing to BATS BYX Exchange

Currently, the BY flag is yielded when an order is routed to BATS BYX Exchange and removes liquidity using order types ROUC and ROBY, as defined in Exchange Rules 11.9(b)(3)(a) and (g). The Exchange proposes to add footnote 10 to the fee schedule to describe that stocks priced below $1.00 will be charged $0.0010 per share. In addition, the Exchange proposes to increase the rebate from $0.0003 to $0.0004 when an order is routed to BATS BYX Exchange and removes liquidity using order types ROUC and ROBY.

EDGX Exchange proposes to implement these amendments to the Exchange fee schedule on March 1, 2011.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[5] in general, and furthers the objectives of Section 6(b)(4),[6] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

The Exchange believes that the reduced rebate of $0.0023 per share for adding liquidity on EDGX is an equitable allocation of reasonable dues, fees, and other charges as the additional revenue that results from the lower rebate enables the Exchange to cover increased infrastructure and administrative expenses. In addition, the rebate is competitive with rebates offered by Nasdaq and NYSE Arca ($0.0020 and $0.0021 per share, respectively).

The Exchange believes that the fee associated with the BY flag ($0.0010 per share) for stocks priced below $1 represents an equitable allocation of reasonable dues, fees, and other charges since it reflects a pass through of the BATS fee for removing liquidity. EDGX believes that it is reasonable and equitable to pass on these fees to its members.

The proposed increased rebate when an order is routed to BATS BYX Exchange and removes liquidity (from $0.0003 to $0.0004 per share) is designed to incentivize Members to use this routing strategy to increase volume on EDGX. Such increased volume increases potential revenue to the Exchange, and would allow the Exchange to spread its administrative and infrastructure costs over a greater number of shares, leading to lower per share costs. These lower per share costs would allow the Exchange to pass on the savings to Members in the form of an increased rebate. The increased liquidity also benefits all investors by deepening EDGX's liquidity pool, supporting the quality of price

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Member is any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange.

[4] The Exchange notes that a Member can qualify for a Mega Tier rebate of $0.0033 per share if the Member adds or routes at least 5,000,000 shares of average daily volume prior to 9:30 a.m. or after 4 p.m. (includes all flags except 6) AND adds a minimum of 25,000,000 shares of average daily volume on EDGX in total, including during both market hours and pre- and post-trading hours.

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(4).

discovery, promoting market transparency and improving investor protection.

This proposed rate represents a discount over the pass through rate of $0.0003 per share currently provided. The Exchange also believes that this fee structure is an equitable allocation of reasonable dues, fees, and other charges in that it applies uniformly to all Members and the increased rebate for removing liquidity from BATS is consistent with the processing of similar routing strategies by EDGX's competitors.[7]

The Exchange believes that adding an additional way to qualify for the Mega Tier also represents an equitable allocation of reasonable dues, fees, and other charges since higher rebates are directly correlated with more stringent criteria.

The Mega Tier rebates of $0.0033/$0.0032 per share have the most stringent criteria associated with them, and are $0.0002/$0.0001 greater than the Ultra Tier rebate ($0.0031 per share) and $0.0003/$0.0002 greater than the Super Tier rebate ($0.0030 per share).

For example, based on average TCV for January 2011 (8.0 billion), in order for a Member to qualify for the Mega Tier rebate of $0.0033, the Member would have to add or route at least 5,000,000 shares of average daily volume during pre and post-trading hours and add a minimum of 25,000,000 shares of average daily volume on EDGX in total, including during both market hours and pre and post-trading hours. The criteria for this tier is the most stringent as fewer Members generally trade during pre and post-trading hours because of the limited time parameters associated with these trading sessions. The Exchange believes that this higher rebate awarded to Members would incent liquidity during these trading sessions. Such increased volume increases potential revenue to the Exchange, and would allow the Exchange to spread its administrative and infrastructure costs over a greater number of shares, leading to lower per share costs. These lower per share costs would allow the Exchange to pass on the savings to Members in the form of a higher rebate.

Another way a Member can qualify for the Mega Tier (with a rebate of $0.0032 per share) would be to post 0.75% of TCV. Based on average TCV for January 2011 (8.0 billion), this would be 60 million shares on EDGX. A second method, proposed in this filing, to qualify for the rebate of $0.0032 per share would be to post 15,000,000 shares more than the Member's February 2011 average daily volume, provided that the Member's February 2011 average daily volume equals or exceeds 1,000,000 shares added to EDGX. The Exchange believes that requiring Members to post 15,000,000 shares more than a February 2011 baseline average daily volume encourages Members to add increasing amounts of liquidity to EDGX each month. Such increased volume increases potential revenue to the Exchange, and would allow the Exchange to spread its administrative and infrastructure costs over a greater number of shares, leading to lower per share costs. These lower per share costs would allow the Exchange to pass on the savings to Members in the form of a higher rebate. The increased liquidity also benefits all investors by deepening EDGX's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. Volume-based rebates such as the one proposed herein have been widely adopted in the cash equities markets, and are equitable because they are open to all members on an equal basis and provide discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery processes.

In order to qualify for the Ultra Tier, which has less stringent criteria than the Mega Tier, the Member would have to post 0.50% of TCV. Based on average TCV for January 2011 (8.0 billion shares), this would be 40 million shares on EDGX.

Finally, the Super Tier has the least stringent criteria of the tiers mentioned above. In order for a Member to qualify for this rebate, the Member would have to post at least 10 million shares on EDGX. As stated above, these rebates also result, in part, from lower administrative and other costs associated with higher volume.

The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange. The Exchange believes that the proposed rates are equitable in that they apply uniformly to all Members. The Exchange believes the fees and credits remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Act[8] and Rule 19b–4(f)(2)[9] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–EDGX–2011–05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary,

[7] *See* BATS fee schedule: Discounted Destination Specific Routing ("One Under") to NYSE, NYSE ARCA and NASDAQ. *See* Securities Exchange Act Release No. 62858, 75 FR 55838 (September 14, 2010) (SR–BATS–2010–023) (modifying the BATS fee schedule in order to amend the fees for its BATS + NYSE Arca destination specific routing option to continue to offer a "one under" pricing model).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 19b–4(f)(2).

Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGX–2011–05. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission,[10] all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGX–2011–05 and should be submitted on or before March 31, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–5442 Filed 3–9–11; 8:45 am]

BILLING CODE 8011–01–P

[10] The text of the proposed rule change is available on Exchange's Web site at *http://www.directedge.com,* on the Commission's Web site at *http://www.sec.gov,* at EDGX, and at the Commission's Public Reference Room.

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64041; File No. SR–FINRA–2011–004]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Granting Approval of a Proposed Rule Change Relating to the Trading Activity Fee Rate for Transactions in Asset-Backed Securities

March 4, 2011.

I. Introduction

On January 10, 2011, the Financial Industry Regulatory Authority, Inc. ("FINRA") 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 provide a new method of calculating the Trading Activity Fee ("TAF") for transactions in Asset-Backed Securities. The proposed rule change was published for comment in the **Federal Register** on January 27, 2011.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

FINRA proposes to amend Section 1 of Schedule A to the FINRA By-Laws to provide a new method of calculating the TAF [4] for transactions in Asset-Backed Securities.[5] The TAF is one of the member regulatory fees FINRA uses to fund its member regulation activities, which include examinations; financial monitoring; and FINRA's policymaking, rulemaking, and enforcement activities.[6] Generally, the TAF is assessed on the sale of all exchange-registered securities wherever executed (except debt securities that are not Trade Reporting and Compliance Engine ("TRACE")-Eligible Securities), over-the-counter equity securities, security futures, TRACE-Eligible Securities (provided that the transaction is a Reportable TRACE Transaction), and all municipal securities subject to MSRB reporting requirements. The rules governing the TAF also include a list of transactions exempt from the TAF.[7]

In 2010, the Commission approved a proposed rule change that generally makes transactions in Asset-Backed Securities reportable to TRACE.[8] Because Asset-Backed Securities will be TRACE-Eligible Securities, transactions in Asset-Backed Securities will generally be subject to the TAF.

Currently, when reporting the size of a corporate bond transaction to TRACE, the number of bonds is reported and the TRACE System, which is programmed to reflect that one bond equals $1,000 par value, calculates the total dollar volume of the transaction (*e.g.,* 10 bonds × $1,000=$10,000).[9] Based on this reporting structure, the TAF is assessed on a per-bond basis, but the number of bonds is a proxy for the size of the total dollar volume of a transaction in $1,000 increments. Although some Asset-Backed Securities are structured like conventional corporate bonds, many are structured differently. For example, many Asset-Backed Securities are based on financial assets that amortize, and the principal (or face) value declines over time. Accordingly, transactions in Asset-Backed Securities will not be reported to TRACE on a per-bond basis like conventional corporate bonds, but rather will be reported based on the original principal (or face) value of the underlying security or the Remaining Principal Balance.

Consequently, FINRA is proposing to conform the TAF rate for sales of Asset-Backed Securities consistent with the reporting of such transactions to TRACE. Accordingly, FINRA is proposing to base the TAF for sales of Asset-Backed Securities on the size of the transaction as reported to TRACE (*i.e.,* par value, or, where par value is not used to determine the size of the transaction, the lesser of original face value or Remaining Principal Balance) at a rate of $0.00000075 times the size of the transaction as reported to TRACE, with a maximum charge of $0.75 per trade.

The effective date of the proposed rule change will be the date the proposed rule change SR–FINRA–2009–065 becomes effective, which is currently anticipated to be May 16, 2011.[10]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 63751 (January 21, 2011), 76 FR 4966 ("Notice").

[4] *See* FINRA By-Laws, Schedule A, section 1 (describing how the TAF is applied).

[5] *See* FINRA Rule 6710(m) (defining "Asset-Backed Security").

[6] In addition to the TAF, the other member regulatory fees are the Gross Income Assessment and the Personnel Assessment.

[7] *See* FINRA By-Laws, Schedule A, section 1(b)(2).

[8] *See* Securities Exchange Act Release No. 61566 (February 22, 2010), 75 FR 9262 (March 1, 2010). *See also Regulatory Notice* 10–23 (April 2010).

[9] *See* FINRA Rules 6730(c)(2) and 6730(d)(2).

[10] *See* Securities Exchange Act Release No. 63223 (November 1, 2010), 75 FR 68654 (November 8, 2010) (extending the operational date of SR–FINRA–2009–065 to no later than June 1, 2011).

III. Discussion and Commission's Findings

After carefully reviewing the proposed rule change, the Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[11] In particular, the Commission finds that the proposal is consistent with Section 15A(b)(5) of the Act,[12] which requires that a national securities association have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using any facility or system that the association operates or controls. The Commission believes that the proposal is reasonably designed to impose equitable fees on members that transact in Asset-Backed Securities, where the principal value of the securities may decline over time.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–FINRA–2011–004), be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–5518 Filed 3–9–11; 8:45 am]

BILLING CODE 8011–01–P

[11] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78*o*–3(b)(5).

