FEDERAL REGISTER

Vol. 76 Monday,
No. 94 May 16, 2011

Pages 28165–28302

OFFICE OF THE FEDERAL REGISTER

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WHEN: Tuesday, June 14, 2011
9 a.m.–12:30 p.m.

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

RESERVATIONS: (202) 741–6008

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 272

[FNS–2009–0024]

RIN 0584–AD91

Supplemental Nutrition Assistance Program: Privacy Protections of Information From Applicant Households

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule.

SUMMARY: The Food and Nutrition Service (FNS) is revising Supplemental Nutrition Assistance Program regulations that cover the privacy protections for Supplemental Nutrition Assistance Program (SNAP) households and applicants. The change is to comply with a new provision of the Food and Nutrition Act of 2008.

DATES: *Effective Date:* This rule will become effective May 16, 2011.

Comment Date: To be considered, comments on this interim rule must be postmarked on or before July 15, 2011 to be assured of consideration.

ADDRESSES: The Food and Nutrition Service invites interested persons to submit comments on this interim rule. Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: Go to http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Mail:* Send comments to Jane Duffield, Chief, State Administration Branch, Supplemental Nutrition Assistance Program, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 818, Alexandria, VA 22302.
- *E-Mail:* Send comments to *PADMAILBOX@fns.usda.gov*. Include Docket Number [insert number], Supplemental Nutrition Assistance Program: Privacy Protections of Information from Applicant Households in the subject line of the message.

All comments submitted in response to this interim rule will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. FNS will make the comments publicly available on the Internet via *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Jane Duffield, 703–605–4385, at the above address.

SUPPLEMENTARY INFORMATION:

Background

FNS is revising Supplemental Nutrition Assistance Program (SNAP) regulations to clarify the legal basis and requirements for privacy protection provisions of section 4120 of the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill), Public Law 110–246. This interim rule implements the requirement that SNAP State agencies provide sufficient information to local educational agencies (LEAs) in order for LEAs to directly certify children receiving SNAP benefits as eligible for free school lunches under the Richard B. Russell National School Lunch Act and for free school breakfasts under the Child Nutrition Act of 1966 without further application.

Currently, 7 CFR 272.1(c) clarifies privacy protections afforded to Supplemental Nutrition Assistance Program (SNAP) applicants. The Food and Nutrition Act of 2008 (the Act) continues to permit the disclosure of information from applicants or recipients to persons directly connected with the administration or enforcement of the SNAP, other Federal assistance programs, or Federally-assisted State programs. However, as a result of the 2008 Farm Bill, the Act now directs that the persons to whom State agencies release the information must assure that the information is used only for administration or enforcement of those programs. Accordingly, FNS is adding a clarifying provision to existing regulations at 7 CFR part 272.1(c)(1).

FNS has never interpreted the use and disclosure provision in the Act or the regulations to permit disclosure of information from applicant households to Program personnel for use outside the administration and enforcement of the program. Section 272.1(c) currently provides that recipients of information on SNAP applicant or recipient households must protect the information against unauthorized disclosure to persons or for purposes not specified in the regulations. Historically, our reviews and discussions with State agencies over information safeguards have found that State agencies have long understood that they must not allow the information to be used outside of the SNAP for purposes not permitted by the regulations, and State agencies have strived to protect the data from unauthorized disclosure or use. Based on that history, we do not anticipate that this rulemaking will require any change on the part of State agencies in how they protect information provided by SNAP applicants. Confidential information will continue to be unavailable to the general public and others not having a legitimate reason relating to program administration and enforcement.

The Act also provides that the safeguards on disclosure shall not prevent the sharing of information to ensure that any child receiving SNAP benefits be certified as eligible for free lunches under the provisions of the Richard B. Russell National School Lunch Act and free breakfasts under the Child Nutrition Act of 1966, at schools without further application. The purpose of this provision is to make clear that applicants' information may be used to comply with requirements for certifying schoolchildren as eligible for free school meals based on their eligibility for SNAP benefits, and to ensure that existing requirements for safeguarding the released information and using it only for the purpose of certifying children for free school breakfast and lunches are observed. State agencies in the largest school districts have been operating under these rules since at least July 1, 2005, and in all school districts since July 2008. Therefore we are adding a clarifying provision to the regulations and do not anticipate that any new State action will be required.

Procedural Matters

Issuance of an Interim Rule and Date of Effectiveness

USDA, under the provisions of the Administrative Procedure Act at 5 U.S.C. 553(b)(B), finds for good cause that use of prior notice and comment procedures for issuing this interim rule is unnecessary. This interim rule implements section 4120 of the Food, Conservation, and Energy Act of 2008, Public Law 110–246 by codifying at 7 CFR Part 272.1(c)(1) the requirement that SNAP State agencies must assure that the disclosure and subsequent use of information of applicants and recipients of benefits be only for program administration and enforcement. USDA concludes that as implementation of section 4120 is nondiscretionary and specific, and as this rulemaking will not require any changes on the part of State agencies in how they protect information provided by SNAP applicants, it is unnecessary to issue this rule as a proposed rule. For the same reason, the interim rule is effective upon publication.

Although we do not anticipate this rule will be controversial, privacy issues are sensitive ones for some members of the public, and the opportunity to comment will be of value to a significant number of people, therefore, USDA invites public comment on this interim rule for a 60-day period. The agency will address comments, and affirm or amend the interim rule in a final rule.

Executive Order 12866 and Executive Order 13563

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a "significant regulatory action" although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

Regulatory Impact Analysis

As required for all rules that have been designated as significant by the OMB, a Regulatory Impact Analysis (RIA) was developed for this interim rule. It follows this rule as an Appendix. The following summarizes the conclusions of the regulatory impact analysis:

Need for Action: Implement Section 4120 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246).

Benefits: Codifies the release of information necessary to directly certify Supplemental Nutrition Assistance Program household members for free school breakfasts and lunches without further application.

Costs: Costs to SNAP State agencies for negotiating agreements and operating annual direct certification systems with State education agencies has been captured in the regulatory impact analysis for the Child Nutrition Division's rule titled, "Direct Certification and Certification of Homeless, Migrant and Runaway Children for Free School Meals." Based on these cost estimates, the cost to SNAP State agencies for implementing these requirements is $0.20 million between fiscal years 2004 and 2011.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. 601–612). Pursuant to that review, it has been certified that this rule would not have a significant impact on a substantial number of small entities. State and local welfare agencies will be the most affected to the extent that they administer the Program.

Unfunded Mandates Reform Act

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, the Department 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, or Tribal governments, in the aggregate, or the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the most cost effective or least burdensome alternative that achieves the objectives of the rule.

This interim rule does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and, Tribal governments or the private sector of $100 million or more in any one year. Thus, the rule is not subject to the requirements of Sections 202 and 205 of the UMRA.

Executive Order 12372

The Supplemental Nutrition Assistance Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule in 7 CFR part 3015, subpart V and related Notice (48 FR 29115, June 24, 1983), this Program is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under Section (6)(b)(2)(B) of Executive Order 13132. FNS has considered this rule's impact on State and local agencies and has determined that it does not have federalism implications under Executive Order 13132. This rule does not impose substantial or direct compliance costs on State and local governments. Therefore, under Section (6)(b) of the Executive Order, a federalism summary impact statement is not required.

Civil Rights Impact Analysis

FNS has reviewed this interim rule in accordance with the Department Regulation 4300–4, "Civil Rights Impact Analysis," to identify and address any major civil rights impact the rule might have on minorities, women, and persons with disabilities. After a careful review of the rule's intent and provisions, FNS has determined that this rule has no impact on any of the protected classes. These changes affect the privacy of information collected from Supplemental Nutrition Assistance Program applicants and households and not an individual applicant's or recipient's eligibility or participation in the Supplemental Nutrition Assistance Program. FNS has no discretion in implementing these changes. The changes are required to be implemented by law. All data available to FNS indicate that protected individuals have the same opportunity to participate in the Supplemental Nutrition Assistance Program as non-protected individuals.

FNS specifically prohibits the State and local government agencies that administer the Program from engaging

in actions that discriminate against any applicant or participant in any aspect of program administration, including, but not limited to, the certification of households, the issuance of benefits, the conduct of fair hearings, or the conduct of any other program service for reasons of age, race, color, sex, handicap, religious creed, national origin, or political beliefs. SNAP nondiscrimination policy can be found at 7 CFR 272.6. Discrimination in any aspect of program administration is prohibited by these regulations, the Food and Nutrition Act of 2008, the Age Discrimination Act of 1975 (Pub. L. 93–112, section 504), and Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d). Enforcement action may be brought under any applicable Federal law. Title VI complaints shall be processed in accordance with 7 CFR part 15.

Executive Order 12988

This interim rule has been reviewed under Executive Order 12988, "Civil Justice Reform." This rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the Dates paragraph of the rule. Prior to any judicial challenge to the provisions of this interim rule or the application of its provisions, all applicable administrative procedures must be exhausted.

Executive Order 13175

USDA will undertake, within 6 months after this rule becomes effective, a series of Tribal consultation sessions to gain input by elected Tribal officials or their designees concerning the impact of this rule on Tribal governments, communities, and individuals. These sessions will establish a baseline of consultation for future actions, should any be necessary, regarding this rule. Reports from these sessions for consultation will be made part of the USDA annual reporting on Tribal Consultation and Collaboration. USDA will respond in a timely and meaningful manner to all Tribal government requests for consultation concerning this rule and will provide additional venues, such as webinars and teleconferences, to periodically host collaborative conversations with Tribal leaders and their representatives concerning ways to improve this rule in Indian country.

The policies contained in this rule would not have Tribal implications that preempt Tribal law.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35; see 5 CFR part 1320) requires OMB to approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. This rule does not contain information collection requirements subject to approval by OMB under the Paperwork Reduction Act of 1995.

E-Government Act Compliance

The Food and Nutrition Service is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Privacy Protections

Section 4120 of Public Law 110–246, of the Food, Conservation, and Energy Act (FCEA) of 2008 amends Section 11(e)(8) of the Food and Nutrition Act of 2008 (the Act), 7 U.S.C. 2020(e)(8), to codify existing regulatory provisions. Currently, 7 CFR 272.1(c) clarifies privacy protections afforded to Supplemental Nutrition Assistance Program (SNAP) applicants. The Act continues to permit the disclosure of information from applicants or recipients to persons directly connected with the administration or enforcement of the SNAP, other Federal assistance programs, or Federally-assisted State programs. However, the Act, as amended, now directs that the persons to whom State agencies release the information must assure that the information is used only for administration or enforcement of those programs.

List of Subjects in 7 CFR Part 272

Alaska, Civil rights, Claims, SNAP, Grant programs—social programs, Reporting and recordkeeping requirements, Unemployment compensation, Wages.

For the reasons set forth in the preamble, 7 CFR part 272 is amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

■ 1. The authority citation for part 272 continues to read as follows:

Authority: 7 U.S.C. 2011–2036.

■ 2. Section 272.1 is amended by adding a new paragraph (c)(1)(viii) to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(c) * * *

(1) * * *

(viii) Local educational agencies administering the National School Lunch Program established under the Richard B. Russell National School Lunch Act or the School Breakfast Program established under the Child Nutrition Act of 1966, for the purpose of directly certifying the eligibility of school-aged children for receipt of free meals under the School Lunch and School Breakfast programs based on their receipt of Supplemental Nutrition Assistance Program benefits.

* * * * *

Dated: May 4, 2011.

Kevin W. Concannon,

Under Secretary, Food, Nutrition, and Consumer Services.

Appendix

Note: This appendix will not be published in the Code of Federal Regulations.

Regulatory Impact Analysis Summary

7 CFR Part 272: Supplemental Nutrition Assistance Program Provisions of Title IV of Public Law 110–246

Interim Rule

Need for Action: This action is needed to implement Section 4120 of the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill), Public Law 110–246, which amended Section 11 of the Food and Nutrition Act 2008 (7 U.S.C. 2020).

Discussion: FNS is revising Supplemental Nutrition Assistance Program (SNAP) regulations to clarify the legal basis and requirements for privacy protection provisions of the 2008 Farm Bill. This interim rule would implement the requirement that SNAP State agencies provide sufficient information to local educational agencies (LEA) in order for LEAs to directly certify children receiving SNAP benefits as eligible for free school lunches under the Richard B. Russell National School Lunch Act and for free school breakfasts under the Child Nutrition Act of 1966 without further application. This interim rule will not have an implementation impact on SNAP State agencies as they have been providing this information to LEAs for very large school districts since 2006 and for all school districts since 2008.

Effect on Low-Income Families: This interim rule will not have any impact on low-income families.

Cost Impact: Since the interim rule is codifying processes already in place, there is no cost to the Government in FY 2011 or over the 5 years FY 2011 through FY 2015.

Participation Impacts: This interim rule will not have any impact on SNAP participation.

Uncertainty: There is no uncertainty associated with this cost estimate.

[FR Doc. 2011–11924 Filed 5–13–11; 8:45 am]

BILLING CODE 3410–30–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 335

RIN 3064–AD67

Securities of Nonmember Insured Banks

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The FDIC is adopting as final the Interim Final Rule published in the **Federal Register** (see 75 FR 73947) on November 30, 2010. The final rule adopts amendments to the FDIC's securities disclosure regulations applicable to state nonmember banks with securities required to be registered under section 12 of the Securities Exchange Act of 1934 (Exchange Act) and cross references to regulations issued by the Securities Exchange Commission (SEC). The FDIC received no comments in response to the Interim Final Rule concerning these revisions. Accordingly, the Final Rule makes no changes from the Interim Final Rule that preceded it.

The Final Rule incorporates, through cross references, changes in regulations adopted by the SEC into the provisions of the FDIC's securities regulations. Cross referencing will ensure that the FDIC's regulations remain substantially similar to the SEC's regulations, as required by law.

DATES: These amendments are effective on May 16, 2011.

FOR FURTHER INFORMATION CONTACT: Dennis Chapman, Senior Staff Accountant, Division of Risk Management Supervision, (202) 898–8922 or *dchapman@fdic.gov;* Maureen Loviglio, Senior Staff Accountant, Division of Risk Management Supervision, (202) 898–6777 or *mloviglio@fdic.gov;* or Mark G. Flanigan, Counsel, Legal Division, (202) 898–7426 or *mflanigan@fdic.gov,* Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

Section 12(i) of the Exchange Act, as amended (15 U.S.C. 78l(i)), authorizes the FDIC to issue regulations applicable to the securities of state nonmember banks that are substantially similar to those of the SEC with respect to its powers, functions, and duties to administer and enforce sections 10A(m) (standards relating to audit committees), 12 (securities registration), 13 (periodic reporting), 14(a) (proxies and proxy solicitation), 14(c) (information statements), 14(d) (tender offers), 14(f) (arrangements for changes in directors), and 16 (beneficial ownership and reporting) of the Exchange Act, and sections 302 (corporate responsibility for financial reports), 303 (improper influence on conduct of audits), 304 (forfeiture of certain bonuses and profits), 306 (insider trades during blackout periods), 401(b) (disclosure of *pro forma* financial information), 404 (management assessment of internal controls), 406 (code of ethics for senior financial officers), and 407 (disclosure of audit committee financial experts) of the Sarbanes-Oxley Act (codified at 15 U.S.C. 7241, 7242, 7243, 7244, 7261, 7262, 7264, and 7265) in regard to the depository institutions for which the FDIC is the appropriate Federal banking agency. These regulations must be substantially similar to the regulations of the SEC under the listed sections of the Exchange Act and the Sarbanes-Oxley Act, unless the FDIC publishes its reasons for deviating from the SEC's rules.[1] The FDIC's regulations governing state nonmember banks with securities subject to the provisions of the Exchange Act are contained in part 335 of title 12 of the Code of Federal Regulations (CFR).

II. Interim Final Rule and Request for Comments

In November 2010, the FDIC's Board of Directors authorized publication of an Interim Final Rule in the **Federal Register** which revised Part 335 by cross referencing changes in regulations adopted by the SEC into the provisions of the FDIC's securities regulations. The Interim Final Rule also modified Part 335 by eliminating references to specific CFR sections and subparts of the SEC's rules, and by replacing them with references to titles and parts of the CFR instead. Further, these changes reflect changes to SEC regulations with respect to small business issuers and provide general guidance to FDIC filers regarding the electronic filing of certain documents.

Finally, the Interim Final Rule made certain nonsubstantive changes to part 335 to improve clarity and readability, and to correct outdated terms. The new part 335 cross referencing provisions are an efficient way to apply SEC Exchange Act rules to state nonmember banks that have securities registered pursuant to the Exchange Act. The part 335 cross referencing revisions will also minimize the need to amend part 335 each time the SEC revises its Exchange Act regulations resulting in amendments to a CFR section or subpart. The FDIC believes that cross referencing to the regulations of the SEC simplifies the administration and enforcement of the Exchange Act and also helps promote uniformity and consistency of administration.

The FDIC requested comments on all aspects of the rule changes, with comments due by January 31, 2011. Commenters were asked to support any suggestions that the FDIC modify the requirements of the SEC rules, regulations, and forms for state nonmember banks by demonstrating how such modification would satisfy the requirements of section 12(i) of the Exchange Act. The FDIC also welcomed comments on the general organization of Part 335. No comments were received on the Interim Final Rule.

III. Final Rule

As explained above, the FDIC requested comments on the Interim Final Rule that was issued on November 30, 2010, and received no comments during the comment period that ended on January 31, 2011. Accordingly, the FDIC is issuing the Final Rule with no modifications.

IV. Regulatory Analysis and Procedure

A. Administrative Procedure Act

Pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), the FDIC found good cause to issue the Interim Final Rule without first seeking public comment. The Exchange Act requires that the FDIC issue regulations substantially similar to those of the SEC or publish its reasons for not doing so. Certain portions of Part 335 that are being amended are organizational; other portions result from the amendment or adoption of SEC Exchange Act regulations that were published with notice and opportunity for the public to comment. Nonetheless, the FDIC solicited public comment and received no comments on the Interim Final Rule. For these reasons, the FDIC confirms its finding that the good cause exception provided for in section 553(b)(B) of the APA applies to the Final Rule.

Section 553(d)(3) of the APA provides that the publication of a rule shall be made not less than 30 days before its effective date, except "* * * (3) as otherwise provided by the agency for good cause found and published with the rule." For reasons that supported its invocation of the good cause exception to section 553(b)(B) of the APA, the FDIC relied upon the good cause exception to section 553(d)(3) and published the Interim Final Rule with

[1] 15 U.S.C. 78l(i).

an immediate effective date. For the same reasons, the FDIC finds that there is good cause for this Final Rule to take effect immediately upon publication in the **Federal Register.** The Final Rule is identical to the Interim Final Rule that became effective on November 30, 2010. No purpose would be served by delaying the Final Rule's effective date.

B. Riegle Community Development and Regulatory Improvement Act

The Riegle Community Development and Regulatory Improvement Act provides that any new regulations or amendments to regulations prescribed by a Federal banking agency that impose additional reporting, disclosures, or other new requirements on insured depository institutions shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form, unless the agency determines, for good cause published with the rule, that the rule should become effective before such time.[2] For the same reasons discussed above, the FDIC finds that good cause exists for an immediate effective date for the Final Rule.

C. Paperwork Reduction Act

The Final Rule contains no new collections of information as defined by the Paperwork Reduction Act.

D. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (RFA), a regulatory flexibility analysis is required only when the agency must publish a notice of proposed rulemaking.[3] As discussed in the Interim Final Rule and above, the FDIC has determined for good cause that general notice and opportunity for comment is unnecessary. Therefore, the RFA, pursuant to 5 U.S.C. 601(2), does not apply.

E. Small Business Regulatory Enforcement Fairness Act

The Office of Management and Budget (OMB) has determined that the Final Rule is not a "major rule" within the meaning of the relevant sections of the Small Business Regulatory Enforcement Act of 1996 (SBREFA) (5 U.S.C. 801, *et seq.*).

As required by SBREFA, the FDIC will file the appropriate reports with Congress and the General Accounting Office so that the Final Rule may be reviewed.

[2] 12 U.S.C. 4802.

[3] 5 U.S.C. 603, 604.

F. The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The FDIC has determined that the Final Rule will not affect family well-being within the measure of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

G. Plain Language

Section 722 of the Gramm-Leach-Bliley Act, Public Law 106–102, 113 Stat. 1338, 1471 (November 12, 1999), requires the federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC has sought to present the revisions to Part 335 in a simple and straightforward manner. It requested comments on all aspects of the Interim Final Rule and received none.

List of Subjects in 12 CFR Part 335

Accounting, Banks, Banking, Confidential business information, Reporting and recordkeeping requirements, Securities.

PART 335—SECURITIES OF NONMEMBER INSURED BANKS

■ Accordingly, the interim rule amending 12 CFR part 335 which was published at 75 FR 73947 on November 30, 2010, is adopted as a final rule without change.

[FR Doc. 2011–11788 Filed 5–13–11; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0452; Directorate Identifier 2008–SW–27–AD; Amendment 39–16692; AD 2011–10–11]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Model AB412 Helicopters

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 Agusta S.p.A. (Agusta) Model AB412 helicopters. This AD results from mandatory continuing airworthiness information (MCAI) originated by the aviation authority of Italy to identify and correct an unsafe condition related to the rescue hoist hook installed on this model helicopter. The aviation authority of Italy, with which we have a bilateral agreement, states in the MCAI that a missing lock pin may cause the loss of the hoist hook and any load. The absence of the lock pin constitutes an unsafe condition, and this AD is intended to detect the presence of an identification plate marked "BT 412–124," which indicates that the hook assembly has the lock pin installed to prevent the loss of a rescue hoist hook and its load.

DATES: This AD becomes effective on May 31, 2011.

We must receive comments on this AD by July 15, 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.

You may get the service information identified in this AD from Via Giovanni Agusta, 520 21017 Cascina Costa di Samarate (VA), Italy, telephone 39 0331–229111, fax 39 0331–229605/222595, or at *http://customersupport.agusta.com/technical_advice.php.*

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, 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: George Schwab, Aerospace Engineer, Safety Management Group, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone (817) 222–5114; fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Discussion

The Ente Nazionale Per L'Aviazione Civile (ENAC), which is the aviation authority for Italy, has issued Italian Airworthiness Directive No. 2008–62, dated February 19, 2008 (referred to after this as "the MCAI"), to correct an unsafe condition for these Italian-certificated helicopters. The MCAI states that a missing lock pin may cause the loss of the hoist hook and any load. The absence of the lock pin constitutes an unsafe condition, and this AD is intended to detect the presence of an identification plate marked "BT 412–124," which indicates that the hook assembly has the lock pin installed to prevent the loss of a rescue hoist hook and its load.

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

Related Service Information

Agusta has issued Alert Bollettino Tecnico No. 412–124, dated February 19, 2008, that describes performing a one-time inspection to verify the presence of a lock pin in the installed and spare hoist hook assemblies, returning the hoist hook assembly to Agusta if it is missing a lock pin, or installing a plate on the hoist showing compliance with the inspection if a lock pin is present. The actions described in this service information are intended to correct the same unsafe condition as that identified in the MCAI.

FAA's Evaluation and Unsafe Condition Determination

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

Differences Between This AD and the MCAI

This AD differs from the MCAI as follows:

- We do not require inspecting spare part hook assemblies.
- We do not require a March 31, 2008 compliance time because that date has passed.
- We do not require returning a hook assembly in which there is no lock pin installed to the manufacturer.

These differences are highlighted in the "Differences Between this AD and the MCAI" section in the AD.

Costs of Compliance

There are no costs of compliance since there are no helicopters of this type design on the U.S. Registry.

FAA's Determination of the Effective Date

Since there are currently no affected U.S. registered helicopters, we have determined that notice and opportunity for prior public comment before issuing this AD are unnecessary, 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 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–2011–0452; Directorate Identifier 2008–SW–27–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.

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:

2011–10–11 AGUSTA S.p.A.: Amendment 39–16692. Docket No. FAA–2011–0452; Directorate Identifier 2008–SW–27–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective on May 31, 2011.

Other Affected ADs

(b) None.

Applicability

(c) This AD applies to Model AB412 helicopters, with rescue hoist assembly, part number (P/N) BL–10300–60 or P/N 412–8800–01–315 with a rescue hook assembly, P/N S6150–61090–1 or P/N 412–8800–05–101, installed, certificated in any category.

Reason

(d) The mandatory continued airworthiness information (MCAI) states that a missing lock pin may cause the loss of the hoist hook and any load. The absence of the lock pin constitutes an unsafe condition and this AD is intended to detect the absence of this lock pin to prevent the loss of a rescue hoist hook and its load.

Actions and Compliance

(e) Before further flight, unless accomplished previously, inspect the rescue hoist hook assembly (hook assembly) for the presence of an attached identification plate marked "BT 412–124."

(1) If this identification plate is installed on the hook assembly, no further action is required.

(2) If this identification plate is not installed on the hook assembly:

(i) Review the hook assembly maintenance records to determine if the hook assembly was manufactured after April 1, 2008. If so, no further action is required.

(ii) If the hook assembly date of manufacture is March 31, 2008, or earlier or if the date of manufacture cannot be determined, replace the hook assembly with an airworthy hook assembly that was either manufactured after April 2, 2008, or has an identification plate installed that is marked "BT 412–124."

Differences Between This AD and the MCAI

(f) This AD differs from the MCAI as follows:

(1) We do not require inspecting spare part hook assemblies.

(2) We do not require a March 31, 2008 compliance time because that date has passed.

(3) We do not require returning a hook assembly in which there is no lock pin installed to the manufacturer.

Other Information

(g) Alternative Methods of Compliance (AMOCs): The Manager, Safety Management Group, 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: George Schwab, Aerospace Engineer, Safety Management Group, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone (817) 222–5114; fax (817) 222–5961.

Related Information

(h) Mandatory Continuing Airworthiness Information (MCAI) Ente Nazionale Per L'Aviazone Civile (ENAC) Airworthiness Directive No. 2008–62, dated February 19, 2008, and Agusta Alert Bollettino Tecnico No. 412–124, dated February 19, 2008, contain related information.

(i) The Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code is 2550, External Load Handling Equipment.

Issued in Fort Worth, Texas, on April 28, 2011.

Scott A. Horn,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2011–11797 Filed 5–13–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30781; Amdt. No. 3424]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective May 16, 2011. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 16, 2011.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or

4. 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.*

Availability—All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit *http://www.nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Harry J. Hodges, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, part 97 (14 CFR part 97), by establishing, amending, suspending, or revoking SIAPS, Takeoff Minimums and/or ODPS. The complete regulators description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the Federal Register expensive and impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed by publishers of aeronautical materials. The advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA forms is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the associated Takeoff Minimums and ODPs. This amendment also identifies the airport and its location, the procedure, and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as contained in the transmittal. Some SIAP and Takeoff Minimums and

textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPS and Takeoff Minimums and ODPS, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPS contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPS and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedures before adopting these SIAPS, Takeoff Minimums and ODPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

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. It, therefore—(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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, and Navigation (air).

Issued in Washington, DC, on April 29, 2011.

Ray Towles,

Deputy Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0902 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 2 JUN 2011

Sioux City, IA, Sioux Gateway/Col. Bud Day Field, ILS OR LOC RWY 31, Amdt 25
Cheboygan, MI, Cheboygan County, RNAV (GPS) RWY 10, Amdt 2
Spearfish, SD, Black Hills-Clyde Ice Field, Takeoff Minimum and Obstacle DP, Amdt 1
Gladewater, TX, Gladewater Muni, Takeoff Minimum and Obstacle DP, Amdt 1
Panguitch, UT, Panguitch Muni, RNAV (GPS) RWY 18, Orig
Panguitch, UT, Panguitch Muni, RNAV (GPS) RWY 36, Orig
Panguitch, UT, Panguitch Muni, Takeoff Minimums and Obstacle DP, Orig
Marion/Wytheville, VA, Mountain Empire, LOC RWY 26, Amdt 2
Newport, VT, Newport State, Takeoff Minimums and Obstacle DP, Amdt 3

Effective 30 JUN 2011

Anchorage, AK, Ted Stevens Anchorage Intl, ILS OR LOC/DME RWY 7L, ILS RWY 7L (SA CAT I), ILS RWY 7L (CAT II), Amdt 2
Anchorage, AK, Ted Stevens Anchorage Intl, ILS RWY 15, Amdt 5
Anchorage, AK, Ted Stevens Anchorage Intl, RNAV (GPS) RWY 7L, Amdt 2
Anchorage, AK, Ted Stevens Anchorage Intl, RNAV (GPS) RWY 15, Amdt 2
Anchorage, AK, Ted Stevens Anchorage Intl, Takeoff Minimum and Obstacle DP, Amdt 6
Anchorage, AK, Ted Stevens Anchorage Intl, VOR RWY 7R, Amdt 13A, CANCELLED
Kodiak, AK, Kodiak, ILS OR LOC/DME Y RWY 25, Amdt 1A
Kodiak, AK, Kodiak, VOR Y RWY 25, Amdt 1A
Point Lay, AK, Point Lay LRRS, NDB RWY 5, Amdt 1
Soldotna, AK, Soldotna, NDB RWY 7, Amdt 2
Soldotna, AK, Soldotna, NDB RWY 25, Amdt 3
Soldotna, AK, Soldotna, VOR–A, Amdt 7
Unalakleet, AK, Unalakleet, VOR/DME–D, Amdt 5
Willits, CA, Ellis Field—Willits Muni, FLUEN TWO Graphic DP
Fort Pierce, FL, St Lucie County Intl, ILS OR LOC RWY 10R, Amdt 2A
Fort Pierce, FL, St Lucie County Intl, NDB RWY 28L, Amdt 1A
Fort Pierce, FL, St Lucie County Intl, RNAV (GPS) RWY 10R, Orig-A
Fort Pierce, FL, St Lucie County Intl, RNAV (GPS) RWY 28L, Orig-A
Clarinda, IA, Schenck Field, NDB–A, Amdt 5B
Clarinda, IA, Schenck Field, RNAV (GPS) RWY 2, Orig-A
Clarinda, IA, Schenck Field, RNAV (GPS) RWY 20, Orig-A
Forest City, IA, Forest City Muni, NDB RWY 33, Amdt 2
Independence, IA, Independence Muni, Takeoff Minimums and Obstacle DP, Amdt 4
Mason City, IA, Mason City Muni, Takeoff Minimums and Obstacle DP, Orig
Benton, IL, Benton Muni, RNAV (GPS) RWY 18, Orig
Benton, IL, Benton Muni, Takeoff Minimums and Obstacle DP, Orig
Cahokia/St. Louis, IL, St. Louis Downtown, GPS RWY 30L, Orig, CANCELLED
Cahokia/St. Louis, IL, St. Louis Downtown, RNAV (GPS) RWY 30L, Orig
Cahokia/St. Louis, IL, St. Louis Downtown, RNAV (GPS) RWY 30R, Orig
Chicago/Aurora, IL, Aurora Muni, RNAV (GPS) RWY 27, Amdt 1
Chicago/Rockford, IL, Chicago/Rockford Intl, RNAV (GPS) RWY 7, Amdt 1
Chicago/Rockford, IL, Chicago/Rockford Intl, RNAV (GPS) Y RWY 25, Orig-B
Chicago/Rockford, IL, Chicago/Rockford Intl, RNAV (GPS) Z RWY 25, Orig-B
Chicago/West Chicago, IL, Dupage, RNAV (GPS) RWY 20R, Amdt 1
Dixon, IL, Dixon Muni-Charles R. Walgreen Field, RNAV (GPS) RWY 8, Amdt 1
South Bend, IN, South Bend Rgnl, RNAV (GPS) RWY 18, Amdt 1
Burlington, KS, Coffey County, Takeoff Minimums and Obstacle DP, Orig
Hopkinsville, KY, Hopkinsville-Christian County, RNAV (GPS) RWY 26, Amdt 1
Ruston, LA, Ruston Rgnl, GPS RWY 18, Amdt 1A, CANCELLED
Ruston, LA, Ruston Rgnl, GPS RWY 36, Orig, CANCELLED
Ruston, LA, Ruston Rgnl, RNAV (GPS) RWY 18, Orig
Ruston, LA, Ruston Rgnl, RNAV (GPS) RWY 36, Orig
Ruston, LA, Ruston Rgnl, Takeoff Minimums and Obstacle DP, Orig
Hutchinson, MN, Hutchinson Muni-Butler Field, NDB OR GPS RWY 15, Amdt 3, CANCELLED
Hutchinson, MN, Hutchinson Muni-Butler Field, RNAV (GPS) RWY 15, Orig
Hutchinson, MN, Hutchinson Muni-Butler Field, RNAV (GPS) RWY 33, Orig
Hutchinson, MN, Hutchinson Muni-Butler Field, Takeoff Minimums and Obstacle DP, Orig
Hutchinson, MN, Hutchinson Muni-Butler Field, VOR/DME RWY 33, Amdt 3
Waseca, MN, Waseca Muni, NDB RWY 15, Amdt 5, CANCELLED
Jefferson City, MO, Jefferson City Memorial, ILS OR LOC RWY 30, Amdt 5B
Jefferson City, MO, Jefferson City Memorial, NDB RWY 12, Amdt 2C
Kansas City, MO, Charles B. Wheeler Downtown, RNAV (GPS) RWY 19, Orig

Moberly, MO, Omar N Bradley, RNAV (GPS) RWY 13, Orig
Moberly, MO, Omar N Bradley, RNAV (GPS) RWY 31, Orig
Moberly, MO, Omar N Bradley, Takeoff Minimums and Obstacle DP, Orig
Moberly, MO, Omar N Bradley, VOR/DME–A, Amdt 4
Bozeman, MT, Gallatin Field, BOZEMAN FOUR Graphic DP
Bozeman, MT, Gallatin Field, Takeoff Minimums and Obstacle DP, Amdt 4
Bozeman, MT, Gallatin Field, VOR RWY 12, Amdt 15
Bozeman, MT, Gallatin Field, VOR/DME RWY 12, Amdt 4
Devil's Lake, ND, Devil's Lake Rgnl, ILS OR LOC/DME RWY 31, Amdt 2
Devil's Lake, ND, Devil's Lake Rgnl, RNAV (GPS) RWY 3, Amdt 1
Ely, NV, Ely Airport-Yelland Field, Takeoff Minimums and Obstacle DP, Amdt 2
Reno, NV, Reno/Tahoe Intl, RNAV (GPS) X RWY 16L, Amdt 1B
Reno, NV, Reno/Tahoe Intl, RNAV (GPS) X RWY 16R, Amdt 1B
Reno, NV, Reno/Tahoe Intl, RNAV (RNP) Y RWY 16L, Orig
Reno, NV, Reno/Tahoe Intl, RNAV (RNP) Y RWY 16R, Orig
Reno, NV, Reno/Tahoe Intl, RNAV (RNP) Z RWY 16L, Amdt 1
Reno, NV, Reno/Tahoe Intl, RNAV (RNP) Z RWY 16R, Amdt 1
Batavia, NY, Genesee County, RNAV (GPS) RWY 10, Orig
New York, NY, Long Island Mac Arthur, ILS OR LOC RWY 6, Amdt 24
New York, NY, Long Island Mac Arthur, ILS OR LOC RWY 24, Amdt 4
New York, NY, Long Island Mac Arthur, NDB RWY 6, Amdt 20, CANCELLED
New York, NY, Long Island Mac Arthur, RNAV (GPS) RWY 6, Amdt 1
New York, NY, Long Island Mac Arthur, RNAV (GPS) RWY 15R, Orig
New York, NY, Long Island Mac Arthur, RNAV (GPS) RWY 24, Amdt 1
New York, NY, Long Island Mac Arthur, RNAV (GPS) RWY 33L, Orig
New York, NY, Long Island Mac Arthur, Takeoff Minimums and Obstacle DP, Amdt 5
Altoona, PA, Altoona—Blair County, Takeoff Minimums and Obstacle DP, Amdt 4
Mayaguez, PR, Eugenio Maria De Hostos, RNAV (GPS) RWY 9, Orig
Mayaguez, PR, Eugenio Maria De Hostos, VOR RWY 9, Amdt 10
Madison, SD, Madison Muni, GPS RWY 33, Orig-C, CANCELLED
Madison, SD, Madison Muni, NDB RWY 15, Amdt 10
Madison, SD, Madison Muni, RNAV (GPS) RWY 15, Orig
Madison, SD, Madison Muni, RNAV (GPS) RWY 33, Orig
Yankton, SD, Chan Gurney Muni, NDB RWY 31, Amdt 3
Yankton, SD, Chan Gurney Muni, RNAV (GPS) RWY 31, Orig
West Dover, VT, Mount Snow, Takeoff Minimums and Obstacle DP, Amdt 2

[FR Doc. 2011–11374 Filed 5–13–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30782; Amdt. No. 3425]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective May 16, 2011. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 16, 2011.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169; or

4. 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.*

Availability—All SIAPs are available online free of charge. Visit *http://nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Harry J. Hodges, Flight Procedure Standards Branch (AFS–420) Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of Title 14 of the Code of Federal Regulations.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAP and the corresponding effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for

Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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. It, therefore—(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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, and Navigation (air).