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64040; File No. SR–NYSEAmex–2011–11]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing of Proposed Rule Change Amending Rule 103B—NYSE Amex Equities To Modify the Application of the Exchange's Designated Market Maker Allocation Policy in the Event of a Merger Involving One or More Listed Companies

March 4, 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 24, 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 and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 103B—NYSE Amex Equities to modify the application of the Exchange's Designated Market Maker ("DMM") allocation policy in the event of a merger involving one or more listed companies. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, on the Commission's Web site at *http://www.sec.gov,* and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Policy Note VI(D)(1) to Rule 103B—NYSE Amex Equities provides that when two NYSE Amex listed companies merge, the post-merger listed company is assigned to the DMM in the company that is determined to be the survivor-in-fact (dominant company). Under Exchange policy, the determination of which company is the survivor-in-fact is based on which of the merging companies provides the chief executive officer and a majority of the board of directors of the post-merger listed company. The policy focuses on the CEO and the make-up of the board of the post-merger listed company rather than on any criteria based on the relative sizes of the pre-merger companies because the Exchange believes that the post-merger listed company's CEO and board will have the relationship with the DMM going forward and should therefore be comfortable with the DMM allocated to the post-merger listed company. Under the Exchange policy, no survivor-in-fact will be found if one of the merging companies provides the CEO and the other merging company provides a majority or half of the board of the post-merger listed company. Where no survivor-in-fact can be identified, the post-merger listed company may select one of the units trading the merging companies without the security being referred for reallocation, or it may request that the matter be referred for allocation through the allocation process pursuant to Rule 103B—NYSE Amex Equities, Section III. In addition, Policy Note VI(D)(3) provides that in situations involving the merger of a listed company and an unlisted company, where the unlisted company is determined to be the survivor-in-fact, the post-merger listed company may choose to remain registered with the DMM unit that had traded the listed company entity in the merger, or it may request that the matter be referred for allocation through the allocation process pursuant to Rule 103B—NYSE Amex Equities.[4]

The Exchange believes that the decision as to how the stock of a post-merger listed company is allocated should be made solely by the post-merger listed company itself, rather than on the basis of which company is determined to be the survivor-in-fact in the merger. The Exchange believes that it is important that the CEO and board of the post-merger listed company are comfortable with its assigned DMM and that it therefore makes sense to give the post-merger listed company as much control as possible over the allocation decision. Consequently, the Exchange proposes to amend Policy Note VI(D)(1) and (3) to provide that in all listed company mergers, either between two listed companies or a listed company and an unlisted company, the management of the post-merger listed

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] A company seeking to choose a DMM through the allocation process must select a minimum of three DMM units to interview from the pool of DMM units eligible to participate in the allocation process and must notify the Exchange of its choice of DMM within two business days of the interviews. Alternatively, the company can delegate to the Exchange the authority to select its DMM. In that case, the selection is made by an Exchange Selection Panel ("ESP") comprised of senior management of the Exchange, Exchange floor operations staff and non-DMM Executive Floor Governors or Floor Governors.

company will be able to choose to retain either of the incumbent DMMs (in the case of a merger between two listed companies) or the incumbent DMM (in the case of a merger between a listed company and an unlisted company) or request to have the security referred for reallocation. In no case will the policy dictate that a post-merger listed company must retain an incumbent DMM unless it chooses to do so. The Exchange also notes that the proposed rule change would only affect a very small number of companies and their DMMs, as it would be applicable only in the case of a merger transaction where one of the two merging companies would otherwise be deemed the "survivor-in-fact" under Exchange policies.

The Exchange notes that Policy Note VI(D)(1) and (3) both provide that DMM units that are ineligible to receive a new allocation due to their failure to meet the requirements of Rule 103B—NYSE Amex Equities, Section II(D) and (E) will remain eligible to be selected pursuant to Policy Note VI(D)(1) or (3), as applicable. The Exchange proposes to amend the language in each section to clarify that its intent is that in such cases the applicable DMM unit will be eligible to be selected in its capacity as the DMM for one of the two pre-merger listed companies (in the case of a merger between two listed companies) or in its capacity as DMM of the pre-merger listed company (in the case of a merger between a listed company and an unlisted company), but will not be eligible to participate in the allocation process if the post-merger company requests that the matter be referred for allocation through the allocation process pursuant to Rule 103B—NYSE Amex Equities, Section III. In the event that such a situation were to arise, the Exchange would inform the listed company of such DMM unit's ineligibility under Rule 103B—NYSE Amex Equities, Section II(D) or (E).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) [5] of the Securities Exchange Act of 1934 (the "Act"),[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed amendments are consistent with Section 6(b)(5) of the Act in that their sole purpose is to provide more control over the DMM allocation process to companies involved in mergers and all DMMs are subject to the same Exchange rules and oversight when conducting their DMM activities.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEAmex–2011–11 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–2011–11. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing 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–2011–11 and should be submitted on or before March 31, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–5517 Filed 3–9–11; 8:45 am]

BILLING CODE 8011–01–P

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78a.

[7] 15 U.S.C. 78f(b)(5).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64039; File No. SR–NYSE–2011–09]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Amending Exchange Rule 103B To Modify the Application of the Exchange's Designated Market Maker ("DMM") Allocation Policy in the Event of a Merger Involving One or More Listed Companies

March 4, 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 24, 2011, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 103B to modify the application of the Exchange's Designated Market Maker ("DMM") allocation policy in the event of a merger involving one or more listed companies. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, on the Commission's Web site at *http://www.sec.gov,* and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Policy Note VI(D)(1) to Exchange Rule 103B provides that when two NYSE listed companies merge, the post-merger listed company is assigned to the DMM in the company that is determined to be the survivor-in-fact (dominant company). Under Exchange policy, the determination of which company is the survivor-in-fact is based on which of the merging companies provides the chief executive officer and a majority of the board of directors of the post-merger listed company. The policy focuses on the CEO and the make-up of the board of the post-merger listed company rather than on any criteria based on the relative sizes of the pre-merger companies because the Exchange believes that the post-merger listed company's CEO and board will have the relationship with the DMM going forward and should therefore be comfortable with the DMM allocated to the post-merger listed company. Under the Exchange policy, no survivor-in-fact will be found if one of the merging companies provides the CEO and the other merging company provides a majority or half of the board of the post-merger listed company. Where no survivor-in-fact can be identified, the post-merger listed company may select one of the units trading the merging companies without the security being referred for reallocation, or it may request that the matter be referred for allocation through the allocation process pursuant to Exchange Rule 103B, Section III. In addition, Policy Note VI(D)(3) provides that in situations involving the merger of a listed company and an unlisted company, where the unlisted company is determined to be the survivor-in-fact, the post-merger listed company may choose to remain registered with the DMM unit that had traded the listed company entity in the merger, or it may request that the matter be referred for allocation through the allocation process pursuant to Exchange Rule 103B.[4]

The Exchange believes that the decision as to how the stock of a post-merger listed company is allocated should be made solely by the post-merger listed company itself, rather than on the basis of which company is determined to be the survivor-in-fact in the merger. The Exchange believes that it is important that the CEO and board of the post-merger listed company are comfortable with its assigned DMM and that it therefore makes sense to give the post-merger listed company as much control as possible over the allocation decision. Consequently, the Exchange proposes to amend Policy Note VI(D)(1) and (3) to provide that in all listed company mergers, either between two listed companies or a listed company and an unlisted company, the management of the post-merger listed company will be able to choose to retain either of the incumbent DMMs (in the case of a merger between two listed companies) or the incumbent DMM (in the case of a merger between a listed company and an unlisted company) or request to have the security referred for reallocation. In no case will the policy dictate that a post-merger listed company must retain an incumbent DMM unless it chooses to do so. The Exchange notes that Section 806.01 of the NYSE Listed Company Manual provides that a listed company can request a change of DMM at any time and that giving post-merger listed companies control over the allocation decision in connection with a merger is consistent with that approach. The Exchange also notes that the proposed rule change would only affect a very small number of companies and their DMMs, as it would be applicable only in the case of a merger transaction where one of the two merging companies would otherwise be deemed the "survivor-in-fact" under Exchange policies.

The Exchange notes that Policy Note VI(D)(1) and (3) both provide that DMM units that are ineligible to receive a new allocation due to their failure to meet the requirements of Exchange Rule 103B, Section II(D) and (E) will remain eligible to be selected pursuant to Policy Note VI(D)(1) or (3), as applicable. The Exchange proposes to amend the language in each section to clarify that its intent is that in such cases the applicable DMM unit will be eligible to be selected in its capacity as the DMM for one of the two pre-merger listed companies (in the case of a merger between two listed companies) or in its capacity as DMM of the pre-merger

[4] A company seeking to choose a DMM through the allocation process must select a minimum of three DMM units to interview from the pool of DMM units eligible to participate in the allocation process and must notify the Exchange of its choice of DMM within two business days of the interviews. Alternatively, the company can delegate to the Exchange the authority to select its DMM. In that case, the selection is made by an Exchange Selection Panel ("ESP") comprised of senior management of the Exchange, Exchange floor operations staff and non-DMM Executive Floor Governors or Floor Governors.

listed company (in the case of a merger between a listed company and an unlisted company), but will not be eligible to participate in the allocation process if the post-merger company requests that the matter be referred for allocation through the allocation process pursuant to NYSE Rule 103B, Section III. In the event that such a situation were to arise, the Exchange would inform the listed company of such DMM unit's ineligibility under Exchange Rule 103B, Section II(D) or (E).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) [5] of the Securities Exchange Act of 1934 (the "Act"),[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed amendments are consistent with Section 6(b)(5) of the Act in that their sole purpose is to provide more control over the DMM allocation process to companies involved in mergers, all DMMs are subject to the same Exchange rules and oversight when conducting their DMM activities, and the proposed amendments are consistent with Section 806.01 of the Listed Company Manual as previously approved by the Commission.

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.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78a.

[7] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2011–09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2011–09. 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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2011–09 and should be submitted on or before March 31, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–5516 Filed 3–9–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64038; File No. SR–ISE–2011–12]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Access Fees for Foreign Currency Options

March 4, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 23, 2011, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change, as described in Items I and II below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to terminate an access fee charged to foreign currency ("FX") options market makers. The text of the proposed rule change is available on the Exchange's website (*http://www.ise.com*), at the principal office of the Exchange, on the Commission's website at *http://www.sec.gov,* and at the Commission's Public Reference Room.

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to terminate an access fee charged by the Exchange to foreign currency ("FX") options market makers. ISE currently charges FX options market makers an access fee of $500 per month. This fee was adopted by the Exchange on April 17, 2007 when ISE began trading FX options and was waived for six months in order to promote trading in what was then a new asset class at the Exchange.[3] The six month waiver terminated on October 17, 2007.[4] This fee has been charged by Exchange since that time and applies to both FX Primary Market Makers and FX Competitive Market Makers. In light of current market conditions and to lend continued support to these products, ISE proposes to eliminate the FX options access fee. ISE believes eliminating this fee will make FX options more competitive with World Currency Options, offered by NASDAQ OMX PHLX, Inc., [sic] which does not charge an access fee to its market makers. ISE further believes this fee change will potentially lead to greater interest by members to make markets in these products. At a minimum, the Exchange expects this proposed fee change will strengthen our current market makers' competitive position in these products.

The Exchange has designated this proposal to be operative on March 1, 2011.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[5] in general, and furthers the objectives of Section 6(b)(4),[6] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The Exchange believes that eliminating the access fee will strengthen the competitive position of current FX options market makers. The Exchange also believes that the proposed rule change will generate interest by members to become market makers in FX options on the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[7] 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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 No. SR–ISE–2011–12 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 No. SR–ISE–2011–12. 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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 am and 3 pm. Copies of such filing also will be available for inspection and copying at the principal office of ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–ISE–2011–12 and should be submitted on or before March 31, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–5444 Filed 3–9–11; 8:45 am]

BILLING CODE 8011–01–P

[3] *See* Securities Exchange Act Release No. 55704 (May 3, 2007), 72 FR 26663 (May 10, 2007) (SR–ISE–2007–25).

[4] *See* Securities Exchange Act Release No. 56699 (October 24, 2007), 72 FR 61697 (October 31, 2007) (SR–ISE–2007–100).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64037; File No. SR–EDGA–2011–06]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGA Exchange, Inc. Fee Schedule

March 4, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2011, the EDGA Exchange, Inc. (the "Exchange" or the "EDGA") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its fees and rebates applicable to Members [3] of the Exchange pursuant to EDGA Rule 15.1(a) and (c). All of the changes described herein are applicable to EDGA Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.directedge.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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

New Tier Rate for Adding Liquidity

The fee for adding liquidity on EDGA is currently $0.00025 per share for securities at or above $1.00. The Exchange proposes to create a tier (indicated in footnote 11) to state that if members, on a daily basis, measured monthly, post 0.9% of the Total Consolidated Volume ("TCV") in average daily volume to EDGA, they will be charged $0.00005 per share. TCV is defined (in proposed footnote 11) as volume reported by all exchanges and trade reporting facilities to the consolidated transaction reporting plans for Tapes A, B, and C securities for the month prior to the month in which the fees are calculated. So, when the calculation of TCV is done for March 2011 billing for February 2011 trading activity, the appropriate TCV is based on February 2011 figures.[4]

Proposed Changes Associated With Routing to BATS BYX Exchange

Currently, the BY flag is yielded when an order is routed to BATS BYX Exchange and removes liquidity using order types ROUC and ROBY, as defined in Exchange Rules 11.9(b)(3)(a) and (g). The Exchange proposes to add footnote 12 to the fee schedule to describe that stocks priced below $1.00 will be charged $0.0010 per share. In addition, the Exchange proposes to increase the rebate from $0.0003 to $0.0004 when an order is routed to BATS BYX Exchange and removes liquidity.

EDGA Exchange proposes to implement these amendments to the Exchange fee schedule on March 1, 2011.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[5] in general, and furthers the objectives of Section 6(b)(4),[6] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

The Exchange believes that the fee associated with the BY flag ($0.0010 per share) for stocks priced below $1 represents an equitable allocation of reasonable dues, fees, and other charges since it reflects a pass through of the BATS fee for removing liquidity. EDGA believes that it is reasonable and equitable to pass on these fees to its members.

The proposed increased rebate when an order is routed to BATS BYX Exchange and removes liquidity (from $0.0003 to $0.0004 per share) is designed to incentivize Members to use this routing strategy to increase volume on EDGA. Such increased volume increases potential revenue to the Exchange, and would allow the Exchange to spread its administrative and infrastructure costs over a greater number of shares, leading to lower per share costs. These lower per share costs would allow the Exchange to pass on the savings to Members in the form an increased rebate. The increased liquidity also benefits all investors by deepening EDGA's liquidity pool, supporting the quality of price discovery, promoting market transparency and improving investor protection.

This proposed rate represents a discount over the pass through rate of $0.0003 per share currently provided. The Exchange also believes that this fee structure is an equitable allocation of reasonable dues, fees, and other charges in that it applies uniformly to all Members and the increased rebate for removing liquidity from BATS is consistent with the processing of similar routing strategies by EDGA's competitors.[7]

The Exchange believes that the new tier rate of $0.00005 per share for Members who on a daily basis, measured monthly, post 0.9% of the Total Consolidated Volume ("TCV") in average daily volume to EDGA represents a fair and equitable allocation of reasonable dues, fees, and other charges as it is aimed at incentivizing liquidity for high volume providers, which results in increased volume on EDGA. Such increased volume increases potential revenue to the Exchange, and would allow the Exchange to spread its administrative and infrastructure costs over a greater number of shares, leading to lower per share costs. The decreased per share costs allows the Exchange to share its savings with its Members in

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Member is any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange.

[4] The Commission notes that the Exchange's proposed tier became effective with respect to trading activity taking place on or after the filing of the proposed rule change.

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(4).

[7] *See* BATS fee schedule: Discounted Destination Specific Routing ("One Under") to NYSE, NYSE ARCA and NASDAQ. *See* Securities Exchange Act Release No. 62858, 75 FR 55838 (September 14, 2010) (SR–BATS–2010–023) (modifying the BATS fee schedule in order to amend the fees for its BATS + NYSE Arca destination specific routing option to continue to offer a "one under" pricing model).

the form of such lower tier rate. The increased liquidity also benefits all investors by deepening EDGA's liquidity pool, supporting the quality of price discovery, promoting market transparency and improving investor protection. Volume-based discounts such as the reduced execution fee proposed here have been widely adopted in the cash equities markets, and are equitable because they are open to all members on an equal basis and provide discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery processes.

In addition, the new tier rate is equitable in that higher fees on the Exchange are directly correlated with less stringent criteria. For example, the INET tiered fee, as indicated in footnote 7/flag 2, of $0.0030 per share has less stringent criteria, and is a higher fee than the new proposed fee. For example, based on average TCV for January 2011 (8.0 billion), in order for a Member to qualify for the INET fee of $0.0030, the Member would have to route to Nasdaq less than 5,000,000 shares of average daily volume. In order to qualify for the proposed lower fee of $0.00005 per share, which has more stringent criteria than the INET fee, the Member would have to post 72 million shares on EDGA (0.9% of TCV in average daily volume).

The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange. The Exchange believes that the proposed rates are equitable in that they apply uniformly to all Members. The Exchange believes the fees and credits remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Act [8] and Rule 19b–4(f)(2) [9] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–EDGA–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–EDGA–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,[10] all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGA–2011–06 and should be submitted on or before March 31, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–5443 Filed 3–9–11; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 19b–4(f)(2).

[10] The text of the proposed rule change is available on Exchange's Web site at *http://www.directedge.com,* on the Commission's Web site at *http://www.sec.gov,* at EDGA, and at the Commission's Public Reference Room.

[11] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 7361]

Office of Directives Management (A/GIS/DIR); Agency Information Collection Activities: Proposed Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Department of State.

ACTION: 30-Day notice of submission of information collection approval from the Office of Management and Budget and request for comments.

SUMMARY: As part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, The Department of State has submitted a Generic Information Collection Request (Generic ICR): "Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery " to OMB for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*).

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from March 10, 2011.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *E-mail: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. *Attention:* Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: To request additional information, please contact: Raymond Ciupek, Department of State, Office of Directives Management, 1800 G St., NW., Suite 2400, Washington, DC 20522–2202, who may be reached at *ciupekra@state.gov.*

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

Below we provide the Department of State projected average estimates for the next three years:

Current Actions: New collection of information.

Type of Review: New Collection.

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Average Expected Annual Number of activities: 50.

Respondents: Individuals responding to Department of State customer services evaluation requests.

Average Number of Respondents per Activity: 500.

Annual responses: 25,000.

Frequency of Response: Once per request.

Average minutes per response: 15 minutes.

Burden hours: 6,250.

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 Office of Management and Budget control number.

Dated: March 3, 2011.

T.J. Furlong,

Director, Office of Directives Management, Department of State.

[FR Doc. 2011–5372 Filed 3–9–11; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice 7360]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: American Music Abroad

Announcement Type: New Cooperative Agreement.

Funding Opportunity Number: ECA/PE/C/CU–11–09.

Catalog of Federal Domestic Assistance Number: 19.415.

Key Dates:

Application Deadline: April 29, 2011.

Executive Summary: The Cultural Programs Division in the Office of Citizen Exchanges in the Bureau of Educational and Cultural Affairs (ECA) announces an open competition for a cooperative agreement to administer the American Music Abroad program. The program will consist of approximately ten tours for a select number of professional American artists in a wide range of uniquely American musical genres. The program is designed to broadly represent the excellence and diversity of traditional American music. Some examples of American music genres include, but are not be limited to, contemporary urban music, hip hop, rock and roll, jazz and American roots music genres like country and western, bluegrass, zydeco, Cajun, and folk. The musicians selected for this program must demonstrate high artistic ability, evidence a strong commitment to education and exchange activities, and reflect the diversity of America and American music. They must be conversant with the broader aspects of contemporary American society and culture. International tours will include workshops, master classes, and outreach activities, in addition to performances.

U.S. public and non-profit organizations meeting the provisions described in Internal Revenue code section 26 U.S.C. 501(c)(3) may submit proposals that support the goals of the American Music Abroad program: to promote mutual understanding between the people of the United States and other countries, and cross-cultural awareness. The tours accomplish this by providing an opportunity for international audiences to experience American musical life, highlighting the contemporary music scene as well as our country's cultural history, and allowing American performers to learn about life and culture in the foreign host countries.

The Bureau is particularly interested in proposals for the administration of tours by American musicians representing diverse American music genres to countries with significant underserved populations that may not otherwise have access to American art forms, and countries with significant youth populations. The Bureau is also interested in proposals for projects that reach indigenous populations. No guarantee is made or implied that a grant will be awarded for tours to any particular region or that tours will be organized to any particular region.

To be eligible for this competition, all organizations must demonstrate a minimum of five years' experience successfully conducting international performing arts exchange programs in

the music field. The organization must have experience administering programs in multiple musical genres.

I. Funding Opportunity Description

Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through legislation.

Purpose: The Bureau seeks proposals to engage people and audiences overseas that do not normally have access to American cultural performances or American artists by presenting at least ten tours of musical groups representing a wide range of American musical genres.

Specific terms for the selection of the musical groups will be developed in collaboration with ECA, and subject to ECA approval. Significantly, proposals should describe application and selection plans that seek to represent the broadest possible diversity of American musical genres. In general, of the 10 selected American Music Abroad musical groups, no more than two groups may be repeat or alumni groups that have participated in past American Music Abroad programs and no single group may participate in the program more than twice. Performances are only one aspect of an exchange program focusing on people-to-people interactions. American Music Abroad musicians will be expected to conduct or participate in master classes, lectures, workshops with people from varied age groups and musical backgrounds, impromptu musical sessions, radio and TV appearances, and other activities with local cultural institutions, musicians, media and students. Therefore it is important that the proposal include plans for identifying groups who can conduct exchange activities as well as perform.

Participating musicians must be U.S. citizens who are at least 21 years old; demonstrate the highest artistic, performance and teaching abilities; be dedicated to interactive educational activities targeting various age-groups and musical abilities; have a strong interest in intercultural exchange; be conversant with broader aspects of contemporary American society and culture; be adaptable to rigorous touring through regions of the world where travel and performance situations may be difficult; and represent the diversity of America and American Music.

The search, adjudication and selection process of the musicians must consist of an open call to U.S. musicians with clear and transparent selection criteria and mechanism approved by ECA, geared to final competitive selection by an independent panel that includes an ECA representative and culminating in a diverse cadre of musicians.

Auditions should be held in two cities (one on the East Coast and one on the West Coast) and selected in consultation with ECA. A panel of judges should be assembled in consultation with ECA. Any pre-screening of applicant musicians prior to the auditions (such as blind musical screenings) must be agreed to in consultation with ECA.

The selected musicians (approximately 10 ensembles of varying size, possibly including trios, quartets, and quintets) must represent the diversity of America and American music and be able to use musical expression to convey to international audiences and workshop participants ideas about American culture, history and society. ECA will provide additional guidance during selection process to ensure that the diversity of American music is properly represented. For example, at least five musical genres are represented among the final 10 groups, with no more than 2 groups from each genre. Successful applicants will have a clearly developed strategy for attracting applications nationwide to encourage regional and musical diversity from musicians representing urban, rock, jazz and American roots music styles.

To ensure that the program continues to recruit new diversity and talent, American Music Abroad musicians may only participate in the program twice, and only 2 of the final 10 groups may be American Music Abroad alumni groups. Performances are only one aspect of an exchange program focusing on people-to-people interactions. American Music Abroad participants will be expected to conduct or participate in master classes, lectures, workshops, impromptu jam sessions, radio and TV appearances, and other activities with local cultural institutions, musicians, media and students.

Applicants should describe their project team's capacity for successfully planning recruitment and selection and provide a detailed sample program to illustrate planning capacity and ability to achieve program objectives.

Proposals should reflect a practical understanding of global issues, and demonstrate sensitivity to cultural, political, economic and social differences in regions where tour groups may perform. Special attention should be given to describing the applicant organization's experience with planning and implementing complex and unpredictable logistical undertakings overseas. Applicants should describe their project team's capacity for successfully planning projects of this nature and provide a detailed sample program (to include itineraries) to illustrate planning capacity and ability to achieve program objectives.

Applicants must identify all U.S. partner organizations and venues with whom they are proposing to collaborate and describe previous cooperative projects in the section on "Institutional Capacity." Applicants must include in their proposal supporting materials or documentation that demonstrates a minimum of five years experience in conducting global exchanges in the music field. The organization must also demonstrate it has experience dealing with multiple musical genres.

The successful applicant will incorporate social media and innovative technologies into a well-developed public relations and outreach strategy. Proposals must include specific information regarding online educational materials to supplement the international tour activities. Proposals must include references with name and contact information for other assistance awards the applicant has received so the Bureau may contact them directly.

Requirements of the Award Recipient: ECA intends to give one assistance award to a qualified institution or organization to administer the American Music Abroad program globally. Activities funded through this cooperative agreement support the organization and implementation of approximately ten (10) international tours, and must include, but are not limited to:

1. Designing, organizing, and implementing a transparent, open, national competition process to select approximately ten (10) U.S. musical groups. Musical genres should be representative of the diversity of U.S. society and culture and should include,

among others, American roots, hip-hop, rock and roll, and jazz.

2. Programming musical, educational, and media tour activities in consultation with U.S. embassies and ECA. For each overseas location, the award recipient will be required to coordinate closely with staff at U.S. embassies and consulates abroad to help advance their public diplomacy objectives, as well as find and secure appropriate venues for performances and workshops and manage a broad range of logistics issues.

3. Assisting musicians with passport, visa, immunizations, and other pre-tour preparations.

4. Making all international travel arrangements and coordinating with posts on all in-country overseas travel;

5. Making all financial and administrative arrangements with the musicians.

6. Organizing orientation sessions and pre-travel briefings that provide participants with media training, cultural briefings about the countries on the tour, and specific information regarding the context for their mission as cultural ambassadors.