Issued in Washington, DC, on April 29, 2011.

Ray Towles,

Deputy Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [AMENDED]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
2–Jun–11	IN	New Castle	New Castle-Henry Co Muni ..	1/5020	4/6/11	NDB RWY 27, Amdt 5A
2–Jun–11	OH	Akron	Akron-Canton Rgnl	1/5370	4/12/11	RNAV (GPS) RWY 5, Orig
2–Jun–11	OH	Akron	Akron-Canton Rgnl	1/5371	4/12/11	VOR RWY 5, Amdt 3
2–Jun–11	KS	Syracuse	Syracuse-Hamilton County Muni.	1/5584	4/12/11	Takeoff Minimums and Obstacle DP, Orig
2–Jun–11	AR	Fort Smith	Fort Smith Rgnl	1/5585	4/12/11	Takeoff Minimums and Obstacle DP, Amdt 4
2–Jun–11	WI	Burlington	Burlington Muni	1/6902	4/1/11	VOR RWY 29, Amdt 8
2–Jun–11	LA	Baton Rouge	Baton Rouge Metropolitan	1/6922	4/19/11	RNAV (GPS) RWY 4L, Amdt 1B
2–Jun–11	PA	Washington	Washington County	1/6932	4/19/11	ILS OR LOC RWY 27, Orig
2–Jun–11	MS	Tupelo	Tupelo Rgnl	1/6935	4/19/11	ILS OR LOC RWY 36, Amdt 9
2–Jun–11	IL	Peoria	General Downing-Peoria Intl	1/9091	4/1/11	ILS OR LOC RWY 31, Amdt 7A
30–Jun–11 ...	MT	Missoula	Missoula Intl	1/3515	1/25/11	ILS Z RWY 11, Amdt 12A
30–Jun–11 ...	MT	Missoula	Missoula Intl	1/3516	1/25/11	ILS Y RWY 11, Orig-A

[FR Doc. 2011–11370 Filed 5–13–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Parts 120, 124, and 126

RIN 1400–AC68

[Public Notice: 7428]

International Traffic in Arms Regulations: Dual Nationals and Third-Country Nationals Employed by End-Users

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is amending the International Traffic in Arms Regulations (ITAR) to establish a policy to address those who are unable to implement the exemption for intra-company, intra-organization, and intra-government transfers of defense articles and defense services by approved end-users to dual national and third-country nationals who are employees of such approved end-users. Prior to making transfers to certain dual national and third-country national employees under this policy, approved end-users must screen employees, make an affirmative decision to allow access, and maintain records of screening procedures to prevent diversion of ITAR-controlled technology for purposes other than those authorized by the applicable export license or other authorization.

DATES: *Effective Date:* This rule is effective August 15, 2011.

FOR FURTHER INFORMATION CONTACT: Director Charles B. Shotwell, Office of Defense Trade Controls Policy, Department of State, Telephone (202) 663–2792 or Fax (202) 261–8199; E-mail *DDTCResponseTeam@state.gov.* ATTN: Regulatory Change, Dual and Third-Country Nationals.

SUPPLEMENTARY INFORMATION: This is part of the President's Export Control Reform effort. The Department of State is amending parts 124 and 126 of the ITAR to reflect new policy regarding end-user employment of dual nationals and third-country nationals.

As a part of the President's Task Force on Export Control Reform, the previous policy regarding the treatment of dual nationals and third-country nationals employed by approved end users was re-evaluated. A proposed rule to

eliminate the separate licensing requirement for dual nationals and third-country nationals employed by licensed end-users was presented for public comment. The proposed rule had a comment period ending September 10, 2010. Thirty-two (32) parties filed comments recommending changes. Having thoroughly reviewed and evaluated the comments and the recommended changes, the Department has determined that it will, and hereby does, adopt the proposed rule, with changes noted and minor edits, and promulgates it as a final rule. The Department's evaluation of the written comments and recommendations follows.

Comment Analysis

The overwhelming majority of commenting parties expressed dissatisfaction with the current rule regarding dual and third-country nationals, citing conflicts with foreign human rights laws as well as the burden of compliance, and welcomed the Directorate of Defense Trade Controls' (DDTC) efforts to reform current practice. One commenting party asserted that the "*tremendous administrative burden*" imposed on foreign end-users is exaggerated. By contrast, six inputs, including one from a group representing 21 nations, agreed with the assessment that current rules impose a large administrative burden, such as separate accounting and licensing of foreign nationals. Four commenting parties, including a major U.S. industry association, pointed out that the current rule is an extensive administrative burden for U.S. manufacturers and exporters, not just foreign end-users, and places U.S. companies at a disadvantage with foreign competitors.

One commenting party recommended adding language to § 126.18(a) to make clear that the exemption applies "notwithstanding any other provisions of this Part" to make clear that the limitations of the last sentence of § 126.1(a), which would have conflicted with the intent of the proposed rule, did not apply. DDTC agreed and adopted this change.

One commenting party argued that the current nationality (or place of birth) standard should stay in place, citing recent prosecutions of Chi Mak, Greg Chung, and Noshir Gowadia. We note that all three cases involve naturalized U.S. citizens, whose prosecutions would not have been affected by the proposed rule. It should also be pointed out that *even if* the proposed rule had applied to them, all three would have failed the substantive contacts test and, thus, could not have received the defense articles at issue under the exemption.

Another commenting party criticized the concept of "substantive contacts" in favor of clarifying the definition of "*non-U.S.*" *person or foreign person.* We note that the current definition of foreign person in § 120.16 is consistent with both U.S. law and usage in the proposed rule. Therefore, we find no need to change the definition of foreign person and do not adopt the recommendation.

One commenting party, a large U.S. aerospace firm, argued that DDTC should return to its *pre-1999 rules*, where there was no additional licensing requirement for dual nationals or third-country nationals working for authorized end-users. This option was explored early on in the development of this proposed rule, but DDTC chose not to pursue that option any further due to policy implications outside of the Department of State.

Ten commenting parties recommended that the exemption proposed in § 126.18 be expanded to include "*defense services*." The current proposal was limited to "defense articles," which by the definition in § 120.6 includes technical data. We note that the rule was intended to address concerns about restrictions on dual national and third-country national employees of licensed end-users and consignees who would have access to defense articles, which, as noted above, includes technical data per § 120.6, within the scope of their employment. The intent of the rule was to create a policy for such transfers in a manner that would prevent diversions of such articles to unauthorized end-users. Thus, the proposed rule was limited to use of the defense article within a company and within the scope of the license in question. Defense services, on the other hand, cannot be "transferred" within a company in the manner in which defense articles can. Rather, defense services are rendered to specific end-users identified in the license or other authorization. As such, the defense services are rendered to the named company rather than the individual employees. In any event, if the contemplated defense service involves defense articles already licensed to the company, the proposed exemption would generally cover dual and third-country national employees receiving the defense service. We deem it neither necessary nor prudent to specifically add defense services to this rule and thus do not adopt the recommendation.

One commenting party asserted that there was uncertainty regarding whether the exemption applied to *academic institutions.* This proposed rule is an incremental change in favor of foreign business entities, foreign governmental entities, and international organizations, recognizing internal incentives for the protection of export controlled articles and data. The Department of State is not prepared to extend the exemption to academic institutions at the present time.

Ten commenting parties recommended that the current *§ 124.16 not be removed.* That provision allows for a limited exception for access to unclassified defense articles exported in furtherance of or produced as a result of a Technical Assistance Agreement/ Manufacturing License Agreement, retransfer of technical data and defense services to dual national and third-country national employees of licensed signatories that are nationals exclusively of NATO member states, EU member states, Australia, Japan, New Zealand, or Switzerland. A major concern was that the proposed rule, unlike § 124.16, did not include approved sub-licensees. After careful consideration, we concurred with the recommendation to retain *§ 124.16* and have amended the section to include workers who have long term employment relationships with licensed end-users, per a new definition to "regular employee" added in part 120.

One foreign governmental commenting party observed that there is a need to expand the exemption beyond the physical territories of the governmental end-user or international organization. For example, such would be required to facilitate repair of a disabled aircraft overseas. This change was adopted subject to a requirement that such operations are in the conduct of official business by the government or international organization and provided such activities are within the scope of the license.

Nine commenting parties recommended the proposed rule apply to *contract employees*, not just "bona fide, regular employees." The intent of the proposed rule was to recognize vested interests within companies, international organizations, and foreign governmental entities to carefully screen employees for purposes of trustworthiness. Full-time employment meets that criterion as it indicates a higher level of scrutiny and represents a long-term relationship with the entity at issue, as opposed to the transactional, temporary nature of the contractual arrangement. Furthermore, companies, international organizations, and foreign governmental entities bear significantly more legal responsibility for the acts of their regular employees than they do for

the acts of contactors. However, DDTC is prepared to narrowly extend this policy to workers who have long term employment relationships with licensed end-users, per a new definition to "regular employee" added in part 120.

Several commenting parties recommended clarification of the *meaning of* "*substantive contacts.*" Many of the requests for clarification center around specific areas discussed below. One commenting party expressed concern that any employee with a *family member* in a proscribed country would automatically be disqualified. It is not DDTC's intent to deny access based solely upon relationships or contacts with family members in a context posing no risk of diversion. We note that contacts with government officials and agents of governments of § 126.1(a) countries, be they family or not, would require higher scrutiny.

Another commenting party expressed concern that any *personal or business travel* to a country listed in § 126.1 would disqualify that person from access to a defense article. The intent of the proposed rule is not to automatically disqualify a person on the basis of such travel, where the travel does not involve contacts with foreign agents or proxies likely to lead to diversion of controlled data or articles. Instead, full disclosure about travel is required, which would be the basis of an assessment of diversion risk on a case-by-case basis.

One commenting party objected to the limitation of the exemption to the *country where the end-user is located*, pointing out that international organizations operate in more than one country. We note that licenses for international organization end-users will specify the location(s) and country(ies) where the end-item will be utilized. Therefore, DDTC believes that transfers to locations (and end-users) within the scope of the license poses no problems. Any contemplated transfers beyond the authorized and licensed location(s) will require an additional license (or an amendment to an existing license), and is a prudent limitation on the rule. This rule is not intended to authorize unlimited transfers around the world for end-users with nominal connections throughout the globe.

One commenting party recommended that the requirement for screening not apply to *citizens (including dual nationals) and permanent residents* of the host country. This approach would exclude from screening a large group of individuals who continue to maintain affiliation by citizenship with a third country (*i.e.,* different than that of the authorized end-user). Though we agree that citizens who relinquish citizenship of the former country would not require screening, the nature of continuing relationships with the third country for those maintaining citizenship remains relevant, especially if the country is subject to restrictions in § 126.1. In any event, this rule does not present foreign citizenship alone as a bar to access to ITAR controlled defense articles.

Several commenting parties recommended clarification of whether the proposed rule would apply to both *classified and unclassified data.* In the absence of explicit inclusion, this rule will not apply to classified data. The word "unclassified" was added to the first sentence in § 126.18(a) as a qualifier to make the point clearer. We note that the release of classified data to foreign persons is governed by separate National Disclosure directives and policies. To be clear, this rule is not a grant of a separate authority for the transfer of classified information.

Several commenting parties expressed concern about the record-keeping requirements, especially where *local privacy laws* may apply. We note that the records in question are intended for use by DDTC, a governmental entity for governmental use and not for public release. DDTC's function in this capacity is analogous to the exchange of information with cross-border law enforcement agencies that regularly receive and have a similar obligation to protect information subject to privacy laws.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department of State is of the opinion that restricting defense article exports is a foreign affairs function of the United States Government and that rules implementing this function are exempt from § 553 (Rulemaking) and § 554 (Adjudications) of the Administrative Procedure Act. Although the Department is of the opinion that this rule is exempt from the rulemaking provisions of the APA, the Department published this rule with a 60-day provision for public comment and without prejudice to its determination that restricting defense article exports is a foreign affairs function.

Regulatory Flexibility Act

Since this amendment is not subject to the provisions of 5 U.S.C. § 553(b), it does not require analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This amendment does not involve a mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This amendment has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996.

Executive Orders 12372 and 13132

This amendment 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. Therefore, in accordance with Executive Order 13132, it is determined that this amendment does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this amendment.

Executive Order 12866

The Department of State does not consider this rule to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. The Department is of the opinion that restricting defense articles exports is a foreign affairs function of the United States Government and that rules governing the conduct of this function are exempt from the requirements of Executive Order 12866.

Executive Order 13563

The Department of State has considered this rule in light of Section 1(b) of Executive Order 13563, dated January 18, 2011, and affirms that this regulation is consistent with the guidance therein.

Executive Order 12988

The Department of State has reviewed the proposed amendment in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175

The Department of State has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not pre-empt tribal law. Accordingly, the requirement of Section 5 of Executive Order 13175 does not apply to this rulemaking.

Paperwork Reduction Act

The Department of State is of the opinion that this rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35, but will provide a separate Federal Register notification regarding such requirements.

List of Subjects in 22 CFR Parts 120, 124, and 126

Arms and munitions, Exports.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, parts 120, 124, and 126 are amended as follows:

PART 120—PURPOSE AND DEFINITIONS

■ 1. The authority citation for part 120 continues to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2794; E.O. 11958, 42 FR 4311; E.O. 13284, 68 FR 4075; 3 CFR, 1977 Comp. p. 79; 22 U.S.C. 2651a; Pub. L. 105–261, 112 Stat. 1920.

§§ 120.33 through 120.38 [Reserved]

■ 2. Add reserved §§ 120.33 through 120.38 and § 120.39 to read as follows:

§ 120.39 Regular employee.

(a) A regular employee means for purposes of this subchapter:

(1) An individual permanently and directly employed by the company, or

(2) An individual in a long term contractual relationship with the company where the individual works at the company's facilities, works under the company's direction and control, works full time and exclusively for the company, and executes nondisclosure certifications for the company, and where the staffing agency that has seconded the individual has no role in the work the individual performs (other than providing that individual for that work) and the staffing agency would not have access to any controlled technology (other than where specifically authorized by a license).

PART 124—AGREEMENTS, OFF-SHORE PROCUREMENT AND OTHER DEFENSE SERVICES

■ 3. The authority citation for part 124 continues to read as follows:

Authority: Sec. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); E.O. 11958, 42 FR 4311; 3 CFR 1977 Comp. p. 79; 22 U.S.C. 2651a; 22 U.S.C. 2776; Pub. L. 105–261.

■ 4. In § 124.8, paragraph (5) is revised to read as follows:

§ 124.8 Clauses required both in manufacturing license agreements and technical assistance agreements.

* * * * *

(5) The technical data or defense service exported from the United States in furtherance of this agreement and any defense article which may be produced or manufactured from such technical data or defense service may not be transferred to a foreign person except pursuant to §§ 124.16 and 126.18, as specifically authorized in this agreement, or where prior written approval of the Department of State has been obtained.

* * * * *

■ 5. Section 124.16 is revised to read as follows:

§ 124.16 Special retransfer authorizations for unclassified technical data and defense services to member states of NATO and the European Union, Australia, Japan, New Zealand, and Switzerland.

The provisions of § 124.8(5) of this subchapter notwithstanding, the Department may approve access to unclassified defense articles exported in furtherance of or produced as a result of a TAA/MLA, and retransfer of technical data and defense services to individuals who are dual national or third-country national employees of the foreign signatory or its approved sub-licensees, including the transfer to dual nationals or third-country nationals who are bona fide regular employees, directly employed by the foreign signatory or approved sub-licensees, provided they are nationals exclusively of countries that are members of NATO the European Union, Australia, Japan, New Zealand, and Switzerland and their employer is a signatory to the agreement or has executed a Non Disclosure Agreement. The retransfer must take place completely within the physical territories of these countries or the United States. Permanent retransfer of hardware is not authorized.

PART 126—GENERAL POLICIES AND PROVISIONS

■ 6. The authority citation for part 126 continues to read as follows:

Authority: Secs. 2, 38, 40, 42, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791, and 2797); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp., p.79; 22 U.S.C. 2651a; 22 U.S.C. 287c; E.O. 12918; 59 FR 28205, 3 CFR, 1994 Comp. p. 899; Sec. 1225, Pub. L. 108–375.

§§ 126.16 and 126.17 [Reserved]

■ 7. Add reserved §§ 126.16 and 126.17 and § 126.18 to read as follows:

§ 126.18 Exemptions regarding intra-company, intra-organization, and intra-governmental transfers to employees who are dual nationals or third-country nationals.

(a) Subject to the requirements of paragraphs (b) and (c) of this section and notwithstanding any other provisions of this part, and where the exemption provided in § 124.16 cannot be implemented because of applicable domestic laws, no approval is needed from the Directorate of Defense Trade Controls (DDTC) for the transfer of unclassified defense articles, which includes technical data (see § 120.6), to or within a foreign business entity, foreign governmental entity, or international organization that is an authorized end-user or consignee (including approved sub-licensees) for those defense articles, including the transfer to dual nationals or third-country nationals who are bona fide regular employees, directly employed by the foreign consignee or end-user. The transfer of defense articles pursuant to this section must take place completely within the physical territory of the country where the end-user is located, where the governmental entity or international organization conducts official business, or where the consignee operates, and be within the scope of an approved export license, other export authorization, or license exemption.

(b) The provisions of § 127.1(b) are applicable to any transfer under this section. As a condition of transferring to foreign person employees described in paragraph (a) of this section any defense article under this provision, any foreign business entity, foreign governmental entity, or international organization, as a "foreign person" within the meaning of § 120.16, that receives a defense article, must have effective procedures to prevent diversion to destinations, entities, or for purposes other than those authorized by the applicable export license or other authorization (e.g., written approval or exemption) in order to comply with the applicable

provisions of the Arms Export Control Act and the ITAR.

(c) The end-user or consignee may satisfy the condition in paragraph (b) of this section, prior to transferring defense articles, by requiring:

(1) A security clearance approved by the host nation government for its employees, or

(2) The end-user or consignee to have in place a process to screen its employees and to have executed a Non-Disclosure Agreement that provides assurances that the employee will not transfer any defense articles to persons or entities unless specifically authorized by the consignee or end-user. The end-user or consignee must screen its employees for substantive contacts with restricted or prohibited countries listed in § 126.1. Substantive contacts include regular travel to such countries, recent or continuing contact with agents, brokers, and nationals of such countries, continued demonstrated allegiance to such countries, maintenance of business relationships with persons from such countries, maintenance of a residence in such countries, receiving salary or other continuing monetary compensation from such countries, or acts otherwise indicating a risk of diversion. Although nationality does not, in and of itself, prohibit access to defense articles, an employee who has substantive contacts with persons from countries listed in § 126.1(a) shall be presumed to raise a risk of diversion, unless DDTC determines otherwise. End-users and consignees must maintain a technology security/clearance plan that includes procedures for screening employees for such substantive contacts and maintain records of such screening for five years. The technology security/clearance plan and screening records shall be made available to DDTC or its agents for civil and criminal law enforcement purposes upon request.

Dated: April 26, 2011.

Ellen O. Tauscher,

Under Secretary, Arms Control and International Security, Department of State.

[FR Doc. 2011–11697 Filed 5–13–11; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management, Regulation and Enforcement

30 CFR Part 285

[Docket ID: BOEM–2010–0045]

RIN 1010–AD71

Renewable Energy Alternate Uses of Existing Facilities on the Outer Continental Shelf—Acquire a Lease Noncompetitively

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

ACTION: Final rule.

SUMMARY: This final rule revises BOEMRE regulations that pertain to noncompetitive acquisition of an Outer Continental Shelf (OCS) renewable energy lease. We are taking this action because under the current regulations the process for acquiring a lease noncompetitively that is initiated by an unsolicited request is inconsistent with the process for acquiring a lease noncompetitively that is initiated by BOEMRE. By revising regulations which govern the lease acquisition process starting with submission of an unsolicited request, and regulations which govern the lease acquisition process starting with BOEMRE issuance of a Request for Interest (RFI) or a Call for Information and Nomination (Call), this rulemaking will make the two processes consistent with each other.

DATES: *Effective Date:* This final rule is effective June 15, 2011.

FOR FURTHER INFORMATION CONTACT: Timothy Redding at (703) 787–1219.

SUPPLEMENTARY INFORMATION:

Background

As originally written, § 285.231 allowed the award of a noncompetitive lease after BOEMRE received an unsolicited request for a noncompetitive lease if BOEMRE determined that there was no competitive interest after publishing a single notice of a request for interest relating to the unsolicited request for a noncompetitive lease. As originally written, § 285.232 provided that if BOEMRE published an RFI or Call resulting in a single expression of interest in a discrete portion within the RFI or Call area, BOEMRE could offer a lease for that area through a noncompetitive process only if it also issued a notice of request for interest as required by § 285.231(b) and subsequently determined that there was no competitive interest based on responses to that notice.

BOEMRE believes that the requirement for another notice following an RFI or Call was redundant and was at odds with the noncompetitive process prescribed for cases in which a party submitted an unsolicited request for an OCS renewable energy lease, where BOEMRE is required to publish only a single notice. The final rule revises § 285.232(c) to refer to the process outlined in § 285.231(d) through (i) rather than § 285.231(b) through (i), thereby eliminating this discrepancy by requiring only one RFI notice for determining competitive interest in all cases. This will make BOEMRE's leasing processes more streamlined and efficient while maintaining BOEMRE's obligations to notify the public of areas that may be leased, to solicit public input regarding those areas, and to determine whether competitive interest exists in acquiring leases in those areas.

Comments on the Proposed Rule

BOEMRE published a proposed rule on February 16, 2011 (76 FR 8962), and received a total of 76 comments.

The Offshore Wind Development Coalition, the National Hydropower Association, Offshore MW LLC, the American Wind Energy Association, and the National Wildlife Federation expressed support for revising the rule as proposed and endorsed BOEMRE's rationale for doing so.

The Alliance to Protect Nantucket Sound (APNS) and the Oceans Public Trust Initiative (OPTI) objected to revising the rule and objected to BOEMRE's rationale. The APNS stated that the proposed rule would promote a land rush attitude, diminish competition, and marginalize public review by shortening the environmental review process for OCS wind developers. The OPTI stated that it appears that the sole purpose for revising the regulations appears to be to make leasing move more quickly, which could be at the expense of more careful and balanced review. The OPTI also stated that revising the rule as proposed promotes collusion among industry participants. Defenders of Wildlife did not explicitly offer an opinion in favor of or in opposition to the proposed rule revision. However, it stated that, "In proposing to arbitrarily set a new criteria for an expedited accelerated permitting process solely on the basis of the number of applicants for a lease at a particular location, BOEMRE appears to ignore in this rulemaking any and all parameters that make a particular location unique * * *."

BOEMRE received 68 comments from private citizens, 3 that expressed

support for revising the rule, 55 that expressed opposition (including 50 form letters), and 10 that were not germane to the rulemaking. The comments supporting the rule revision stated that it will promote more efficient noncompetitive leasing processes without curtailing public input and environmental review procedures. The comments opposing the rule revision asserted that it will reduce or eliminate competition, thereby promoting an offshore land rush for renewable energy leases, and will marginalize the public review process.

After reviewing the comments on the proposed rule, BOEMRE has concluded that there is no compelling reason not to promulgate the final rule. As we have maintained throughout this rulemaking, the revision of the regulations will eliminate inefficiency and provide consistency while preserving adequate opportunity for public notice and review in BOEMRE noncompetitive leasing processes. The final rule will have no effect on the environmental review process carried out pursuant to the requirements in the National Environmental Policy Act. In response to concerns that the proposed rule will diminish competition, the final rule will have no effect on competition and is fully consistent with BOEMRE's obligations under subsection 8(p) of the OCS Lands Act, as amended, to offer OCS renewable energy leases on a competitive basis unless we determine, after public notice of a proposed lease, that there is no competitive interest. BOEMRE leasing processes under the renewable energy regulatory framework, as revised by this final rule, will continue to provide for thorough BOEMRE review of all relevant environmental and cultural criteria, as well as public participation. Consequently, we believe the final rule will have no effect whatsoever on potential collusion among offshore renewable energy developers.

Regulatory Requirements

Regulatory Planning and Review (Executive Order (E.O.) 12866)

This final rule is not a significant rule as defined by the Office of Management and Budget (OMB) and is not subject to review under E.O. 12866.

(1) This final rule will not have an annual effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities.

(2) This final rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The final rule will eliminate unnecessary redundancy and inefficiency.

(3) This final rule will not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This final rule will not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866.

Regulatory Flexibility Act

The Department of the Interior certifies that this final rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Department prepared a regulatory flexibility analysis for 30 CFR part 285 and concluded that the regulations will impact a substantial number of small entities, but will not have a significant economic impact on the small entities in comparison to the impacts on large entities. That analysis was discussed in detail in the Notice of Proposed Rulemaking for 30 CFR part 285 published in the **Federal Register** on July 9, 2008 (73 FR 39376).

The North American Industry Classification System (NAICS) code for the industries affected by this rule is 221119 (Other Electric Power Generation). The definition for this code is:

"This U.S. industry comprises establishments primarily engaged in operating electric power generation facilities (except hydroelectric, fossil fuel, nuclear). These facilities convert other forms of energy, such as solar, wind, or tidal power, into electrical energy. The electric energy produced in these establishments is provided to electric power transmission systems or to electric power distribution systems."

It is possible that this final rule could eventually affect entities that produce hydrogen and fall under NAICS Code 325120 (Industrial Gas Manufacturing). The definition for this code is:

"This industry comprises establishments primarily engaged in manufacturing industrial organic and inorganic gases in compressed, liquid, or solid forms."

Given the original findings of the regulatory flexibility analysis done for 30 CFR part 285, as well as the minor adjustment to the renewable energy leasing process that is accomplished, this final rule will not have a significant effect on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

This final rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*). This final rule:

a. Will not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The requirements will apply indiscriminately to entities intending to acquire a renewable energy lease on the OCS pursuant to 30 CFR part 285.

Unfunded Mandate Reform Act of 1995

This final rule will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The final rule will not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) is not required.

Takings Implication Assessment (E.O. 12630)

Under the criteria in E.O. 12630, this final rule does not have significant takings implications. The final rule is not a governmental action capable of interference with constitutionally protected property rights. A Takings Implication Assessment is not required.

Federalism (E.O. 13132)

Under the criteria in E.O. 13132, this final rule does not have federalism implications. This final rule will not substantially and directly affect the relationship between the Federal and State Governments. To the extent that State and local governments have a role in OCS activities, this final rule will not affect that role. A Federalism Assessment is not required.

Civil Justice Reform (E.O. 12988)

This final rule complies with the requirements of E.O. 12988. Specifically, this final rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written

in clear language and contain clear legal standards.

Consultation With Indian Tribes (E.O. 13175)

Under the criteria in E.O. 13175, we have evaluated this final rule and determined that it has no substantial effects on Federally recognized Indian Tribes.

Paperwork Reduction Act (PRA)

This final rulemaking does not contain new information collection requirements; therefore, an OMB submission under the PRA (44 U.S.C. 3501 *et seq.*) is not required. The PRA provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information and assigns a control number, you are not required to respond. The revisions in this final rulemaking refer to, but will not change, information collection requirements in 30 CFR part 285. The OMB approved the information collection requirements contained in 30 CFR part 285 under OMB Control Number 1010–0176 (expiration 3/31/2013).

National Environmental Policy Act of 1969

This final rule does not constitute a major Federal action significantly affecting the quality of the human environment. BOEMRE has analyzed this final rule under the criteria of the National Environmental Policy Act (NEPA) and the Department's regulations implementing NEPA. This final rule meets the criteria set forth at 43 CFR 46.210(i) for a Departmental Categorical Exclusion in that this final rule is "* * * of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis * * *." Further, BOEMRE has analyzed this final rule to determine if it meets any of the extraordinary circumstances that will require an environmental assessment or an environmental impact statement as set forth in 43 CFR 46.215 and concluded that this final rule, being purely procedural, does not meet any of the criteria for extraordinary circumstances.

Data Quality Act

In developing this final rule, BOEMRE did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554, app. C § 515, 114 Stat. 2763, 2763A–153–154).

Effects on the Energy Supply (E.O. 13211)

This final rule is not a significant energy action under the definition in E.O. 13211. A Statement of Energy Effects is not required.

List of Subjects in 30 CFR Part 285

Continental shelf, Environmental protection, Public lands.

Dated: April 28, 2011.

Ned Farquhar,

Acting Assistant Secretary for Land and Minerals Management.

For the reasons stated in the preamble, the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) amends 30 CFR part 285 as follows:

PART 285—RENEWABLE ENERGY ALTERNATE USES OF EXISTING FACILITIES ON THE OUTER CONTINENTAL SHELF

■ 1. The authority citation for part 285 continues to read as follows:

Authority: 43 U.S.C. 1331 *et seq.,* 43 U.S.C. 1337.

■ 2. Amend § 285.231 by revising the section heading and paragraph (d)(1) to read as follows:

§ 285.231 How will BOEMRE process my unsolicited request for a noncompetitive lease?

* * * * *

(d) * * *

(1) We will publish in the **Federal Register** a notice that there is no competitive interest; and

* * * * *

■ 3. Amend § 285.232 by revising paragraph (c) to read as follows:

§ 285.232 May I acquire a lease noncompetitively after responding to a Request for Interest or Call for Information and Nominations under § 285.213?

* * * * *

(c) After receiving the acquisition fee, BOEMRE will follow the process outlined in § 285.231(d) through (i).

[FR Doc. 2011–11908 Filed 5–13–11; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DoD.

ACTION: Final rule; correcting amendment.

SUMMARY: In the **Federal Register** of April 21, 2011, the Department of the Navy (DoN) published a final rule concerning certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS). That document contained incorrect information concerning side lights arc of visibility; rule 21(b). This correcting amendment corrects that information.

DATES: *Effective Date:* May 16, 2011.

FOR FURTHER INFORMATION CONTACT: Lieutenant Jaewon Choi, JAGC, U.S. Navy, Admiralty Attorney, (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE, Suite 3000, Washington Navy Yard, DC 20374–5066, telephone number: 202–685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the DoN amends 32 CFR Part 706.

This amendment provides notice that the DAJAG (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS MICHIGAN (SSBN 727) and USS Georgia (SSBN 729) are vessels of the Navy which, due to their special construction and purpose, cannot fully comply with specific provisions of 72 COLREGS without interfering with their special function as naval ships. The vessels have been converted from SSBN's to SSGN's and this amendment will edit the classification of the vessels to accurately reflect their new designation as SSGN's. This amendment does not change the vessels' previously noted deviations from 72 COLREGS. The DAJAG (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on previous and unchanged technical findings that the placement of lights on these vessels in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions. Furthermore, this amendment merely changes the classification of these vessels and does not reflect any changes to the placement of lights on any of these vessels.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

For the reasons set forth in the preamble, amend part 706 of title 32 of the CFR as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

■ 1. The authority citation for part 706 continues to read as follow:

Authority: 33 U.S.C. 1605.

■ 2. Section 706.2 is amended in Table Three, by revising the entries for USS MICHIGAN (SSGN 727) and USS GEORGIA (SSGN 729), to read as follows:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE THREE

Vessel	Number	Masthead lights arc of visibility; rule 21(a)	Side lights arc of visibility; rule 21(b)	Stern light arc of visibility; rule 21(c)	Side lights distance inboard of ship's sides in meters: Section 3(b) annex 1	Stern light distance forward of stern in meters; rule 21(c)	Forward anchor light, height above hull in meters; Section 2(K) annex 1	Anchor lights relationship of aft light to forward light in meters; Section 2(K) annex 1
*	*	*	*	*	*	*	*	*
USS MICHIGAN	SSGN 727	225°	112.5°	209°	5.3	9.0	3.8	4.0 below.
USS GEORGIA	SSGN 729	225°	112.5°	209°	5.3	9.0	3.8	4.0 below.

* * * * *

Approved: May 4, 2011.

M. Robb Hyde,

Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).

[FR Doc. 2011–11759 Filed 5–13–11; 8:45 am]

BILLING CODE 3810–FF–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2007–0502; FRL–9305–6]

Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Sunland Park Section 110(a)(1) Maintenance Plan for the 1997 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action approving a revision to the New Mexico State Implementation Plan (SIP). The submitted revision consists of a maintenance plan for Sunland Park, New Mexico, developed to ensure continued attainment of the 1997 8-Hour National Ambient Air Quality Standard (NAAQS or standard) through the year 2014. The Maintenance Plan meets the requirements of Section 110(a)(1) of the Federal Clean Air Act (CAA or Act), EPA's rules, and is consistent with EPA's guidance. EPA is approving the revision pursuant to section 110 of the CAA.

DATES: This rule is effective on *July 15, 2011* without further notice, unless EPA receives relevant adverse comment by June 15, 2011. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2007–0502, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *EPA Region 6 Contact Us Web site: http://epa.gov/region6/r6coment.htm.* Please click on "6PD" (Multimedia) and select "Air" before submitting comments.
- *E-mail:* Mr. Guy Donaldson at *donaldson.guy@epa.gov.* Please also send a copy by e-mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- *Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), at fax number 214–665–7263.
- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- *Hand or Courier Delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2007–0502. 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, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://*

www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

New Mexico Environment Department, 1190 St. Francis Dr., Suite N4050, Santa Fe, NM 87505.

FOR FURTHER INFORMATION CONTACT: Kenneth W. Boyce, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone 214–665–7259; fax number 214–665–7263; e-mail address *boyce.kenneth@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, whenever "we" "us" or "our" is used, we mean the EPA.

Outline

I. Background

Under the 1990 CAA Amendments, the Sunland Park area was designated nonattainment for the 1-hour ozone standard on June 12, 1995 and classified as "marginal." The Sunland Park area is a portion of Dona Ana County, New Mexico, is approximately 42 square miles (sq. mi.) in area, and includes the communities of Sunland Park, Santa Teresa, and La Union. Sunland Park, La Union, and Santa Teresa are located along the border region of New Mexico and are adjacent to El Paso, Texas, and Ciudad Juarez, Mexico, or what is commonly referred to as the Paso del Norte Airshed. New Mexico submitted all the requirements for a 1-hour ozone nonattainment area classified as marginal, and EPA approved them into the New Mexico SIP on February 8, 2002. See 67 FR 6152. There are no outstanding obligations under the 1-hour ozone NAAQS.