7. Scheduling a pre-tour briefing session for each ensemble with State Department regional experts and ECA program officers in attendance. This event should be scheduled in coordination with a Washington, DC, public performance.

8. Scheduling an associated event as part of the annual American Music Abroad program.

9. Scheduling public performance dates in Washington, DC, for each ensemble. Applicants may schedule public performances in the audition city as well.

10. Developing outreach to international and U.S. media as part of a comprehensive media and public relations strategy developed by the awardee in consultation with and approved by ECA. The successful applicant will incorporate social media and innovative technologies into their outreach strategy.

11. Producing press and educational materials appropriate for foreign audiences who may not be familiar with the U.S. and/or American music (including, as needed, translation of materials). The successful applicant will include an online education component to enhance international touring activities.

12. Shipping performance and education materials.

13. Regularly providing ongoing and detailed information to the Program Office regarding tour schedules, venues and program activities, performance and workshop results, tour highlights, and media coverage.

14. Assisting ensembles and U.S. embassies with follow-on program development.

15. Evaluating program activities.

16. Reporting on tour activities, including audience and participant numbers and outreach efforts, to ECA.

Applicants must have experience in global exchange planning and implementation, and should address the above elements in the proposal. The grantee must be highly responsive and able to work in close consultation with ECA and the Public Affairs Sections of the participating U.S. embassies.

ECA Responsibilities: In a cooperative agreement, ECA/PE/C/CU is substantially involved in program activities above and beyond routine monitoring. ECA/PE/C/CU activities and responsibilities for this program are as follows:

1. Approval of audition cities, recruitment and selection process, and judges and judging criteria;

2. Participation in the selection of musicians, orientation and debriefing activities;

3. Identification of four to six countries for each tour. Countries will be those of importance to the Department of State's public diplomacy mission to build mutual understanding in the following world regions: Middle East, East Asia and the Pacific, Africa, South and Central Asia, Europe and/or South/Central America;

4. Arrangement of participation by Department of State officers in pre-tour briefings and any debriefings that might take place;

5. Approval of media and public relations strategies and arrangements for a showcase event;

6. Approval of all tour arrangements, including daily program schedules.

II. Award Information

Type of Award: Cooperative Agreement. ECA's level of involvement in this program is listed under number I above.

Fiscal Year Funds: FY–2011.

Approximate Total Funding: $1,500,000.

Approximate Number of Awards: 1.

Approximate Average Award: $1,500,000.

Ceiling of Award Range: $1,500,000.

Anticipated Award Date: June 1, 2011, Pending availability of funds.

Anticipated Project Completion Date: February 28, 2013.

Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew this cooperative agreement for two additional fiscal years before openly competing it again.

III. Eligibility Information

III.1. Eligible applicants: Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds: There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements:

(a) Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates making one award, in an amount up to $1,500,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

(b) Technical Eligibility: All proposals must comply with the following:

(1) Full adherence to the guidelines stated herein and in the Solicitation Package;

(2) Proposal submission deadline date;

(3) Non-profit organization status; and

(4) For purposes of this competition, at least five years of demonstrated experience in programming globally in

the music field, or your proposal will be declared technically ineligible and given no further consideration in the review process. *Please see* III.3.b.4 below regarding the eligibility requirements of additional experience from prospective applicants.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1. Contact Information to Request an Application Package: Please contact the Cultural Programs Division (ECA/PE/C/CU) in the Office of Citizen Exchanges, U.S. Department of State, SA–5, 2200 C Street, NW., Washington, DC 20037, 202–632–6412, fax 202/632–9355; e-mail *JarrettMA@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/PE/C/CU–11–09 located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instructions (PSI) document which consists of required application forms, and standard guidelines for proposal preparation.

Please specify Melissa Jarrett and refer to the Funding Opportunity Number ECA/PE/C/CU–11–09 located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via the Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm,* or from the Grants.gov Web site at *http://www.grants.gov.* Please read all information before downloading.

IV.3. Content and Form of Submission: Applicants must follow all instructions in the Solicitation Package. The original and 10 copies (11 proposals total) of the application should be submitted per the instructions under IV.3f. Application Deadline and Methods of Submission section below.

IV.3a. You are required to have a Dunn and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com/* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document for additional formatting and technical requirements.

IV.3c. All federal award recipients and sub-recipients must maintain current registrations in the Central Contractor Registration (CCR) database and have a Dun and Bradstreet Data Universal Numbering System (DUNS) number. Recipients and sub-recipients must maintain accurate and up-to-date information in the CCR until all program and financial activity and reporting have been completed. All entities must review and update the information at least annually after the initial registration and more frequently if required information changes or another award is granted.

You must have nonprofit status with the IRS at the time of application. **Please note:** Effective January 7, 2009, all applicants for ECA federal assistance awards must include in their application the names of directors and/or senior executives (current officers, trustees, and key employees, regardless of amount of compensation). In fulfilling this requirement, applicants must submit information in one of the following ways:

(1) Those who file Internal Revenue Service Form 990, "Return of Organization Exempt From Income Tax," must include a copy of relevant portions of this form.

(2) Those who do not file IRS Form 990 must submit information above in the format of their choice.

In addition to final program reporting requirements, award recipients will also be required to submit a one-page document, derived from their program reports, listing and describing their grant activities. For award recipients, the names of directors and/or senior executives (current officers, trustees, and key employees), as well as the one-page description of grant activities, will be transmitted by the State Department to OMB, along with other information required by the Federal Funding Accountability and Transparency Act (FFATA), and will be made available to the public by the Office of Management and Budget on its USASpending.gov Web site as part of ECA's FFATA reporting requirements.

If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1. Adherence to All Regulations Governing the J Visa: The Bureau of Educational and Cultural Affairs places critically important emphases on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by recipient organizations and program participants to all regulations governing the J visa program status.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: Office of Designation, Private Sector Programs Division, U.S. Department of State, ECA/EC/D/PS, SA–5, 5th Floor, 2200 C Street, NW., Washington, DC 20037.

Please refer to Solicitation Package for further information.

IV.3d.2. Diversity, Freedom and Democracy Guidelines: Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Public Law 106–113 requires that the governments of the countries described above do not have inappropriate

influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation: Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the recipient organization will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are "smart" (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program outputs and outcomes. Outputs are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. Outcomes, in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.

2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (*i.e.,* surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Recipient organizations will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit SF–424A—"Budget Information—Non-Construction Programs" along with a comprehensive budget for the entire program. The award may not exceed $1,500,000. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2. For budgeting purposes, applicants should estimate costs based approximately ten musical groups (*e.g.* trios, quartets, and quintets) traveling for four (4) weeks to six (6) destinations in the following regions: Africa, East Asia, Eurasia, Central Europe and the Balkans, the Near East/North Africa, Latin America, and South Asia. Final determination of participating regions and countries will be made by ECA in collaboration with U.S. embassies and the successful applicant after the assistance award has been given.

IV.3e.3. Allowable costs for the program include the following:

(1) Program Expenses, including but not limited to: domestic and international travel for the selected ensembles (per The Fly America Act); visas and immunizations; airport taxes and country entrance fees; honoraria; educational materials and presentation items; excess and overweight baggage fees; trip itinerary booklets; press kits and promotional materials; follow-on activities; monitoring and evaluation; international travel for program implementation and/or evaluation purposes; and other justifiable expenses related to program activities.

The following guidelines may be helpful in developing a proposed budget:

A. Travel Costs. International and domestic airfares. (per The Fly America Act), transit costs, ground transportation, and visas for the American Music Abroad participants to travel to the tour destinations. Travel costs should also include airfare for selected finalists to travel to the nearest audition city.

B. Per Diem: Domestic Per Diem should be estimated for selected finalists attending auditions in the nearest audition city. For the Washington, DC portion of the tour, organizations should use the published Federal per diem rates, and estimate per diems based on a two-night stay per ensemble member. The Public Affairs Sections of the participating U.S. embassies and consulates generally are responsible for per diem abroad. Domestic per diem rates may be accessed at: *http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentId=17943&contentType=GSA_BASIC%20.*

C. Sub-grantees and Consultants. Sub-grantee organizations may be used, in which case the written agreement between the prospective grantee and sub-grantee should be included in the proposal. Sub-grants must be itemized in the budget under General Program Expenses. Consultants may be used to provide specialized expertise. Daily honoraria cannot exceed $250 per day, and applicants are strongly encouraged

to use organizational resources, and to cost share heavily in this area.

D. Health Insurance. Each American Music Abroad participant will be covered under the terms of the ECA-sponsored COINS health insurance policy. The cost for international travel insurance for staff travel may be included in the proposal budget.

E. Honoraria for American Music Abroad musicians. Daily honorarium is $200 per day for each performer, including rest and travel days.

F. Educational and Promotional Items. Ensemble members may use these funds for individual purchases or they may pool funds for joint purposes. ECA funds for educational and promotional items (*e.g.* CDs, guitar strings, lapel pins, *etc.*) should not exceed $500 per ensemble.

G. Excess Baggage. Excess baggage costs are based on the size and weight of the instrument. Excess baggage estimates may be subject to change once actual tour itineraries are scheduled; however for proposal budget purposes, costs should be estimated at $3,500 per ensemble.

H. Immunizations/Visas. For purposes of a proposed budget, line items for immunizations should be estimated at $400 per musician, and visas/visa photos should be estimated at $600 per musician.

I. Press/Outreach Kits. Each relevant U.S. embassy should receive appropriate contents for press kits. Items may be sent electronically with the understanding that in some cases, embassies may not be able to access large files or attachments. This line item may include funds for shooting and duplicating black and white publicity photos and duplicating CDs, as well as creating banners or other backdrops for display at performances.

J. Translation of outreach and/or educational materials.

K. Staff Travel. Allowable costs include domestic staff travel for one staff member to attend recruitment/selection events in two U.S. cities and to pre-tour briefings and performances in Washington, DC. International staff travel will be allowable, especially if associated with monitoring and evaluation, as long as costs for a full four-to-six week tour for each ensemble are completely covered. Cost-sharing for staff travel is strongly encouraged.

L. Travel, Per Diem, and equipment costs related to scheduling an associated domestic event as part of the annual American Music Abroad program.

M. Other justifiable expenses directly related to supporting program activities.

For purposes of this competition, please use the following program as a model: One musical ensemble consisting of four musicians travels to Cyprus, Turkey, Egypt, Lebanon and Syria over the course of four weeks.

2. Administrative Costs. Costs necessary for the effective administration of the program may include salaries for grantee organization employees, benefits, and other direct and indirect costs per detailed instructions in the Solicitation Package. While there is no rigid ratio of administrative to program costs, proposals in which the administrative costs do not exceed 25% of the total requested from ECA grant funds will be more competitive on cost effectiveness. Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Application Deadline and Methods of Submission:

Application Deadline Date: April 29, 2011.

Reference Number: ECA/PE/C/CU–11–09.

Methods of Submission: Applications may be submitted in one of two ways:

(1) In hard-copy, via a nationally recognized overnight delivery service (*i.e.,* DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, *etc.*), or (2) electronically through *http://www.grants.gov/.*

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1. Submitting Printed Applications: Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will not notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages may not be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ECA/EX/PM.

The original and 10 copies of the application should be sent to: Program Management Division, ECA–IIP/EX/PM, *Ref.:* ECA/PE/C/CU–11–09, SA–5, Floor 4, Department of State, 2200 C Street, NW., Washington, DC 20037.

Applicants submitting hard-copy applications must also submit the "Executive Summary" and "Proposal Narrative" sections of the proposal in text (.txt) or Microsoft Word format on CD–ROM. As appropriate, the Bureau will provide these files electronically to the appropriate Public Affairs Section(s) at the U.S. embassies for their review.

IV.3f.2. Submitting Electronic Applications: Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov/*). Complete solicitation packages are available at Grants.gov in the "Find" portion of the system.

PLEASE NOTE: ECA bears no responsibility for applicant timeliness of submission or data errors resulting from transmission or conversion processes for proposals submitted via Grants.gov.

Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*).

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov. Once registered, 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. In addition, validation of an electronic submission via Grants.gov can take up to two business days.

Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

The Grants.gov Web site includes extensive information on all phases/aspects of the Grants.gov process, including an extensive section on frequently asked questions, located under the "For Applicants" section of

the Web site. ECA strongly recommends that all potential applicants review thoroughly the Grants.gov Web site, well in advance of submitting a proposal through the Grants.gov system. ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support, *Contact Center Phone:* 800–518–4726, *Business Hours:* Monday–Friday, 7 a.m.–9 p.m. Eastern Time, *E-mail: support@grants.gov.*

Applicants have until midnight (12 a.m.), Washington, DC, time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Please refer to the Grants.gov Web site, for definitions of various "application statuses" and the difference between a submission receipt and a submission validation. Applicants will receive a validation e-mail from grants.gov upon the successful submission of an application. Again, validation of an electronic submission via Grants.gov can take up to two business days. *Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.* ECA will not notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for cooperative agreements resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Program Planning and Ability to Achieve Objectives:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

2. *Multiplier Effect/Impact:* Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

3. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

4. *Institutional Capacity:* Proposals should include (1) the institution's mission and date of establishment; (2) an outline of prior awards—U.S. government and/or private support received for tours abroad; (3) descriptions of experienced staff members who will be part of the team implementing the program; and (4) all other documentation requested herein. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals. The proposal should reflect the institution's expertise in the music management arena and knowledge of the conditions in the regions abroad.

5. *Institution's Record/Ability:* Proposals should demonstrate an institutional record of at least five years of international music management planning and implementation, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

6. *Follow-on Activities:* Proposals should provide a plan for continued follow-on activity (without Bureau support) ensuring that Bureau supported programs are not isolated events.

7. *Project Evaluation:* Proposals should include a plan to evaluate the program's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended.

8. *Cost-effectiveness and Cost-sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

VI. Award Administration Information

VI.1a. Award Notices: Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Federal Assistance Award (FAA) from the Bureau's Grants Office. The FAA and the original proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The FAA will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.1b. The following additional requirements apply to this project:

Special Provision for Performance in a Designated Combat Area (Currently Iraq and Afghanistan) (December 2008)

All Recipient personnel deploying to areas of combat operations, as designated by the Secretary of Defense (currently Iraq and Afghanistan), under assistance awards over $100,000 or performance over 14 days must register in the Department of Defense maintained Synchronized Pre-deployment and Operational Tracker (SPOT) system. Recipients of federal

assistance awards shall register in SPOT before deployment, or if already in the designated operational area, register upon becoming an employee under the assistance award, and maintain current data in SPOT. Information on how to register in SPOT will be available from your Grants Officer or Grants Officer Representative during the final negotiation and approval stages in the federal assistance awards process. Recipients of federal assistance awards are advised that adherence to this policy and procedure will be a requirement of all final federal assistance awards issued by ECA.

Recipient performance may require the use of armed private security personnel. To the extent that such private security contractors (PSCs) are required, grantees are required to ensure they adhere to Chief of Mission (COM) policies and procedures regarding the operation, oversight, and accountability of PSCs.

VI.2. Administrative and National Policy Requirements: Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, "Cost Principles for Nonprofit Organizations."

Office of Management and Budget Circular A–21, "Cost Principles for Educational Institutions."

OMB Circular A–87, "Cost Principles for State, Local and Indian Governments".

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information:

http://www.whitehouse.gov/omb/grants.

http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.

VI.3. Reporting Requirements: You must provide ECA with a hard copy original plus two copies of the following reports:

(1) A final program and financial report no more than 90 days after the expiration of the award;

(2) A concise, one-page final program report summarizing program outcomes no more than 90 days after the expiration of the award. This one-page report will be transmitted to OMB, and be made available to the public via OMB's USAspending.gov Web site—as part of ECA's Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

(3) A SF–PPR, "Performance Progress Report" Cover Sheet with all program reports.

(4) Quarterly program and financial reports showing activities carried out and expenses incurred in the calendar quarter.

(5) Quarterly press updates, including any articles or publicity regarding the program and an updated communications calendar.

Award recipients will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information).

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VII. Agency Contacts

For questions about this announcement, contact: Melissa Jarrett, U.S. Department of State, Cultural Programs, ECA/PE/C/CU, SA–5, Floor 3, ECA/PE/C/CU–11–09 L–16, 2200 C Street, NW., Washington, DC 20520, 202–632–2412, fax 202–632–9355; *JarrettMA@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/CU–11–09.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice: The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: March 2, 2011.

Ann Stock,

Assistant Secretary for Educational and Cultural Affairs Department of State.

[FR Doc. 2011–5371 Filed 3–9–11; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: FAA Entry Point Filing Form—International Registry

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The respondents supply information through the AC 8050–135 to the FAA Civil Aviation Registry's Aircraft Registration Branch in order to obtain an authorization code for access to the International Registry.

DATES: Written comments should be submitted by May 9, 2011.

FOR FURTHER INFORMATION CONTACT: Carla Scott on (202) 267–9895, or by e-mail at: *Carla.Scott@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0697.

Title: FAA Entry Point Filing Form—International Registry.

Form Numbers: AC Form 8050–135.

Type of Review: Renewal of an information collection.

Background: The information collected is necessary to obtain an authorization code for transmission of information to the International Registry. To transmit certain types of interests or prospective interests to the International Registry, interested parties must file a completed FAA Entry Point Filing Form—International Registry, AC Form 8050–135, with the FAA Civil Aviation Registry. Upon receipt of the completed form, the FAA Civil Aviation Registry will issue the unique authorization code.

Respondents: Approximately 12,750 applicants.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 30 minutes.

Estimated Total Annual Burden: 6,375 hours.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Scott, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized 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.

Issued in Washington, DC, on March 3, 2011.

Carla Scott,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2011–5466 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Reporting of Information Using Special Airworthiness Information Bulletin

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The FAA issues Special Airworthiness Information Bulletins (SAIBs) to alert, educate, and make recommendations to the aviation community and individual aircraft owners and operators about ways to improve the safety of a product. They may include requests for voluntary reporting of results from requested actions/inspections. This reported information is used to help the FAA assess whether a potential unsafe condition warrants issuance of an airworthiness directive (AD).

DATES: Written comments should be submitted by May 9, 2011.

FOR FURTHER INFORMATION CONTACT: Carla Scott on (202) 267–9895, or by e-mail at: *Carla.Scott@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0731.

Title: Reporting of Information Using Special Airworthiness Information Bulletin.

Form Numbers: No FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: One of the FAA's primary functions is to require the correction of an unsafe condition under Title 14 of the Code of Federal Regulations (14 CFR) part 39 for type certificated products (that is aircraft, aircraft engines, propellers, or appliances) by means of an airworthiness directive (AD). A special airworthiness information bulletin (SAIB) is an important tool that helps the FAA to gather information to determine whether an AD is necessary. An SAIB alerts, educates, and make recommendations to the aviation community and individual aircraft owners and operators about ways to improve the safety of a product. It contains non-regulatory information and guidance that is advisory and may include recommended actions or inspections with a request for voluntary reporting of inspection results.

Respondents: Approximately 1,120 owners/operators.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 30 minutes.

Estimated Total Annual Burden: 933 hours.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Scott, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized 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.

Issued in Washington, DC, on March 3, 2011.

Carla Scott,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2011–5465 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Office of Dispute Resolution Procedures for Protests and Contract Disputes

AGENCY: Federal Aviation Administration (FAA), DoT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. 14 CFR part 17 sets forth procedures for filing solicitation protests and contract claims in the FAA's Office of Dispute Resolution for Acquisition. The regulations seek factual and legal information from protesters or claimants primarily through written submissions.

DATES: Written comments should be submitted by May 9, 2011.

FOR FURTHER INFORMATION CONTACT: Carla Scott on (202) 267–9895, or by e-mail at: *Carla.Scott@faa.gov.*

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 2120–0632.

Title: Office of Dispute Resolution Procedures for Protests and Contract Disputes, 14 CFR 17.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: 14 CFR 17.15 and 17.25 provide the procedures for filing protests and contract claims with the Office of Dispute Resolution for Acquisition. The regulations seek factual and legal information from protesters or claimants primarily through written submissions. The information sought by the regulations is used by the ODRA, as well as the opposing parties: (1) To gain a clear understanding as to the facts and the law underlying the dispute; and (2) to

provide a basis for applying dispute resolution techniques.

Respondents: Approximately 40 protestors or claimants.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 20.5 hours.

Estimated Total Annual Burden: 820 hours.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Scott, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized 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.

Issued in Washington, DC, on March 3, 2011.

Carla Scott,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2011–5467 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Implementation to the Equal Access to Justice Act

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information is needed to determine an applicant's eligibility for an award of attorney's fees and other expenses under the Equal Access to Justice Act.

DATES: Written comments should be submitted by May 9, 2011.

FOR FURTHER INFORMATION CONTACT: Carla Scott on (202) 267–9895, or by e-mail at: *Carla.Scott@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0539.

Title: Implementation to the Equal Access to Justice Act.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: The Equal Access to Justice Act provides for the award of attorney fees and other expenses to eligible individuals and entities who are prevailing parties in administrative proceedings before government agencies. Certain information must be obtained from the applicant in order to determine such applicant's eligibility for the EAJA award.

Respondents: Approximately 17 applicants.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 40 hours.

Estimated Total Annual Burden: 680 hours.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Scott, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized 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.

Issued in Washington, DC, on March 3, 2011.

Carla Scott,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2011–5470 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Agricultural Aircraft Operator Certificate Application

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. Standards have been established for the certification of agricultural aircraft. The information collected shows applicant compliance and eligibility for certification by FAA.

DATES: Written comments should be submitted by May 9, 2011.

FOR FURTHER INFORMATION CONTACT: Carla Scott on (202) 267–9895, or by e-mail at: *Carla.Scott@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0049.

Title: Agricultural Aircraft Operator Certificate Application.

Form Numbers: FAA Form 8710–3.

Type of Review: Renewal of an information collection.

Background: The information on FAA Form 8710–3, Agricultural Aircraft Operator Certificate Application, is required by FAR Part 137 from applicants who wish to be issued a commercial or private agricultural aircraft operator certificate.

Respondents: Approximately 3,980 applicants.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 3.5 hours.

Estimated Total Annual Burden: 14,037 hours.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Scott, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity

of the information collection; and (d) ways that the burden could be minimized 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.

Issued in Washington, DC, on March 3, 2011.

Carla Scott,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2011–5490 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Airport Noise Compatibility Planning

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The respondents are those airport operators voluntarily submitting noise exposure maps and noise compatibility programs to the FAA for review and approval.

DATES: Written comments should be submitted by May 9, 2011.

FOR FURTHER INFORMATION CONTACT: Carla Scott on (202) 267–9895, or by e-mail at: *Carla.Scott@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0517.

Title: Airport Noise Compatibility Planning.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: The voluntarily submitted information from the current CFR part 150 collection, e.g., airport noise exposure maps and airport noise compatibility programs, or their revisions, is used by the FAA to conduct reviews of the submissions to determine if an airport sponsor's noise compatibility program is eligible for Federal grant funds. If airport operators did not voluntarily submit noise exposure maps and noise compatibility programs for FAA review and approval, the airport operator would not be eligible for the set aside of discretionary grant funds.

Respondents: Approximately 15 airport operators.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 3882.6 hours.

Estimated Total Annual Burden: 58,240 hours.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Scott, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized 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.

Issued in Washington, DC, on March 3, 2011.

Carla Scott,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2011–5471 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Pilots Convicted of Alcohol or Drug-Related Motor Vehicle Offenses or Subject to State Motor Vehicle Administrative Procedure

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The requested information is needed to mitigate potential hazards presented by airmen using alcohol or drugs in flight, to identify persons possibly unsuitable for pilot certification.

DATES: Written comments should be submitted by May 9, 2011.

FOR FURTHER INFORMATION CONTACT: Carla Scott on (202) 267–9895, or by e-mail at: *Carla.Scott@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0543.

Title: Pilots Convicted of Alcohol or Drug-Related Motor Vehicle Offenses or Subject to State Motor Vehicle Administrative Procedure.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: Amendments to Parts 61 and 67 of the FAR implement procedures which further enhance the safety of aviation commerce by identifying (i) those persons who may prove unsuitable for airman certification as indicated by an inability or unwillingness to comply with general safety regulations and (ii) those persons who have failed to report violations of general safety regulations in concert with established FAA requirements. In part, the amendment to 14 CFR Part 61 provides the FAA with the means to identify those persons whose traffic records show that they may prove unsuitable for airman certification. The amendment requires airmen to report to the FAA, within 60 days, all alcohol or drug related convictions or administrative actions. The amendment to Part 67 aids the FAA in identifying those persons who have failed to report violations of general safety regulations as required by the FARs.