The Sunland Park area has unique considerations for ozone planning due to airshed contributions from Mexico and Texas. Air quality within the Paso del Norte Airshed has improved over the last 10 years due to cooperative efforts between the State of Texas, the State of New Mexico, and Mexico through organizations such as the Paso Del Norte Joint Advisory Committee (JAC). Although the area has continued to monitor attainment of the 1-hour ozone standard the State chose not to submit a request for redesignation before EPA revoked the 1-hour ozone NAAQS.[1]

In 1997, EPA revised the ozone standard from a 1 hour form to one based on an 8 hour average. On April 30, 2004, EPA designated and classified areas for the 1997 8-hour ozone NAAQS (69 FR 23858) and published the final Phase 1 rule for implementation of the 1997 ozone NAAQS (69 FR 23951). The Sunland Park area was designated as attainment/unclassifiable for the 1997 8-hour ozone standard on June 15, 2004 (see 69 FR 23858. The Phase I rule listed requirements for areas that were nonattainment for the 1 hour standard and attaining the 1997 8 hour standard under 51.905(a)(3). New Mexico was required to provide a 10 year maintenance plan for this 1997 8-hour ozone attainment area under section 110(a)(1) of the Act and the Phase 1 rule. (40 CFR 51.905(a)(3)(iii)).

On May 20, 2005, EPA issued guidance regarding how a state might fulfill the obligation established by the Act and the Phase 1 rule. (Memorandum from Lydia N. Wegman to Air Division Directors, *Maintenance Plan Guidance Document for Certain 8 hour Ozone Areas Under Section 110(a)(1) of Clean Air Act,* May 20, 2005.

On May 7, 2007, New Mexico adopted and submitted to EPA a 1997 8-hour ozone standard maintenance plan for the Sunland Park area. This SIP revision satisfies the section 110(a)(1) CAA requirements for a plan that provides for implementation, maintenance, and enforcement of the 1997 8-hour ozone NAAQS in the Sunland Park unclassifiable/attainment area.

[1] Monitors in Sunland Park continue to reflect attainment of the 1-hour ozone NAAQS. The State, however, did not submit a request for redesignation of the area to attainment for the 1-hour ozone standard and a section 175A maintenance plan. Because the area was never redesignated to attainment, the area must continue to meet the 1-hour ozone marginal area applicable requirements (see 40 CFR 51.905(a)(3)).

II. Analysis of the State's Submittal

In this action, EPA is approving the State's maintenance plan for the 1997 ozone NAAQS for the area of Sunland Park because EPA finds that the New Mexico submittal meets the requirements of section 110(a)(1) of the CAA, EPA's rule, and is consistent with EPA's guidance. As required, the plan provides for continued attainment and maintenance of the 1997 ozone NAAQS in the area for 10 years from the effective date of the area's designation as unclassifiable/attainment for the 1997 ozone NAAQS, and includes components illustrating how the area will continue in attainment of the 1997 ozone NAAQS and contingency measures. Our analysis of the State's submission is discussed below.

Section 110(a)(1) of the CAA does not explicitly state what is required for a maintenance plan, so the guidance suggested using CAA section 175A, which states the requirements for a maintenance plan, as a guide for states to use in developing their maintenance plans. The required components of a Maintenance Plan under CAA Section 175A include:

1. Attainment Inventory;
2. Maintenance Demonstration;
3. Monitoring Network;
4. Verification of Continued Attainment; and
5. Contingency Plan

1. Attainment Inventory

The New Mexico Environmental Department (NMED) developed comprehensive inventories of VOC, CO, and NO_X emissions from area, stationary, and mobile sources using a base year of 2002 to demonstrate maintenance of the 1997 8-hour ozone standard for Sunland Park. The year 2002 is an appropriate year for the NMED to base attainment level emissions because States may select any one of the three years on which the 8-hour attainment designation for the 1997 ozone NAAQS was based (2001, 2002, and 2003). The State's submittal contains the detailed inventory data and summaries by source category. Using the 2002 inventory as a base year reflects one of the years used for calculating the air quality design values on which the 8-hour ozone designation decisions were based. It also is one of

the years in the 2002–2004 time period used to establish the baseline visibility levels for the regional haze program.

A practical reason for selecting 2002 as the base year emission inventory is that Section 110(a)(2)(B) of the CAA and the Consolidated Emissions Reporting Rule (67 FR 39602, June 10, 2002) require States to submit emissions inventories for all criteria pollutants and their precursors every three years, on a schedule that includes the emissions year 2002.

For stationary point sources in Sunland Park, the NMED provided estimates for each commercial or industrial operation that emits 100 ton/year or greater of NO_X and VOC. These data are quality assured by the State before submission to national emission inventory. There are only two major point sources: El Paso Electric and Foamex. For area sources (sources too numerous to inventory individually) NMED used EPA emissions factors to estimate emissions based on surrogates such as population. For non-road and on-road mobile sources, the State obtained the data through EPA's 2002 NEI. Mobile sources emissions were estimated using the data in EPA's 2002 NEI using EPA's MOBILE6 motor vehicle emissions factor computer model. This information was provided down to the county level in each state. Using population projections for the Sunland Park area and Dona Ana County, the State estimated the on-road and non-road mobile emissions for Sunland Park for the projection year 2014.

Table 1 below lists emissions data (area, point, mobile, and biogenic) for the base year of 2002 for the ozone precursors NO_X, CO, and VOC. Please see the Technical Support Document (TSD) for additional emission inventory data.

TABLE 1—SUMMARY OF ALL SOURCE CATEGORIES FOR SUNLAND PARK, BASELINE 2002

[TPY = tons per year, TPD = ton per day]

Source category	NO_X		CO		VOC	
	TPY	TPD	TPY	TPD	TPY	TPD
Area	30.40	0.0896	157.94	0.586	193.73	0.553
Point	1,085.7	3.044	192.38	0.552	94.19	0.331
Mobile	829.63	2.27	6,040.64	16.55	530.14	1.45
Biogenic	5.74	0.015	n/a	n/a	528.08	1.44
Total Emissions	1,951.47	5.41	6,390.96	17.68	1,342.04	3.74

The procedures used by the NMED for development of the emissions inventory are described in the NMED's submitted 8-Hour Ozone Maintenance Plan for the Sunland Park area, pages 8–49. The emissions inventory process includes quality assurance procedures to verify that data have been reviewed and examined for their source or origin, methods of compilation, accuracy, occurrence of errors, and clarity. This is to assure a good product and that such procedures can easily be applied to future inventories. EPA's *Emission Inventory Improvement Program* was used as a guide in developing the 2002 emission inventory for the Sunland Park Nonattainment area.

EPA has reviewed the State's methodologies, modeling data, and performance, etc. in developing the 2002 base year emissions and finds that New Mexico has developed the 2002 emissions inventory appropriately to identify the level of ozone-forming emissions in Sunland Park that was consistent with attainment of the NAAQS in 2002.

Projections for 2014 were developed by NMED using a University of New Mexico, Bureau of Business and Economic Research study which projected a population growth of 3.2%/year. Based on this study, the State projected all of the emission categories would grow at 3.2%/year. Table 2 shows the projected VOC, NO_X, and CO emissions inventory data for the Sunland Park area for the year 2014.

TABLE 2—SUMMARY OF ALL SOURCE CATEGORIES FOR SUNLAND PARK, PROJECTED FOR 2014

[TPY = tons per year, TPD = tons per day]

Source category	NO_X		CO		VOC	
	TPY	TPD	TPY	TPD	TPY	TPD
Area	42.07	0.115	218.59	0.598	262.44	0.719
Point	1,502.6	4.12	266.25	0.729	130.36	0.357
Mobile	1,147.96	3.14	8,360.24	22.90	733.71	2.010
Biogenic	7.94	0.015	n/a	n/a	730.86	2.002
Total Emissions	2,700.57	7.39	8,445.08	24.27	1,857.37	5.088

2. Maintenance Demonstration

The primary purpose of a maintenance plan is to demonstrate how an area will continue to remain in compliance with the 1997 ozone standard for the 10 year period following the effective date of designation as unclassifiable/attainment. The end projection year is 10 years from the effective date of the attainment designation for the 1997 ozone NAAQS, which for Sunland Park was June 15, 2004. Therefore, the plan must demonstrate attainment through 2014. As discussed in section (1) Attainment Inventory above, New Mexico has identified the level of ozone-forming emissions in Sunland Park that was consistent with attainment of the NAAQS for ozone in 2002. New Mexico has projected VOC, NO_X, and CO [2] emissions for the year

[2] Carbon Monoxide has low reactivity and leads to little ozone formation so it is generally not tracked in determining whether maintenance is expected. New Mexico has provided estimates of

Continued

2014 in Sunland Park, and also discusses emissions projections for the Paso del Norte airshed.

Generally, maintenance is demonstrated when emissions in the projection year remain less than or equal to the emissions during the attainment period. The projections provided by New Mexico, however, actually show an increase in emissions. For 2014, the VOC and NO_X emissions are projected to increase by 1.35 tons per day and 1.98 tons per day, respectively. EPA has reviewed these growth estimates and New Mexico only used one methodology to calculate the growth for all the source categories. The use of this particular methodology has resulted in extremely conservative emissions growth calculations. We believe this methodology significantly overstates the growth in emissions and if it had been properly calculated, there would be no projected growth in emissions in Sunland Park.

In projecting future emissions, New Mexico's use of projected population as a surrogate for estimating the rate of emissions growth results in a significant overestimate of emissions growth. Using population as a surrogate does not take into account the significant reductions that will occur due to fleet turnover in both on-road and off-road categories. The best way to calculate these emissions would be to use EPA's mobile emission factor model and the non-road emissions model along with projections of vehicle miles traveled. We examined the base and projected El Paso emissions contained in the Texas maintenance plan for the El Paso area, which EPA approved on January 15, 2009, at 74 FR 2387. To make a more reasonable estimation of emissions growth for the mobile source category, we looked at the emissions projections for El Paso performed using the MOBILE model for on-road emissions and NonRoad model for off-road emissions. In El Paso, mobile NO_X emissions were projected to decrease by 54% percent and mobile VOC emissions are projected to decrease by 47%. We applied these figures proportionally to the Sunland Park area. In addition, it is not clear why NMED projected growth in biogenic VOC emissions. These are generally held constant in projections; there is no scientific basis for projecting an increase. As shown in Tables 3 and 4, if these more reasonable assumptions about NO_X and VOC emissions growth for the mobile source category and the biogenic emissions are made for Sunland Park then the emissions actually would be expected to decline slightly. Further, emissions growth is more closely correlated to economic growth in particular industrial sectors (the area source category) than population growth. We did not apply the El Paso economic growth factors to the Sunland Park area and calculate a revised emissions growth for this area source category.

TABLE 3—SUMMARY OF PROJECTED NO_X EMISSIONS FOR SUNLAND PARK, ADJUSTED

Source category	2002 TPD	2014	2014 (adjusted)
Area	0.0896	0.115	.115
Point	3.044	4.12	4.12
Mobile	2.27	3.14	1.04
Biogenic	0.015	0.015	.015
Total Emissions	5.41	7.39	5.29

TABLE 4—VOC PROJECTIONS FOR SUNLAND PARK, ADJUSTED

Source category	2002 TPD	2014 TPD	2014 (adjusted)
Area	0.553	0.719	0.719
Point	0.331	0.357	0.357
Mobile	1.45	2.010	0.77
Biogenic	1.44	2.002	1.44
Total Emissions	3.74	5.088	3.59

EPA recognizes that the estimates in Tables 4 and 5 are rough approximations, analogized from the information specific for the El Paso area, and we would not normally rely on these methods for emission projections. In this case, however, because of the overestimate of the projected growth in emissions in the Sunland Park area for the year of 2014, we believe that the use of these El Paso analogy methods by EPA serves the purpose to illustrate the Sunland Park area will continue in attainment through 2014.

We also believe that these El Paso analogy methods are adequate in this instance because emissions in Sunland Park represent only a small percentage of the emissions in the Paso Del Norte airshed. As demonstrated in Table 5 below, sources in the Sunland Park area were contributing a small percentage (approximately 1.6%) of the CO, NO_X, and VOC emissions in the airshed for the base year of 2002. An over whelming majority of the emissions contributing to ground level ozone in the airshed are from the City of El Paso and Ciudad Juarez.

CO emission growth, which are included here, but CO estimates will not be included in the remainder of the discussion.

TABLE 5—EMISSIONS IN PASO DEL NORTE AIRSHED
[TPY = tons per year]

Source	Ciudad Juarez TPY			El Paso County TPY			Sunland Park TPY		
	VOC	NO_X	CO	VOC	NO_X	CO	VOC	NO_X	CO
Mobile	20,208	25,590	155,583	9,939	17,122	148,277	530	830	6,040
Area	68,085	14,082	52,393	8,640	872	5,993	190	30	158
Point	2,308	18,133	13,821	861	4223	1,704	94	1,086	94
Total	90,601	57,805	221,797	19,440	22,217	155,974	810	1,946	6,292
Percentage	81.7	70.5	57.7	17.5	27.1	40.6	.73	2.4	1.6

*The emissions data for Ciudad Juarez comes from, The *1999 Mexico NEI: Six Border States* and are based on the inventory data for the State of Chihuahua. This is the only complete emission inventory data currently available for this area.

**The emissions data for El Paso comes from the, *El Paso County 8–Hour Ozone Maintenance Plan* and the *El Paso Redesignation to Attainment for Carbon Monoxide and Maintenance Plan,* both submitted to EPA by the Texas Commission on Environmental Quality in January of 2006.

Since such a small percentage of emissions to the airshed are contributed by Sunland Park, we feel it is reasonable to rely upon the El Paso analogy methods to demonstrate that the attainment level emissions in Sunland Park will be maintained.

As discussed previously, we examined the base and projected El Paso emissions contained in the Texas maintenance plan for the El Paso area, which EPA approved on January 15, 2009, at 74 FR 2387. Table 6 below, shows emissions data for the base year of 2002 for the ozone precursors NO_X, and VOC for both Sunland Park and the El Paso areas. Table 7 shows the projected emissions data for the year of 2014 for both areas (Sunland Park table is not adjusted). Table 8 shows the change between 2002 and 2014 in emissions data for both areas (Sunland Park table is not adjusted). Please see the Technical Support Document (TSD) for additional emission inventory data.

TABLE 6—SUNLAND PARK AND EL PASO (U.S. PORTION OF THE PASO DEL NORTE AIRSHED) VOC, AND NO_X BASELINE EMISSIONS INVENTORY, 2002

Emissions source	2002 Sunland Park tons per day	2002 El Paso tons per day	2002 Total tons per day
Total VOC	3.74	52.44	56.18
Total NO_X	5.41	60.87	66.28

TABLE 7—SUNLAND PARK AND EL PASO (U.S. PORTION OF THE PASO DEL NORTE AIRSHED) VOC, AND NO_X PROJECTED EMISSIONS, 2014

Emissions source	2014 Sunland Park tons per day	2014 El Paso tons per day	2014 Total tons per day
Total VOC	5.09	44.61	49.70
Total NO_X	7.39	36.89	44.28

TABLE 8—SUNLAND PARK AND EL PASO (U.S. PORTION OF THE PASO DEL NORTE AIRSHED) VOC, AND NO_X EMISSIONS INVENTORY BASELINE (2002) AND PROJECTIONS (2014)

Emissions source	2002 Sunland Park and El Paso tons per day	2014 Sunland Park and El Paso tons per day	Change tons per day (percentage)
Total VOC	56.18	49.61	−7.02 (−12.5%)
Total NO_X	66.28	44.28	−22.00 (−33.2%)

Table 8 shows that overall emissions of VOC and NO_X on the U.S. portion of the air basin are declining substantially for the 10-year period despite the fact those emissions are projected by New Mexico to grow slightly in the Sunland Park area. As discussed previously, EPA believes New Mexico's estimates for growth for all the source categories but point sources were over estimated and this over estimation leads to a conclusion that the emissions in Sunland Park are expected to increase. On the other hand, we believe emissions in Sunland Park would be expected to decrease, if assumptions that are more reasonable were made. The fact that the combined emissions in El Paso and Sunland Park are projected to decline adds further support that the area will continue to maintain the standard. Therefore, we believe Sunland Park is expected to maintain attainment of the 1997 8-hour ozone standard during the period of the maintenance plan. Please see the Technical Support Document (TSD) for more information on EPA's review and evaluation of the States 2014 projected emissions inventories.

3. Monitoring Network

The State of New Mexico has committed in its maintenance plan to continue operation of an appropriate

ozone monitoring network and to work with EPA in compliance with 40 CFR part 58 with regard to the continued adequacy of such a network, if additional monitoring is needed, and when monitoring can be discontinued. Table 9 below, contains information on the current ozone monitoring network in the Sunland Park nonattainment area.

TABLE 9—MONITORING STATIONS IN THE SUNLAND PARK NONATTAINMENT AREA

Name	AIRS monitor ID	County site ID	Monitoring period
Sunland Park, NM	35–013–0017	0071	1989–Present.
Desert View, NM	35–013–0021	0021	1996–Present.
Santa Teresa, NM	35–013–0022	0022	1996–Present.
La Union, NM	35–013–0008	0008	1974–Present.

The Area was meeting the 1997 8-hour Standard during the 2002–2004 time period when we did designations with a design value of 77 ppb. The area continues to meet the 1997 8-hour standard with the most recent design value for 2008–2010 being 70 ppb. The area also has met the revoked 1-hour standard since 1998 with the most recent 1-hour design value of being 97 ppb.

4. Verification of Continued Attainment

To guarantee that attainment will be continued in the future, the State commits in the maintenance plan to track the progress of the maintenance plan by providing the EPA with an interim emissions inventory report for point, area, mobile and biogenic emissions of VOCs and CO in the Sunland Park area. In addition, New Mexico commits to verify the 8-hour ozone status through appropriate ambient air quality monitoring, and to quality assure air quality monitoring data according to federal requirements. New Mexico further demonstrates that it has the legal authority to implement and enforce all air quality measures needed to attain and maintain the 8-hour ozone NAAQS.

5. Contingency Plan

The section 110(a)(1) maintenance plan includes contingency provisions to correct promptly any violation of the 1997 ozone NAAQS that occurs in the Sunland Park area. The contingency indicator is based upon monitoring data. The triggering mechanism for activation of contingency measures is a monitoring violation of the 1997 8-hour ozone NAAQS. In the maintenance plan, if contingency measures are triggered, New Mexico is committing to implement the measures as expeditiously as practicable but no longer than 24 months following the trigger.

The following contingency measures are identified for implementation: The use of public outreach materials, e.g., public service announcements, press releases, and informational pamphlets; the holding of an open house at the beginning of the ozone season and mid-way through; and Ozone Action Days, e.g., announcements during weather forecasts on the radio and television, advisories on the NMED web site. Real time monitoring data is also available on the NMED web site. Information on Ozone Action Days will be included in the outreach material for the Maintenance area.

These contingency measures and schedules for implementation satisfy EPA's long-standing guidance on the requirements of section 110(a)(1) of Continued Attainment. Based on the above, we find that the contingency measures provided in the State's Sunland Park 8-hour Ozone maintenance plan are sufficient and meet the requirements of section 110(a)(1) of the CAA.

EPA has concluded that the maintenance plan adequately addresses the five basic components of a maintenance plan: Attainment inventory, maintenance demonstration, monitoring network, contingency plan, and verification of continued attainment. The maintenance plan SIP revision submitted by the State of New Mexico for the Sunland Park area meets the requirements of Section 110(a)(1) of the CAA.

III. Final Action

EPA is approving a revision to the New Mexico SIP. The revision is a 1997 8-hour ozone NAAQS maintenance plan for Sunland Park. Sunland Park remains in attainment of the eight-hour ozone standard. The State of New Mexico submitted the 1997 8-hour ozone NAAQS maintenance plan on behalf of the NMED for Sunland Park to EPA on May 2, 2007. EPA is approving the maintenance plan SIP revision for Sunland Park as meeting the requirements of CAA Section 110(a)(1) and EPA's regulations under 40 CFR 51.905(a)(3) and (4) and being consistent with EPA guidance. We have evaluated the State's submittal and have determined that it meets the applicable requirements of the Clean Air Act and EPA regulations, and is consistent with EPA policy. Therefore, we are approving the request of NMED to revise the SIP for the Sunland Park ozone area.

EPA is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on *July 15, 2011* without further notice unless we receive adverse comment by *June 15, 2011*. If we receive adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason and because this action will not have a significant, adverse effect on the supply, distribution, or use of energy, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional

requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant. Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Because this rule merely approves a state rule implementing a Federal standard, EPA lacks the discretionary authority to modify today's regulatory decision on the basis of environmental justice considerations.

In reviewing SIP submissions under the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note), EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this 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 action is not a "major rule" as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *July 15, 2011.* Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: May 6, 2011.

Al Armendariz,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart GG—New Mexico

■ 2. In § 52.1620, the second table in paragraph (e) entitled "EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the New Mexico SIP," is amended by adding an entry at the end of the table to read as follows:

(e) * * *

EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the New Mexico SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Comments
* * *	* * *	*	*	*
Sunland Park 1997 8-Hour Ozone Maintenance Plan.	Sunland Park, NM	5/7/2007	5/16/2011 [Insert FR page number where document begins].	

[FR Doc. 2011–11813 Filed 5–13–11; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 76, No. 94
Monday, May 16, 2011

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

DEPARTMENT OF AGRICULTURE

7 CFR Part 3201

RIN 0599–AA13

Office of Procurement and Property Management; Guidelines for the Transfer of Excess Computers or Other Technical Equipment Pursuant to Section 14220 of the 2008 Farm Bill

AGENCY: Office of Procurement and Property Management, USDA.

ACTION: Proposed rule.

SUMMARY: The Office of Procurement and Property Management (OPPM) of the U.S. Department of Agriculture (USDA) proposes to establish and implement procedures for the transfer of excess computers or other technical equipment for the purposes of distribution to a city, town, or local government entity in a rural area.

DATES: Interested parties should submit comments on or before July 15, 2011 to be considered in the formulation of a final rule.

ADDRESSES: You may submit comments, identified by RIN 0599–AA13, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: Sect14220.2008FarmBill@dm.usda.gov.* Include RIN 0599–AA13 in the subject line of the message.
- *Fax:* (202) 720–8972.
- *Mail:* USDA, OPPM, PMD, Attn: Michael R. Johnson, 300 7th Street, SW. Suite 316, Washington, DC 20024.
- *Hand Delivery/Courier:* Reporter's Building, 300 7th Street, SW., Washington, DC.
- *Instructions:* All submissions received must include the agency name and RIN 0599–AA13 for this proposed rulemaking. Please include your name, company name (if applicable) e-mail address and/or phone number where you can be contacted if additional clarification is required on your comment(s).

FOR FURTHER INFORMATION CONTACT: Mr. Michael R. Johnson, Office of Procurement and Property Management, USDA on (202) 720–9779 or by mail at USDA, OPPM, PMD, 300 7th Street, SW., Suite 316, Washington, DC 20024. Please cite RIN 0599–AA13.

SUPPLEMENTARY INFORMATION:

A. Background

7 U.S.C. 2206b Availability of excess and surplus computers in rural areas, states that in addition to any other authority, the Secretary of Agriculture may make available to an organization excess or surplus computers or other technical equipment of the Department of Agriculture for the purposes of distribution to a city, town, or local government entity in a rural area (as defined in section 7 U.S.C. 1991(a)(13)(A) of this title). It should be noted that, although 7 U.S.C. 2206b gives the Secretary of Agriculture this authority, activities authorized under this section are in addition to, and would not replace, activities conducted under other existing authorities of the Secretary with regard to property disposal. Other authorities include: 7 CFR 2812, Donation of excess research equipment to educational institutions and non-profit organizations for the conduct of technical and scientific education and research activities as authorized by 15 U.S.C. 3710(i); and 7 CFR 3200, Acquisition and transfer of excess property to the 1890 Land Grant Institutions (including Tuskegee University), 1994 Land Grant Institutions, and the Hispanic-Serving Institutions in support of research, educational, technical, and scientific activities or for related programs as authorized by 7 U.S.C. 2206a. Although computers and other technical equipment are available under all three programs, this program targets all cities, towns and local government entities in rural areas, whereby the other authorities are targeted to educational institutions, or certain non-profit organizations, only. USDA plans to use this authority to make available excess computers or other technical equipment to an organization that is able to refurbish such equipment for the purposes of distribution to a city, town or local government entity, including independent school districts, in rural areas. USDA's preference under this program is for organizations that refurbish the equipment to donate such equipment to cities, towns and local government entities in rural areas, including rural schools, libraries and city halls in need.

USDA's goals for this authority are to: make computers available in classrooms to assist in giving children the education needed in today's technical environment; assist rural areas with their planning, coordination, and implementation of community and economic development programs by using modern technology; use the equipment to support training, business plan development, community outreach and other productive activities designed to establish or improve services to the public therefore promoting and improving economic development in the rural areas.

USDA agencies will designate an official who will approve transfers under this part as well as function as the point of contact. Eligible recipients will contact a USDA office to get information on the availability of needed or other closely matched USDA excess computers or other technical equipment. Eligible recipients will be notified if USDA has excess computers or other technical equipment available that would fulfill their needs. The eligible recipient will send a letter to the USDA office with information regarding the request for the excess. This information submission will be subject to the Paperwork Reduction Act information collection notice included in this proposed rule. The USDA agency official will perform a review of the request to establish eligibility of the recipient and the availability of excess computers or other technical equipment. The USDA agency official will inform the requestor of the outcome of the review. The selected recipient may then work with the designated organization of its choosing to determine the schedule for receipt and refurbishing of any donated computer or technical equipment. Transfers will be accomplished using a USDA form that will be filled out by USDA and which must be signed by an authorized official of the USDA agency and an official of the eligible recipient. Eligible recipients are responsible for following up with the organization they have designated, for the final receipt of the property. The city, town, local government entity or organization must pay any costs

associated with packaging and transportation of the property.

B. Executive Order Number 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management of Budget.

C. Regulatory Flexibility Act

USDA certifies that this proposed rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq*. The impact of this regulation will be primarily limited to rural towns and government entities. The Department estimates that 400 eligible entities will submit requests for donated equipment annually. As small businesses are not considered eligible entities under this regulation, the rule will not have a significant impact on the small business community or on a substantial number of small businesses. The Department invites comment on its estimates for the potential impact of this rulemaking on small businesses.

D. Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and any recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for USDA/DM, Washington, DC 20250. Please state that your comments refer to RIN 0599–AA13. Please send a copy of your comments to: RIN 0599–AA13, USDA, OPPM, PMD, 300 7th Street, SW., Suite 316, Washington, DC 20024. A comment to OMB is best assured of having its full effect if OMB receives it within 60 days of publication of this proposed rule.

Title: Guidelines for Transfer of Excess Computers and Technical Equipment.

OMB Control Number: 0505–New.

Type of Request: New information collection.

Expiration Date: 3 years from date of approval.

Abstract: Under this proposed rule USDA requires eligible recipients to express their interest in receiving property by submitting a request which must include: (1) Type of excess computers or other technical equipment requested; (2) Justification for eligibility; (3) Contact information of the requestor; (4) Logistical information such as when and how the property will be picked up; and (5) Information on the organization that is designated to receive the property for the eligible recipient.

USDA is requesting approval from OMB for the use of this information collection in order to ensure that excess computers or other technical equipment are transferred to eligible recipients only and that the excess computers or other technical equipment is the type and kind the recipient can use.

Estimate of burden: Public burden for this collection of information is estimated to average .167 hours per request.

Respondents: Cities, towns, or local government entities in rural areas.

Estimated annual number of respondents: 400.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 400.

Estimated total annual burden on respondents: 67 hours.

USDA is soliciting comments from the public (as well as affected agencies) concerning the proposed information collection and recordkeeping requirements. These comments will help:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of USDA agency functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of the estimate of the burden of the proposed information collection;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond.

E. Executive Order 12630

This proposed rule has been reviewed in accordance with Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and does not contain policies that would have implications for these rights.

F. Executive Order 13132

This proposed rule has been reviewed in accordance with Executive Order 13132, Federalism, and does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Provisions of this proposed rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various government levels.

G. Unfunded Mandates Reform Act of 1995

This proposed rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), and therefore a written statement is not required.

H. Executive Order 12372

This proposed rule has been reviewed in accordance with Executive Order 12372, Intergovernmental review of Federal programs, and does not establish Federal financial assistance or direct Federal development with State and local governments, and is therefore outside the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

I. Executive Order 13175

This proposed rule has been reviewed in accordance with Executive Order 13175, Consultation and Coordination With Indian Tribal Governments, and does not have Tribal implications or impose unfunded mandates with Indian Tribes.

J. E-Government Act Compliance

USDA is committed to compliance with the E-Government Act, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. This proposed rule requires one letter from requestors which can be sent electronically to USDA. USDA will continue to seek other avenues to increase electronically submitted information.

List of Subjects in 7 CFR 3201

Computers, Excess, Excess computers, Excess government property, Government property, Other technical equipment, Personal property, Technical equipment.

For the reasons set forth in the preamble, the Department of Agriculture proposes to add 7 CFR part 3201 as follows:

PART 3201—GUIDELINES FOR THE TRANSFER OF EXCESS COMPUTERS OR OTHER TECHNICAL EQUIPMENT PURSUANT TO SECTION 14220 OF THE 2008 FARM BILL

Sec.

Authority: 7 U.S.C. 2206b.

§ 3201.1 Purpose.

This part sets forth the procedures to be utilized by USDA when transferring excess USDA computers or other technical equipment to an organization for the purposes of distribution to a city, town, or local government entity in a rural area as authorized by 7 U.S.C. 2206b.

§ 3201.2 Eligibility.

To be eligible under this part:

(a) A city, town, or local government entity must be located in a rural area as defined in 7 U.S.C. 1991(a)(13)(A).

(b) A designated organization must:

(1) Have the documented capability to refurbish and distribute excess computers or other technical equipment;

(2) Serve the interest of cities, towns, or local government entities in rural areas; and

(3) Have been designated by an official of a city, town, or local government entity in a rural area to receive excess computers or other technical equipment under this part.

§ 3201.3 Definitions.

Cannibalization means to remove serviceable parts from one item of equipment in order to install them on another item of equipment in order to repair or enhance its operability.

City, town, or local government entity in a rural area as defined in 7 U.S.C. 1991(a)(13)(A) means any area other than:

(1) A city or town that has a population of greater than 50,000 inhabitants; and

(2) Any urbanized area contiguous and adjacent to such a city or town described in paragraph (1) of this definition.

Computers or other technical equipment means central processing units, laptops, desktops, computer mouses, keyboards, monitors, related peripheral tools (*e.g.,* printers, modems, routers, servers, multimedia projectors, multifunctional devices, external hard drives) and fax machines. This term may also include computer software where the transfer of a license is permitted.

Designated Organization means an organization that has been selected by an official of a city, town, or local government entity in a rural area to provide refurbishing services on donated computer and technical equipment.

Excess means any property under the control of a USDA agency that is no longer required for that agency's or another USDA agency's needs, as determined by the agency head or designee.

Property Management Officer (PMO) is an eligible recipient's designated point of contact, responsible for adherence to procedures described in this part.

Recipient means a city, town, or local government entity located in a rural area as defined in 7 U.S.C. 1991(a)(13)(A) that may receive excess computers or other technical equipment under this part.

Refurbish means to make 'like new' by the process of major maintenance or minor repair of an item, either aesthetically or mechanically.

§ 3201.4 Procedures.

(a) Each agency head will designate, in writing, an authorized official to approve transfers of excess computers or other technical equipment under this part consistent with the Department's policies on personal property management.

(b) Excess computers or other technical equipment must first be internally screened to ensure it is not needed elsewhere in the Department.

(c) To receive information concerning the availability of USDA excess computers or other technical equipment, an eligible recipient's PMO should contact any USDA office near to its location.

(d) The USDA employee responsible for personal property, at the office contacted, will review the request for eligibility of the recipient and the availability of excess computers or other technical equipment. The USDA employee will inform the requestor of the outcome of the review (*e.g.* eligibility, the availability of excess computers or other technical equipment.

(e) Eligible recipients will express their interest in receiving property under this part by submitting a request, on letterhead paper (electronic copy is acceptable), to a USDA authorized official. All requests must originate from, and be signed by, a representative of an eligible recipient city, town, or local government entity. Requests must include:

(1) Type of excess computers or other technical equipment requested (should include specifications);

(2) Justification for eligibility (see § 3201.2);

(3) Contact information of the requestor;

(4) Logistical information such as when and how the property will be picked up; and

(5) Information on the recipient's designated organization (company name, contact person and phone number) that is designated to receive and refurbish the property for the eligible recipient.

(f) Excess computers or other technical equipment should be inspected before the property is transferred or the USDA agency should be contacted to verify the condition of the property.

(g) If the condition of the property is acceptable, the recipient or its designated organization will coordinate with the USDA contact for transfer of the property. Since the USDA agency office may have several requests for property, it is critical that the recipient or its designated organization contact USDA as soon as possible. Property will usually be allocated on a first-come, first served basis, taking into account fair and equitable distribution of excess computers or other technical equipment to all eligible recipients.

(h) Transfers will be accomplished using the appropriate USDA property transfer form. The transfer form must contain the following statement: "Property listed on this form is being transferred pursuant to the provisions in 7 CFR Part 3201." The form must be signed by an authorized official of the USDA agency and an official of the recipient organization.

(i) A copy of the request that transferred the property must be attached to the transfer order and kept in the USDA agency's files.

(j) When property is transferred to a designated organization, a copy of the completed transfer document will be sent to the eligible recipient government entity for its records. Eligible recipients are responsible for following up with the designated organization they have designated for the final receipt of the property.

(k) In cases where an agency receives competing requests for excess computers or other technical equipment, to the extent permitted by law, the agency shall give full consideration to such factors as national defense requirements, emergency needs, energy conservation, preclusion of new procurement, fair and equitable distribution, transportation costs, and retention of title in the Government.

(l) Prior to transferring any property pursuant to this Act, the transferring agency must remove data from the excess computers or other technical equipment (memory or any kind of data storage device) according to accepted

sanitization procedures. To the maximum extent practicable, the transferring agency must remove data using a means that does not remove, disable, destroy, or otherwise render unusable the excess computers or other technical equipment or components. It is imperative that agencies take the necessary steps to ensure that no personal computer, server, external storage device, or related electronic component is transferred that might contain sensitive or confidential information. See Departmental Manual 3575–001, Security Controls in the System Life Cycle/System Development Life Cycle, for additional guidance.

§ 3201.5 Dollar limitation.

There is no dollar limitation on excess computers or other technical equipment obtained under this part.

§ 3201.6 Restrictions.

(a) Only an authorized USDA official may approve the transfer of excess computers or other technical equipment under this part.

(b) Excess computers or other technical equipment may be transferred for the purpose of cannibalization, provided that the requestor submits a statement clearly indicating that cannibalization of the requested property will have greater benefit than utilization of the item in its existing form. Cannibalization is a secondary use of equipment and, therefore, these requests are considered subordinate to requests for primary use.

(c) Organizations will only receive property for cannibalization when it has been specifically requested by the recipient and the cannibalized parts must only be used in computers or other technical equipment destined for eligible recipients.

§ 3201.7 Title.

Title of ownership to excess computers or other technical equipment transferred under this part shall automatically pass to the recipient once the transferring agency and recipient or designated organization sign the transfer form indicating that the organization has received the property.

§ 3201.8 Costs.

The organization must pay any costs associated with packaging and transportation of the property unless it has made other arrangements. The organization must remove property from the USDA agency's premises within 15 calendar days after being notified that the property is available for pickup, unless otherwise coordinated with the USDA agency. If the recipient decides prior to picking up or removing the property that it no longer wants the property, it must notify the USDA agency that approved the transfer request that the property is no longer needed.

§ 3201.9 Accountability and recordkeeping.

(a) USDA requires all excess computers or other technical equipment received by an eligible recipient pursuant to this part be placed into use within one year of receipt of the property and used for at least one year thereafter. The recipient's PMO must maintain accountable records for such property during this time period.

(b) GSA requires that all excess personal property given to non-Federal recipients be reported each fiscal year. USDA agencies that transfer property under this part must report the transfers in their annual reports to OPPM and include both the recipient and organization names. OPPM will review the reports for accuracy, as well as fair and equitable distribution of the excess computers or other technical equipment, before submitting to GSA.

§ 3201.10 Disposal.

When property received under this part is no longer needed by the recipient, it must be disposed of in an environmentally sound manner that is not detrimental or dangerous to public health or safety and in accordance with all Federal, state and local laws.

§ 3200.11 Liabilities and losses.

USDA assumes no liability with respect to accidents, bodily injury, illness, or any other damages or loss related to excess computers or other technical equipment transferred under this part. The recipient/designated organization is advised to insure or otherwise protect itself and others as appropriate.

Dated: May 6, 2011.

Lisa M. Wilusz,

Director.

[FR Doc. 2011–11601 Filed 5–13–11; 8:45 am]

BILLING CODE 3410–TX–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 26

[Docket No. PRM–26–6; NRC–2010–0310]

Petition for Rulemaking Submitted by Mr. Erik Erb and 91 Cosigners

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; consideration in the rulemaking process.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has decided to consider the issues raised in a petition for rulemaking (PRM) submitted by Erik Erb, the petitioner, and 91 cosigners, in the planned "Quality Control/Quality Verification" (QC/QV) rulemaking (Docket ID: NRC–2009–0090). The petitioner requested that the NRC amend its regulations to decrease the minimum days off requirement for security officers working 12 hour shifts from an average of 3 days per week to 2.5 or 2 days per week.

ADDRESSES: Further NRC action on the issues raised by this petition will be accessible at the Federal rulemaking Web site, *http://www.regulations.gov,* by searching on the QC/QV rulemaking Docket ID: NRC–2009–0090.

You can access publicly available documents related to the petition using the following methods:

- *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.*
- *Federal Rulemaking Web Site:* Public comments and supporting materials related to this petition can be found at *http://www.regulations.gov* by searching on the QC/QV rulemaking Docket ID: NRC–2009–0090. Address questions about NRC dockets to Carol Gallagher, telephone: 301–492–3668; e-mail: *Carol.Gallagher@nrc.gov.*

SUPPLEMENTARY INFORMATION: On November 23, 2010, (75 FR 71368), the NRC published a Notice of Receipt of a PRM filed on August 17, 2010, by Erik Erb and 91 cosigners, and request for public comment. The comment period closed on February 7, 2011. The NRC received five public comments.

The NRC determined that the issues raised in PRM–26–6 are appropriate for

consideration, and will consider them in the planned QC/QV rulemaking. The NRC staff will address the comments filed in PRM–26–6 as part of the QC/QV rulemaking. This PRM docket is closed.

Dated at Rockville, Maryland, this 30th day of April 2011.

For the Nuclear Regulatory Commission.

Martin J. Virgilio,

Deputy Executive Director for Reactor and Preparedness Programs.

[FR Doc. 2011–11941 Filed 5–13–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 26

[Docket No. PRM–26–3]

[NRC–2009–0482]

Petition for Rulemaking Submitted by the Professional Reactor Operator Society

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; consideration in the rulemaking process.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has decided to consider the issues raised in a petition for rulemaking (PRM) submitted by Robert Meyer, on behalf of the Professional Reactor Operator Society (PROS), the petitioner, in the planned "Quality Control/Quality Verification" (QC/QV) rulemaking (Docket ID: NRC–2009–0090). The petitioner asked the NRC to amend the regulations that govern fitness-for-duty programs. Specifically, the petitioner asked the NRC to change the term "unit outage" to "site outage" and that the definition of "site outage" read "up to one week prior to disconnecting the reactor unit from the grid and up to 75-percent turbine power following reconnection to the grid."

ADDRESSES: Further NRC action on the issues raised by this petition will be accessible at the Federal rulemaking Web site, *http://www.regulations.gov,* by searching on the QC/QV rulemaking Docket ID: NRC–2009–0090.

You can access publicly available documents related to the petition using the following methods:

• *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.*

Federal Rulemaking Web Site: Public comments and supporting materials related to this petition can be found at *http://www.regulations.gov* by searching on the QC/QV rulemaking Docket ID:

NRC–2009–0090. Address questions about NRC dockets to Carol Gallagher, *telephone:* 301–492–3668; *e-mail: Carol.Gallagher@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Tara Inverso, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555; *telephone:* 301–415–1024; *e-mail: tara.inverso@nrc.gov* or Tim Reed, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone: 301–415–1462; *e-mail: timothy.reed@nrc.gov.*

SUPPLEMENTARY INFORMATION: On November 27, 2009 (74 FR 62257), the NRC published Notice of Receipt of a PRM filed by Robert Meyer, on behalf of the PROS, and request for public comment. The comment period closed on February 10, 2010, and the NRC received four comments.

The NRC determined that the issues raised in PRM–26–3 are appropriate for consideration and will consider them in the planned QC/QV rulemaking. The NRC staff will address the comments filed in PRM–26–3 as part of the QC/QV rulemaking. This PRM docket is closed.

Dated at Rockville, Maryland, this 30th day of April 2011.

For the Nuclear Regulatory Commission.

Martin J. Virgilio,

Deputy Executive Director for Reactor and Preparedness Programs.

[FR Doc. 2011–11946 Filed 5–13–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 26

[Docket No. PRM–26–5; NRC–2010–0304]

Petition for Rulemaking Submitted by the Nuclear Energy Institute

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; consideration in the rulemaking process.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has decided to consider the issues raised in a petition for rulemaking (PRM) submitted by Anthony R. Pietrangelo, on behalf of the Nuclear Energy Institute (NEI), the petitioner, in the planned "Quality Control/Quality Verification" (QC/QV) rulemaking (Docket ID: NRC–2009–0090). The petitioner requested that the NRC amend its regulations regarding its fitness-for-duty programs to refine existing requirements based on experience gained since the regulations were last amended in 2008.

ADDRESSES: Further NRC action on the issues raised by this petition will be accessible at the Federal rulemaking Web site, *http://www.regulations.gov,* by searching on the QC/QV rulemaking Docket ID: NRC–2009–0090.

You can access publicly available documents related to the petition using the following methods:

• *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.*

• *Federal Rulemaking Web Site:* Public comments and supporting materials related to this petition can be found at *http://www.regulations.gov* by searching on the QC/QV rulemaking Docket ID: NRC–2009–0090. Address questions about NRC dockets to Carol

Gallagher, *telephone:* 301–492–3668; *e-mail: Carol.Gallagher@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Tara Inverso, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone: 301–415–1024; *e-mail: tara.inverso@nrc.gov* or Tim Reed, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone: 301–415–1462,
e-mail: timothy.reed@nrc.gov.

SUPPLEMENTARY INFORMATION: On October 22, 2010, (75 FR 65249), the NRC published a Notice of Receipt of a PRM filed by Anthony R. Pietrangelo, on behalf of NEI, and request for public comment. The comment period closed on January 5, 2011. The NRC received 49 public comments.

The NRC determined that the issues raised in PRM–26–5 are appropriate for consideration and will consider them in the planned QC/QV rulemaking. The NRC staff will address the comments filed in PRM–26–5 as part of the QC/QV rulemaking. This PRM docket is closed.

Dated at Rockville, Maryland, this 30th day of April 2011.

For the Nuclear Regulatory Commission.

Martin J. Virgilio,

Deputy Executive Director for Reactor and Preparedness Programs.

[FR Doc. 2011–11955 Filed 5–13–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 72, 74, and 150

RIN 3150–AI61

[NRC–2009–0096]

Amendments to Material Control and Accounting Regulations

AGENCY: Nuclear Regulatory Commission.

ACTION: Availability of preliminary proposed rule language.

SUMMARY: The Nuclear Regulatory Commission (NRC or Commission) is making available for comment preliminary proposed rule language concerning the NRC's proposed amendments to the material control and accounting (MC&A) regulations. These regulations apply to NRC licensees who are authorized to hold special nuclear material (SNM) and to certain licensees within the jurisdiction of the Agreement States that hold SNM and submit material status reports to the NRC. The goal of this rulemaking is to revise and consolidate the MC&A requirements. This Notice briefly summarizes the proposed amendments. After the Commission has reviewed and approved the proposed rule, it will be formally published for comment.

DATES: Submit comments by June 30, 2011. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: Please include Docket ID NRC–2009–0096 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site, *http://www.regulations.gov.* Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information and, therefore, they should not include any information in their comments that they do not want publicly disclosed. You may submit comments by any one of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2009–0096. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; e-mail: *Carol.Gallagher@nrc.gov.*
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *E-mail comments to: Rulemaking.Comments@nrc.gov.* If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301–415–1677.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays. (telephone 301–415–1677).
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.

You can access publicly available documents related to this notice using the following methods:

- *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.* The preliminary proposed rule language is available electronically under ADAMS Accession number ML111250585.
- *Federal rulemaking Web site:* Public comments and supporting materials related to this notice, including the preliminary proposed rule language, can be found at *http://www.regulations.gov* by searching on Docket ID NRC–2009–0096.

FOR FURTHER INFORMATION CONTACT: Thomas Young, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–5795, e-mail *Thomas.Young@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC plans to amend parts 72, 74, and 150 to title 10 of the Code of Federal Regulations (10 CFR). The majority of the changes would be to the MC&A provisions in 10 CFR part 74.

A. Background

The existing 10 CFR part 74 regulations are organized in a graded fashion. General MC&A reporting and recordkeeping requirements in subpart B apply to all licensees authorized to hold SNM under 10 CFR part 70. Licensees authorized to hold SNM of "low strategic significance" (defined in 10 CFR 74.4) are subject to the more rigorous MC&A requirements in subpart C. Such licensees operate what are known as Category III facilities, which include all uranium enrichment facilities and the fuel fabrication facilities supplying fresh fuel assemblies to commercial power reactors. Licensees authorized to hold SNM of "moderate strategic significance" (defined in 10 CFR 74.4) are subject to the MC&A requirements in subpart D, and are authorized to operate Category II facilities (no such facilities now operate). The most rigorous MC&A requirements are in subpart E, and apply to licensees authorized to hold a "formula quantity" (defined in 10 CFR 74.4) of strategic SNM. Such licensees

operate what are known as Category I facilities, which supply fuel for use in naval reactors and in research and test reactors.

The MC&A requirements for Category I–III facilities include general performance objectives, and most of these facilities must meet item control requirements.

B. Discussion

The MC&A provisions would be revised to include general performance objectives applicable to all licensees authorized to possess SNM. Licensees authorized to hold significant amounts of SNM would be required to have written MC&A procedures. Licensees authorized to possess any quantity of SNM would be required to have item control systems. Subparts C and D of 10 CFR part 74 (applicable to Category III, and II facilities, respectively) would be revised to remove most of the current exemptions from the item control requirements. Subparts C, D, and E would be revised to introduce the two-person rule (*i.e.,* having at least two, qualified and authorized individuals to complete and observe certain operations). Category I, II and III facilities would be required to establish procedures for tamper-safing storage containers or locations, and to specify material balance areas, item control areas, and custodial responsibility for these areas.

Category I, II and III facilities must have fundamental nuclear material control (FNMC) plans that have been approved by the NRC. The NRC staff's view is that FNMC is an outdated term, as it does not include "accounting," and thus does not fully describe the accounting aspects that MC&A programs must include. Existing references in subparts C, D, and E of 10 CFR part 74 to FNMC plans would therefore be replaced with references to an MC&A plan. The proposed rulemaking would also:

- Consolidate in 10 CFR part 74 the MC&A requirements currently in 10 CFR part 72 for independent spent fuel storage installations (ISFSIs);
- Revise 10 CFR 150.17, which is applicable to those authorized to hold SNM in Agreement States, to conform to the proposed revisions to 10 CFR 74.13. No substantive changes would be involved;
- Make references to due dates and reporting frequencies more uniform by expressing such timeframes in terms of calendar days;
- Amend 10 CFR 74.4 by adding, removing, and modifying certain defined terms that are used throughout 10 CFR part 74. The proposed definitions to be added are: *Accounting, custodian, item control area, item control system, material balance area, material control and accounting,* and *two-person rule.* The term *effective kilograms of special nuclear material* would be removed. In this regard, the affected requirements would instead refer to grams or kilograms of material. Definitions of the following terms would be modified: *Formula quantity, special nuclear material of moderate strategic significance, and special nuclear material of low strategic significance.* These terms would be modified respectively to refer to certain quantities of SNM as Category I, Category II, or Category III, consistent with the existing definitions of these terms in 10 CFR parts 70 and 73;
- Add Appendix A, "Categories of Special Nuclear Material," to 10 CFR part 74. This Appendix would be based on existing Appendix M to 10 CFR part 110, and would show the SNM quantity limits respectively for Category I, Category II, and Category III; the corresponding subpart in 10 CFR part 74 for each category; and the formulae to calculate any combination of strategic SNM within the quantity limits for a category.

The NRC is making the preliminary proposed rule language summarized in this notice available to inform stakeholders of the current status of this proposed rulemaking, and is inviting comment on the language. This preliminary proposed rule language may be subject to significant revisions during the rulemaking process. Public input at this stage will help inform the development of the proposed rule.

The NRC will review and consider any comments received; however, the NRC will not respond to any comments received at this pre-rulemaking stage. As appropriate, the Statements of Consideration for the proposed rule will briefly discuss any substantive changes made to the preliminary language as a result of the comments now being solicited. Stakeholders will have a further opportunity to comment on the rule language when it is published as a proposed rule in accordance with the provisions of the Administrative Procedures Act. The NRC will respond to any such comments in the Statements of Consideration published with the final rule language.

The NRC may post updates to the preliminary proposed rule language on the Federal rulemaking Web site under Docket ID NRC–2009–0096. Regulations.gov allows members of the public to set-up notifications so that they may be alerted when documents are added to a docket. Users are notified via e-mail at an e-mail address provided at the time of registration for the notification. Directions for signing up for the automatic notifications can be found at *http://www.regulations.gov.* To do so, search for the docket you are interested in and then choose E-mail Alerts.

Dated at Rockville, Maryland, this 6th day of May 2011.

For the Nuclear Regulatory Commission.

Josephine M. Piccone,

Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2011–11923 Filed 5–13–11; 8:45 am]

BILLING CODE 7590–01–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

10 CFR Part 1703

Proposed FOIA Fee Schedule Update

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to 10 CFR 1703.107(b)(6) of the Board's regulations, the Defense Nuclear Facilities Safety Board is publishing its proposed Freedom of Information Act (FOIA) Fee Schedule Update and solicits comments from interested organizations and individual members of the public.

DATES: To be considered, comments must be mailed or delivered to the address listed below by 5 p.m. on or before June 15, 2011.

ADDRESSES: Comments on the proposed fee schedule should be mailed or delivered to the Office of the General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004. All comments will be placed in the Board's public files and will be available for inspection between 8:30 a.m. and 4:30 p.m., Monday through Friday (except on Federal holidays), in the Board's Public Reading Room at the same address.

FOR FURTHER INFORMATION CONTACT: Brian Grosner, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004–2901, (202) 694–7060.

SUPPLEMENTARY INFORMATION: The FOIA requires each Federal agency covered by the Act to specify a schedule of fees applicable to processing of requests for agency records. 5 U.S.C. 552(a)(4)(i). Pursuant to 10 CFR 1703.107(b)(6) of the

Board's regulations, the Board's General Manager will update the FOIA Fee Schedule once every 12 months. Previous Fee Schedule Updates were published in the **Federal Register** and went into effect, most recently, on July 12, 2010, 75 FR 39629. The Board's proposed fee schedule is consistent with the guidance. The components of the proposed fees (hourly charges for search and review and charges for copies of requested documents) are based upon the Board's specific cost.

Board Action

Accordingly, the Board proposes to establish the following schedule of updated fees for services performed in response to FOIA requests:

DEFENSE NUCLEAR FACILITIES SAFETY BOARD SCHEDULE OF FEES FOR FOIA SERVICES

[Implementing 10 CFR 1703.107(b)(6)]

Search or Review Charge	$77.00 per hour.
Copy Charge (paper)	$.12 per page, if done in-house, or generally available commercial rate (approximately $.10 per page).
Electronic Media	$5.00.
Copy Charge (audio cassette)	$3.00 per cassette.
Duplication of DVD	$25.00 for each individual DVD; $16.50 for each additional individual DVD.
Copy Charge for large documents (*e.g.,* maps, diagrams)	Actual commercial rates.

Dated: May 3, 2011.

Brian Grosner,

General Manager.

[FR Doc. 2011–11880 Filed 5–13–11; 8:45 am]

BILLING CODE 3670–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2006–0502; FRL–9305–5]

Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Sunland Park 1-Hour Ozone Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the New Mexico State Implementation Plan (SIP). The revision consists of a maintenance plan for Sunland Park, New Mexico developed to ensure continued attainment of the 8-hour ozone National Ambient Air Quality Standard (NAAQS) through the year 2014. The Maintenance Plan meets the requirements of Section 110(a)(1) of the Federal Clean Air Act (CAA), EPA's rules, and is consistent with EPA's guidance. EPA is approving the revisions pursuant to section 110 and part D of the CAA.

DATES: Written comments should be received on or before June 15, 2011.

ADDRESSES: Comments may be mailed to Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Kenneth W. Boyce, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7259; fax number 214–665–7263; e-mail address *boyce.kenneth@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: May 6, 2011.

Al Armendariz,

Regional Administrator, Region 6.

[FR Doc. 2011–11811 Filed 5–13–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 418

[CMS–1355–P]

RIN 0938–AQ31

Medicare Program; Hospice Wage Index for Fiscal Year 2012

Correction

In proposed rule document 2011–10689 appearing on pages 26805–26851 the issue of Monday, May 9, 2011 make the following corrections:

On page 26806, in the first column, in the **DATES** section, in the fifth line, "July 8, 2011" should read "June 27, 2011".

On page 26851, immediately following the text of Addendum A, insert the following Addendum:

ADDENDUM B—FY 2012 WAGE INDEX FOR RURAL AREAS

CBSA code	Nonurban area	Wage index
1	Alabama	0.8000
2	Alaska	1.3073
3	Arizona	0.9417
4	Arkansas	0.8000
5	California	1.2483
6	Colorado	1.0285
7	Connecticut	1.1522
8	Delaware	1.0103
9	District of Columbia [1].	
10	Florida	0.8707
11	Georgia	0.8000
12	Hawaii	1.1586
13	Idaho	0.8000
14	Illinois	0.8639
15	Indiana	0.8688
16	Iowa	0.8848
17	Kansas	0.8264
18	Kentucky	0.8107

ADDENDUM B—FY 2012 WAGE INDEX FOR RURAL AREAS—Continued

CBSA code	Nonurban area	Wage index
19	Louisiana	0.8000
20	Maine	0.8892
21	Maryland	0.9500
22	Massachusetts[2]	1.2186
23	Michigan	0.8858
24	Minnesota	0.9358
25	Mississippi	0.8000
26	Missouri	0.8000
27	Montana	0.8819
28	Nebraska	0.9227
29	Nevada	0.9681
30	New Hampshire	1.0569
31	New Jersey[1]	.....
32	New Mexico	0.9227
33	New York	0.8475
34	North Carolina	0.8655
35	North Dakota	0.7856
36	Ohio	0.8864
37	Oklahoma	0.8139
38	Oregon	1.0384
39	Pennsylvania	0.8781
40	Puerto Rico[3]	0.4654
41	Rhode Island[1]	.....
42	South Carolina	0.8711
43	South Dakota	0.8838
44	Tennessee	0.8165
45	Texas	0.8083
46	Utah	0.8955
47	Vermont	0.9931
48	Virgin Islands	0.8276
49	Virginia	0.8119
50	Washington	1.0545
51	West Virginia	0.8000
52	Wisconsin	0.9512
53	Wyoming	0.9866
65	Guam	0.9952

[1] There are no rural areas in this State or District.

[2] There are no hospitals in the rural areas of Massachusetts, so the wage index value used is the average of the contiguous Counties.

[3] Wage index values are obtained using the methodology described in this proposed rule.

[FR Doc. C1–2011–10689 Filed 5–13–11; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Chapter IV

[CMS–5507–NC]

Medicare and Medicaid Programs; Opportunities for Alignment Under Medicaid and Medicare

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Request for information.

SUMMARY: This document is a request for comments on opportunities to more effectively align benefits and incentives to prevent cost-shifting and improve access to care under the Medicare and Medicaid programs for individuals with both Medicare and Medicaid ("dual eligibles"). The document also reflects CMS' commitment to the general principles of the President's Executive Order released January 18, 2011, entitled "Improving Regulation and Regulatory Review."

DATES: *Comment Date:* To be assured consideration, comments must be received at one of the addresses provided below no later than 5 p.m. July 11, 2011.

ADDRESSES: In commenting, please refer to file code CMS–5507–NC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this documentto *http://www.regulations.gov*. Follow "Submit a comment" instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, *Attention:* CMS–5507–NC, P.O. Box 8013, Baltimore, MD 21244–8013.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services,

Attention: CMS–5507–NC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* Alternatively, you may deliver (by hand or courier) your written comments ONLY to one of the following addresses prior to the close of the comment period:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, call telephone number (410) 786–7195 in advance to schedule your arrival with one of our staff members.

Comments erroneously mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

FOR FURTHER INFORMATION CONTACT: Edo Banach, Division of Program Alignment, Federal Coordinated Health Care Office, at (410) 786–8911 or *Edo.Banach@cms.hhs.gov*.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov*. Follow the search instructions on that Web site to view public comments [insert instructions link].

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

I. Background

The Medicare and Medicaid programs generally cover different populations, but an estimated 9.2 million low-income Americans were eligible for both programs in 2008.[1] Two-thirds of dual eligible beneficiaries are over age 65, while one-third qualify through a disability.[2] Dual eligible beneficiaries represent some of the most chronically

[1] Data based on Centers for Medicare & Medicaid Services (CMS) Enrollment Database, Provider Enrollment, Economic and Attributes Report, provided by CMS Office of Research, Development and Information, July 2010.

[2] CMS FFY 2007 MSIS Data; Medicare Payment Advisory Commission, Aligning Incentives (June 2010), Coordinating the Care of Dual-Eligible Beneficiaries, Chapter 5, 133.

ill and costly individuals within both the Medicare and Medicaid populations. More than half of dual eligible beneficiaries have incomes below the poverty line [3] compared with 8 percent of non-dual eligible Medicare beneficiaries.[4] Many have multiple severe chronic conditions, long-term care needs, or both. Forty-three percent of dual eligibles have at least one mental or cognitive impairment,[5] while 60 percent of dual eligibles have multiple chronic conditions.[6] Nineteen percent live in institutional settings compared to only 3 percent of non-dual Medicare beneficiaries. Approximately 1.5 percent of dual eligibles with chronic conditions and functional limitations live in their communities and represented 6 percent of the nation's health care expenditures in 2006.[7] Furthermore, dual eligibles account for a disproportionately large share of expenditures in both the Medicare and Medicaid programs. Dual eligible beneficiaries account for 16 percent of Medicare enrollees but 27 percent of Medicare spending; [8] in the Medicaid program, dual eligible beneficiaries make up 15 percent of the program enrollees but account for 39 percent of program spending.[9]

There are tremendous opportunities for CMS to partner with States, providers, beneficiaries and their caregivers, and other stakeholders to improve access, quality, and cost of care for people who depend on these two programs.

Section 2602 of the Patient Protection and Affordable Care Act (Pub. L. 111–148, enacted on March 23, 2010, and Pub. L. 111–152 hereinafter collectively referred to as the "Affordable Care Act") created the Federal Coordinated Health Care Office ("Medicare-Medicaid Coordination Office") and charged the new office with more effectively integrating Medicare and Medicaid benefits and with improving the coordination between the Federal and State Governments for dual eligible beneficiaries. Under sections 2602(c)(5) and 2602(c)(7) of the Affordable Care Act, the goals of the Medicare-Medicaid Coordination Office include eliminating regulatory conflicts and cost-shifting between Medicare and Medicaid and among related health care providers. Sections 2602(c)(1) through (4) of the Affordable Care Act further charge the Medicare-Medicaid Coordination Office with addressing issues relating to quality of care and beneficiary understanding, beneficiary satisfaction, and access under Medicare and Medicaid.

II. The Alignment Initiative

As part of the Medicare-Medicaid Coordination Office's efforts to meet its responsibilities and goals, as outlined in the Affordable Care Act, and in direct support of Executive Order 13563 [10] (Improving Regulations and Regulatory Review), which directs us to identify existing "rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them" as appropriate, the Office is undertaking an initiative to identify and address conflicting requirements between Medicaid and Medicare that potentially create barriers to high quality, seamless, and cost-effective care for dual eligible beneficiaries ("the Alignment Initiative"). The goal is to create and implement solutions in line with the CMS three-part aim, which includes, solutions that advance better care for the individual, better health for populations, and lower costs through improvement. The Alignment Initiative is not simply an effort to catalogue the differences between Medicare and Medicaid, or to make the two programs identical; rather, it is an effort to advance dual eligible beneficiaries' understanding of, interaction with, and access to seamless, high quality care that is as effective and efficient as possible. Medicare and Medicaid were designed with distinct purposes, which naturally results in numerous differences between the two programs in terms of eligibility, payment, and covered benefits. The Medicare program is administered by the Federal Government, and is generally available to elderly individuals or individuals with disabilities. Medicare covers a wide range of health care services and supplies, including acute, post-acute, primary, and specialty care services, as well as prescription drugs. Medicaid is a joint Federal and State program that is administered by States for certain categories of low-income individuals. Although specific benefits may vary by State, in general Medicaid covers acute care, primary and specialty care, behavioral health care, and long-term care supports and services.

For dual eligible beneficiaries, Medicare generally is the primary payer for benefits covered by both programs. Medicaid may then be available for any remaining beneficiary cost sharing. Medicaid may also provide additional benefits that are not (or are no longer) covered by Medicare. For example, Medicare covers skilled nursing facility services when a dual eligible beneficiary requires skilled nursing care following a qualifying hospital stay. During this time, Medicaid benefits may be available for amounts that are not paid by Medicare. Once the beneficiary no longer meets the conditions of a Medicare skilled level of care benefit, Medicaid may cover additional nursing facility services, including custodial nursing facility care. Although the two programs can work well together in financing health care for eligible beneficiaries, in some cases differential requirements between the two programs may create barriers to seamless, high quality care, creating a cost-shift between the two programs that may impede access to appropriate care.

The first step of the Alignment Initiative is to identify opportunities to align potentially conflicting Medicaid and Medicare requirements. This document represents the first step. We have compiled what we believe to be a wide-ranging list of opportunities for legislative and regulatory alignment on areas identified to date. We are seeking public comment on the list of alignment opportunities.

The list of alignment opportunities is intended to be a productive tool, with issues publicly shared for the purpose of improvement going forward. We believe public input in this early stage of the Alignment Initiative is critical to creating a foundation for future collaboration to address these issues. Comments from the public further the Alignment Initiative by engaging stakeholders in our work plan as future

[3] In 2011, poverty is defined as $10,890 for an individual and $14,710 for married couples. **Federal Register** Notice, Vol. 76, No.13 Thursday, January 20, 2011. *Available at: http://aspe.hhs.gov/poverty/11fedreg.pdf.*

[4] Medicare Payment Advisory Commission, Aligning Incentives in Medicare (June 2010), Coordinating the Care of Dual-Eligible Beneficiaries Chapter 5, 132. Available at: *http://medpac.gov/documents/Jun10_EntireReport.pdf.*

[5] Chronic Disease and Co-Morbidity among Dual Eligibles: Implications for Patterns of Medicaid and Medicare Service Use and Spending. Kaiser Commission on Medicaid and the Uninsured,1. Kaiser Family Foundation. July 2010. *Available at: http://www.kff.org/medicaid/upload/8081.pdf.*

[6] *Id,* at 1.

[7] The Lewin Group, *Individuals Living in the Community with Chronic Conditions and Functional Limitations: A Closer Look* (Washington, DC: Office of the Assistant Secretary for Planning and Evaluation, USDHHS, January 2010), at p. 22. *http://aspe.hhs.gov/daltcp/reports/2010/closerlook.pdf.*

[8] The Medicare Payment Advisory Committee (MedPAC), A Data Book: Healthcare spending and the Medicare program, June 2010. *Available at: http://www.medpac.gov/documents/Jun10_EntireReport.pdf.*

[9] Kaiser Family Foundation, The Role of Medicare for the People Dually Eligible for Medicare and Medicaid. January 2011. *Available at: http://www.kff.org/medicare/upload/8138.pdf.*

[10] *See* Exec. Order No. 13563, 76 FR 14 (Jan. 18, 2011). *Available at: http://www.whitehouse.gov/the-press-office/2011/01/18/improving-regulation-and-regulatory-review-executive-order* ("Improving Regulation and Regulatory Review").

partners, while facilitating productive discussions on how Medicare and Medicaid can work more effectively and efficiently for dual eligible beneficiaries and those who care for them.

Seeking public comment on the list of alignment opportunities is also in keeping with the President's directive of January 26, 2009, to promote accountability, encourage collaboration, and provide information to Americans about their Government's activities.[11] Please see Section III of this document for a more detailed discussion of this first step.

Once we receive public comments on the list of alignment opportunities, the next step in the Alignment Initiative is to continue to engage stakeholders, including beneficiaries, payers, providers, and States, to determine the barriers and sources of the current misalignments. We will then determine which issues to address and in what order and timeframe. All areas are important, but given the scope of the issues already identified, we recognize we cannot address all issues at once, and some may take longer than others. We will identify and address those opportunities that we have the resources and authority to address, and will consider including those alignment opportunities that would require a statutory change to address in the Secretary's annual Report to Congress under section 2602(e) of the Affordable Care Act.

We are committed to an open, transparent, and accountable process. We seek comment on this initiative generally, as well as the further areas for exploration for alignment specifically (see Section III. of this notice). We will provide periodic updates on the Alignment Initiative on our Web site at *http://www.cms.gov/medicare-medicaid-coordination/* and intend to keep the public apprised of our work.

III. Specific Alignment Opportunities

In an effort to advance the goals identified in the Affordable Care Act, and in line with the CMS three-part aim—better care for individuals, better health for populations and lower costs through improvement—the Medicare-Medicaid Coordination Office has been engaged in ongoing discussions with numerous and diverse stakeholders. The Medicare-Medicaid Coordination Office has used input from these discussions to develop a comprehensive list of areas in which the Medicare and Medicaid programs have conflicting requirements that prevent dual eligible individuals from receiving seamless, high quality care. Those areas fall into the following broad categories:

(1) Coordinated Care.
(2) Fee-for-service benefits (FFS).
(3) Prescription Drugs.
(4) Cost Sharing.
(5) Enrollment.
(6) Appeals.

Each of these broad categories and the specific opportunities for alignment identified to date can be found in Addendum 1. We invite public comment on these opportunities. These include opportunities to align existing program requirements, as well as preventing future conflicts when new programs are scheduled to be implemented (for example, coordinating seamless transitions between Medicaid, Medicare, and coverage under the Health Insurance Exchanges that will be established under section 1311 of the Affordable Care Act). This list will be continually updated as progress is made and new opportunities are identified. We look forward to continued collaboration with stakeholders as the Alignment Initiative proceeds.

IV. Questions and Comments

We are interested in your comments on this initiative. As you consider your comments, we are particularly interested in your feedback concerning how misalignments between specific Medicare and Medicaid requirements impact access to high-quality care. We offer the following questions to help guide your consideration of this issue and review of this notice. These questions are framed by the various goals and requirements that Congress articulated in establishing the Federal Coordinated Health Care Office.

- How can the Medicare and Medicaid programs better ensure dual eligible individuals are provided full access to the program benefits?
- What steps can CMS take to simplify the processes for dual eligible individuals to access the items and services guaranteed under the Medicare and Medicaid programs?
- Are there additional opportunities for CMS to eliminate regulatory conflicts between the rules under the Medicare and Medicaid programs?
- How can CMS best work to improve care continuity and ensure safe and effective care transitions for dual eligible beneficiaries?
- How can CMS work to eliminate cost-shifting between the Medicare and Medicaid programs? How about between related health care providers?

Authority: Section 2602 of the Patient Protection and Affordable Care Act (Pub. L. 111–148, enacted on March 23, 2010).

Dated: March 16, 2011.

Donald M. Berwick,

Administrator, Centers for Medicare & Medicaid Services.

BILLING CODE 4120–01–P

[11] *See* Memorandum for the Heads of Executive Departments and Agencies, 74 FR 15, 3825 (Jan. 26, 2009). *Available at: http://edocket.access.gpo.gov/2009/pdf/E9-1777.pdf* ("Transparency and Open Government").

ADDENDUM 1: List of Alignment Opportunities

(all regulatory references refer to 42 CFR)

Acronyms used in Addendum 1	
ACO	Accountable care organization
ALJ	Administrative Law Judge
BBA	Balanced Budget Act of 1997 (Pub. L. 105-33, enacted on August 5, 1997)
CFR	Code of Federal Regulations
CMS	Centers for Medicare & Medicaid Services
CORF	Comprehensive outpatient rehabilitation facility
DME	Durable medical equipment
DRG	Diagnosis-related group
FFP	Federal financial participation
FFS	Fee-for-service
HCBS	Home and Community-Based Services
IRE	Independent review entity
LIS	Low income subsidy
MA	Medicare Advantage
MAC	Medicare Appeals Council
MCO	Managed care organization
MIPPA	Medicare Improvement for Patients and Providers Act (Pub. L. 110-275, enacted on July 15, 2008)
MSP *	Medicare savings program
NF	Nursing facility
PACE	Program of All Inclusive Care for the Elderly
PBP	Plan benefit package
PDP	Prescription Drug Plan
QI *	Qualifying individual
QIO	Quality improvement organization
QMB*	Qualified Medicare beneficiary
SLMB *	Specified Low-income Medicare beneficiary
SNF	Skilled nursing facility
SNP	Special needs plan
SSA	Social Security Administration
the Act	the Social Security Act
VTC	Video teleconferencing

* Under the Medicare Savings Programs (MSP), Medicaid pays for some or all of a low-income beneficiary's Medicare cost sharing. Individuals with incomes up to 100 percent FPL who meet the relevant resource test can qualify for QMB; in this program, Medicaid pays for their Medicare Part A and B premium, deductibles, coinsurances, and copayments. Individuals with incomes under 120 percent FPL who meet the relevant resource test can qualify for SLMB, and individuals with incomes under 135 percent FPL who meet the relevant resource test can qualify for QI; in these two programs, Medicaid pays for the Part B premium only.