Respondents: Approximately 1,113 pilots.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 10 minutes.

Estimated Total Annual Burden: 185 hours.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Scott, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and

(d) ways that the burden could be minimized 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.

Issued in Washington, DC, on March 3, 2011.

Carla Scott,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2011–5469 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Certificated Training Centers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. To determine regulatory compliance, there is a need for airmen to maintain records of certain training and recency of experience; a training center has to maintain records of student's training, employee qualification and training, and training program approvals.

DATES: Written comments should be submitted by May 9, 2011.

FOR FURTHER INFORMATION CONTACT: Carla Scott on (202) 267–9895, or by e-mail at: *Carla.Scott@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0570.

Title: Certificated Training Centers—Simulator Rule, Part 142.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: 14 CFR part 142.73 requires that training centers maintain records for a period of one year to show trainee qualifications for training, testing, or checking, training attempts, training checking, and testing results, and for one year following termination of employment the qualification of instructors and evaluators providing those services. The information is maintained by the certificate holder and subject to review by aviation safety inspectors (operations), designated to provide surveillance to training centers to ensure compliance with airman training, testing, and certification requirements specified in other parts of the 14 CFR.

Respondents: Approximately 108 training centers.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 1,177.6 hours.

Estimated Total Annual Burden: 127,180 hours.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Scott, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized 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.

Issued in Washington, DC, on March 3, 2011.

Carla Scott,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2011–5468 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2011–0122]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on December 29, 2010. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by April 11, 2011.

ADDRESSES: You may send comments within 30 days to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA 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. All comments should include the Docket number FHWA–2011–0122.

FOR FURTHER INFORMATION CONTACT: Kevin Douglas, 202–366–2601, Office of Human Environment, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Surface Transportation Environment and Planning (STEP) Cooperative Research Program.

Background: Section 5207 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users of 2005 (SAFETEA–LU) established a new cooperative research program for environment and planning research in section 507 of Title 23, United States Code, Highways (23 U.S.C. 507). The general objective of the STEP is to improve understanding of the complex relationship between surface transportation, planning, and the environment. The FHWA anticipates that the STEP program will provide resources for national research on issues related to planning, environment and realty. These resources are likely to be included in future surface transportation legislation. The research program established under this section shall ensure that stakeholders are involved in the governance of the program, at the executive, overall program, and technical levels, through the use of expert panels and committees. FHWA will be collecting feedback via a STEP Web site on the 18 emphasis areas. This information will

be used to identify potential research for an annual Research Plan.

The number of stakeholders with an interest in environment and planning research includes three groups:

I—Federal Agencies and Tribal Governments

II—State and Local Governments

III—Nongovernmental Transportation and Environmental Stakeholders

Respondents: An estimated 270 participants annually for a total of approximately 810 participants during the three-year period while the OMB clearance is in effect.

Frequency: Annually.

Estimated Average Burden per Response: 30 minutes each year. Due to the specialized nature of the 18 emphasis areas, most commenters will provide input in only one area.

Estimated Total Annual Burden Hours: Approximately 135 hours annually (405 hours total for the three-year period).

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: March 2, 2011.

Juli Huynh,

Chief, Management Programs and Analysis Division.

[FR Doc. 2011–5425 Filed 3–9–11; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

FY 2011 Discretionary Funding Opportunity: Paul S. Sarbanes Transit in Parks Program

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of availability: solicitation of project proposals.

SUMMARY: The Federal Transit Administration (FTA) announces the upcoming availability of Fiscal Year (FY) 2011 Paul S. Sarbanes Transit in Parks Program (Transit in Parks Program) discretionary funds. This notice solicits proposals to compete for FY 2011 funds under the program, which was established by Section 3021 of SAFETEA–LU, as amended (49 U.S.C. 5320). The amount of funding available will be determined by Congressional appropriation prior to the selection of awardees, and based on the timing of such funding becoming available, may also include funding for Fiscal Year 2012. The program is administered by FTA in partnership with the Department of the Interior (DOI) and the U.S. Department of Agriculture's Forest Service.

The program funds capital and planning expenses for alternative transportation systems such as buses, trams and non-motorized trails in federally-managed parks and public lands. Federal land management agencies, as well as State, tribal and local governments acting with the consent of a Federal land management agency are eligible to apply. DOI, after consultation with and in cooperation with FTA, will determine the final selection and funding of projects. Geographic diversity will be considered when allocating funds.

This announcement is available on the FTA Web site at: *http://www.fta.dot.gov.* FTA will announce final selections on the Web site and in the **Federal Register**. A synopsis of this funding opportunity will be posted in the FIND module of the government-wide electronic grants Web site at *http://www.grants.gov.*

DATES: Complete proposals must be received by 12 midnight EST on May 9, 2011.

ADDRESSES: Project proposals must be submitted electronically through the GRANTS.GOV Web site and applicants must be properly registered. Anyone intending to apply electronically through GRANTS.GOV should initiate the process of registering on the GRANTS.GOV site immediately to ensure completion of registration before the deadline for submission. GRANTS.GOV applicants should receive two confirmation e-mails. The first will confirm that the application was received and a subsequent e-mail will be sent within 24–48 hours indicating whether the application was validated or rejected by the system. If interested parties experience difficulties at any point during the registration or application process, please call the GRANTS.GOV Customer Support Hotline at 1–800–518–4726, Monday–Friday from 7 a.m. to 9 p.m. EST. The required electronic project proposal template as well as guidance on completing a proposal template can also be found on GRANTS.GOV and on the program Web site at *http://www.fta.dot.gov/funding/grants/grants_financing_6106.html.*

FOR FURTHER INFORMATION CONTACT: Contact the appropriate FTA Regional Administrator (Appendix A) for proposal-specific information or the appropriate land management agency (Appendix B) for the Paul S. Sarbanes Transit in Parks Program. For general program information, contact Adam Schildge, Paul S. Sarbanes Transit in Parks Program, (202) 366–0778, Adam.Schildge@dot.gov. A TDD is available at 1–800–877–8339 (TDD/FIRS). For technical assistance or general inquiries regarding alternative transportation in federal lands, contact the Transit in Parks Technical Assistance Center at *http://www.triptac.org,* (877) 704–5292, or *helpdesk@triptac.org.*

SUPPLEMENTARY INFORMATION:

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I. Overview

Section 3021 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users of 2005 (SAFETEA–LU), as amended, established the Paul S. Sarbanes Transit in Parks Program (Transit in Parks Program) (49 U.S.C. 5320). The program is administered by the Federal Transit Administration (FTA) in partnership with the Department of the Interior (DOI) and the U.S. Department of Agriculture's Forest Service.

Congestion in and around parks and public lands causes traffic delays and noise and air pollution that substantially detract from the visitor's experience and the protection of natural resources. In August 2001, the Department of Transportation (DOT) and DOI published a comprehensive study of alternative transportation needs in national parks and related Federal lands. The study identified significant alternative transportation needs at sites managed by the National Park Service, the Bureau of Land Management, and the U.S. Fish and Wildlife Service. Additionally, a supplement to this report identified Forest Service sites that would benefit from such services.

II. Program Purpose

The purpose of the program is to provide for the planning and capital costs of alternative transportation systems that will enhance the protection of national parks and Federal lands; increase the enjoyment of visitors' experience by conserving natural, historical, and cultural resources; reduce congestion and pollution; improve visitor mobility and accessibility; enhance visitor

experience; and ensure access to all, including persons with disabilities.

III. Program Information

1. Eligible Applicants

Eligible applicants are Federal land management agencies that manage an eligible area, including but not limited to the National Park Service, the Fish and Wildlife Service, the Bureau of Land Management, the Forest Service, and the Bureau of Reclamation; and State, tribal and local governments with jurisdiction over land in the vicinity of an eligible area, acting with the consent of a Federal land management agency, alone or in partnership with a Federal land management agency or other governmental or non-governmental participant. **Note:** If the applicant is a State, tribal, or local government, a letter from the affected unit(s) of the Federal land management agency or agencies expressing support for the project must be submitted with the project proposal in order to indicate consent. Applications without support letters from the relevant Federal land management agency or agencies unit(s) will be deemed ineligible. Non-profit organizations are not eligible for this program, but they may partner with an eligible applicant as defined above.

2. Eligible Projects

SAFETEA–LU defines alternative transportation as "transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis, including sightseeing service. This also includes a non-motorized transportation system (including the provision of facilities for pedestrians, bicycles, and non-motorized watercraft)."

The program funds capital and planning expenses for alternative transportation systems such as buses, trams and non-motorized systems in, and in the vicinity of, federally-managed parks and public lands. A qualified planning or capital project must be within the vicinity of a Federally-owned or managed park, refuge, or recreational area open to the general public and meet the goals of the program. Operating expenses are not eligible under the program. A project proposal may include in its budget up to 15 percent for project administration, contingency, and oversight. As specified in 49 U.S.C. § 5320(b)(5), the following types of projects are eligible:

a. Planning

Activities to comply with metropolitan and statewide planning provisions (49 U.S.C. 5320(b)(5)(A) referencing 49 U.S.C. 5303, 5304, 5305). Activities include planning studies for an alternative transportation system including evaluation of no-build and all other reasonable alternatives, traffic studies, visitor utilization studies, transportation analysis, feasibility studies, and environmental studies.

b. Capital

Eligible capital projects include all aspects of "acquiring, constructing, supervising, or inspecting equipment or a facility for use in public transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, transit-related intelligent transportation systems, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing."

Capital projects may include those projects operated by an outside entity, such as a public transportation agency, state or local government, private company engaged in public transportation, or private non-profit organization; and

Projects may also include the deployment/commercialization of alternative transportation vehicles that introduce innovative technologies or methods.

The capital cost of leasing vehicles is an eligible expense under the program. For vehicle acquisition projects, sponsors should compare the cost-effectiveness of leasing versus purchasing vehicles. Leasing may be particularly cost effective in circumstances in which transit service is only needed during a peak visitation period that lasts only a few months. In these cases, leasing a vehicle for a few months during the year may be less expensive than purchasing a vehicle only used for a few months during the year. An award can cover the capital cost of leasing vehicles but not the cost of operations, such as fuel or driver's salary.

Project sponsors should also compare the cost effectiveness of providing service versus contracting for service. The capital portion of contracted service is an eligible capital expense under the program. For example, if a public land agency contracts with a private bus company to provide shuttle service with privately owned buses, the portion of the contract that covers the capital expense of the buses is an eligible expense under the Transit in Parks Program. Operating expenses are not eligible under the program. Project sponsors will be asked to compare the cost-effectiveness of their preferred option to other alternatives in the financial sustainability portion of the proposal.

c. "Fixed Guideway" and Bus Projects

The SAFETEA–LU legislation includes language allowing eligibility of "fixed guideway" projects. These are defined as those transportation projects that run on a dedicated right of way, like a light rail, trolley, bus rapid transit, or any type of ferry system. For these types of projects, eligible projects can include development of a new fixed guideway project; rehabilitation or modernization of existing fixed guideway systems; and expansion of existing systems. For bus or shuttle projects, eligible projects can include purchase of buses and related equipment; replacement of buses and related equipment; rehabilitation of buses and related equipment; construction of bus-related facilities such as bus shelters; and purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on August 10, 2005, with clean fuel vehicles.

d. Other Eligible Projects

The Transit in Parks Program specifically includes these other eligible capital projects:

(1) The capital costs of coordinating Federal land management agency public transportation systems with other public transportation systems.

(2) Non-motorized transportation systems (including the provision of facilities for pedestrians, bicycles and non-motorized watercraft).

(3) Water-borne access systems within or in the vicinity of an eligible area as appropriate and consistent with 49 U.S.C. 5320.

(4) Any other alternative transportation project that enhances the environment; prevents or mitigates an adverse impact on a natural resource; improves Federal land management agency resource management; improves visitor mobility and accessibility and the visitor experience; reduces congestion and pollution (including noise pollution and visual pollution); or conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a non-transportation facility). This includes the enhancement or extension of qualifying alternative transportation systems, including the development of related intelligent transportation systems (ITS).

In order to be considered for funding a project must consist of one or more of the eligible activities listed above, meet the definition of alternative transportation, and contribute to the goals of the program. Technical assistance relating to planning and implementing alternative transportation systems is available from the Paul S. Sarbanes Transit in Parks Technical Assistance Center, *http://www.triptac.org*.