Topic	Description	Summary of Medicaid Requirements	Summary of Medicare Requirements
Coordinated Care -- Enrollment	Models already exist that integrate care for dual eligibles, but enrollment in these programs remains very low.	Federal Medicaid requirements vary by type of coordinated care program. There may be additional State requirements. Medicaid may mandate enrollment into coordinated care programs; for dual eligibles mandatory enrollment applies to their Medicaid benefits only.	Traditionally, there have been few options for Medicare to increase enrollment in coordinated care.
Coordinated Care -- Options	Medicaid can cover care coordination in FFS as well as through capitated managed care organizations. Medicare primarily covers care coordination through capitated managed care organizations. New models for seamless care (for example, ACOs and health homes) do not necessarily have to coordinate care for dual eligibles across both benefits.	FFS: Medicaid provides FFP for optional services related to care coordination in FFS. Examples include targeted case management, Primary Care Case Management programs, and health home programs. Under the Affordable Care Act, Medicaid now provides FFP for the optional services of health homes. States may not exclude dual eligibles. Managed Care: FFP is also available for capitated managed care (for example, MCOs for comprehensive services package, "carve outs" such as behavioral health).	FFS: Medicare covers care coordination within certain benefits (for example, hospital, physician office visits, hospice, and home health), but doesn't pay separately for care coordination as a standalone benefit. Under the Affordable Care Act, Medicare may share savings with ACOs. In addition, under demonstration authority and the Center for Medicare and Medicaid Innovation, Medicare continues to test promising payment approaches, including medical home services. Part C: Medicare Advantage plans that are coordinated care plans include care coordination services.
Coordinated Care -- MA Cost sharing information in standard Summary of Benefits	CMS' model for the MA "Summary of Benefits" has information, including cost-sharing, that is presented at the plan level, not the beneficiary level. Dual eligible beneficiaries may not be aware that there is dual eligible-specific information in later sections of the Summary of Benefits.	Medicaid generally pays for Medicare cost-sharing for QMBs and full benefit dual eligible beneficiaries in MA plans.	CMS' systems generate a "Summary of Benefits" that is applicable at the plan rather than beneficiary level; these data also appear at www.Medicare.gov. Section 3 of the Summary of Benefits provides a plan with an area to insert free form text, for example, cost-sharing specific to dual eligibles. Dual eligible SNPs must use section 4 of the Summary of Benefits to provide a comprehensive description of dual-eligible cost-sharing, as well as a description of both Medicaid and Medicare benefits to which they are entitled.

Topic	Description	Summary of Medicaid Requirements	Summary of Medicare Requirements
Coordinated Care -- MA -- Seamless conversion	Medicare permits seamless conversion of Medicaid-only individuals enrolled in a Medicaid MCO into a MA plan offered by same organization when the person becomes Medicare eligible with the option for beneficiaries to opt out, but few plans avail themselves of this option. Plans may have difficulty identifying those in their Medicaid managed products who are about to become Medicare eligible.	Medicaid programs have the option to offer managed care to dual eligibles, and to permit voluntary enrollment or mandate it for their Medicaid benefits.	Medicare statute and regulation permit seamless conversion with the option to opt out.
Coordinated Care -- PACE -- External appeals	While there is an integrated appeals process for internal appeals, dual eligible PACE participants may choose the Medicare or Medicaid managed care appeal processes for pursuing an external appeal (but not both). PACE organizations must inform the dual eligible beneficiary of his or her appeal rights under Medicare and Medicaid managed care, and assist the participant in choosing which to pursue and forward the appeal to the appropriate entity. §460.124.	Some States provide access to Ombudsman or Independent Review Entities for those enrolled in managed care. All States must provide access to a State Fair Hearing to individuals entitled to a hearing under the Medicaid managed care rules. §460.124 and 42 CFR Part 438, subpart F; section 1932(b)(4) of the Act.	Medicare beneficiaries have access to the Medicare external appeals route through the Independent Review Entity that contracts with CMS to resolve Medicare Advantage appeals. §460.124; see also §422.592 *et seq.*
Coordinated Care- - - Low income Medicare beneficiaries at risk of declining to point of qualifying for Medicaid	For low income Medicare-only beneficiaries, Medicare FFS has limited flexibility to help prevent people from declining to a point where they need/qualify for Medicaid, particularly in instances where they may have been able to avoid nursing home care with appropriate community supports.	State Medicaid programs can't receive FFP for services provided to people who are not eligible for full Medicaid benefits (that is, those who are only on Medicare Savings programs).	Medicare FFS does not cover care coordination services as a standalone benefit.
Coordinated Care – Special Need Plans -- Current contracting issues	The Federal Medicare and Medicaid programs stipulate contracting requirements, as do State Medicaid programs. These contracting requirements may conflict. For example, Medicare and Medicaid may have different reporting requirements.	There are Federal contracting requirements for Medicaid managed care contracts. 42 CFR part 438 *et. seq.* provides general Federal guidance. State Medicaid requirements vary by State. These requirements would apply to a SNP that has a contract with a State Medicaid agency to cover Medicaid benefits.	There are separate contracting requirements for MA. §422.504.

Topic	Description	Summary of Medicaid Requirements	Summary of Medicare Requirements
Coordinated Care – Managed Care SNP -- Enrollment requirements	Medicare and Medicaid both have requirements governing enrollment into managed care plans and these may conflict, including: • When a beneficiary can enroll in and disenroll from plan. • When and how often a beneficiary can change plans. • Cutoff dates for requesting enrollment. • Effective date of enrollment. • Mandatory vs. voluntary enrollment in plans. • Type of entity that can accept enrollment.	• States are permitted to mandate enrollment and limit disenrollment to certain reasons. • States may vary on cutoff for requesting enrollment and effective date of enrollment. • States vary in entities they permit to accept enrollment (for example, enrollment broker; may not permit plans to directly accept).	• Dual eligibles may change Part C and D plans at any time. • Enrollments may be received by MA plans themselves, or by calling 1-800-Medicare. Cutoff dates for electing a plan, and effective date of that election, vary by which election period applies.
Coordinated Care -- SNP -- Future contracting issues	Dual eligible SNPs must have a contract with State Medicaid agencies starting in 2010 (for expanding and new plans) and 2013 (for all dual eligible SNPs, including existing and new plans).	States may selectively contract with managed care plans based on State-specified criteria.	Although plans will be required to have a contract with the State Medicaid agency per section 164 of MIPPA, as modified by section 3205 of the Affordable Care Act, Medicare cannot require States to contract with SNPs. In limited instances, MA organizations offer a single SNP in a metropolitan area that crosses State lines. CMS has been asked to consider permitting the SNP in this situation to split a single plan into two to support the need for different plans to contract with two different States.
Coordinated Care -- SNP -- Internal grievances and appeals	Medicare and Medicaid differ in their requirements related to internal appeals and grievances for beneficiaries enrolled in managed care plans. Examples include: • Grievances (complaints). • Appeals (processes, timeframes). • Continuation of services during appeal. • External entity (State fair hearing versus Medicare independent review entity). • Required notices.	States may have varying requirements, on top of Federal Medicaid requirements. See appeals discussion, below.	Medicare has its own regulations. See appeals discussion, below.

Topic	Description	Summary of Medicaid Requirements	Summary of Medicare Requirements
Coordinated Care -- SNP – Marketing	Medicare and Medicaid both have requirements related to marketing. Examples include: • Differing requirements related to the definition of what constitutes marketing. • Content of marketing material. • Process to approve marketing material. • Standards for reading level, health literacy, and criteria prompting materials to be translated into other languages.	Federal Medicaid requirements have more stringent readability/translation requirements; and define marketing more narrowly than Medicare. A given State may have its own, State-specific requirements on reading level, translation, and approval process, in addition to Federal guidelines.	There are a broad range of standard or model documents under the MA program, some of which apply generally to all MA plans, but some of which were designed specifically for SNPs. Model language in documents designed for the Medicare program may be written at a higher reading level. However, plans may request approval for alternate language at a lower reading level. Medicare requires MA plans to make specific marketing material available in any language that is the primary language of more than 10 percent of the plan's service area.
Coordinated Care -- SNP -- Quality requirements	Medicare and Medicaid have different requirements for quality improvement efforts, types of quality data required to be submitted, and requirements for treatment plans or models of care.	CMS Medicaid regulations at §438.240(d) include specific performance improvement program requirements. States may require additional performance measures, to be reported on State contracting cycles (which may differ from Federal cycles). States must contract with an External Quality Review Organization for each contract. Federal regulations require Medicaid MCOs to have treatment plans for enrollees with special health care needs. (§438.208). States have some discretion to waive these requirements for dual eligibles enrolled in an MA plan.	MA regulations at §422.152(b) require that MA organizations conduct quality improvement projects. Under §422.152(b)(3), the SNPs are required to measure performance under the plan, using the measurement tools required by CMS, and report performance to CMS. They must also provide outcome measures that are reported as part of materials beneficiaries use to select plans. Under the Affordable Care Act, SNPs must be approved by NCQA beginning in 2012. Under the MA program, a SNP is required to have a model of care, as well as standard MA requirements for care coordination. In addition, the SNP is required to have a medication therapy management program for the Part D benefit.
Coordinated Care -- SNP -- Seamless delivery of services	SNPs have different coverage limits and criteria.	States' Medicaid coverage of items and services varies.	Medicare has its own requirements for coverage of items and services.

Topic	Description	Summary of Medicaid Requirements	Summary of Medicare Requirements
FFS Benefits -- Behavioral health	Medicaid and Medicare differ in coverage of behavioral health care providers and services.	Some States may cover a broader range of behavioral health services, including community based behavioral services and providers, for example, Assertive Community Treatment for severe mental illness, intensive outpatient treatment and ambulatory detoxification for substance abuse treatment. Medicaid covers inpatient psychiatric hospital services only for individuals under age 21 and covers inpatient hospital services for persons age 65 or older with mental illness in institutions for mental diseases. Specialty inpatient psychiatric care is not covered for adults age 21-64.	Medicare covers reasonable and necessary "partial hospitalizations," traditional outpatient and inpatient visits to behavioral professionals and providers.
FFS Benefits-- DME	Medicare and Medicaid have different rules for qualifying for DME coverage for those receiving care in the community. In addition, each program may have different formularies governing what DME it covers.	Medicaid covers DME in the home care context (§440.70). DME must be determined to be "medically necessary" and not experimental. There is no clear Federal definition of covered DME, so many but not all States have adopted some form of the Medicare definition.	Medicare covers DME that: • Can withstand repeated use; • Is primarily and customarily used to serve a medical purpose; • Generally is not useful to a person in the absence of an illness or injury; and • Is appropriate for use in the home (under §410.38). See generally section 1861(n) of the Act; §414.202.
FFS Benefits -- Home health	Medicare covers home health services for patients who have a skilled need. Specifically, the patient must need skilled nursing care on an intermittent basis or need skilled therapy services. Medicaid generally covers both acute and longer term needs.	Medicaid covers skilled nursing/therapy/ home health aide services and/or personal care services. Certain services under the home health benefit are optional and may not be covered in certain States. The benefit is intermittent (that is less than 24 hours/day) and typically has limits, depending on the States. States may also offer HCBS services that provide additional home care, but these are usually targeted at particular populations.	To qualify for the Medicare home health benefit, a Medicare beneficiary must be under the care of a physician, and have an intermittent need for skilled nursing care, need physical or speech therapy, or continue to need occupational therapy. The beneficiary must be homebound and receive home health services from a Medicare approved home health agency. Medicare pays home health agencies a 60-day case mix adjusted episode bundled payment for all nursing, therapy, home health aide services, medical social services, and routine and non-routine medical supplies.

Topic	Description	Summary of Medicaid Requirements	Summary of Medicare Requirements
FFS Benefits -- Nursing home-hospital transfers	Reimbursement policies between Medicare and Medicaid incentivize nursing homes to transfer dual eligibles to hospitals and vice versa. Nursing homes are reimbursed by Medicaid for custodial care, and may not have the staff to diagnose/treat more acute conditions in-house, especially after business hours. In addition, they are reimbursed at a higher rate by Medicare when the person is discharged from a hospital and qualifies for SNF level of care. Medicare reimburses hospitals on a per discharge basis, incentivizing them to discharge beneficiaries to nursing facilities. Inappropriate and/or avoidable hospital admission and re-admissions put beneficiaries at risk of exposure to hospital-acquired conditions, fragmented care, medical errors, medication mismanagement, and poor follow-up care.	Medicaid covers long term NF stays (that is, that don't meet SNF level of care), and generally pays with a FFS methodology (per day) that is generally lower than Medicare payment. There is an incentive to transfer dual eligibles with higher costs to hospitals, rather than manage them in-house, in order to re-qualify the individual for Medicare coverage. States also may pay for bed holds (meaning States continue to pay the reduced rate while the person is in hospital) so that the individual is guaranteed to be able to return to the facility.	Medicare is generally the primary payer for hospital stays. Most short-term, acute care hospitals are paid on a per-discharge basis under the IPPS using DRG payment rates. Medicare's post-acute care transfer policy (which reduces hospital payments for patients with certain diagnoses when the patient is transferred relatively early) was designed to avoid providing an incentive for a hospital to transfer certain patients early in their stay to minimize costs while still receiving the fully payment for the specific MS-DRG. Medicare generally covers up to 100 days of SNF care in each benefit period for beneficiaries who meet coverage requirements. Generally, Medicare reimbursement for a SNF level of care is higher than Medicaid's reimbursement for NF stay. In order for Medicare to cover a SNF stay, the beneficiary must have had a prior inpatient hospitalization of at least 3 days.
FFS Benefits -- Skilled therapies	Medicare and Medicaid differ in their provider definitions and qualifications for skilled therapies.	Medicaid requirements at § 440.110 include requirements for Medicaid physical therapist credentials.	Medicare amended §484.4 in 2008, revising physical therapy provider definitions and increasing the number of credentialing organizations recognized by Medicare for purposes of reimbursement.
Prescription Drugs -- Access for new full duals	States are required to submit data monthly to CMS to identify new dual eligibles.	CMS requires States to submit dual eligible enrollment and eligibility data monthly, but States have discretion to submit more frequently.	LI NET demonstration will cover those new duals not yet auto-enrolled at the point of sale, that is, a pharmacist can bill a specialized PDP available under the demonstration and get immediate confirmation of payment, facilitating immediate dispensing of the drug.

Topic	Description	Summary of Medicaid Requirements	Summary of Medicare Requirements
Cost-sharing -- Crossover claims	When Medicare pays a claim for certain dual eligible beneficiaries, it automatically sends it to Medicaid as a "crossover" claim to assist State Medicaid agencies in their obligation to pay any Medicare cost-sharing on those claims.	Under section 1905(p)(3) of the Act, State Medicaid agencies are liable for QMB cost sharing. Medicaid is required to pay Medicare cost-sharing for dual eligibles who are QMBs, regardless of whether the service is normally covered under Medicaid, or whether the provider is enrolled as a Medicaid provider. In some States, where the provider is not enrolled as a Medicaid provider, the State's Medicaid claims processing system will reject the claims. Federal law permits States to cover the Medicare cost-sharing for QMBs up to the Medicaid payment rate. If the State's rate is equal or lower than the total reimbursement already received from the Medicare program, then the State is not required under current law to pay the Medicare cost-sharing. In these instances Federal guidance requires States to issue remittance advice.	Medicare automatically sends "crossover" claims to State Medicaid agencies for purposes of paying the provider for a dual eligible beneficiary's Medicare cost-sharing liability. Medicare rules require that a State's Medicaid Agency must issue a remittance advice with zero reimbursement for cost-sharing, in order for a facility to report this on its Medicare cost report and receive an adjustment, providing offset of some of the loss. If the State does not issue a remittance advice, the facility cannot receive such an adjustment.
Cost-sharing -- Balance billing for QMB	Providers have difficulty identifying beneficiaries who are QMB. Medicare providers do not always understand they are not permitted to balance bill QMB beneficiaries.	Medicaid providers must accept Medicaid payment as payment in full. §447.15	Medicare generally requires beneficiaries to pay applicable deductibles, coinsurance, and/or copayments for many of its services. However, individuals who are full dual eligibles or QMBs may not be billed by providers for Medicare coinsurance, copayments or deductibles for Medicare-covered items or services.

Topic	Description	Summary of Medicaid Requirements	Summary of Medicare Requirements
Enrollment -- Medicare Part A buy-in	States are required to pay Part A premiums for QMBs and may opt to pay for the Medicare Part A premium for other dual eligibles; States that do not, may be paying for services that could be billed to Medicare Part A.	35 States and the District of Columbia have opted to buy in for Part A for non-QMBs, though not all necessarily enroll all eligible participants.	Medicare Part A covers inpatient services, including hospital, SNF, and hospice. Beneficiaries who have worked 40 quarters of Medicare-covered employment (or who have a spouse who has) receive premium-free Part A. Individuals who have not worked 40 quarters may "buy in" to Part A by paying a monthly premium. The Qualified Disabled Working Individual (QDWI) program helps pay Medicare Part A premiums for disabled individuals with Medicare who have returned to work.
Enrollment -- Re-certification requirements for Medicaid	States may require in-person interviews or documentation at annual reviews to re-certify for Medicaid and/or MSP.	States have the discretion to require in person interviews. Some States have removed the recertification interview from the process and reported administrative cost savings (Wisconsin, Louisiana, Arizona), and some States utilize passive or ex parte recertification.	In general, people who are entitled to Part A are automatically enrolled in the program. Individuals have an opportunity to decline enrollment in Part B the first time they become eligible for it. If they do not decline, they are enrolled. No annual re-enrollments are necessary.
Enrollment -- Medicare Savings Program asset test	Beneficiaries are often required to provide asset information and documentation as part of the Medicare Savings Programs application .	Medicaid has limits on assets or resources for most individuals who are eligible on the basis of age or disability, for whom States are generally required under section 1902(a)(17) of the Act to apply the rules of the Supplemental Security Income program. State Medicaid agencies have discretion to disregard some or all assets for the Medicare Savings Programs under section 1902(r)(2) of the Act.	There is no asset test for the Medicare program itself, though there is one for the low income subsidy in the Part D benefit.

Topic	Description	Summary of Medicaid Requirements	Summary of Medicare Requirements
Appeals -- Timeframes for filing an appeal related to benefits	Medicare and Medicaid (both in FFS and private health plans) have different timeframes for filing of initial and subsequent appeals.	FFS: An individual has a right to request a fair hearing or appeal. The agency must provide a reasonable time to the applicant or recipient, not to exceed 90 days from the date the notice is mailed (as determined by the State). §431.221. Managed Care: Appeals may be filed via the State fair hearing process (sometimes after exhaustion of plan appeals) anywhere between 20 and 90 days (varies by States). §438.408.	Parts A and B: Requests for a redetermination may be filed within 120 days of the date the party receives notice of the initial determination. Requests for reconsideration of that redetermination must be filed within 180 days of the date the party receives the notice of the redetermination. Requests for ALJ, MAC and Court reviews must be filed within 60 days after the receipt of the notice of the decision at the previous level of review. Parts C and D: Appeals must be filed within 60 days. Subsequent appeals (to IRE, ALJ, MAC and Court) must also be filed within 60 days.
Appeals -- Access to State level or external review	Medicare and Medicaid vary in the degree to which they allow a beneficiary to access a parallel external appeals process, separate and apart from the normal appeals system.	All States must provide access to a State Fair Hearing, either directly or (if the State requires exhaustion of the health plan level of appeal) after an initial appeal to the health plan. §431.205 and §438.408; and section 1902(a)(3) of the Act. Some States provide access to Ombudsman or Independent Review Entities for those enrolled in managed care.	Parts A and B: A Qualified Independent Contractor is responsible for Part A and B reconsiderations. Beneficiaries who receive a Medicare Notice of Non-Coverage in a CORF, SNF, Home Care or hospice, or an important message from Medicare in a hospital, may access a Medicare QIO, which may conduct an independent review. §405.1200 et. seq. Parts C and D: Medicare allows beneficiaries in private health plans to access Independent Review Entities, but only after the filing of an initial appeal to a plan. §422.578 and §422.592. Part C beneficiaries also have the opportunity to have a QIO review a termination or reduction of services

Topic	Description	Summary of Medicaid Requirements	Summary of Medicare Requirements
Appeals -- Continuation of benefits pending appeal	Medicare and Medicaid differ in terms of whether benefits continue to be provided while a coverage appeal is in process.	Medicaid benefits generally continue and are covered pending a timely appeal (FFP is available for these costs), when the appeal is requested within a certain timeframe. States also may reinstate benefits if requested within 10 days of the date of action (although States may vary). §431.231. The basis of this rule is both regulatory and constitutional (due process clause), as interpreted by Supreme Court in Goldberg v. Kelly and its progeny. Section 1902(a)(3) of the Act; §431.205; §438.420 (managed care). The State may seek recovery against the beneficiary if he or she loses the appeal.	Benefits generally do not continue during the entire pendency of a Medicare appeal involving reduction or termination of services.
Appeals -- Document notifying beneficiaries of appeal rights	Medicare and Medicaid differ in the way in which documents provide notification of appeal rights.	Various documents may be used to notify beneficiaries of their appeal rights depending upon the State. Regulations require that information about appeals be included at the time of application, with a notice of adverse action on a claim, at the time of transfer or discharge from a SNF. §431.206. Also there are requirements of providing notice to beneficiaries enrolled in managed care organizations during terminations, suspensions, reductions in service, denial of payment, among others. §438.404.	Medicare Parts A and B: For standard appeals -- "Medicare Summary Notice" is sent to beneficiaries to notify them of their appeal rights. For expedited appeals -- Medicare Notice of Non-Coverage or important message from Medicare notifies beneficiaries of their appeals rights. Medicare Part C: A notice of non-coverage is delivered to beneficiaries to notify them of their appeal rights. Medicare Part D: A notice Denial of Medicare Prescription Drug Coverage is delivered to beneficiaries to notify them of their appeal rights.

Topic	Description	Summary of Medicaid Requirements	Summary of Medicare Requirements
Appeals -- Timeframes for resolution of an appeal related to benefits	Medicare and Medicaid vary in the time that a payer has to make a decision once an appeal is received.	FFS: Rules vary by State. Generally within 90 days of date of filing the appeal. §431.244. Managed Care: Standard appeals must generally be handled within 45 days, with extensions available in certain circumstances. Expedited appeals are to be handled within 3 working days, with extensions up to 14 calendar days in certain circumstances. §438.402, and §438.408.	Parts A and B: For standard, non-expedited appeals, different periods of time apply depending upon the stage of the review process. At the early stages, contractors generally have 60 days for review. At the ALJ/MAC Stage the review period is 90 days, and failure to meet the required time frame allows the party to escalate the appeal to the next higher level. Section 1869 of the Act; §405.1000 et seq. For timely filed expedited appeals, the time periods at the initial stages are more abbreviated (and generally not longer than 72 hours). Section 1869 of the Act; §405.1202, §405.1204, and §405.1206. Parts C and D: Standard plan reconsiderations must be resolved within 7 days (Part D) or 30 days (Part C). Expedited reviews are to be conducted within 72 hours.

[FR Doc. 2011–11848 Filed 5–11–11; 11:15 am]

BILLING CODE 4120–01–C

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 385, 386, 390, and 395

[Docket No. FMCSA–2004–19608]

RIN 2126–AB26

Hours of Service of Drivers

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice; availability of supplemental documents; reopening of comment period; correction.

SUMMARY: This document corrects the docket number referenced in the Addresses and Instructions paragraphs to a proposed rule's notice of availability of supplemental documents published in the **Federal Register** of May 9, 2011, regarding Hours of Service of Drivers. This correction replaces an incorrect docket number with the correct docket number for the public to

submit comments to the reopened docket about the four additional documents and FMCSA's possible consideration of the studies' findings in the development of the final rule.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, Driver and Carrier Operations Division, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366–4325.

Correction

In the notice, FR Doc. 2011–11150, beginning on page 26681 in the issue of May 9, 2011, make the following corrections, in both the **ADDRESSES** and Instructions paragraphs. On page 26681 in the 3rd column in both places it appears, replace docket number "FMCSA–2011–0039" with docket number "FMCSA–2004–19608."

Issued on: May 11, 2011.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2011–11933 Filed 5–13–11; 8:45 am]

BILLING CODE 4910–EX–P

Notices

Federal Register
Vol. 76, No. 94
Monday, May 16, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Regulation

ACTION: Notice of Public Meeting.

SUMMARY: Notice is hereby given that the Administrative Conference of the United States will host a public meeting of the Committee on Regulation on May 31, 2011 beginning at 2:30 p.m. The meeting is expected to run for approximately 90 minutes. At the meeting, Professor Wendy Wagner of the University of Texas Law School will discuss an outline of her planned research for a Conference project on "Science in the Administrative Process" and receive input from the committee on the planned research for the project. Complete details regarding the meeting, the research outline, information on meeting attendance (including information about remote access and obtaining special accommodation for persons with disabilities), and instructions on how to submit comments to the committee will be available on the "Research" section of the ACUS Web site, *http://www.acus.gov,* prior to the May 31 meeting.

Comments may be submitted by e-mail to *Comments@acus.gov,* with "Committee on Regulation Comment" in the subject line, or by postal mail to "Committee on Regulation Comments" at the address given below.

DATES: Tuesday, May 31, 2011, at 2:30 p.m.

ADDRESSES: The meeting will be held at the Administrative Conference of the United States, 1120 20th Street, NW., Suite 706 South, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Reeve T. Bull, Designated Federal Officer, Administrative Conference of the United States, 1120 20th Street, NW., Suite 706 South, Washington, DC 20036; Telephone 202–480–2080.

Dated: May 11, 2011.

Jonathan R. Siegel,

Director of Research & Policy.

[FR Doc. 2011–11889 Filed 5–13–11; 8:45 am]

BILLING CODE 6110–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Reestablish the National Genetic Resources Advisory Council, and Request for Nominations

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of Intent and Request for Nominations.

SUMMARY: The USDA intends to reestablish the National Genetic Resources Advisory (Council).

The purpose of the Council is to formulate recommendations on actions and policies for the collections, maintenance, and utilization of genetic resources; to make recommendations for coordination of genetic resources plans of several domestic and international organizations; and to advise the Secretary of Agriculture and the National Genetic Resources Program Director of new and innovative approaches to genetic resources conservation.

DATES: Written nominations must be received on or before June 30, 2011.

ADDRESSES: Nominations should be sent to J. Robert Burk, Executive Director, REE Advisory Board Office, USDA, 1400 Independence Avenue, SW., Room 3901–S, Washington, DC 20250–0321; Fasimile: (202) 720–6199. E-mail: *robert.burk@ars.usda.gov*.

FOR FURTHER INFORMATION CONTACT: J. Robert Burk, Designated Federal Official; Phone: (202) 720–8408; E-mail *robert.burk@ars.usda.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. App.), notice is hereby given that the Secretary of Agriculture intends to reestablish the National Genetic Resources Advisory Council for 2 years. The purpose of the Council is to formulate recommendations on actions and policies for the collection, maintenance, and utilization of genetic resources; resources; to make recommendations for coordination of genetic resources plans of several domestic and international organizations; and to advise the Secretary of Agriculture and the National Genetic Resources Program Director of new and innovative approaches to genetic resources conservation. The Executive Director of the Research, Education, and Economics Advisory Board Office will serve as the Council's Executive Secretary. Representatives from USDA mission areas and agencies affecting the collection, preservation, and dissemination of genetic material of importance to American food and agriculture production will be called upon to participate in the Council's meetings as determined by the Council Chairperson. Members will be appointed by the Secretary of Agriculture and serve 4-year terms. Membership will consist of up to nine (9) appointed members, and seven (7) ex-officio members. Two-thirds of the appointed members will be from scientific disciplines relevant to the National Genetic Resources Program including agricultural sciences, environmental sciences, national resource sciences, health sciences, and nutritional sciences. One-third of the appointed members will be from the general public including leaders in, fields of public policy, trade, international development law, or management. The Secretary will appoint a Chairperson from the appointed members of the Council. The Secretary of Agriculture invites those individuals, organizations, and groups affiliated with the categories listed above to nominate individuals for membership on the reestablished Council. Nominations should describe and document the proposed member's qualifications for membership to the Council, and list their name, title, address, email address, telephone, and fax number. The Secretary of Agriculture seeks a diverse group of members representing a broad spectrum of persons interested in providing suggestions and ideas on how USDA can tailor its programs to help maintain purity of non-GE genetics, from germplasm to commercial use; and improve stewardship practices and develop new tools to lessen the risk of gene flow in agricultural commodities. Individuals who are nominated will receive necessary forms from the USDA for membership. The biographical information and clearance forms must

be completed and returned to USDA within 10 working days of notification, to expedite the clearance process that is required before selection of Council members by the Secretary of Agriculture. Equal opportunity practices will be followed in all appointments to the Council in accordance with USDA policies. To ensure that the recommendations of the Council have taken into account the needs of the diverse groups served by USDA, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, persons with disabilities, and limited resource agriculture producers.

Dated: April 5, 2011.

Edward B. Knipling,

Administrator, ARS.

[FR Doc. 2011–11926 Filed 5–13–11; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Forest Service

Eastern Arizona Counties Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Eastern Arizona Counties will meet in Springerville, Arizona. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with title II of the Act. The meeting is open to the public. The purpose of the meeting is to review and recommend funding of project proposals.

DATES: The meeting will be held June 8, 2011 beginning at 10:30 a.m. until 5 p.m., and continue on June 9, 2011 beginning at 8:30 a.m. until approximately 4 p.m.

ADDRESSES: The meeting will be held at the Apache-Sitgreaves National Forests Supervisor's Office conference room, located at 30 South Chiricahua Drive. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Apache-Sitgreaves National Forests Supervisor's Office, located at 30 South Chiricahua Drive. Please call ahead to 928–333–6280 to facilitate entry into the building to view comments.

FOR FURTHER INFORMATION CONTACT: Julia Faith Rivera, RAC Program Manager, Eastern Arizona Counties Resource Advisory Committee, Apache-Sitgreaves National Forests, telephone 928–333–6280, or *jfrivera@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday. Requests for reasonable accommodation for access to the facility or proceedings may be made by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

SUPPLEMENTARY INFORMATION: The following business will be conducted: The Resource Advisory Committee will review and recommend funding of project proposals. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by June 1, 2011 to be scheduled on the agenda. Written comments and requests for time for oral comments must be sent to Apache-Sitgreaves National Forests, Attention RAC Program Manager, P.O. Box 640, Springerville, Arizona, or by e-mail to *jfrivera@fs.fed.us,* or via facsimile to 928–333–5966.

Dated: May 10, 2011.

James E. Zornes,

Deputy Forest Supervisor.

[FR Doc. 2011–11893 Filed 5–13–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Chippewa National Forest Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Chippewa National Forest Resource Advisory Committee will meet in Walker, Minnesota. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the title II of the Act. The meeting is open to the public. The purpose of the meeting is to complete specific recommendations of projects for funding and implementation.

DATES: Thursday, June 2, 2011 at 9 a.m. central time.

ADDRESSES: The meeting will be held at the Chase on the Lake Hotel, Lower Conference Room, 502 Cleveland Boulevard, Walker, MN 56484. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Chippewa National Forest Supervisors Office. Visitors are encouraged to call ahead to 218–335–8600 to facilitate entry into the building to view comments.

FOR FURTHER INFORMATION CONTACT: Kay K. Getting, Public Affairs Team Leader, Chippewa National Forest Supervisors Office, 218–335–8600. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: *The following business will be conducted:* Finalize the priority list of recommendations, identify future monitoring, recognition and closure of committee's work. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by May 25, 2011 to be scheduled on the agenda. Written comments and requests for time for oral comments must be sent to Chippewa RAC, 200 Ash Avenue, NW., Cass Lake, MN 56633, or by e-mail to *kgetting@fs.fed.us,* or via facsimile to 218–335–8637.

The agenda and any applicable documents may be previewed at the Secure Rural Schools RAC Web site *https://fsplaces.fs.fed.us/fsfiles/unit/wo/secure_rural_schools.nsf.*

Dated: May 5, 2011.

Darla Lenz,

Chippewa National Forest Supervisor.

[FR Doc. 2011–11883 Filed 5–13–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Delta-Bienville Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Delta-Bienville Resource Advisory Committee will meet in Forest, Mississippi. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act. The purpose of the meeting is to review and approve project proposals.

DATES: The meeting will be held on June 13, 2011, and will begin at 6 p.m.

ADDRESSES: The meeting will be held at the Bienville Ranger District Work Center, Hwy 501 South, 935A South Raleigh St., Forest, Mississippi 39074. Written comments should be sent to Michael T. Esters, Bienville Ranger District Office, 3473 Hwy 35 South, Forest, Mississippi 39074. Comments may also be sent via e-mail to *mesters@fs.fed.us,* or via facsimile to 601 469–2513.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Bienville Ranger District Office, 3473 Hwy 35 South, Forest, Mississippi 39074. Visitors are encouraged to call ahead to 601 469–3811 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Nefisia Kittrell, RAC coordinator, USDA, Bienville Ranger District Office, 3473 Hwy 35 South, Forest, Mississippi; (601) 469–3811; E-mail: *nkittrell@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. *The following business will be conducted:* (1) Review and approve project proposals and recommendations. Persons who wish to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting.

Dated: *May 10, 2011.*

Michael T. Esters,

Designated Federal Officer.

[FR Doc. 2011–11942 Filed 5–13–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Uinta-Wasatch-Cache National Forest Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Uinta-Wasatch-Cache National Forest Resource Advisory Committee will conduct a meeting in Salt Lake City, Utah. 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 is to continue the review of project submittals.

DATES: The meeting will be held on May 25, 2011, from 3 p.m. to 5:30 p.m.

ADDRESSES: The meeting will be held at the Salt Lake County Government Center, Room S1002, 2001 South State Street, Salt Lake City, Utah. Written comments should be sent to Loyal Clark, Uinta-Wasatch-Cache National Forest, 88 West 100 North, Provo, Utah 84601. Comments may also be sent via e-mail to *lfclark@fs.fed.us,* via facsimile to 801–342–5144.

All comments, including names and addresses when provided, are placed in the record and are available for inspection and copying. The public may inspect comments received at the Uinta-Wasatch-Cache National Forest, 88 West 100 North, Provo, Utah 84601.

FOR FURTHER INFORMATION CONTACT: Loyal Clark, RAC Coordinator, USDA, Uinta-Wasatch-Cache National Forest, 88 West 100 North, Provo, Utah 84601; 801–342–5117; *lfclark@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The following business will be conducted: (1) Finalize projects, and (2) schedule site monitoring visits. Persons who wish to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting.

Dated: May 10, 2011.

Larry Lucas,

Acting Forest Supervisor.

[FR Doc. 2011–11939 Filed 5–13–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Survey of Housing Starts, Sales, and Completions

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before July 15, 2011.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Erica Filipek, U.S. Census Bureau, MCD, CENHQ Room 7K181, 4600 Silver Hill Road, Washington, DC 20233, telephone (301) 763–5161 (or via the Internet at *Erica.Mary.Filipek@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Census Bureau plans to request a three-year extension of the current Office of Management and Budget (OMB) clearance of the Survey of Housing Starts, Sales and Completions, also known as the Survey of Construction (SOC). The SOC collects monthly data on new residential construction from a sample of owners or builders. The Census Bureau uses the Computer-Assisted Personal Interviewing (CAPI) electronic questionnaires SOC–QI/SF.1 and SOC–QI/MF.1 to collect data on start and completion dates of construction, physical characteristics of the structure (floor area, number of bathrooms, type of heating system, *etc.*), and if applicable, date of sale, sales price, and type of financing. The SOC provides widely used measures of construction activity, including the economic

indicators Housing Starts and Housing Completions, which are from the New Residential Construction series, and New Residential Sales.

The current clearance for this survey is scheduled to expire on November 30, 2011. No changes are planned to the questionnaire.

We sample about 1,850 new buildings each month (22,200 per year). We inquire about the progress of each building multiple times until it is completed (and a sales contract is signed, if it is a single-family house that is built for sale). We conduct an average of 7.9 interviews for each building sampled. The total number of interviews conducted each year is about 175,380. Each interview takes 5 minutes on average. Therefore the total annual burden is 14,615 hours.

II. Method of Collection

The Census Bureau uses its field representatives to collect the data. The field representatives conduct interviews to obtain data.

III. Data

OMB Control Number: 0607–0110.

Form Number: SOC–QI/SF.1 and SOC–QI/MF.1.

Type of Review: Regular submission.

Affected Public: Individuals or households, business, or other for-profit institutions.

Estimated Number of Respondents: 22,200.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 14,615.

Estimated Total Annual Cost: The estimated cost to the respondents is $433,773 based on an average hourly pay for the respondent of $29.68. This estimate was taken from the Department of Labor, Bureau of Labor Statistics, Occupational Employment Statistics Survey for 2009.

Respondents Obligation: Voluntary.

Legal Authority: Title 13 U.S.C. Section 182.

IV. Request for Comments

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

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

Dated: May 10, 2011.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–11872 Filed 5–13–11; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 32–2011]

Foreign-Trade Zone 225—Springfield, MO; Application for Reorganization/ Expansion Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the City of Springfield Airport Board, grantee of FTZ 225, requesting authority to reorganize and expand the zone under the alternative site framework (ASF) adopted by the Board (74 FR 1170–1173, 01/12/09 (correction 74 FR 3987, 01/22/09); 75 FR 71069–71070, 11/22/10). The ASF is an option for grantees for the establishment or reorganization of general-purpose zones and can permit significantly greater flexibility in the designation of new "usage-driven" FTZ sites for operators/users located within a grantee's "service area" in the context of the Board's standard 2,000-acre activation limit for a general-purpose zone project. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on May 10, 2011.

FTZ 225 was approved by the Board on August 1, 1997 (Board Order 911, 62 FR 43143, 08/12/97), and consists of a site at the Springfield-Branson National Airport Complex, 2300 North Airport Boulevard, Springfield (Site 1—2,363 acres).

The grantee's proposed service area under the ASF would be Barry, Barton, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell (partial), Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas (partial), Vernon, Webster and Wright Counties, Missouri, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is within and adjacent to the Springfield Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize its existing zone project to include the existing site as a "magnet" site. The ASF allows for the possible exemption of one magnet site from the "sunset" time limits that generally apply to sites under the ASF, and the applicant proposes that Site 1 be so exempted. The applicant is also requesting approval of the following initial "usage-driven" site: *Proposed Site 2* (88.77 acres)—Jarden Consumer Solutions, 303 Nelson Avenue, Neosho (Newton County).

In accordance with the Board's regulations, Camille Evans of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 15, 2011. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to August 1, 2011.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230–0002, and in the "Reading Room" section of the Board's Web site, which is accessible via *http://www.trade.gov/ftz.* For further information, contact Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: May 10, 2011.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2011–11992 Filed 5–13–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1756]

Grant of Authority; Establishment of a Foreign-Trade Zone; Greenup and Boyd Counties, KY

Pursuant to its authority under the Foreign-Trade Zones Act of June 18,

1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Act provides for " * * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection (CBP) ports of entry;

Whereas, the Greenup-Boyd Riverport Authority (the Grantee) has made application to the Board (FTZ Docket 59–2010, filed 10/15/2010), requesting the establishment of a foreign-trade zone to serve Greenup and Boyd Counties, Kentucky, adjacent to the Charleston, West Virginia, U.S. Customs and Border Protection port of entry;

Whereas, notice inviting public comment has been given in the **Federal Register** (75 FR 64694, 10/20/2010), and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 278, at the site described in the application, and subject to the FTZ Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this May 4, 2011.

Gary Locke,

Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

ATTEST:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2011–11988 Filed 5–13–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1758]

Reorganization of Foreign-Trade Zone 51 Under Alternative Site Framework; Duluth, MN

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (74 FR 1170, 01/12/09; correction 74 FR 3987, 01/22/09; 75 FR 71069–71070, 11/22/10) as an option for the establishment or reorganization of general-purpose zones;

Whereas, the Duluth Seaway Port Authority, grantee of Foreign-Trade Zone 51, submitted an application to the Board (FTZ Docket 58–2010, filed 10/1/2010, amended 4/4/2011) for authority to reorganize under the ASF with a service area of Carlton County and portions of Itasca, Lake, and St. Louis Counties, Minnesota, in and adjacent to the Duluth Customs and Border Protection port of entry, and FTZ 51's existing Sites 1 and 2 would be categorized as magnet sites;

Whereas, notice inviting public comment was given in the **Federal Register** (75 FR 61696, 10/6/2010) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendation of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to reorganize FTZ 51 under the alternative site framework is approved, subject to the FTZ Act and the Board's regulations, including Section 400.28, to the Board's standard 2,000-acre activation limit for the overall general-purpose zone project, and to a five-year ASF sunset provision for magnet sites that would terminate authority for Site 2 if not activated by May 31, 2016.

Signed at Washington, DC, May 6, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

ATTEST:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2011–11986 Filed 5–13–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–901]

Certain Lined Paper Products From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review Pursuant to Court Decision

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

SUMMARY: On April 27, 2011, the United States Court of International Trade ("CIT") sustained the Department of Commerce's ("the Department's") results of redetermination as applied to Shanghai Lian Li Paper Products Co., Ltd. ("Lian Li") pursuant to the CIT's order granting the Department's voluntary remand request in *Shanghai Lian Li Paper Products Co., Ltd.* v. *United States,* 09–00198, (April 15, 2010). *See* Final Results of Redetermination Pursuant to Remand, Court No. 09–00198, dated September 3, 2010 ("Remand Results"), and *Shanghai Lian Li Paper Products Co., Ltd.* v. *United States,* Court No. 09–00198, Slip Op. 11–48 (April 27, 2011). The Department is notifying the public that the final CIT judgment in this case is not in harmony with the Department's final determination and is amending the final results of the administrative review of the antidumping duty order on certain lined paper products ("CLPP") from the People's Republic of China ("PRC") covering the period of review April 17, 2006, through August 31, 2007, with respect to Lian Li.

DATES: *Effective Date:* May 9, 2011.

FOR FURTHER INFORMATION CONTACT: Victoria Cho, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone; (202) 482–5075.

SUPPLEMENTARY INFORMATION:

Background

On April 14, 2009, the Department published its final results of the administrative review for CLPP from the PRC for the period from April 17, 2006, through August 31, 2007. *See Certain Lined Paper Products from the People's Republic of China: Notice of Final Results of the Antidumping Duty Administrative Review,* 74 FR 17160 (April 14, 2009) ("*Final Results*").

On December 22, 2009, the Department published its amended final results of review. *See Notice of Amended Final Results of the Antidumping Duty Administrative Review of Certain Lined Paper Products from the People's Republic of China,* 74 FR 68036 (December 22, 2009) ("*Amended Final*").

Lian Li challenged the Department's *Amended Final* at the CIT. On April 15, 2010, the CIT granted the Government's motion for voluntary remand to correct two errors. On September 3, 2010, the Department issued its final results of remand redetermination. *See* Remand Results. On April 27, 2011, the CIT

affirmed the Department's Remand Results. *Shanghai Lian Li Paper Products Co., Ltd.* v. *United States,* Court No. 09–00198, Slip Op. 11–48 (April 27, 2011).

Timken Notice

Consistent with the decision of the United States Court of Appeals for the Federal Circuit ("CAFC") in *Timken Co.* v. *United States,* 893 F.2d 337 (CAFC 1990) ("*Timken*"), as clarified by *Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (CAFC 2010), pursuant to section 516A(c) of the Act, the Department must publish a notice of a court decision that is not "in harmony" with a Department determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's judgment on April 27, 2011, sustaining the Department's Remand with respect to Lian Li constitutes a decision of that court that is not in harmony with the Department's *Amended Final.* This notice is published in fulfillment of the publication requirements of *Timken.* Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision.

Amended Final Results

Because there is now a final court decision with respect to Lian Li, the weighted-average dumping margin for the period April 1, 2006, through August 31, 2007, for CLPP from the PRC is 4.28 percent for Lian Li. In the event the CIT's ruling is not appealed or, if appealed, upheld by the CAFC, the Department will instruct U.S. Customs and Border Protection to assess antidumping duties on entries of the subject merchandise exported during the POR by Lian Li using the revised assessment rate calculated by the Department in the Remand Results.

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: May 9, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011–11985 Filed 5–13–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Wyoming, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscope

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 3720, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 11–019. *Applicant:* University of Wyoming, Laramie, WY 82072. *Instrument:* Electron Microscope. *Manufacturer:* Hitachi High-Technologies Corporation, Japan. *Intended Use:* See notice at 76 FR 20952, April 14, 2011.

Docket Number: 11–020. *Applicant:* U.S. Department of Agriculture, Beltsville, MD 20705. *Instrument:* Electron Microscope. *Manufacturer:* Hitachi High-Technologies Corporation, Japan. *Intended Use:* See notice at 76 FR 20952, April 14, 2011.

Docket Number: 11–024. *Applicant:* Mayo Clinic, Rochester, MN 55905. *Instrument:* Electron Microscope. Manufacturer: FEI Company, the Netherlands. *Intended Use:* See notice at 76 FR 20952, April 14, 2011.

Docket Number: 11–025. *Applicant:* California State University-Long Beach, Long Beach, CA 90840. *Instrument:* Electron Microscope. *Manufacturer:* Neaspec GmbH, Germany. *Intended Use:* See notice at 76 FR 20952, April 14, 2011.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States at the time the instrument was ordered. *Reasons:* Each foreign instrument is an electron microscope and is intended for research or scientific educational uses requiring an electron microscope. We know of no electron microscope, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of each instrument.

Dated: May 10, 2011.

Gregory W. Campbell,

Director, Subsidies Enforcement Office, Import Administration.

[FR Doc. 2011–11979 Filed 5–13–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

UChicago Argonne, LLC, et al.; Notice of Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 3720, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, DC.

Comments: None received. *Decision:* Approved. We know of no instrument of equivalent scientific value to the foreign instrument described below, for such purposes as this is intended to be used, that was being manufactured in the United States at the time of its order.

Docket Number: 11–023. *Applicant:* UChicago Argonne, LLC, Lemont, IL 60439. *Instrument:* Mythen 1K Detector System. *Manufacturer:* Dectris Ltd., Switzerland. *Intended Use:* See notice at 76 FR 20953, April 14, 2011. *Reasons:* The instrument will be used for resonant inelastic x-ray scattering (RIXS) to study the electronic structure of highly correlated systems. This instrument is unique in that it has a small pixel pitch (50 microns); high detection efficiency, single photon counting with high dynamic range; and a small, lightweight and compact design.

Dated: May 10, 2011.

Gregory W. Campbell,

Director, Subsidies Enforcement Office, Import Administration.

[FR Doc. 2011–11984 Filed 5–13–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA437

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Monkfish Oversight Committee meeting to consider actions affecting New

England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on Wednesday, June 1, 2011, at 9 a.m.

ADDRESSES: The meeting will be held at the Best Western Wynwood Hotel, 580 US Highway 1, Interstate Traffic Circle, Portsmouth, NH 03801; *telephone:* (603) 436–7600; *fax:* (603) 436–7600.

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

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

SUPPLEMENTARY INFORMATION: The New England and Mid-Atlantic Councils have declared their intent to consider catch shares management for the monkfish fishery and have held a round of scoping hearings on Amendment 6 for that purpose. After reviewing public comment, the Committee directed the staff to prepare a white paper discussing the issues and considerations in developing either separate management programs for Northern and Southern Management Areas, or separating the Monkfish Fishery Management Plan into two separate plans. At this meeting, the Committee will review the white paper and develop recommendations to the Councils on how to proceed with Amendment 6.

The Committee will also review NMFS' Strategic Plan for Cooperative Research 2011–2014. NMFS will hold a public comment session in conjunction with the NEFMC's June Council meeting, at which time Committee comments will be presented.

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

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: May 11, 2011.

Tracey L. Thompson,

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

[FR Doc. 2011–11906 Filed 5–13–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Air Force

U.S. Air Force Scientific Advisory Board Notice of Meeting

AGENCY: Department of the Air Force, U.S. Air Force Scientific Advisory Board, DoD.

ACTION: Meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the United States Air Force Scientific Advisory Board (SAB) meeting will take June 16 and 17, 2011 at General Bill Creech Conference Center, 190 Dodd Blvd., Suite 200, Langley AFB, VA 23665–2788. The meeting on Thursday, June 16, will be from 7:30 a.m.–4:45 p.m. The meeting on Friday, June 17, will be from 7:30 a.m.–11:30 a.m.

The purpose of the meeting is to hold the SAB quarterly meeting to conduct classified discussions on the various missions of Langley Air Force Base, how capabilities are used in the field, how this information relates to the FY11 SAB studies tasked by the SECAF, and to reach consensus and vote on the findings for the FY11 studies.

The results will also be briefed to USAF senior leadership during the last day of the meeting. *This year's studies were:* Sustaining Air Force Aging Aircraft into the 21st Century, Munitions for the 2025+ Environment and Force Structure, and Sensor Data Exploitation.

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155, the Administrative Assistant to the Secretary of the Air Force, in consultation with the Office of the Air Force General Counsel, has agreed that all sessions of the United States Air Force Scientific Advisory Board meeting be closed to the public, but include input provided by the public. The meeting will concern classified information and matters covered by sections 5 U.S.C. 552b(c)(1) and (4). The only exception will be the Banquet the evening of Thursday, June 16, which will be open to the public.

Any member of the public wishing to provide input to the United States Air Force Scientific Advisory Board should submit a written statement in accordance with 41 CFR 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act and the procedures described in this paragraph. Written statements can be submitted to the Designated Federal Officer at the address detailed below at any time. Statements being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer at the address listed below at least five calendar days prior to the meeting which is the subject of this notice. Written statements received after this date may not be provided to or considered by the United States Air Force Scientific Advisory Board until its next meeting. The Designated Federal Officer will review all timely submissions with the United States Air Force Scientific Advisory Board Chairperson and ensure they are provided to members of the United States Air Force Scientific Advisory Board before the meeting that is the subject of this notice.

FOR FURTHER INFORMATION CONTACT: The United States Air Force Scientific Advisory Board Executive Director and Designated Federal Officer, Lt Col Anthony M. Mitchell, 301–981–7135, United States Air Force Scientific Advisory Board, 1602 California Ave., Ste. #251, Andrews AFB, MD 20762, *anthonym.mitchell@pentagon.af.mil.*

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. 2011–11907 Filed 5–13–11; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Hadal, Inc.

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Hadal, Inc. a revocable, non-assignable, exclusive license to practice in the United States, the Government-owned inventions described in Navy Case No. 98,709: Attitude Estimation Using Ground Imagery//Navy Case No. 98,801: Apparatus and Method For Grazing Angle Independent Signal Detection//Navy Case No. 98,946: Apparatus and Method For Compensating Images For Differences In Aspect//Navy Case No. 98,947: System

and Method For Spatially Invariant Signal Detection//Navy Case No. 98,984: Correlation Image Detector//Navy Case No. 99,033: Holographic Map//Navy Case No. 99,067: Holographic Navigation//Navy Case No. 99,413: Coherent Image Correlation//Navy Case No. 100,287: Facemask Display//.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than May 31, 2011.

ADDRESSES: Written objections are to be filed with the Office of Counsel, Naval Surface Warfare Center Panama City, 110 Vernon Ave., Code CDL, Panama City, FL 32407–7001.

FOR FURTHER INFORMATION CONTACT: Mr. James Shepherd, Patent Counsel, Naval Surface Warfare Center Panama City, 110 Vernon Ave., Panama City, FL 32407–7001, telephone 850–234–4646, fax 850–235–5497, or *james.t.shepherd@navy.mil*.

(Authority: 35 U.S.C. 207, 37 CFR part 404.)

Dated: May 9, 2011.

D.J. Werner,

Lieutenant Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2011–11947 Filed 5–13–11; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Chief of Naval Operations Executive Panel

AGENCY: Department of the Navy, DoD.

ACTION: Notice of open meeting.

SUMMARY: The Chief of Naval Operations (CNO) Executive Panel will deliberate on the findings and proposed recommendations of the Resource Sponsorship Subcommittee study. The meeting will consist of discussions regarding the current Navy functional organization and the effectiveness and efficiency of its resulting Program Objective Memorandum (POM) versus other previous and potential future organizational structures.

DATES: The meeting will be held on May 31, 2011, from 1 p.m. to 3 p.m.

ADDRESSES: The meeting will be held in the Boardroom at CNA, 4825 Mark Center Drive, Alexandria, VA 22311–1846.

FOR FURTHER INFORMATION CONTACT: LCDR Don Rauch, CNO Executive Panel, 4825 Mark Center Drive, Alexandria, VA 22311–1846, 703–681–4941.

SUPPLEMENTARY INFORMATION: Individuals or interested groups may submit written statements for consideration by the CNO Executive Panel at any time or in response to the agenda of a scheduled meeting. All requests must be submitted to the Designated Federal Officer at the address detailed below.

If the written statement is in response to the agenda mentioned in this meeting notice then the statement, if it is to be considered by the Panel for this meeting, must be received at least five days prior to the meeting in question.

The Designated Federal Officer will review all timely submissions with the CNO Executive Panel Chairperson, and ensure they are provided to members of the CNO Executive Panel before the meeting that is the subject of this notice.

To contact the Designated Federal Officer, write to Executive Director, CNO Executive Panel (N00K), 4825 Mark Center Drive, 2nd Floor, Alexandria, VA 22311–1846.

Dated: May 9, 2011.

D.J. Werner,

Lieutenant Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2011–11945 Filed 5–13–11; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment Request.

SUMMARY: The Director, Information Collection Clearance Division, Privacy, Information and Records 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 June 15, 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: May 10, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records 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: State, Local, or Tribal Government, State Educational Agenices or Local Educational Agencies.

Total Estimated Number of Annual Responses: 33.

Total Estimated Annual Burden Hours: 891.

Abstract: Title III of the Assistive Technology (AT) 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 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. Section 307 of Title III requires that the Rehabiliation Services Administration (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 RSA. This annual report is a web-based data collection system developed based upon the instrument submitted for review herein.

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 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 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. 2011–11899 Filed 5–13–11; 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, Privacy, Information and Records 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 June 15, 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: May 10, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records 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 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 and the corresponding regulations in 34 CFR parts 364, 365, and 366. Approval of grantees' annual performance reports (704 Report) is a prerequisite for the Rehabilitation Services Administration's approval of the annual SILS grant awards (part B funds) and CILs continuation grant awards (part C funds).

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 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 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. 2011–11901 Filed 5–13–11; 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, Privacy, Information and Records 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 June 15, 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: May 10, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: Extension.

Title of Collection: Application Package for Graduate Assistance in Areas of National Need Program.

OMB Control Number: 1840–0604.

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: 325.

Total Estimated Annual Burden Hours: 13,432.

Abstract: This information collection provides the U.S. Department of Education with information needed to evaluate, score, and rank the quality of the projects proposed by institutions of higher education applying for a Graduate Assistance in Areas of National Need grant. Title VII, Part A of the Higher Education Act of 1965, as amended, requires the collection of specific data that are necessary for applicant institutions to receive an initial competitive grant and non-competing continuation grants for the second and third years.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

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 4562. 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. 2011–11902 Filed 5–13–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register.**

DATES: Thursday, June 2, 2011, 9 a.m.–5 p.m.

Friday, June 3, 2011, 8:30 a.m.–4 p.m.

ADDRESSES: Red Lion Hotel, 1101 North Columbia Center Boulevard, Kennewick, WA 99336.

FOR FURTHER INFORMATION CONTACT: Paula Call, Federal Coordinator, Department of Energy Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, A7–75, Richland, WA 99352; *Phone:* (509) 376–2048; or E-mail: *Paula.Call@rl.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

- Agency Updates, including progress on the American Recovery and Reinvestment Act (Office of River Protection and Richland Operations Office; Washington State Department of Ecology; U.S. Environmental Protection Agency).
- Committee Updates, including: Tank Waste Committee; River and Plateau Committee; Health, Safety and Environmental Protection Committee; Public Involvement Committee; and Budgets and Contracts Committee.
- Potential Board Advice:
  - River Corridor Baseline Risk Assessment.
  - Tank Vapors.
  - System Plan Revision 6.
  - 200–PW–1, 3, 6 and CW–5 Operable Units Proposed Plan (tentative).
- Third Comprehensive Environmental Response, Compensation, and Liability Act Five-Year Review Update.
- Committee Reports.
  - Board Business:
  - Board Evaluation.
  - Preliminary 2012 Board Priorities.
  - Hanford Advisory Board Budget.
  - Process Discussions:
    - Issue Managers.
    - Advice Development.

Public Participation: The meeting is open to the public. The EM SSAB, Hanford, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Paula Call at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Paula Call at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Paula Call's office at the address or phone number listed above. Minutes will also be available at the following Web site: *http://www.hanford.gov/page.cfm/hab.*

Issued at Washington, DC on May 10, 2011.

LaTanya R. Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2011–11922 Filed 5–13–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12958–001; Project No. 12962–001]

Uniontown Hydro, LLC, Newburgh Hydro, LLC; Notice of Applications 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 Applications:* New Major License.

b. *Project Nos.:* 12958–001 and 12962–001.

c. *Date Filed:* April 29, 2011.

d. *Applicant:* Uniontown Hydro, LLC and Newburgh Hydro, LLC.

e. *Name of Projects:* Uniontown Hydroelectric Project and Newburgh Hydroelectric Project.

f. *Location:* The projects would be located on the Ohio River at existing U.S. Army Corps of Engineers locks and dams. The Uniontown Project would be located at the John T. Myers Lock and Dam, in Union County, Kentucky and Posey County, Indiana. The Newburgh Project would be located at the Newburgh Lock and Dam, in Henderson County, Kentucky and Warrick County, Indiana.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Brent L. Smith, COO, Symbiotics, P.O. Box 535, Rigby, Idaho 83442.

i. *FERC Contact:* Jennifer Adams; (202) 502–8087, or *jennifer.adams@ferc.gov.*

j. This application is not ready for environmental analysis at this time.

k. *The Project Description:* The existing John T. Myers Lock and Dam is a 3,504-foot-long, 119-foot-high dam containing ten Taintor gates and a concrete fixed weir. Each gate is 110-foot-wide by 32-foot-high. The main and auxiliary locks are on the Indiana side of the river. The main lock is 110-foot-wide by 1,200-foot-long and the auxiliary lock is 110-foot-wide by 600-foot-long. The impoundment above the John T. Myers Lock and Dam has a surface area of 19,350 acres and a storage capacity of 543,862 acre-feet. Because the purpose of the storage is navigational only, the storage would not be used for power generation.

The proposed Uniontown Project (at the John T. Myers Lock and Dam) would consist of: (1) A 340-foot-long by 75-foot-wide powerhouse and inlet containing four Kaplan turbine-generators, with an installed capacity of 24.0 MW each for a total plant capacity of 96.0 MW; (2) a 520-foot-wide by 38-foot-high trash rack, with 4-inch openings; (3) a 300-foot-wide by 57-foot-high concrete draft tube outlet; (4) a 14.47-mile-long, 138-kV transmission line; and (5) appurtenant facilities.

The existing Newburgh Lock and Dam is a 2,275.5-foot-long by 122-foot-high dam containing nine Taintor gates and a concrete fixed weir. Each gate is 110-foot-wide by 32-feet-high. The main and auxiliary locks are on the Indiana side of the river. The main lock is 110-foot-wide by 1,200-foot-long and the auxiliary lock is 110-foot-wide by 600-foot-long. The impoundment above the Newburgh Lock and Dam has a surface area of 16,390 acres and a storage capacity of 455,800 acre-feet. Because the purpose of the storage is navigational only, the storage would not be used for power generation.

The proposed Newburgh Project (at the Newburgh Lock and Dam) would consist of: (1) A 375-foot-long by 110-foot-wide powerhouse and inlet containing five Kaplan turbine-generators, with an installed capacity of 13.0 MW each for a total plant capacity of 65.0 MW; (2) a 400-foot-wide by 44-foot-high trash rack, with 4-inch openings; (3) a 375-foot-wide by 57-foot-high concrete draft tube outlet; (4) a 4.7-mile-long, 138-kV transmission line; and (5) appurtenant facilities.

l. *Locations of the Applications:* Copies of the applications 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, 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 e-mail 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 Hydropower Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Notice of Acceptance/ Notice of Ready for Environmental Analysis.	June 28, 2011.
Filing of recommendations, preliminary terms and conditions, and fishway prescriptions.	August 27, 2011.
Commission issues Draft EA.	February 23, 2012.
Comments on Draft EA	March 24, 2012.
Modified terms and conditions.	May 23, 2012.
Commission Issues Final EA or EIS.	August 21, 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: May 10, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–11911 Filed 5–13–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2413–115]

Georgia Power 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:* Non-project use of project lands and waters.

b. *Project No:* 2413–115.

c. *Date Filed:* March 2, 2011.

d. *Applicant:* Georgia Power Company.

e. *Name of Project:* Wallace Pumped Storage Project.

f. *Location:* Lake Oconee in Greene County, Georgia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Susan Davis, Georgia Power Company, 125 Wallace Dam Road, Eatonton, GA 31024.

i. *FERC Contact:* Mark Carter, (678) 245–3083, *mark.carter@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* June 9, 2011.

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 at *http://www.ferc.gov/docs-filing/efiling.asp.* If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be mailed to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. 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. Please include the project number (P–2413–115) on any comments or motions filed.

k. *Description of Application:* Georgia Power Company requests Commission approval to grant Reynolds Plantation (permittee) a permit to use project lands for the construction of Dye golf course on Lake Oconee. The golf course would occupy 2.25 acres of project lands along 3,890 feet of shoreline, would consist of 6,907 square feet of boardwalk and bridge and 664 square feet of rough, and would require 1 acre of tree clearing and 1.08 acres of selective tree thinning.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field (P–2413) to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) Bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the amendment application. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: May 10, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–11916 Filed 5–13–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL07–86–016; Docket No. EL07–88–016; Docket No. EL07–92–016]

Notice of Filing

Ameren Services Company, Northern Indiana Public Service Company v. *Midwest Independent Transmission System Operator, Inc., Great Lakes Utilities, Indiana Municipal Power Agency, Missouri Joint Municipal Electric Utility Commission, Missouri River Energy Services, Prairie Power, Inc., Southern Minnesota Municipal Power Agency, Wisconsin Public Power Inc.* v. *Midwest Independent Transmission System Operator, Inc., Wabash Valley Power Association, Inc.* v. *Midwest Independent Transmission System Operator, Inc.*

Take notice that on May 9, 2011, The Midwest Independent Transmission System Operator, Inc. filed proposed revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff, pursuant to the Federal Energy Regulatory Commission's Order issued April 7, 2011, *Midwest Indep. Trans. Sys. Operator, Inc.,* 135 FERC ¶ 61,007 (2011) (April 7 Rehearing Order).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed

docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on May 31, 2011.

Dated: May 10, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–11913 Filed 5–13–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL07–86–017; Docket No. EL07–88–017; Docket No. EL07–92–017]

Notice of Filing

Ameren Services Company, Northern Indiana Public Service Company v. *Midwest Independent Transmission System Operator, Inc., Great Lakes Utilities, Indiana Municipal Power Agency, Missouri Joint Municipal Electric Utility Commission, Missouri River Energy Services, Prairie Power, Inc., Southern Minnesota Municipal Power Agency, Wisconsin Public Power Inc.* v. *Midwest Independent Transmission System Operator, Operator, Inc., Wabash Valley Power Association, Inc.* v. *Midwest Independent Transmission System Operator, Inc.*

Take notice that on May 9, 2011, The Midwest Independent Transmission System Operator, Inc. filed proposed revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff, Fourth Revised Volume, pursuant to the Federal Energy Regulatory Commission's Order issued April 7, 2011, *Ameren Services Co., et al.* v. *Midwest Indep. Trans. Sys. Operator, Inc.,* 135 FERC ¶ 61,008 (2011) (April 7 Compliance Order).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on May 31, 2011.

Dated: May 10, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–11914 Filed 5–13–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AC11–52–000]

Trans-Union Interstate Pipeline, L.P.; Notice of Filing

Take notice that on April 7, 2011 Trans-Union Interstate Pipeline, L.P. submitted a request for a waiver of the reporting requirement to file the FERC Form 2–A for 2010.

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 or 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: June 9, 2011.

Dated: May 10, 2011.

Kimberly Bose,

Secretary.

[FR Doc. 2011–11912 Filed 5–13–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 199–205]

South Carolina Public Service Authority; Notice of Meeting

On May 6, 2011, the National Marine Fisheries Service (NMFS) contacted Commission staff regarding a meeting with South Carolina Public Service Authority (SCPSA), licensee for the Santee-Cooper Hydroelectric Project No. 199, and staff to discuss what is needed to complete formal consultation for shortnose sturgeon (*Acipenser brevirostrum*) under section 7 of the Endangered Species Act. Accordingly, Commission staff will meet with representatives of NMFS and SCPSA, the Commission's non-Federal representative for the Santee-Cooper Project, on Thursday, May 26, 2011. The meeting will start at 9 a.m. at NMFS' office at 253 13th Avenue South, St. Petersburg, Florida. All local, State, and Federal agencies, and interested parties, are hereby invited to attend and observe this meeting. Questions concerning the meeting should be directed to Dr. Stephania Bolder of NMFS at (727) 824–5312.

Dated: May 10, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–11915 Filed 5–13–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration

Extension of the Public Review and Comment Period and Announcement of an Additional Public Hearing for the Draft Supplemental Environmental Impact Statement for the Nuclear Facility Portion of the Chemistry and Metallurgy Research Building Replacement Project at Los Alamos National Laboratory, Los Alamos, NM

AGENCY: National Nuclear Security Administration, U.S. Department of Energy.

ACTION: Extension of Public Review and Comment Period and Announcement of an additional Public Hearing.

SUMMARY: On April 29, 2011, the National Nuclear Security Administration (NNSA), a semi-autonomous agency within the U.S. Department of Energy (DOE), published a notice of availability for the *Draft Supplemental Environmental Impact Statement for the Nuclear Facility Portion of the Chemistry and Metallurgy Research Building Replacement Project at Los Alamos National Laboratory, Los Alamos, New Mexico* (CMRR–NF DSEIS; DOE/EIS–0350–S1). That notice stated that the public review and comment period would continue until June 13, 2011. NNSA has decided to extend the public comment period by 15 days through June 28, 2011 and to hold an additional public hearing on Monday, May 23, 2011 in Albuquerque, NM.

ADDRESSES: The Draft CMRR–NF SEIS and its reference material are available for review on the NNSA NEPA Web site at: *http://nnsa.energy.gov/nepa/cmrrseis*. Copies of the Draft CMRR–NF SEIS are also available for review at: The Los Alamos National Laboratory, Oppenheimer Study Center, Building TA3–207, West Jemez Road, Los Alamos, New Mexico; the Office of the Northern New Mexico Citizens Advisory Board, 1660 Old Pecos Trail, Suite B, Santa Fe, New Mexico; and the Zimmerman Library, University of New Mexico, Albuquerque, New Mexico. The Draft CMRR–NF SEIS or its Summary may be obtained upon request by leaving a message on the Los Alamos Site Office (LASO) CMRR–NF SEIS Hotline at (toll free) 1–877–427–9439; or by writing to: U.S. Department of Energy, National Nuclear Security Administration, Los Alamos Site Office, 3747 West Jemez Road, TA–3 Building 1410, Los Alamos, New Mexico 87544, Attn: Mr. John Tegtmeier, CMRR–NF SEIS Document Manager; or by facsimile ((505) 667–5948); or by e-mail at: *NEPALASO@doeal.gov.*

FOR FURTHER INFORMATION CONTACT: For general information on the NNSA NEPA process, please contact: Ms. Mary Martin (NA–GC), NNSA NEPA Compliance Officer, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, or telephone 202–586–9438.

For general information concerning the DOE NEPA process, contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (GC–54), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; (202) 586–4600; leave a message at (800) 472–2756; or send an e-mail to *askNEPA@hq.energy.gov.* Additional information regarding DOE NEPA activities and access to many DOE NEPA documents are available on the Internet through the DOE NEPA Web site at *http://nepa.energy.gov.*

SUPPLEMENTARY INFORMATION: The Council on Environmental Quality's implementing regulations for the National Environmental Policy Act (NEPA) (40 CFR 1502.9[c][1] and [2]) and DOE's NEPA implementing regulations (10 CFR 1021.314) require the preparation of a supplement to an environmental impact statement (EIS) when there are substantial changes to a proposal or when there are significant new circumstances or information relevant to environmental concerns. DOE may also prepare a supplemental EIS at any time to further the purposes of NEPA. Pursuant to these provisions, the NNSA has prepared a supplemental environmental impact statement (SEIS) to assess the potential environmental impacts of the construction and operation of the nuclear facility portion of the Chemistry and Metallurgy Research Building Replacement Project (CMRR–NF) at Los Alamos National Laboratory (LANL), Los Alamos, New Mexico.

The CMRR Project was first analyzed in the 2003 *Final Environmental Impact Statement for the Proposed Chemistry and Metallurgy Research Building Replacement Project at Los Alamos National Laboratory, Los Alamos, NM* (the CMRR EIS) (DOE/EIS–0350), and NNSA issued a Record of Decision for the CMRR Project in February 2004 (68 FR 6420) announcing its decision to construct and operate a two building CMRR facility within Technical Area-55 (TA–55) at Los Alamos National Laboratory (LANL) in order to meet its need to sustain mission-critical specialized nuclear chemistry and metallurgy capabilities at LANL in a safe, secure and environmentally sound manner. Since that time, NNSA has constructed one of the two buildings for the CMRR Project (the Radiological Laboratory/Utility/Office Building, also called the RLUOB), and has engaged in project planning and design processes for the second building, the CMRR–NF. The planning and design processes for the CMRR–NF have identified the need for various changes to the original design for the structure and additional project elements not envisioned in the 2003 NEPA analyses. These proposed changes, identified subsequent to the ROD, are the subject of the CMRR–NF SEIS analyses.

On April 29, 2011, the National Nuclear Security Administration (NNSA), published a notice of availability for the *Draft Supplemental Environmental Impact Statement for the Nuclear Facility Portion of the Chemistry and Metallurgy Research Building Replacement Project at Los Alamos National Laboratory, Los Alamos, New Mexico* (CMRR–NF DSEIS; DOE/EIS–0350–S1) (76 FR 24018). That notice stated that the public review and comment period would continue until June 13, 2011. NNSA has decided to extend the public comment period by 15 days through June 28, 2011. NNSA has also decided to hold one additional public hearing during the comment period.

The newly added public hearing will take place on Monday, May 23, 2011 in Albuquerque, NM. The complete schedule for public hearings on the Draft CMRR–NF SEIS with all dates, times, and locations is the following:

- Monday, May 23, 2011, at 5 p.m. to 9 p.m., Albuquerque Marriott, Salon F, 2101 Louisiana Boulevard, NE., Albuquerque, NM.
- Tuesday, May 24, 2011, at 5 p.m. to 9 p.m., Holiday Inn Express, 60 Entrada Drive, Los Alamos, NM.
- Wednesday, May 25, 2011, at 5 p.m. to 9 p.m., Santa Claran Hotel, 464 N. Riverside Drive, Española, NM.
- Thursday, May 26, 2011, at 5 p.m. to 9 p.m., Santa Fe Community College, Jemez Rooms, 6401 Richards Avenue, Santa Fe, NM.