3. Financial Limitations and Cost Sharing

No one project may receive more than 25 percent of the available funds. Additionally, projects selected for funding under the Paul S. Sarbanes Transit in the Parks Program can be funded at up to 100 percent Federal share.

4. Application Content

The required electronic project proposal template as well as guidance on completing a proposal template can be found on GRANTS.GOV and on the program Web site at *http://www.fta.dot.gov/funding/grants/grants_financing_6106.html.* Applications should not exceed 10 pages (excluding the standard form 424, letters of support and/or supporting graphics) and use 12 pt. font. Applications exceeding this length may not be reviewed.

5. Evaluation Criteria

Proposed capital projects will be evaluated based on the following criteria:

a. Demonstration of Need

(1) Visitor mobility and experience current or anticipated problem; and
(2) Environmental current or anticipated problem.

b. Visitor Mobility and Experience Benefits of Project

(1) Reduced traffic congestion;
(2) Enhanced visitor mobility, accessibility, and safety; and
(3) Improved visitor education, recreation, and health benefits.

c. Environmental Benefits of Project

(1) Protection of sensitive natural, cultural, and historic resources; and
(2) Reduced pollution (air, noise, visual).

d. Financial Sustainability and Operational Efficiency

(1) Effectiveness in meeting management goals;
(2) Realistic financial plan;
(3) Cost effectiveness; and
(4) Partnering, funding from other sources, innovative financing.

Proposed planning projects will be evaluated based on the following criteria:

a. Demonstration of Need

(1) Visitor mobility and experience current or anticipated problem; and
(2) Environmental current or anticipated problem.

b. Methodology for Assessing Visitor Mobility and Experience Benefits of Project

(1) Reduced traffic congestion;
(2) Enhanced visitor mobility, accessibility, and safety; and
(3) Improved visitor education, recreation, and health benefits.

c. Methodology for Assessing Environmental Benefits of Project

(1) Protection of sensitive natural, cultural, and historical resources; and
(2) Reduced pollution (air, noise, visual).

d. Methodology for Assessing Operational Efficiency and Financial Sustainability of Alternatives

(1) Effectiveness in meeting management goals;
(2) Realistic financial plan;
(3) Cost effectiveness; and
(4) Partnering, funding from other sources.

A special note on non-motorized transportation systems: While non-motorized systems, such as trails, are eligible under the program, not all non-motorized systems will meet the goals of the program needed to be considered for funding. Like motorized systems, in order to be considered for funding, non-motorized systems must reduce or mitigate the number of auto trips by providing an alternative to travel by private auto. In addition, non-motorized systems must provide a high degree of connectivity within a transportation system. Finally, they should improve safety for motorized and non-motorized transportation system users.

IV. Technical Assistance and Other Program Information

Complete applications must be submitted via GRANTS.GOV by May 9, 2011. Frequently asked questions and other program information are available at *http://www.fta.dot.gov/atppl.* Projects selected for funding will be required to report quarterly and submit performance data to the appropriate agency. Detailed information on reporting will be included in the **Federal Register** notice announcing projects selected for funding. Technical assistance regarding the program is available by contacting Adam Schildge, Federal Transit Administration, (202) 366–0778, *adam.schildge@dot.gov* or the appropriate Federal Land Management Agency contact (*see* Appendix C). For technical assistance or general inquiries regarding alternative transportation in federal lands, please contact the Transit in Parks Technical Assistance Center at *http://www.triptac.org,* (877) 704–5292, or *helpdesk@triptac.org*.

Peter Rogoff,

Administrator.

APPENDIX A—FTA REGIONAL AND METROPOLITAN OFFICES

MaryBeth 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.

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.

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.

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.

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.

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.

APPENDIX A—FTA REGIONAL AND METROPOLITAN OFFICES—Continued

Philadelphia Metropolitan Office, Region 3—Philadelphia, 1760 Market Street, Suite 500, Philadelphia, PA 19103–4124, Tel. 215–656–7070.	
Washington, DC Metropolitan Office, 1990 K Street, NW., Room 510, Washington, DC 20006, Tel. 202–219–3562.	
Yvette Taylor, Regional Administrator, Region 4—Atlanta, 230 Peachtreet Street, NW., Suite 800, Atlanta, GA 30303, Tel. 404–865–5600.	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: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and Virgin Islands.	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.	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: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.	States served: Alaska, Idaho, Oregon, and Washington.
Chicago Metropolitan Office, Region 5—Chicago, 200 West Adams Street, Suite 320, Chicago, IL 60606, Tel. 312–353–2789.	

Appendix B—Federal Land Management Agencies Transit in Parks Program Contacts

- National Park Service: Mark H. Hartsoe, *Mark_H_Hartsoe@nps.gov;* telephone: 202–513–7025, fax: 202–371–6675, mail: 1849 C Street, NW. (MS2420); Washington, DC 20240–0001.
- Fish and Wildlife Service: Nathan Caldwell, e-mail to: *Nathan_Caldwell@fws.gov,* telephone: 703–358–2205, fax: 703–358–2517, mail: 4401 N. Fairfax Drive, Room 634; Arlington, VA 22203.
- Forest Service: Ed James, *ejames@fs.fed.us*, telephone: 703–605–4616, mail: 1621 N Kent Street, Room 900, Arlington, VA 22209.
- Bureau of Land Management: Victor F. Montoya, *Victor_Montoya@blm.gov,* telephone: 202–912–7041, mail: 1620 L Street, WO–854, Washington, DC 20036.

[FR Doc. 2011–5427 Filed 3–9–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35414]

Gulf & Ohio Railways, Inc., H. Peter Claussen and Linda C. Claussen—Continuance in Control Exemption—Lancaster & Chester Railroad, LLC

AGENCY: Surface Transportation Board, DOT.

ACTION: Correction to notice of exemption.

On October 15, 2010, notice of the above exemption was served and published in the **Federal Register** (75 FR 63,533). The exemption became effective on October 31, 2010. On February 16, 2011, a correction was filed with the Board advising that the parent company, which was inadvertently referred to in the continuance in control filing as "Gulf & Ohio Railways Holding Co., Inc." should have been referred to as "Gulf & Ohio Railways, Inc." This notice corrects the name of the parent company. All other information in the notice is correct.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: March 4, 2011.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–5339 Filed 3–9–11; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35474]

DeQueen and Eastern Railroad, LLC—Corporate Family Transaction Exemption—Texas, Oklahoma & Eastern Railroad, LLC

DeQueen and Eastern Railroad, LLC (DQ&E) and Texas, Oklahoma & Eastern Railroad, LLC (TOE), have filed a verified notice of exemption under 49 CFR 1180.2(d)(3) for a transaction within a corporate family. DQ&E seeks to lease and operate all of TOE's lines of railroads, consisting of approximately 40 miles of rail line between milepost 40.0 (the Oklahoma-Arkansas border) and milepost 0.0 (Valliant, Okla.), including auxiliary, storage, and spur tracks, in McCurtain County, Okla. DQ&E and TOE are Class III rail carriers and are wholly owned subsidiaries of Tennessee Southern Railroad Company (TSRR).[1] The transaction is intended to result in more efficient and lower cost operations.

The exemption will be effective on March 24, 2011.

This is a transaction within a corporate family of the type exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties state that the transaction will not result in adverse changes in service levels, significant operational changes, or changes in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under §§ 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III rail carriers.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Petitions for stay will be due no later than March 17, 2011 (at least 7 days before the effective date of the exemption).

An original and 10 copies of all pleadings, referring to Docket No. FD 35474 must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, one copy of each pleading

[1] *See Tenn. S. R.R—Continuance in Control Exemption—Columbia & Cowlitz Ry.* Docket No. FD 35425 (served Nov. 12, 2010). Patriot Rail, LLC, Patriot Rail Holdings LLC, and Patriot Rail Corp. indirectly control DQ&E and TOE through TSRR.

must be served on applicants' representative, Louis E. Gitomer, 600 Baltimore Ave., Suite 301, Towson, MD 21204.

Board decisions and notices are available on our Web site at *http://WWW.STB.DOT.GOV.*

Decided: March 4, 2011.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–5357 Filed 3–9–11; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35473]

Columbia & Cowlitz Railway, LLC—Corporate Family Transaction Exemption—Patriot Woods Railroad, LLC

Columbia & Cowlitz Railway, LLC (CLC) and Patriot Woods Railroad, LLC (Woods), have filed a verified notice of exemption under 49 CFR 1180.2(d)(3) for a transaction within a corporate family. CLC seeks to lease and operate all of Woods' lines of railroad consisting of approximately 22 miles of spur rail line between the connection with CLC at milepost 8.5 (Ostrander Junction) and milepost 30.5 (Green Mountain), including auxiliary and temporary storage tracks, in Cowlitz County, Wash. CLC and Woods are Class III rail carriers and are wholly owned subsidiaries of Tennessee Southern Railroad Company (TSRR).[1] The transaction is intended to result in more efficient and lower cost operations.

The exemption will be effective on March 24, 2011.

This is a transaction within a corporate family of the type exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties state that the transaction will not result in adverse changes in service levels, significant operational changes, or changes in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under §§ 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III rail carriers.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Petitions for stay will be due no later than March 17, 2011 (at least 7 days before the effective date of the exemption).

An original and 10 copies of all pleadings, referring to Docket No. FD 35473 must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on applicants' representative, Louis E. Gitomer, 600 Baltimore Ave., Suite 301, Towson, MD 21204.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: March 4, 2011.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–5326 Filed 3–8–11; 8:45 am]

BILLING CODE 4915–01–P

[1] *See Tenn. S. R.R.—Continuance in Control Exemption—Columbia & Cowlitz Ry.,* Docket No. FD 35425 (served Nov. 12, 2010). Patriot Rail, LLC, Patriot Rail Holdings LLC, and Patriot Rail Corp. indirectly control CLC and Woods through TSRR.

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Branch Offices

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507. The Office of Thrift Supervision within the Department of the Treasury will submit the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. Today, OTS is soliciting public comments on its proposal to extend this information collection.

DATES: Submit written comments on or before May 9, 2011.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; send a facsimile transmission to (202) 906–6518; or send an e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *http://www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: You can request additional information about this proposed information collection from Donald W. Dwyer on (202) 906–6414, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Comments should address one or more of the following points:

a. Whether the proposed collection of information is necessary for the proper performance of the functions of OTS;

b. The accuracy of OTS's estimate of the burden of the proposed information collection;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collection on respondents, including through the use of information technology.

We will summarize the comments that we receive and include them in the OTS request for OMB approval. All comments will become a matter of public record. In this notice, OTS is soliciting comments concerning the following information collection.

Title of Proposal: Branch Offices.

OMB Number: 1550–0006.

Form Numbers: 1450 and 1558.

Description: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As

part of the approval process, we invite comments on the following information collection.

Type of Review: Revisions to a currently approved collection.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 131.

Estimated Frequency of Response: On occasion.

Estimated Total Burden: 153 hours.

Dated: March 4, 2011.

Ira L. Mills,

Paperwork Clearance Officer, Office of Chief Counsel, Office of Thrift Supervision.

[FR Doc. 2011–5429 Filed 3–9–11; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Request for Service Corporation Activity

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507. The Office of Thrift Supervision within the Department of the Treasury will submit the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. Today, OTS is soliciting public comments on its proposal to extend this information collection.

DATES: Submit written comments on or before May 9, 2011.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; send a facsimile transmission to (202) 906–6518; or send an e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *http://www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: You can request additional information about this proposed information collection from Mr. Donald W. Dwyer on (202) 906–6414, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Comments should address one or more of the following points:

a. Whether the proposed collection of information is necessary for the proper performance of the functions of OTS;

b. The accuracy of OTS's estimate of the burden of the proposed information collection;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collection on respondents, including through the use of information technology.

We will summarize the comments that we receive and include them in the OTS request for OMB approval. All comments will become a matter of public record. In this notice, OTS is soliciting comments concerning the following information collection.

Title of Proposal: Request for Service Corporation Activity.

OMB Number: 1550–0013.

Form Numbers: 1566 and 1562.

Description: The information will be used by OTS to ensure that the principles of safety and soundness are adhered to in the issuance of securities. It was determined that all supervisory concerns would be satisfied if the information previously reported is available for inspection by OTS examiners.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 19.

Estimated Frequency of Response: On occasion.