The first half hour of each hearing will be conducted as an open house-style session with subject matter experts available to discuss the project and answer questions; the remainder of the hearing will be devoted to receiving oral and written comments.

NNSA invites stakeholders and members of the public to submit comments on the Draft CMRR–NF SEIS during the public comment period, which started with the publication of the Environmental Protection Agency's

Notice of Availability in the **Federal Register** on April 29, 2011 and will continue for 60 days until June 28, 2011. NNSA will consider comments received after this date to the extent practicable as it prepares the Final CMRR–NF SEIS. Questions or Comments concerning the Draft CMRR–NF SEIS can be submitted to the NNSA Los Alamos Site Office at the same postal and electronic addresses given above. Additionally, the LASO CMRR–NF SEIS Hotline provides instructions on how to record comments. Please mark all envelopes, faxes and e-mail: "Draft CMRR–NF SEIS Comments".

Issued in Washington, DC, on May 10, 2011.

Thomas P. D'Agostino,

Administrator, National Nuclear Security Administration.

[FR Doc. 2011–11909 Filed 5–13–11; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R06–OAR–2010–0774; FRL–9306–4]

Adequacy Status of the Baton Rouge, Louisiana Maintenance Plan 8-Hour Ozone Motor Vehicle Emission Budgets for Transportation Conformity Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy determination.

SUMMARY: EPA is notifying the public that it has found that the motor vehicle emissions budgets (MVEB) in the Baton Rouge, Louisiana Redesignation Request/Maintenance Plan State Implementation Plan (SIP) revision, submitted on August 31, 2010 and February 14, 2011, by the Louisiana Department of Environmental Quality (LDEQ) are adequate for transportation conformity purposes. As a result of EPA's finding, the Baton Rouge area must use these budgets for future conformity determinations for the 1997 8-hour ozone standard.

DATES: These budgets are effective May 31, 2011.

FOR FURTHER INFORMATION CONTACT: The essential information in this notice will be available at EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm.* You may also contact Mr. Jeffrey Riley, Air Planning Section (6PD–L), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–8542, E-mail address: *Riley.Jeffrey@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" refers to EPA. The word "budget(s)" refers to the mobile source emissions budget for volatile organic compounds (VOCs) and the mobile source emissions budget for nitrogen oxides (NO_X).

On August 31, 2010, we received a State Implementation Plan (SIP) revision from the Louisiana Department of Environmental Quality (LDEQ). This revision consisted of a Redesignation Request/Maintenance Plan SIP for the Baton Rouge ozone nonattainment area. In response to further EPA communication with LDEQ, we received a technical amendment to the Baton Rouge Redesignation Request/Maintenance Plan SIP from LDEQ on February 14, 2011. This submittal established the motor vehicle emissions budgets (MVEB) for the Baton Rouge area for the year 2022. The MVEB is the amount of emissions allowed in the state implementation plan for on-road motor vehicles; it establishes an emissions ceiling for the regional transportation network. The MVEB is provided in Table 1:

TABLE 1—BATON ROUGE NO_X AND VOC MVEB

[Summer season tons per day]

	2022
NO_X	6.96
VOC	7.55

On March 3, 2011, EPA posted the availability of the Baton Rouge area budget on EPA's Web site, as part of the adequacy process, for the purpose of soliciting public comments. The comment period closed on April 4, 2011, and we received no comments.

Today's notice is simply an announcement of a finding that EPA has already made. EPA Region 6 sent a letter to LDEQ on April 27, 2011, finding that the MVEB in the Baton Rouge Redesignation Request/Maintenance Plan SIP, submitted on August 31, 2010 and February 14, 2011, is adequate and must be used for transportation conformity determinations in the Baton Rouge area. This finding has also been announced on EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm.*

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule, 40 Code of Federal Regulations (CFR) part 93, requires that transportation plans, programs and projects conform to state air quality implementation plans and establishes the criteria and procedures for determining whether or not they do so. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which EPA determines whether a SIP's MVEB is adequate for transportation conformity purposes are outlined in 40 CFR 93.118(e)(4). We have also described the process for determining the adequacy of submitted SIP budgets in our July 1, 2004, final rulemaking entitled, "Transportation Conformity Rule Amendments for the New 8-hour Ozone and PM2.5 National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes" (69 FR 40004). Please note that an adequacy review is separate from EPA's completeness review, and it should not be used to prejudge EPA's ultimate approval of the Baton Rouge Redesignation Request/Maintenance Plan SIP revision submittal. Even if EPA finds a budget adequate, the Redesignation Request/Maintenance Plan SIP revision submittal could later be disapproved.

Within 24 months from the effective date of this notice, the transportation partners will need to demonstrate conformity to the new MVEB if the demonstration has not already been made, pursuant to 40 CFR 93.104(e). See, 73 FR 4419 (January 24, 2008).

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

Dated: May 6, 2011.

Al Armendariz,

Regional Administrator, Region 6.

[FR Doc. 2011–11944 Filed 5–13–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[Petition IV–2010–1; FRL–9306–2]

Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for Tennessee Valley Authority—Paradise Fossil Fuel Plant; Muhlenberg County, KY

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition to object to a state operating permit.

SUMMARY: Pursuant to Clean Air Act (CAA) Section 505(b)(2) and 40 CFR

70.8(d), the EPA Administrator signed an Order, dated May 2, 2011, denying a petition to object to a CAA title V operating permit issued by the Kentucky Division for Air Quality to Tennessee Valley Authority (TVA) for its Paradise Fossil Fuel Plant located near Drakesboro in Muhlenberg County, Kentucky. This Order constitutes a final action on the petition submitted by Sierra Club (Petitioner) on January 9, 2010. Pursuant to sections 307(b) and 505(b)(2) of the CAA, a petition for judicial review of those parts of the Order that deny issues in the petition may be filed in the United States Court of Appeals for the appropriate circuit within 60 days from the date this notice appears in the **Federal Register**.

ADDRESSES: Copies of the Order, the petition, and all pertinent information relating thereto are on file at the following location: EPA Region 4, Air, Pesticides and Toxics Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The Order is also available electronically at the following address: *http://www.epa.gov/region07/air/title5/petitiondb/petitions/tva_paradise_response2010.pdf*.

FOR FURTHER INFORMATION CONTACT: Art Hofmeister, Air Permits Section, EPA Region 4, at (404) 562–9115 or *hofmeister.art@epa.gov*.

SUPPLEMENTARY INFORMATION: The CAA affords EPA a 45-day period to review and, as appropriate, the authority to object to operating permits proposed by state permitting authorities under title V of the CAA, 42 U.S.C. 7661–7661f. Section 505(b)(2) of the CAA and 40 CFR 70.8(d) authorize any person to petition the EPA Administrator to object to a title V operating permit within 60 days after the expiration of EPA's 45-day review period if EPA has not objected on its own initiative. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

Petitioner submitted a petition regarding the Paradise Fossil Fuel Plant on January 9, 2010, requesting that EPA object to the CAA title V operating permit (#V–07–018R1). Petitioner alleged that the permit was not consistent with the CAA because it failed to include a prevention of significant deterioration (PSD) analysis for the three main boilers (Units 1–3) due to alleged major modifications undertaken at Paradise Fossil Fuel Plant beginning in 1984 without TVA obtaining required PSD permits.

On May 2, 2011, the Administrator issued an Order denying the petition. The Order explains EPA's rationale for denying the petition.

Dated: May 9, 2011.

A. Stanley Meiburg,

Deputy Regional Administrator, Region 4.

[FR Doc. 2011–11948 Filed 5–13–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9306–6]

Cancellation of the Local Government Advisory Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Cancellation of the Local Government Advisory Committee (LGAC) meeting.

SUMMARY: The Office of Congressional and Intergovernmental Relations (OCIR) is issuing this notice to cancel the May 18–19, 2011 Local Government Advisory Committee (LGAC) Meeting. The notice of this meeting was previously published in the **Federal Register** on Thursday, April 21, 2011 (76 FR 22394).

SUPPLEMENTARY INFORMATION: EPA announced in the **Federal Register** on April 21, 2011 (76 FR 22394) a Local Government Advisory Committee (LGAC) Meeting to be held at U.S. EPA Region 5, Ralph Metcalfe Federal Building, Lake Superior conference room, 77 West Jackson Blvd., Chicago, Illinois. This meeting has been cancelled due to lack of a confirmed quorum of members' attendance. Federal Advisory Committee Act (FACA) regulations require that no deliberation or voting can take place absent of a quorum. The LGAC meeting is soon to be rescheduled for a later date. Further information regarding this meeting can be obtained by contacting Paula Zampieri, DFO for the Local Government Advisory Committee (LGAC) at (202) 566–2496 or *Zampieri.Paula@epa.gov.*

ADDRESSES: The LGAC meeting will be held at U.S. EPA Region 5, Ralph Metcalfe Federal Building, Lake Superior conference room, 77 West Jackson Blvd., Chicago, Illinois.

FOR FURTHER INFORMATION CONTACT: Committee members and members of the public needing further information concerning this cancellation notice or any future meetings should contact Ms. Paula Zampieri, Designated Federal Officer (DFO) for the Local Government Advisory Committee (LGAC) at (202) 566–2496 or e-mail at *Zampieri.Paula@epa.gov.*

Information on Services for Those with Disabilities: For Information on access or services for individuals with disabilities, please contact Paula Zampieri at (202) 566–2496 or *Zampieri.Paula@epa.gov.* To request accommodation of a disability, please request it 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: May 5, 2011.

Paula Zampieri,

Designated Federal Officer, Local Government Advisory Committee.

[FR Doc. 2011–11940 Filed 5–13–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9306–5]

Science Advisory Board Staff Office; Notification of a Public Teleconference of the Science Advisory Board Panel for the Oil Spill Research Strategy Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces a public teleconference of the SAB Panel to Review EPA's Draft Oil Spill Research Strategy.

DATES: The teleconference will be held on June 9, 2011 from 1 p.m. to 4 p.m. (Eastern Daylight Time).

ADDRESSES: The public teleconference will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this teleconference meeting may contact Mr. Thomas Carpenter, Designated Federal Officer (DFO), SAB Staff Office, by telephone/voice mail at (202) 564–4885; by fax at (202) 565–2098 or via e-mail at *carpenter.thomas@epa.gov.* General information concerning the EPA Science Advisory Board can be found at the EPA SAB Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION: The SAB was established pursuant to the Environmental Research, Development and Demonstration Authorization Act (ERDAA), codified at 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on

the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. Pursuant to FACA and EPA policy, notice is hereby given that an *ad hoc* SAB Panel will hold a public teleconference to review EPA's Draft Oil Spill Research Strategy. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: EPA's Draft Oil Spill Research Strategy discusses proposed research and collaborative approaches for four activities related to oil spills: Dispersants, alternative remediation technologies, coastal and inland restoration, and human health effects. The Deep Water Horizon spill identified the need for additional research on alternative spill response technologies; environmental impacts of chemical dispersants under deep sea application conditions; the fate and toxicity of dispersants and dispersed oil; chronic health effects for spill response workers and the public; and shoreline and wetland impacts, restoration and recovery. Accordingly, EPA developed the research strategy to address these needs, as they pertain to EPA's responsibilities for oil spills, and has requested that the SAB review their draft Strategy. Information about formation of the panel and the draft Strategy can be found at *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/Oil%20Spill%20Research%20Strategy?OpenDocument*.

The panel held public teleconferences on April 11 and 12, 2011 (76 FR 16769–16770) to discuss the strategy. The purpose of the June 9, 2011, teleconference is for the Panel to discuss their draft advisory report.

Availability of Meeting Materials: The agenda and the draft Advisory Report on EPA Draft Oil Spill Research Strategy will be available on the SAB Web site at *http://www.epa.gov/sab* in advance of the meeting.

Procedures for Providing Public Input: Public comment for consideration by EPA's Federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a Federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments for a Federal advisory committee to consider as it develops advice for EPA. Input from the public to the SAB will have the most impact if it consists of comments that provide specific scientific or technical information or analysis for SAB panels to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the Designated Federal Officer for the relevant advisory committee directly. *Oral Statements:* Individuals or groups requesting an oral presentation at this public meeting will be limited to five minutes. Those interested in being on the public speakers list for the June 9, 2011 teleconference should contact Mr. Thomas Carpenter, DFO at the contact information noted above, by May 31, 2011. *Written Statements:* Written statements should be received in the SAB Staff Office by May 31, 2011 for the teleconference so that the information may be made available to the SAB Oil Spill Research Review Panel 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). It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Thomas Carpenter 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: May 10, 2011.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2011–11951 Filed 5–13–11; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Economic Impact Policy

This notice is to inform the public that the Export-Import Bank of the United States has received an application for a $47 million long-term guarantee to support the export of approximately $41 million worth of mining equipment and services to Australia. The U.S. exports will enable the Australian mining company to produce, on average, 36 million metric tons of iron ore per year during the 7-year repayment term of the guarantee. Available information indicates that new Australian production of iron ore will be sold in China. Interested parties may submit comments on this transaction by e-mail to *economic.impact@exim.gov* or by mail to 811 Vermont Avenue, NW., Room 947, Washington, DC 20571, within 14 days of the date this notice appears in the **Federal Register**.

Jonathan J. Cordone,

Senior Vice President and General Counsel.

[FR Doc. 2011–11895 Filed 5–13–11; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Determination of Insufficient Assets To Satisfy Claims Against Financial Institution in Receivership

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice.

SUMMARY: The FDIC has determined that insufficient assets exist in the receivership of Corus Bank, N.A., Chicago, Illinois, to make any distribution to general unsecured claims, and therefore such claims will recover nothing and have no value.

DATES: The FDIC made its determination on May 10, 2011.

FOR FURTHER INFORMATION CONTACT: If you have questions regarding this notice, you may contact an FDIC Claims Agent at (972) 761–8677. Written correspondence may also be mailed to FDIC as Receiver of Corus Bank, N.A., *Attention:* Claims Agent, 1601 Bryan Street, Dallas, Texas 75201.

SUPPLEMENTARY INFORMATION: On September 11, 2009, Corus Bank, N.A., Chicago, Illinois, (FIN #10117) was closed by the Office of the Comptroller of the Currency ("OCC"), and the Federal Deposit Insurance Corporation ("FDIC") was appointed as its receiver

("Receiver"). In complying with its statutory duty to resolve the institution in the method that is least costly to the deposit insurance fund (see 12 U.S.C. 1823(c)(4)), the FDIC facilitated a transaction in which MB Financial Bank, N.A., Chicago, Illinois, assumed all of the deposits and a portion of the assets of the failed institution.

Section 11(d)(11)(A) of the Federal Deposit Insurance Act, 12 U.S.C. 1821(d)(11)(A), sets forth the order of priority for distribution of amounts realized from the liquidation or other resolution of an insured depository institution to pay claims. Under the statutory order of priority, administrative expenses and deposit liabilities must be paid in full before any distribution may be made to general unsecured creditors or any lower priority claims.

As of December 31, 2010, the value of assets available for distribution by the Receiver, together with anticipated recoveries, was $1,485,477,307. As of the same date, administrative expenses and depositor liabilities equaled $2,599,960,134, exceeding available assets and potential recoveries by at least $1,114,482,827. Accordingly, the FDIC has determined that insufficient assets exist to make any distribution on general unsecured creditor claims (and any lower priority claims) and therefore all such claims, asserted or unasserted, will recover nothing and have no value.

Dated: May 11, 2011.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2011–11890 Filed 5–13–11; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 11–08]

Ndahendekire Barbara v. African Shipping; Njoroge Muhia; Alco Logistics, Llc; Brenda Alexander; and AIR 7 Seas Transportlogistics, Inc.; Notice of Filing of Complaint and Assignment

Notice is given that a complaint has been filed with the Federal Maritime Commission ("Commission") by Ndahendekire Barbara, hereinafter "Complainant," against African Shipping; Njoroge Muhia, ALCO Logistics, LLC; Brenda Alexander; and Air 7 Seas Transport Logistics, Inc.; hereinafter "Respondents". Complainant asserts that she is acting agent for Ndahendekire Foundation located in Mbarara, Uganda. Complainant alleges that: Respondent African Shipping specializes in international cargo shipping; Respondent Njoroge Muhia is Chief Executive Officer for African Shipping; Respondent ALCO Logistics, LLC, is a freight forwarding and logistics company; Respondent Brenda Alexander is an acting agent for ALCO Logistics, LLC; and Respondent Air 7 Seas Transport Logistics, Inc., is a freight forwarding company.

Complainant alleges that Respondents, in connection with the shipment of two containers and chassis to Mombasa Kenya, violated Section 10(d)(1) of the Shipping Act, 46 U.S.C. 41102(c), by "failing to ensure that Ms. Barbara['s] (sic) container was delivered safely, securely and on time to the required destination." Specifically, Complainant alleges that Respondents "Mr. Muhia and African Shipping are in full breach of contract by contracting with other shippers and not paying the shippers, allowing the containers and chassis to be delivered to the wrong location, not notifying Ms. Barbara of the delivery, allowing demurrages to incur, requesting additional payments for delivery and release of the chassis and containers." Complainant also alleges that Respondents thereby caused "Ms. Barbara additional shipping cost as well as the loss of her contract for supplying medical supplies and equipment."

Complainant asks "that respondent be required to answer the charges herein; that after due hearing, an order be made commanding said respondent (and each of them); to cease and deist (sic) from the aforesaid violations of said act(s); to establish and put in force such practices as the Commission determines to be lawful and reasonable; to pay said complainant by way of reparations for the unlawful conduct * * * the sum of One Hundred Fifty Thousand Dollars and zero cents ($150,000), with interest and attorney's fees or such sum as the Commission may determine to be proper as an award of reparation; and that such other and further order or orders be made as the Commission determines to be proper in the premises."

This proceeding has been assigned to the Office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by May 9, 2012 and the final decision of the Commission shall be issued by September 6, 2012.

Karen V. Gregory,

Secretary.

[FR Doc. 2011–11888 Filed 5–13–11; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL TRADE COMMISSION

[File No. 091 0013]

Southwest Health Alliances, Inc., Doing Business as BSA Provider Network; Analysis of Agreement Containing Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis To Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before June 10, 2011.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write "Southwest Health, File No. 091 0013" on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/southwesthealthalliances,* by following the instructions on the Web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue, NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: John P. Wiegand (415–848–5174), FTC, Western Region, San Francisco, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade

Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis To Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for May 10, 2011), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before June 10, 2011. Write "Southwest Health Alliances, File No. 091 0013" on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment doesn't include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment doesn't include any sensitive health information, like medical records or other individually identifiable health information. In addition, don't include any "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential," as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, don't include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/southwesthealthalliances* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write "Southwest Health Alliances, File No. 091 0013" on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue, NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before June 8 2011. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a proposed Consent Order with Southwest Health Alliances, Inc., dba BSA Provider Network ("BSA Provider Network" or "Respondent"). The agreement settles charges that BSA Provider Network violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, by fixing prices charged to those offering coverage for health care services ("payors") in the Amarillo, Texas, area. The proposed Consent Order has been placed on the public record for 30 days to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make the proposed Consent Order final.

The purpose of this analysis is to facilitate public comment on the proposed Consent Order. The analysis is not intended to constitute an official interpretation of the agreement and proposed Consent Order or to modify their terms in any way. Further, the proposed Consent Order has been entered into for settlement purposes only and does not constitute an admission by Respondent that it violated the law or that the facts alleged in the Complaint (other than jurisdictional facts) are true.

The Complaint's Allegations

BSA Provider Network is a multi-specialty independent practice association consisting of multiple, independent medical practices with a total of approximately 900 physician members, of which approximately 300 are devoted to primary care, in the Amarillo, Texas, area.

Since at least 2000, BSA Provider Network has acted to restrain competition by facilitating, entering into, and implementing agreements to fix the prices and other terms at which it would contract with payers; and to engage in collective negotiations over terms and conditions of dealing with payers.

BSA Provider Network did not engage in any activity that might justify collective agreements on the prices its members would accept for their services. For example, the physicians in BSA Provider Network have not clinically or financially integrated their practices to create efficiencies sufficient to justify their acts and practices. The Respondent's actions have restrained price and other forms of competition among physicians in the Amarillo, Texas, area and thereby harmed consumers (including health plans, employers, and individual consumers) by increasing the prices for physician services.

The Proposed Consent Order

The proposed Consent Order is designed to prevent the continuance

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

and recurrence of the illegal conduct alleged in the complaint while it allows BSA Provider Network to engage in legitimate, joint conduct. The proposed Consent Order does not affect BSA Provider Network's activities in contracting with payers on a capitated basis.

Paragraph II.A prohibits Respondent from entering into or facilitating agreements between or among any health care providers: (1) To negotiate on behalf of any physician with payer; (2) to negotiate with any physician as a payer; (3) to deal, refuse to deal, or threaten to refuse to deal with any payer; (4) regarding any term, condition, or requirement upon which any physician deals, or is willing to deal, with any payer, including, but not limited to price terms; or (5) not to deal individually with any payer, or not to deal with any payer except through BSA Provider Network.

The other parts of Paragraph II reinforce these general prohibitions. Paragraph II.B prohibits Respondent from facilitating exchanges of information between health care providers concerning whether, or on what terms, to contract with a payer. Paragraph II.C bars attempts to engage in any action prohibited by Paragraph II.A or II.B, and Paragraph II.D proscribes encouraging, suggesting, advising, pressuring, inducing, or attempting to induce any person to engage in any action that would be prohibited by Paragraphs II.A through II.C.

As in other Commission orders addressing health care providers' collective bargaining with health care purchasers, certain kinds of agreements are excluded from the general bar on joint negotiations. Paragraph II does not preclude BSA Provider Network from engaging in conduct that is reasonably necessary to form or participate in legitimate "qualified risk-sharing" or "qualified clinically-integrated" joint arrangements, as defined in the proposed Consent Order. Also, Paragraph II would not bar agreements that only involve physicians who are part of the same medical group practice, defined in Paragraph I.B, because it is intended to reach agreements between and among independent competitors.

Paragraphs III–VI require BSA Provider Network to notify the Commission before it initiates certain contacts regarding contracts with payers. Paragraphs III and IV apply to arrangements under which BSA Provider Network would be acting as a messenger on behalf of its member physicians. Paragraphs V and VI apply to arrangements under which BSA Provider Network plans to achieve financial or clinical integration.

Paragraph VII.A requires BSA Provider Network to send a copy of the Complaint and Consent Order to its physician members, its management and staff, and any payers who communicated with BSA Provider Network, or with whom BSA Provider Network communicated, with regard to any interest in contracting for physician services.

Paragraph VII.B allows for contract termination if a payer voluntarily submits a request to BSA Provider Network to terminate its contract. Pursuant to such a request, Paragraph VII.B requires BSA Provider Network to terminate, without penalty, any payer contracts that they had entered into since it began its alleged restraint of trade in 2000. This provision is intended to eliminate the effects of BSA Provider Network's joint price setting behavior. Paragraph VII.C requires that BSA Provider Network send a copy of any payer's request for termination to every physician who participates in each group.

Paragraph VII.D contains notification provisions relating to future contact with physicians, payers, management, and staff. These provisions require BSA Provider Network to distribute a copy of the Complaint and Consent Order to each physician who begins participating in each group; each payer who contacts each group regarding the provision of physician services; and each person who becomes an officer, director, manager, or employee for three years after the date on which the Consent Order becomes final. In addition, Paragraph VII.D requires BSA Provider Network to publish a copy of the Complaint and Consent Order, for three years, in any official publication that it sends to its participating physicians.

Paragraphs VII.E and VIII–IX impose various obligations on BSA Provider Network to report or to provide access to information to the Commission to facilitate monitoring its compliance with the Consent Order.

Pursuant to Paragraph X, the proposed Consent Order will expire 20 years from the date it is issued.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2011–11885 Filed 5–13–11; 8:45 am]

BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

[VSI–Notice 2011–01; Docket 2011–0005; Sequence 11]

Notice Pursuant to Executive Order 12600 of Receipt of Freedom of Information Act (FOIA) Requests for Access to the Central Contractor Registration (CCR) Database

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: This notice provides submitters notice pursuant to Executive Order 12600 that the General Services Administration, Office of Governmentwide Policy, Acquisition Systems Division (ASD) has received several FOIA requests for certain data elements (CCR extracts) within the Central Contractor Registration (CCR) database. This notice describes each data element contained in CCR, and its exemption status under FOIA.

The following information applies to CCR data fields 250 through 254 only, which are marked with a "*":

Information posted in data fields 250 to 254 prior to April 15, 2011, regardless of which Federal Acquisition Regulation (FAR) provision or clause it is posted under, will be subject to release in accordance with the Freedom of Information Act procedures at 5 U.S.C. 552, including, where appropriate, procedures promulgated under E.O. 12600, "Predisclosure Notification Procedures for Confidential Commercial Information."

Information posted in data fields 250 to 254 (or subsequently on the Federal Awardee Performance and Integrity Information System (FAPIIS)), on or after April 15, 2011, will be available to the public, as required by Section 3010 of Public Law 111–212 (see 41 U.S.C. 417b, as codified, 41 U.S.C. 2313) and in accordance with FAR clause 52.209–9 (version dated JAN 2011).

Federal contractors must NOT post information required under FAR clause 52.209–7 (version dated JAN 2011) on or after April 15, 2011. Any contractors with a contract containing clause 52.209–7 (version dated JAN 2011) that requires update of information on or after April 15, 2011, should contact their contracting officer immediately to discuss a modification.

The following information applies to CCR data fields 255 through 260, which are marked with "**":

Any information entered in data fields 255 to 260 before April 15, 2011, is only available to authorized individuals in accordance with the Freedom of

Information Act procedures at 5 U.S.C. 552. Information posted on or after April 15, 2011, will be available to the public, as required by Section 3010 of Pub. L. 111–212 (see 41 U.S.C. 417b, as codified, 41 U.S.C. 2313) and in accordance with FAR clause 52.209–9 (version dated JAN 2011).

Federal contractors must not post information to data fields 255 to 260 under FAR clause 52.209–7 (version dated JAN 2011) on or after April 15, 2011. Any contractors with a contract containing clause 52.209–7 (version dated JAN 2011) that requires update of information on or after April 15, 2011, should contact their contracting officer immediately to discuss a modification.

DATES: Comments must be received on or before June 15, 2011. Submit comments to the addresses shown below.

ADDRESSES: Submit comments identified by VSI-Notice 2011–01, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov*. Submit comments via the Federal eRulemaking portal by inputting "VSI-Notice 2011–01" under the heading "Enter Keyword or ID" and selecting "Search". Select the link "Submit a Comment" that corresponds with "VSI-Notice 2011–01". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "VSI-Notice 2011–01" on your attached document.
- *Fax:* 202–501–4067
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First St, NE., Washington, DC 20417, *Attn:* Hada Flowers/VSI-Notice 2011–01, Washington, DC 20405.

Instructions: Please submit comments only and cite VSI–Notice 2011–01, in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Meredith Whitehead at (703) 605–9466.

SUPPLEMENTARY INFORMATION: The CCR is an e-Gov initiative within the Acquisition Systems Division. The primary objective of the CCR is to provide a web-based application that provides a single source of vendor information in support of the contract award and the electronic payment process of the Federal government. The CCR is also a registration system for grants and assistance awards. The CCR has 260 data fields, some of which are exempt from disclosure pursuant to Exemption 4 of the Freedom of information Act (FOIA), 5 U.S.C. 552(b)(4).

The following table contains a description of these data fields and their exempt status:

FOIA Review of the CCR Data Fields

Data field	Exempt status	Public comments
1) CAGE CODE	Not exempt under the FOIA	
2) CCR EXTRACT CODE	Not exempt under the FOIA	
3) REGISTRATION DATE	Not exempt under the FOIA	
4) RENEWAL DATE	Not exempt under the FOIA	
5) LEGAL BUS NAME	Not exempt under the FOIA	
6) DBA NAME	Not exempt under the FOIA	
7) COMPANY DIVISION	Not exempt under the FOIA	
8) DIVISION NUMBER	Not exempt under the FOIA	
9) ST ADD (1)	Not exempt under the FOIA	
10) ST ADD (2)	Not exempt under the FOIA	
11) CITY	Not exempt under the FOIA	
12) STATE OR PROVINCE	Not exempt under the FOIA	
13) POSTAL CODE	Not exempt under the FOIA	
14) COUNTRY CODE	Not exempt under the FOIA	
15) BUS START DATE	Not exempt under the FOIA	
16) FISCAL YEAR END CLOSE DATE	Not exempt under the FOIA	
17) CORPORATE URL	Not exempt under the FOIA	
18) ORGANIZATIONAL TYPE	Not exempt under the FOIA	
19) STATE OF INC	Not exempt under the FOIA	
20) COUNTRY OF INC	Not exempt under the FOIA	
21) BUS TYPES	Not exempt under the FOIA	
22) BUS TYPE COUNTER	Not exempt under the FOIA	
23) SIC CODE	Not exempt under the FOIA	
24) SIC CODE COUNTER	Not exempt under the FOIA	
25) NAICS CODE	Not exempt under the FOIA	
26) NAICS CODE COUNTER	Not exempt under the FOIA	
27) FSC CODE	Not exempt under the FOIA	
28) FSC CODE COUNTER	Not exempt under the FOIA	
29) PSC CODE	Not exempt under the FOIA	
30) PSC CODE COUNTER	Not exempt under the FOIA	
31) CREDIT CARD (y/n)	Not exempt under the FOIA	
32) CORRESPONDENCE FLAG	Not exempt under the FOIA	
33) MAILING ADD POC (FE)	Not exempt under the FOIA	
34) MAILING ADD ST ADD (1)	Not exempt under the FOIA	
35) MAILING ADD ST ADD (2)	Not exempt under the FOIA	
36) MAILING ADD CITY	Not exempt under the FOIA	
37) MAILING ADD POSTAL CODE	Not exempt under the FOIA	
38) MAILING ADD COUNTRY CODE	Not exempt under the FOIA	
39) MAILING ADD STATE/PROVINCE	Not exempt under the FOIA	
40) PREVIOUS BUS POC (B3)	Not exempt under the FOIA	
41) PREVIOUS BUS ST ADD (1)	Not exempt under the FOIA	
42) PREVIOUS BUS ST ADD (2)	Not exempt under the FOIA	
43) PREVIOUS BUS CITY	Not exempt under the FOIA	

FOIA REVIEW OF THE CCR DATA FIELDS—Continued

Data field	Exempt status	Public comments
44) PREVIOUS BUS POSTAL CODE	Not exempt under the FOIA	
45) PREVIOUS BUS COUNTRY CODE	Not exempt under the FOIA	
46) PREVIOUS BUS STATE/PROVINCE	Not exempt under the FOIA	
47) GOVT BUS POC (60)	Not exempt under the FOIA	
48) GOVT BUS ST ADD (1)	Not exempt under the FOIA	
49) GOVT BUS ST ADD (2)	Not exempt under the FOIA	
50) GOVT BUS CITY	Not exempt under the FOIA	
51) GOVT BUS POSTAL CODE	Not exempt under the FOIA	
52) GOVT BUS COUNTRY CODE	Not exempt under the FOIA	
53) GOVT BUS STATE OR PROVINCE	Not exempt under the FOIA	
54) GOVT BUS U.S. PHONE	Not exempt under the FOIA	
55) GOVT BUS U.S. PHONE EXT	Not exempt under the FOIA	
56) GOVT BUS NON-U.S. PHONE	Not exempt under the FOIA	
57) GOVT BUS FAX U.S. ONLY	Not exempt under the FOIA	
58) GOVT BUS E-MAIL	Not exempt under the FOIA	
59) ALT GOVT BUS POC (60)	Not exempt under the FOIA	
60) ALT GOVT BUS ST ADD (1)	Not exempt under the FOIA	
61) ALT GOVT BUS ST ADD (2)	Not exempt under the FOIA	
62) ALT GOVT BUS CITY	Not exempt under the FOIA	
63) ALT GOVT BUS POSTAL CODE	Not exempt under the FOIA	
64) ALT GOVT BUS COUNTRY CODE	Not exempt under the FOIA	
65) ALT GOVT BUS STATE OR PROVINCE	Not exempt under the FOIA	
66) ALT GOVT BUS U.S. PHONE	Not exempt under the FOIA	
67) ALT GOVT BUS U.S. PHONE EXT	Not exempt under the FOIA	
68) ALT GOVT BUS NON-U.S. PHONE	Not exempt under the FOIA	
69) ALT GOVT BUS FAX U.S. ONLY	Not exempt under the FOIA	
70) ALT GOVT BUS E-MAIL	Not exempt under the FOIA	
71) PAST PERF POC (R2)	Not exempt under the FOIA	
72) PAST PERF ST ADD (1)	Not exempt under the FOIA	
73) PAST PERF ST ADD (2)	Not exempt under the FOIA	
74) PAST PERF CITY	Not exempt under the FOIA	
75) PAST PERF POSTAL CODE	Not exempt under the FOIA	
76) PAST PERF COUNTRY CODE	Not exempt under the FOIA	
77) PAST PERF STATE OR PROVINCE	Not exempt under the FOIA	
78) PAST PERF U.S. PHONE	Not exempt under the FOIA	
79) PAST PERF U.S. PHONE EXT	Not exempt under the FOIA	
80) PAST PERF NON-U.S. PHONE	Not exempt under the FOIA	
81) PAST PERF FAX U.S. ONLY	Not exempt under the FOIA	
82) PAST PERF E-MAIL	Not exempt under the FOIA	
83) ALT PAST PERF POC (R2)	Not exempt under the FOIA	
84) ALT PAST PERF ST ADD (1)	Not exempt under the FOIA	
85) ALT PAST PERF ST ADD (2)	Not exempt under the FOIA	
86) ALT PAST PERF CITY	Not exempt under the FOIA	
87) ALT PAST PERF POSTAL CODE	Not exempt under the FOIA	
88) ALT PAST PERF COUNTRY CODE	Not exempt under the FOIA	
89) ALT PAST PERF STATE OR PROVINCE	Not exempt under the FOIA	
90) ALT PAST PERF U.S. PHONE	Not exempt under the FOIA	
91) ALT PAST PERF U.S. PHONE EXT	Not exempt under the FOIA	
92) ALT PAST PERF NON-U.S. PHONE	Not exempt under the FOIA	
93) ALT PAST PERF FAX U.S. ONLY	Not exempt under the FOIA	
94) ALT PAST PERF E-MAIL	Not exempt under the FOIA	
95) ELEC BUS POC (ZR)	Not exempt under the FOIA	
96) ELEC BUS ST ADD (1)	Not exempt under the FOIA	
97) ELEC BUS ST ADD (2)	Not exempt under the FOIA	
98) ELEC BUS CITY	Not exempt under the FOIA	
99) ELEC BUS POSTAL CODE	Not exempt under the FOIA	
100) ELEC BUS COUNTRY CODE	Not exempt under the FOIA	
101) ELEC BUS STATE OR PROVINCE	Not exempt under the FOIA	
102) ELEC BUS U.S. PHONE	Not exempt under the FOIA	
103) ELEC BUS U.S. PHONE EXT	Not exempt under the FOIA	
104) ELEC BUS NON-U.S. PHONE	Not exempt under the FOIA	
105) ELEC BUS FAX U.S. ONLY	Not exempt under the FOIA	
106) ELEC BUS E-MAIL	Not exempt under the FOIA	
107) ALT ELEC BUS POC (ZR)	Not exempt under the FOIA	
108) ALT ELEC BUS ST ADD (1)	Not exempt under the FOIA	
109) ALT ELEC BUS ST ADD (2)	Not exempt under the FOIA	
110) ALT ELEC BUS CITY	Not exempt under the FOIA	
111) ALT ELEC BUS POSTAL CODE	Not exempt under the FOIA	
112) ALT ELEC BUS COUNTRY CODE	Not exempt under the FOIA	
113) ALT ELEC BUS STATE OR PROVINCE	Not exempt under the FOIA	
114) ALT ELEC BUS U.S. PHONE	Not exempt under the FOIA	
115) ALT ELEC BUS U.S. PHONE EXT	Not exempt under the FOIA	