Estimated Total Burden: 9.5 hours.

Dated: March 4, 2011.

Ira L. Mills,

Paperwork Clearance Officer, Office of Chief Counsel, Office of Thrift Supervision.

[FR Doc. 2011–5430 Filed 3–9–11; 8:45 am]

BILLING CODE 6720–01–P

FEDERAL REGISTER

Vol. 76 Thursday,

No. 47 March 10, 2011

Part II

The President

Executive Order 13567—Periodic Review of Individuals Detained at Guantánamo Bay Naval Station Pursuant to the Authorization for Use of Military Force

Notice of March 8, 2011—Continuation of the National Emergency With Respect to Iran

Federal Register
Vol. 76, No. 47
Thursday, March 10, 2011

Presidential Documents

Title 3—

The President

Executive Order 13567 of March 7, 2011

Periodic Review of Individuals Detained at Guantánamo Bay Naval Station Pursuant to the Authorization for Use of Military Force

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Authorization for Use of Military Force of September 2001 (AUMF), Public Law 107–40, and in order to ensure that military detention of individuals now held at the U.S. Naval Station, Guantánamo Bay, Cuba (Guantánamo), who were subject to the interagency review under section 4 of Executive Order 13492 of January 22, 2009, continues to be carefully evaluated and justified, consistent with the national security and foreign policy interests of the United States and the interests of justice, I hereby order as follows:

Section 1. *Scope and Purpose.* (a) The periodic review described in section 3 of this order applies only to those detainees held at Guantánamo on the date of this order, whom the interagency review established by Executive Order 13492 has (i) designated for continued law of war detention; or (ii) referred for prosecution, except for those detainees against whom charges are pending or a judgment of conviction has been entered.

(b) This order is intended solely to establish, as a discretionary matter, a process to review on a periodic basis the executive branch's continued, discretionary exercise of existing detention authority in individual cases. It does not create any additional or separate source of detention authority, and it does not affect the scope of detention authority under existing law. Detainees at Guantánamo have the constitutional privilege of the writ of habeas corpus, and nothing in this order is intended to affect the jurisdiction of Federal courts to determine the legality of their detention.

(c) In the event detainees covered by this order are transferred from Guantánamo to another U.S. detention facility where they remain in law of war detention, this order shall continue to apply to them.

Sec. 2. *Standard for Continued Detention.* Continued law of war detention is warranted for a detainee subject to the periodic review in section 3 of this order if it is necessary to protect against a significant threat to the security of the United States.

Sec. 3. *Periodic Review.* The Secretary of Defense shall coordinate a process of periodic review of continued law of war detention for each detainee described in section 1(a) of this order. In consultation with the Attorney General, the Secretary of Defense shall issue implementing guidelines governing the process, consistent with the following requirements:

(a) *Initial Review.* For each detainee, an initial review shall commence as soon as possible but no later than 1 year from the date of this order. The initial review will consist of a hearing before a Periodic Review Board (PRB). The review and hearing shall follow a process that includes the following requirements:

(1) Each detainee shall be provided, in writing and in a language the detainee understands, with advance notice of the PRB review and an unclassified summary of the factors and information the PRB will consider in evaluating whether the detainee meets the standard set forth in section 2 of this order. The written summary shall be sufficiently comprehensive to provide adequate notice to the detainee of the reasons for continued detention.

(2) The detainee shall be assisted in proceedings before the PRB by a Government-provided personal representative (representative) who possesses the security clearances necessary for access to the information described in subsection (a)(4) of this section. The representative shall advocate on behalf of the detainee before the PRB and shall be responsible for challenging the Government's information and introducing information on behalf of the detainee. In addition to the representative, the detainee may be assisted in proceedings before the PRB by private counsel, at no expense to the Government.

(3) The detainee shall be permitted to (i) present to the PRB a written or oral statement; (ii) introduce relevant information, including written declarations; (iii) answer any questions posed by the PRB; and (iv) call witnesses who are reasonably available and willing to provide information that is relevant and material to the standard set forth in section 2 of this order.

(4) The Secretary of Defense, in coordination with other relevant Government agencies, shall compile and provide to the PRB all information in the detainee disposition recommendations produced by the Task Force established under Executive Order 13492 that is relevant to the determination whether the standard in section 2 of this order has been met and on which the Government seeks to rely for that determination. In addition, the Secretary of Defense, in coordination with other relevant Government agencies, shall compile any additional information relevant to that determination, and on which the Government seeks to rely for that determination, that has become available since the conclusion of the Executive Order 13492 review. All mitigating information relevant to that determination must be provided to the PRB.

(5) The information provided in subsection (a)(4) of this section shall be provided to the detainee's representative. In exceptional circumstances where it is necessary to protect national security, including intelligence sources and methods, the PRB may determine that the representative must receive a sufficient substitute or summary, rather than the underlying information. If the detainee is represented by private counsel, the information provided in subsection (a)(4) of this section shall be provided to such counsel unless the Government determines that the need to protect national security, including intelligence sources and methods, or law enforcement or privilege concerns, requires the Government to provide counsel with a sufficient substitute or summary of the information. A sufficient substitute or summary must provide a meaningful opportunity to assist the detainee during the review process.

(6) The PRB shall conduct a hearing to consider the information described in subsection (a)(4) of this section, and other relevant information provided by the detainee or the detainee's representative or counsel, to determine whether the standard in section 2 of this order is met. The PRB shall consider the reliability of any information provided to it in making its determination.

(7) The PRB shall make a prompt determination, by consensus and in writing, as to whether the detainee's continued detention is warranted under the standard in section 2 of this order. If the PRB determines that the standard is not met, the PRB shall also recommend any conditions that relate to the detainee's transfer. The PRB shall provide a written summary of any final determination in unclassified form to the detainee, in a language the detainee understands, within 30 days of the determination when practicable.

(8) The Secretary of Defense shall establish a secretariat to administer the PRB review and hearing process. The Director of National Intelligence shall assist in preparing the unclassified notice and the substitutes or summaries described above. Other executive departments and agencies shall assist in the process of providing the PRB with information required for the review processes detailed in this order.

(b) *Subsequent Full Review.* The continued detention of each detainee shall be subject to subsequent full reviews and hearings by the PRB on a triennial basis. Each subsequent review shall employ the procedures set forth in section 3(a) of this order.

(c) *File Reviews.* The continued detention of each detainee shall also be subject to a file review every 6 months in the intervening years between full reviews. This file review will be conducted by the PRB and shall consist of a review of any relevant new information related to the detainee compiled by the Secretary of Defense, in coordination with other relevant agencies, since the last review and, as appropriate, information considered during any prior PRB review. The detainee shall be permitted to make a written submission in connection with each file review. If, during the file review, a significant question is raised as to whether the detainee's continued detention is warranted under the standard in section 2 of this order, the PRB will promptly convene a full review pursuant to the standards in section 3(a) of this order.

(d) *Review of PRB Determinations.* The Review Committee (Committee), as defined in section 9(d) of this order, shall conduct a review if (i) a member of the Committee seeks review of a PRB determination within 30 days of that determination; or (ii) consensus within the PRB cannot be reached.

Sec. 4. *Effect of Determination to Transfer.* (a) If a final determination is made that a detainee does not meet the standard in section 2 of this order, the Secretaries of State and Defense shall be responsible for ensuring that vigorous efforts are undertaken to identify a suitable transfer location for any such detainee, outside of the United States, consistent with the national security and foreign policy interests of the United States and the commitment set forth in section 2242(a) of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277).

(b) The Secretary of State, in consultation with the Secretary of Defense, shall be responsible for obtaining appropriate security and humane treatment assurances regarding any detainee to be transferred to another country, and for determining, after consultation with members of the Committee, that it is appropriate to proceed with the transfer.

(c) The Secretary of State shall evaluate humane treatment assurances in all cases, consistent with the recommendations of the Special Task Force on Interrogation and Transfer Policies established by Executive Order 13491 of January 22, 2009.

Sec. 5. *Annual Committee Review.* (a) The Committee shall conduct an annual review of sufficiency and efficacy of transfer efforts, including:

(1) the status of transfer efforts for any detainee who has been subject to the periodic review under section 3 of this order, whose continued detention has been determined not to be warranted, and who has not been transferred more than 6 months after the date of such determination;

(2) the status of transfer efforts for any detainee whose petition for a writ of habeas corpus has been granted by a U.S. Federal court with no pending appeal and who has not been transferred;

(3) the status of transfer efforts for any detainee who has been designated for transfer or conditional detention by the Executive Order 13492 review and who has not been transferred; and

(4) the security and other conditions in the countries to which detainees might be transferred, including a review of any suspension of transfers to a particular country, in order to determine whether further steps to facilitate transfers are appropriate or to provide a recommendation to the President regarding whether continuation of any such suspension is warranted.

(b) After completion of the initial reviews under section 3(a) of this order, and at least once every 4 years thereafter, the Committee shall review

whether a continued law of war detention policy remains consistent with the interests of the United States, including national security interests.

Sec. 6. *Continuing Obligation of the Departments of Justice and Defense to Assess Feasibility of Prosecution.* As to each detainee whom the interagency review established by Executive Order 13492 has designated for continued law of war detention, the Attorney General and the Secretary of Defense shall continue to assess whether prosecution of the detainee is feasible and in the national security interests of the United States, and shall refer detainees for prosecution, as appropriate.

Sec. 7. *Obligation of Other Departments and Agencies to Assist the Secretary of Defense.* All departments, agencies, entities, and officers of the United States, to the maximum extent permitted by law, shall provide the Secretary of Defense such assistance as may be requested to implement this order.

Sec. 8. *Legality of Detention.* The process established under this order does not address the legality of any detainee's law of war detention. If, at any time during the periodic review process established in this order, material information calls into question the legality of detention, the matter will be referred immediately to the Secretary of Defense and the Attorney General for appropriate action.

Sec. 9. *Definitions.* (a) "Law of War Detention" means: detention authorized by the Congress under the AUMF, as informed by the laws of war.

(b) "Periodic Review Board" means: a board composed of senior officials tasked with fulfilling the functions described in section 3 of this order, one appointed by each of the following departments and offices: the Departments of State, Defense, Justice, and Homeland Security, as well as the Offices of the Director of National Intelligence and the Chairman of the Joint Chiefs of Staff.

(c) "Conditional Detention" means: the status of those detainees designated by the Executive Order 13492 review as eligible for transfer if one of the following conditions is satisfied: (1) the security situation improves in Yemen; (2) an appropriate rehabilitation program becomes available; or (3) an appropriate third-country resettlement option becomes available.

(d) "Review Committee" means: a committee composed of the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, the Director of National Intelligence, and the Chairman of the Joint Chiefs of Staff.

Sec. 10. *General Provisions.* (a) Nothing in this order shall prejudice the authority of the Secretary of Defense or any other official to determine the disposition of any detainee not covered by this order.

(b) This order shall be implemented subject to the availability of necessary appropriations and consistent with applicable law including: the Convention Against Torture; Common Article 3 of the Geneva Conventions; the Detainee Treatment Act of 2005; and other laws relating to the transfer, treatment, and interrogation of individuals detained in an armed conflict.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) Nothing in this order, and no determination made under this order, shall be construed as grounds for release of detainees covered by this order into the United States.

THE WHITE HOUSE,
March 7, 2011.

[FR Doc. 2011–5728
Filed 3–9–11; 11:15 am]
Billing code 3195–W1–P

Presidential Documents

Notice of March 8, 2011

Continuation of the National Emergency With Respect to Iran

On March 15, 1995, by Executive Order 12957, the President declared a national emergency with respect to Iran pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions and policies of the Government of Iran. On May 6, 1995, the President issued Executive Order 12959, imposing more comprehensive sanctions to further respond to this threat; on August 19, 1997, the President issued Executive Order 13059, consolidating and clarifying the previous orders; and on September 28, 2010, I issued Executive Order 13553 to take additional steps with respect to the national emergency declared in Executive Order 12957.

Because the actions and policies of the Government of Iran continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, the national emergency declared on March 15, 1995, must continue in effect beyond March 15, 2011. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to Iran. Because the emergency declared by Executive Order 12957 constitutes an emergency separate from that declared on November 14, 1979, by Executive Order 12170, this renewal is distinct from the emergency renewal of November 2010. This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
March 8, 2011.

[FR Doc. 2011–5729
Filed 3–9–11; 11:15 am]
Billing code 3195–W1–P

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