FOIA REVIEW OF THE CCR DATA FIELDS—Continued

Data field	Exempt status	Public comments
116) ALT ELEC BUS NON-U.S. PHONE	Not exempt under the FOIA	
117) ALT ELEC BUS FAX U.S. ONLY	Not exempt under the FOIA	
118) ALT ELEC BUS E-MAIL	Not exempt under the FOIA	
119) CERTIFIER POC (CE)	Not exempt under the FOIA	
120) CERTIFIER U.S. PHONE	Not exempt under the FOIA	
121) CERTIFIER U.S. PHONE EXT	Not exempt under the FOIA	
122) CERTIFIER NON-U.S. PHONE	Not exempt under the FOIA	
123) CERTIFIER FAX U.S. ONLY	Not exempt under the FOIA	
124) CERTIFIER E-MAIL	Not exempt under the FOIA	
125) ALT CERTIFIER POC (IC)	Not exempt under the FOIA	
126) ALT CERTIFIER U.S. PHONE	Not exempt under the FOIA	
127) ALT CERTIFIER U.S. PHONE EXT	Not exempt under the FOIA	
128) ALT CERTIFIER NON-U.S. PHONE	Not exempt under the FOIA	
129) ALT CERTIFIER FAX U.S. ONLY	Not exempt under the FOIA	
130) ALT CERTIFIER E-MAIL	Not exempt under the FOIA	
131) CORP INFO POC (CN)	Not exempt under the FOIA	
132) CORP INFO U.S. PHONE	Not exempt under the FOIA	
133) CORP INFO U.S. PHONE EXT	Not exempt under the FOIA	
134) CORP INFO NON-U.S. PHONE	Not exempt under the FOIA	
135) CORP INFO FAX U.S. ONLY	Not exempt under the FOIA	
136) CORP INFO E-MAIL	Not exempt under the FOIA	
137) OWNER INFO POC (OW)	Not exempt under the FOIA	
138) OWNER INFO U.S. PHONE	Not exempt under the FOIA	
139) OWNER INFO U.S. PHONE EXT	Not exempt under the FOIA	
140) OWNER INFO NON-U.S. PHONE	Not exempt under the FOIA	
141) OWNER INFO FAX U.S. ONLY	Not exempt under the FOIA	
142) OWNER E-MAIL	Not exempt under the FOIA	
143) EDI (y/n)	Not exempt under the FOIA	
144) AVG NUMBER OF EMPLOYEES	Not exempt under the FOIA	
145) ANNUAL REVENUE	Not exempt under the FOIA	
146) AUTHORIZATION DATE (mmddyyyy)	Not exempt under the FOIA	
147) EFT WAIVER	Not exempt under the FOIA	
148) NAICS EXCEPTIONS COUNTER	Not exempt under the FOIA	
149) NAICS EXCEPTIONS	Not exempt under the FOIA	
150) EXTERNAL CERTIFICATION FLAG COUNTER	Not exempt under the FOIA	
151) EXTERNAL CERTIFICATION FLAG	Not exempt under the FOIA	
152) SBA CERTIFICATION FLAG COUNTER	Not exempt under the FOIA	
153) SBA CERTIFICATION	Not exempt under the FOIA	
154) CURRENT REG STATUS	Not exempt under the FOIA	
155) CCR NUMERICS COUNTER	Not exempt under the FOIA	
156) CCR NUMERICS	Exempt—5 U.S.C. 552(b)(4)	
157) BARRELS CAPACITY	Not exempt under the FOIA	
158) MEGAWATTS HOURS	Not exempt under the FOIA	
159) TOTAL ASSETS	Not exempt under the FOIA	
160) FLAGS COUNTER	Not exempt under the FOIA	
161) FLAGS	Not exempt under the FOIA	
162) DISASTER RESPONSE COUNTER	Not exempt under the FOIA	
163) DISASTER RESPONSE	Not exempt under the FOIA	
164) END-OF-RECORD INDICATOR	Not exempt under the FOIA	
165) HEADQUARTER PARENT POC (HQ)	Exempt—5 U.S.C. 552(b)(4)	
166) HQ PARENT DUNS NUMBER	Exempt—5 U.S.C. 552(b)(4)	
167) HQ PARENT ST ADD (1)	Exempt—5 U.S.C. 552(b)(4)	
168) HQ PARENT ST ADD (2)	Exempt—5 U.S.C. 552(b)(4)	
169) HQ PARENT CITY	Exempt—5 U.S.C. 552(b)(4)	
170) HQ PARENT POSTAL CODE	Exempt—5 U.S.C. 552(b)(4)	
171) HQ PARENT COUNTRY CODE	Exempt—5 U.S.C. 552(b)(4)	
172) HQ PARENT STATE OR PROVINCE	Exempt—5 U.S.C. 552(b)(4)	
173) HQ PARENT PHONE	Exempt—5 U.S.C. 552(b)(4)	
174) DOMESTIC PARENT POC (DM)	Exempt—5 U.S.C. 552(b)(4)	
175) DOMESTIC PARENT DUNS NUMBER	Exempt—5 U.S.C. 552(b)(4)	
176) DOMESTIC PARENT ST ADD (1)	Exempt—5 U.S.C. 552(b)(4)	
177) DOMESTIC PARENT ST ADD (2)	Exempt—5 U.S.C. 552(b)(4)	
178) DOMESTIC PARENT CITY	Exempt—5 U.S.C. 552(b)(4)	
179) DOMESTIC PARENT POSTAL CODE	Exempt—5 U.S.C. 552(b)(4)	
180) DOMESTIC PARENT COUNTRY CODE	Exempt—5 U.S.C. 552(b)(4)	
181) DOMESTIC PARENT STATE OR PROVINCE	Exempt—5 U.S.C. 552(b)(4)	
182) DOMESTIC PARENT PHONE	Exempt—5 U.S.C. 552(b)(4)	
183) GLOBAL PARENT POC (GL)	Exempt—5 U.S.C. 552(b)(4)	
184) GLOBAL PARENT DUNS NUMBER	Exempt—5 U.S.C. 552(b)(4)	
185) GLOBAL PARENT ST ADD (1)	Exempt—5 U.S.C. 552(b)(4)	
186) GLOBAL PARENT ST ADD (2)	Exempt—5 U.S.C. 552(b)(4)	
187) GLOBAL PARENT CITY	Exempt—5 U.S.C. 552(b)(4)	

FOIA REVIEW OF THE CCR DATA FIELDS—Continued

Data field	Exempt status	Public comments
188) GLOBAL PARENT POSTAL CODE	Exempt—5 U.S.C. 552(b)(4)	
189) GLOBAL PARENT COUNTRY CODE	Exempt—5 U.S.C. 552(b)(4)	
190) GLOBAL PARENT STATE OR PROVINCE	Exempt—5 U.S.C. 552(b)(4)	
191) GLOBAL PARENT PHONE	Exempt—5 U.S.C. 552(b)(4)	
192) DNB MONITORING LAST UPDATED	Exempt—5 U.S.C. 552(b)(4)	
193) DNB MONITORING STATUS	Exempt—5 U.S.C. 552(b)(4)	
194) DNB MONITORING CORP NAME	Exempt—5 U.S.C. 552(b)(4)	
195) DNB MONITORING DBA	Exempt—5 U.S.C. 552(b)(4)	
196) DNB MONITORING ST ADD (1)	Exempt—5 U.S.C. 552(b)(4)	
197) DNB MONITORING ST ADD (2)	Exempt—5 U.S.C. 552(b)(4)	
198) DNB MONITORING CITY	Exempt—5 U.S.C. 552(b)(4)	
199) DNB MONITORING POSTAL CODE	Exempt—5 U.S.C. 552(b)(4)	
200) DNB MONITORING COUNTRY CODE	Exempt—5 U.S.C. 552(b)(4)	
201) DNB MONITORING STATE OR PROVINCE	Exempt—5 U.S.C. 552(b)(4)	
202) AUSTIN TETRA NUMBER	Exempt—5 U.S.C. 552(b)(4)	
203) AUSTIN TETRA PARENT NUMBER	Exempt—5 U.S.C. 552(b)(4)	
204) AUSTIN TETRA ULTIMATE NUMBER	Exempt—5 U.S.C. 552(b)(4)	
205) AUSTIN TETRA PCARD FLAG	Exempt—5 U.S.C. 552(b)(4)	
206) DUNS	Exempt—5 U.S.C. 552(b)(4)	
207) DUNS+4	Exempt—5 U.S.C. 552(b)(4)	
208) COMPANY SECURITY LEVEL	Exempt—5 U.S.C. 552(b)(4)	
209) EMPLOYEE SECURITY LEVEL	Exempt—5 U.S.C. 552(b)(4)	
210) TAX PAYER ID NUMBER	Exempt—5 U.S.C. 552(b)(4)	
211) SOCIAL SECURITY NUMBER	Exempt—5 U.S.C. 552(b)(4)	
212) FINANCIAL INSTITUTE	Exempt—5 U.S.C. 552(b)(4)	
213) ACCOUNT NUMBER	Exempt—5 U.S.C. 552(b)(4)	
214) ABA ROUTING ID	Exempt—5 U.S.C. 552(b)(4)	
215) PAYMENT TYPE (C or S)	Exempt—5 U.S.C. 552(b)(4)	
216) LOCKBOX NUMBER	Exempt—5 U.S.C. 552(b)(4)	
217) ACH U.S. PHONE	Exempt—5 U.S.C. 552(b)(4)	
218) ACH NON-U.S. PHONE	Exempt—5 U.S.C. 552(b)(4)	
219) ACH FAX	Exempt—5 U.S.C. 552(b)(4)	
220) ACH E-MAIL	Exempt—5 U.S.C. 552(b)(4)	
221) REMIT INFO POC	Exempt—5 U.S.C. 552(b)(4)	
222) REMIT INFO ST ADDRESS (1)	Exempt—5 U.S.C. 552(b)(4)	
223) REMIT INFO ST ADDRESS (2)	Exempt—5 U.S.C. 552(b)(4)	
224) REMIT INFO CITY	Exempt—5 U.S.C. 552(b)(4)	
225) REMIT INFO STATE/PROVINCE	Exempt—5 U.S.C. 552(b)(4)	
226) REMIT INFO POSTAL CODE	Exempt—5 U.S.C. 552(b)(4)	
227) REMIT INFO COUNTRY CODE	Exempt—5 U.S.C. 552(b)(4)	
228) ACCOUNTS REC POC	Exempt—5 U.S.C. 552(b)(4)	
229) ACCOUNTS REC U.S. PHONE	Exempt—5 U.S.C. 552(b)(4)	
230) ACCOUNT REC U.S. PHONE EXT	Exempt—5 U.S.C. 552(b)(4)	
231) ACCOUNT REC NON-U.S. PHONE	Exempt—5 U.S.C. 552(b)(4)	
232) ACCOUNT REC FAX U.S. ONLY	Exempt—5 U.S.C. 552(b)(4)	
233) ACCOUNTS REC E-MAIL	Exempt—5 U.S.C. 552(b)(4)	
234) MARKETING PARTNER ID (MPIN)	Exempt—5 U.S.C. 552(b)(4)	
235) PARENT POC	Exempt—5 U.S.C. 552(b)(4)	
236) PARENT DUNS NUMBER	Exempt—5 U.S.C. 552(b)(4)	
237) PARENT ST ADD (1)	Exempt—5 U.S.C. 552(b)(4)	
238) PARENT ST ADD (2)	Exempt—5 U.S.C. 552(b)(4)	
239) PARENT CITY	Exempt—5 U.S.C. 552(b)(4)	
240) PARENT POSTAL CODE	Exempt—5 U.S.C. 552(b)(4)	
241) PARENT COUNTRY CODE	Exempt—5 U.S.C. 552(b)(4)	
242) PARENT STATE OR PROVINCE	Exempt—5 U.S.C. 552(b)(4)	
243) GOVT PARENT POC	Exempt—5 U.S.C. 552(b)(4)	
244) GOVT PARENT ST ADD (1)	Exempt—5 U.S.C. 552(b)(4)	
245) GOVT PARENT ST ADD (2)	Exempt—5 U.S.C. 552(b)(4)	
246) GOVT PARENT CITY	Exempt—5 U.S.C. 552(b)(4)	
247) GOVT PARENT POSTAL CODE	Exempt—5 U.S.C. 552(b)(4)	
248) GOVT PARENT COUNTRY CODE	Exempt—5 U.S.C. 552(b)(4)	
249) GOVT PARENT STATE OR PROVINCE	Exempt—5 U.S.C. 552(b)(4)	
*250) EXECUTIVE COMPENSATION (QUESTION 1—MANDATORY).	Exempt—5 U.S.C. 552(b)(4)	
*251) EXECUTIVE COMPENSATION (QUESTION 2—CONDITIONAL).	Exempt—5 U.S.C. 552(b)(4)	
*252) EXECUTIVE COMPENSATION NAME (FIVE REPEATED FIELDS).	Exempt—5 U.S.C. 552(b)(4)	
*253) EXECUTIVE COMPENSATION POSITION TITLE (FIVE REPEATED FIELDS).	Exempt—5 U.S.C. 552(b)(4)	
*254) EXECUTIVE COMPENSATION TOTAL COMPENSATION AMOUNT (FIVE REPEATED FIELDS).	Exempt—5 U.S.C. 552(b)(4)	

FOIA REVIEW OF THE CCR DATA FIELDS—Continued

Data field	Exempt status	Public comments
**255) PROCEEDING (QUESTION 1—MANDATORY) ...	Exempt—5 U.S.C. 552(b)(4)	
**256) PROCEEDING (QUESTION 2—CONDITIONAL)	Exempt—5 U.S.C. 552(b)(4)	
**257) PROCEEDING (QUESTION 3—CONDITIONAL)	Exempt—5 U.S.C. 552(b)(4)	
**258) PROCEEDING TYPE CODE (CONDITIONAL)	Exempt—5 U.S.C. 552(b)(4)	
**259) PROCEEDING DATE (CONDITIONAL)	Exempt—5 U.S.C. 552(b)(4)	
**260) PROCEEDING DESCRIPTION (CONDITIONAL)	Exempt—5 U.S.C. 552(b)(4)	

Dated: May 6, 2011.

Christopher Fornecker,

Director, Acquisition Systems Division.

[FR Doc. 2011–11930 Filed 5–13–11; 8:45 am]

BILLING CODE 6820–27–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–11–11BB]

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

Crime Prevention Through Environmental Design: Linking Observed School Environments with Student and School-wide Experiences of Violence and Fear—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Among the goals of the Centers for Disease Control and Prevention (CDC), National Center for Injury Prevention and Control (NCIPC) is to reduce the prevalence of violence among youth. Several important priorities included in the Center's published research agenda focus on studying how physical environments influence behavior and risk for violence. The CDC has developed an observational tool called the Crime Prevention Through Environmental Design (CPTED) School Assessment (CSA) to assess the extent to which the physical characteristics of schools are consistent with Crime Prevention Through Environmental Design (CPTED) principles. The proposed research will allow an assessment of the validity of the CSA by examining the extent to which the CSA subscales, total CSA scores, and CPTED principles are related to fear and violence, and related variables. If the CSA tool is shown to measure characteristics of the school environment that are associated with fear and violence-related behaviors in school, then it may be used as the basis for research, design, and evaluation of interventions for schools seeking to prevent or reduce the occurrence of crime and violence. This may help formulate guidance for schools related to (re)designing physical features of the environment and changing policies and procedures related to using the school environment.

In addition, an exploratory purpose of this research is to determine whether the CSA items can be divided reliably into supposedly distinct variables reflecting each of the CPTED principles. If we produce practical support for the assessment of these "CPTED variables," then we will also assess validity by determining whether these variables are logically related to our measures of fear, violence and climate in schools.

Survey data from 75 students (25 each from 6th, 7th, and 8th grades) per school site will be collected from 50 middle schools selected and recruited from 13 school districts in the metro-Atlanta, Georgia area (approximately 3,750 total student participants), in addition to the observational (CSA) data collection. The student survey will assess variables such as school climate, and actual and perceived levels of school violence at each school. In addition, archival/administrative data will be collected from each of the 50 schools on a School Site Data Form providing information on neighborhood and school characteristics from various sources (*e.g.,* school site information reported by the school administrator, school district data available on the web, U.S. Census data, and school disciplinary records). There are no costs to respondents other than their time. The total annualized burden hours are 2650.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden response (in hours)
CPTED Student Survey	3,750	1	40/60
CPTED Student Survey Data Collection Checklist (DCC)	150	1	20/60
CPTED School Site Data Form	50	1	2

Dated: May 9, 2011.

Daniel Holcomb,

Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2011–11936 Filed 5–13–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–11–11AC]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 or send comments to Daniel Holcomb, CDC Reports Clearance Officer, 1600 Clifton Road, MS D–74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Statements in Support of Application of Waiver of Inadmissibility (0920–0006, expiration date 12/31/2011)—Revision—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 212(a), (1) of the Immigration and Nationality Act states that aliens with specific health related conditions are ineligible for admission into the United States. The Attorney General may waive application of this inadmissibility on health-related grounds if an application for waiver is filed and approved by the U.S. Citizenship and Immigration Services office of the Department of Homeland Security having jurisdiction. CDC uses this application primarily to collect information to establish and maintain records of waiver applicants in order to notify the U.S. Citizenship and Immigration Services when terms, conditions and controls imposed by waiver are not met. CDC is requesting approval from OMB to collect this data for another 3 years.

There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
U.S. medical facility or specialist (Part II) Applicant/Applicant Sponsor (Part III).	Form CDC 4.422–1	200	1	10/60	33
U.S. medical facility or specialist	Form CDC 4.422–1a	200	1	20/60	67
Total					100

Dated: May 9, 2011.

Dan Holcomb,

Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2011–11935 Filed 5–13–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–10380]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Rate Review Grants to States and Territories Cycle I and II Funding Opportunity Announcement Application and Reporting; *Use:* Under the Section 1003 of the Affordable Care Act (Section 2794 of the Public Health Service Act), the Secretary, in conjunction with the States and territories, is required to establish a process for the annual review, beginning with the 2010 plan year, of unreasonable increases in premiums for health insurance coverage. Section 2794(c) requires the Secretary to establish Premium Review Grants to States to assist States to implement this provision.

The U.S. Department of Health and Human Services (HHS) released the Rate Review Grants Cycle I funding opportunity twice; first to States (and the District of Columbia) in June 2010 and then to the territories and the five States that did not apply during the first release, (*http://www.hhs.gov/ociio/initiative/final_premium_review_grant_solicitation.pdf*). The second release was due to the decision that the territories were subject to provisions of

the ACA and hence eligible for the Rate Review Grants. 46 States and 5 U.S. territories plus the District of Columbia were awarded grants. CCIIO is seeking to publish the Cycle II Funding Opportunity Announcement and associated grantee reporting requirements consisting of (4) Quarterly reports, rate review transaction data (quarterly), (1) annual report per year, and (1) final report from all grantees. This information collection is required for effective monitoring of grantees and to fulfill statutory requirements under Section 2794(b)(1)(a) that requires grantees, as a condition of receiving a grant authorized under Section 2794(c), to report to The Secretary information about premium increases. *Form Number:* CMS–10380 (OCN: 0938–1121); *Frequency:* Annually, On Occasion; *Affected Public: Public Sector:* State and Territory Governments; *Number of Respondents:* 107; *Number of Responses:* 1,075; *Total Annual Hours* 42,872. (For policy questions regarding this collection, contact Jacqueline Roche at 301–492–4171. For all other issues call (410) 786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site at *http://www.cms.gov/PaperworkReductionActof1995/PRAL/list.asp#TopOfPage* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office at 410–786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by *July 15, 2011:*

1. Electronically. You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) accepting comments.

2. By regular mail. *You may mail written comments to the following address:* CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, *Attention:* Document Identifier/OMB Control Number, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 10, 2011.

Martique Jones,

Director, Regulations Development Group, Division B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2011–11836 Filed 5–13–11; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2009–E–0084 and FDA–2009–E–0086]

Determination of Regulatory Review Period for Purposes of Patent Extension; PRISTIQ; Correction and Reopening of the Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction and reopening of the comment period.

SUMMARY: The Food and Drug Administration (FDA) is correcting notices concerning FDA's determination of the regulatory review period for PRISTIQ that appeared in the **Federal Registers** of August 31, 2010 (75 FR 53314) and September 2, 2010 (75 FR 53969). The documents omitted docket number FDA–2009–E–0086. This document corrects those omissions. Because the comment period for the notices closed on February 28, 2011, FDA is reopening the comment period to allow interested parties to submit comments or petitions to docket number FDA–2009–E–0086.

DATES: Submit either electronic or written comments and written petitions by June 15, 2011.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov.* Submit written petitions along with three copies and written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6222, Silver Spring, MD 20993–0002, 301–796–3602.

SUPPLEMENTARY INFORMATION:

I. Correction

In FR Doc. 2010–21586, appearing on page 53314, in the **Federal Register** of Tuesday, August 31, 2010, the following correction is made:

1. On page 53314, in the first column, in the heading of the document, "[Docket No. FDA–2009–E–0084]" is corrected to read "[Docket Nos. FDA–2009–E–0084 and FDA–2009–E–0086]".

In FR Doc. C1–2010–21586, appearing on page 53969, in the **Federal Register** of Thursday, September 2, 2010, the following correction is made:

2. On page 53969, in the third column, in the heading of the document, "[Docket No. FDA–2009–E–0084]" is corrected to read "[Docket Nos. FDA–2009–E–0084 and FDA–2009–E–0086]".

II. Comments and Petitions

FDA's notice concerning the Agency's determination of the regulatory review period for PRISTIQ (75 FR 53314) inadvertently omitted docket number FDA–2009–E–0086. Because the period for submitting comments and petitions closed on February 28, 2011, FDA is reopening the comment period to provide the opportunity for interested parties to submit comments or petitions to docket number FDA–2009–E–0086.

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) electronic or written comments and written petitions. It is no longer necessary to send three copies of mailed comments. However, if you submit a written petition, you must submit three copies of the petition. Identify comments with docket number FDA–2009–E–0086. Comments and petitions that have not been made publicly available on regulations.gov may be viewed in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 28, 2011.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 2011–11903 Filed 5–13–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Neurodifferentiation, Plasticity, and Regeneration Study Section, June 1, 2011, 8 a.m. to June 2, 2011, 4 p.m., Westin Alexandria, 400 Courthouse Square, Alexandria, VA 22314 which was published in the **Federal Register** on May 9, 2011, 76 FR 26736–26737.

The meeting will be held at the Hotel Monaco, 480 King Street, Alexandria, VA 22314. The meeting dates and time

remain the same. The meeting is closed to the public.

Dated: May 10, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–11949 Filed 5–13–11; 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 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: Center for Scientific Review Special Emphasis Panel, *Member Conflict:* Reproductive Biology.

Date: May 18, 2011.

Time: 1 p.m. to 4 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: Robert Garofalo, PhD, Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 6156, MSC 7892, Bethesda, MD 20892, 301–435–1043, *garofalors@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(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: May 11, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–11938 Filed 5–13–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Pathology of Alzheimer's Disease.

Date: June 29, 2011.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Alexander Parsadanian, PhD, Scientific Review Officer, National Institute on Aging, Gateway Building 2C/212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9666, *parsadaniana@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Oxidative Stress and Aging.

Date: July 13, 2011.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Alexander Parsadanian, PhD, Scientific Review Officer, National Institute on Aging, Gateway Building 2C/212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9666, *parsadaniana@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 10, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–11943 Filed 5–13–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Cancer Prevention Research Small Grant Program (R03).

Date: July 7–8, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Gerald G. Lovinger, PhD, Scientific Review Administrator, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Room 8101, Bethesda, MD 20892–8329, 301/496–7987, *lovingeg@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel, Collaborative Research in Integrative Cancer Biology and the Tumor Microenvironment (U01).

Date: July 19, 2011.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Viatcheslav A Soldatenkov, M.D., PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Room 8057, Bethesda, MD 20892–8329, 301–451–4758, *soldatenkovv@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 10, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–11956 Filed 5–13–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Clinical Research and Field Studies of Infectious Diseases Study Section, June 13, 2011, 8:30 a.m. to June 14, 2011, 5 p.m., The Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009 which was published in the **Federal Register** on May 3, 2011, 76 FR 24894–24896.

The meeting will be held one day only June 13, 2011, 8 a.m. to 6:30 p.m.. The meeting location remains the same. The meeting is closed to the public.

Dated: May 10, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–11921 Filed 5–13–11; 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, Drug Discovery for Pain, Addiction and Neurodegenerative Diseases.

Date: June 3, 2011.

Time: 12 p.m. to 1:45 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: Deborah L Lewis, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4183, MSC 7850, Bethesda, MD 20892, 301–408–9129, *lewisdeb@csr.nih.gov*.

Name of Committee: Vascular and Hematology Integrated Review Group, Hemostasis and Thrombosis Study Section.

Date: June 5–6, 2011.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Bukhtiar H Shah, PhD, DVM, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7802, Bethesda, MD 20892, (301) 435–1233, *shahb@csr.nih.gov*.

Name of Committee: Vascular and Hematology Integrated Review Group, Hypertension and Microcirculation Study Section.

Date: June 6–7, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Ai-Ping Zou, MD, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–435–1777, *zouai@csr.nih.gov*.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group, Cancer Immunopathology and Immunotherapy Study Section.

Date: June 9–10, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Allerton Hotel, 701 North Michigan Avenue, Chicago, IL 60611.

Contact Person: Denise R Shaw, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7804, Bethesda, MD 20892, 301–435–0198, *shawdeni@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, *Societal and Ethical Issues in Research:* Quorum.

Date: June 9, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Seattle Hotel, 1900 Fifth Avenue, Seattle, WA 98101.

Contact Person: Karin F Helmers, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7770, Bethesda, MD 20892, 301–254–9975, *helmersk@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, *PAR–11–081: Shared Instrumentation Grant Program (S10):* Surface Plasmon Resonance (SPR) Instruments.

Date: June 10, 2011.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037.

Contact Person: Stephen M Nigida, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4212, MSC 7812, Bethesda, MD 20892, 301–435–1222, *nigidas@csr.nih.gov*.

Name of Committee: Emerging Technologies and Training Neurosciences Integrated Review Group, Neurotechnology Study Section.

Date: June 10, 2011.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Washington, DC Dupont Circle Hotel, 1143 New Hampshire Avenue, NW., Washington, DC 20037.

Contact Person: Robert C Elliott, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3130, MSC 7850, Bethesda, MD 20892, 301–435–3009, *elliotro@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neurotechnology 2.

Date: June 10, 2011.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Washington, DC Dupont Circle Hotel, 1143 New Hampshire Avenue, NW., Washington, DC 20037.

Contact Person: Robert C Elliott, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3130, MSC 7850, Bethesda, MD 20892, 301–435–3009, *elliotro@csr.nih.gov*.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group, Radiation Therapeutics and Biology Study Section.

Date: June 13–14, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.

Contact Person: Bo Hong, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–996–6208, *hongb@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, *Member Conflict:* Computational Biology.

Date: June 14, 2011.

Time: 12 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Kathryn Kalasinsky, PhD, Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158 MSC 7806, Bethesda, MD 20892, 301–402–1074, *kalasinskyks@mail.nih.gov*.

Name of Committee: Vascular and Hematology Integrated Review Group, Molecular and Cellular Hematology.

Date: June 15–16, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Loews Annapolis Hotel, 126 West Street, Annapolis, MD 21401.

Contact Person: Katherine M Malinda, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7814, Bethesda, MD 20892, 301–435–0912, *Katherine_Malinda@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, *Member Conflict:* Instrumentation and Systems Development.

Date: June 16, 2011.

Time: 8:30 a.m. to 9:30 a.m.

Agenda: To review and evaluate grant applications.

Place: Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

Contact Person: Kathryn Kalasinsky, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158 MSC 7806, Bethesda, MD 20892, 301–402–1074, *kalasinskyks@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Selected Topics in Transfusion Medicine.

Date: June 20–21, 2011.

Time: 11:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Bukhtiar H Shah, DVM, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7802, Bethesda, MD 20892, 301–806–7314, *shahb@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, *Member Conflict:* Metabolism and Nutrition.

Date: June 23, 2011.

Time: 9 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Gary Hunnicutt, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, 301–435–0229, *gary.hunnicutt@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Vascular Hematology.

Date: June 23–24, 2011.

Time: 11:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Bukhtiar H Shah, DVM, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7802, Bethesda, MD 20892, 301–806–7314, *shahb@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: May 10, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–11960 Filed 5–13–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee I—Career Development.

Date: June 28–29, 2011.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Sergei Radaev, PhD, Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd, Rm 8113, Bethesda, MD 20892, 301–435–5655, *sradaev@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 10, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–11957 Filed 5–13–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

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

Proposed Project: The Safe Schools/Healthy Students (SS/HS) Initiative National Evaluation (OMB No. 0930–0297)—Revision

SAMHSA's Center for Mental Health Services (CMHS) will conduct a study to evaluate the relationships between different grantee characteristics and implementation strategies to outcomes at the project, school, and student level. Data collected by this study will facilitate an examination of contextual factors and inform those who hope to improve the effectiveness of partnerships and implementation efforts under the grant and lead to improved outcomes for communities, schools, and students. The three agencies sponsoring

the SS/HS Initiative (the U.S. Department of Health and Human Services, the U.S. Department of Education, and the U.S. Department of Justice) may also choose to incorporate aggregate results from collected data in journal articles, scholarly presentations, and congressional testimony referring to the outcomes of the SS/HS grant program.

Data collection activities involve the administration of four separate surveys (a Baseline Assessment Survey, a Project-Level Survey, a School-Level Survey, and a Staff School Climate Survey) and a Site Visit Protocol for individuals involved with the SS/HS Initiative at the local grantee level. Respondents will submit their responses for all surveys via Qualtrics, a third-party, online Web-based survey platform, except for the Site Visit Protocol, which will be administered on site with grantees.

The estimated burden for data collection is 5,732 hours across a total of 28,125 participants. Using median hourly wage estimates reported by the Bureau of Labor Statistics, May 2009 National Occupational Employment and Wage Estimates, and a loading rate of 25%, the estimated total cost to respondents is $207,343. A breakdown of these estimates is presented in the following table:

ELEMENTS OF ANNUALIZED HOUR-COST BURDEN OF DATA COLLECTION *

Instrument description	Anticipated number of respondents	Responses per respondent	Average hours per response	Total annual hour burden
Site Visit Protocol	100	1	9	900
Baseline Assessment Survey	25	1	.67	17
Partnership Inventory	400	1	0.25	100
Project-Level Survey	100	1	0.42	42
School-Level Survey	2,300	1	0.45	1,725
Staff School Climate Survey	25,200	1	0.117	2,948
Total	28,125			5,732

* Number of respondents based on an estimated annual average of 100 grantees. Baseline Assessment Survey administered only to grantees in the 2011–2013 cohorts. School-Level Survey estimates based on an average of 23 schools per grant. Staff School Climate Survey estimates based on 252 respondents per grantee. Average hours per response based on previous evaluation and pilot tests.

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 8–1099, One Choke Cherry Road, Rockville, MD 20857 *or* e-mail a copy to *summer.king@samhsa.hhs.gov.* Written comments must be received on or before July 15, 2011.

Dated: May 10, 2011.

Elaine Parry,

Director, Office of Management, Technology and Operations.

[FR Doc. 2011–11896 Filed 5–13–11; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Arrival and Departure Record (Forms I–94 and I–94W) and Electronic System for Travel Authorization

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security (DHS).

ACTION: 60-Day Notice and request for comments; Revision of an existing collection of information: 1651–0111.

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 CBP Form I–94 (Arrival/Departure Record), CBP Form I–94W (Nonimmigrant Visa Waiver Arrival/Departure), and the Electronic System for Travel Authorization (ESTA). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before July 15, 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; 44 U.S.C. 3505(c)(2)). 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: Arrival and Departure Record, Nonimmigrant Visa Waiver Arrival/Departure, and Electronic System for Travel Authorization (ESTA).

OMB Number: 1651–0111.

Form Numbers: I–94 and I–94W.

Abstract: CBP Form I–94 (Arrival/Departure Record) and CBP Form I–94W. (Nonimmigrant Visa Waiver Arrival/Departure Record) are used to document a traveler's admission into the United States. These forms are filled out by aliens and are used to collect information on citizenship, residency, and contact information. The data elements collected on these forms enable the DHS to perform its mission

related to the screening of alien visitors for potential risks to national security, and the determination of admissibility to the United States. The Electronic System for Travel Authorization (ESTA) applies to aliens traveling to the United States under the Visa Waiver Program (VWP) and requires that VWP travelers provide information electronically to CBP before embarking on travel to the United States. CBP proposes to revise this collection of information by adding a data field for "Country of Birth" to ESTA and to CBP Form I–94W.

ESTA can be accessed at *http://www.cbp.gov/xp/cgov/travel/id_visa/esta/*.

Instructions and samples of CBP Forms I–94 and I–94W can be viewed at *http://www.cbp.gov/xp/cgov/travel/id_visa/i-94_instructions/filling_out_i94.xml* and *http://www.cbp.gov/xp/cgov/travel/id_visa/business_pleasure/vwp/i94_samples.xml*.

Current Actions: This submission is being made to revise this collection of information by adding a data field for "Country of Birth" to ESTA and to CBP Form I–94W, with no change to the burden hours. There are no proposed changes to CBP Form I–94.

Type of Review: Revision.

Affected Public: Individuals, Carriers, and the Travel and Tourism Industry.

I–94 (Arrival and Departure Record)

Estimated Number of Respondents: 14,000,000.

Estimated Number of Total Annual Responses: 14,000,000.

Estimated Time per Response: 8 minutes.

Estimated Total Annual Burden Hours: 1,862,000.

Estimated Total Annualized Cost on the Public: $84,000,000.

I–94W (Nonimmigrant Visa Waiver Arrival/Departure)

Estimated Number of Respondents: 100,000.

Estimated Number of Total Annual Responses: 100,000.

Estimated Time per Response: 8 minutes.

Estimated Total Annual Burden Hours: 13,300.

Estimated Total Annualized Cost on the Public: $600,000.

Electronic System for Travel Authorization (ESTA)

Estimated Number of Respondents: 18,900,000.

Estimated Number of Total Annual Responses: 18,900,000.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 4,725,000.

Dated: May 11, 2011.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2011–11952 Filed 5–13–11; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5487–N–15]

Notice of Proposed Information Collection for Public Comment; Moving To Work Demonstration

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

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 15, 2011.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB Control number and should be sent to: Colette Pollard, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Room 4160, Washington, DC 20410–5000; telephone 202.402.3400 (this is not a toll-free number) or e-mail Ms. Pollard at *Colette_Pollard@hud.gov.* Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339. (Other than the HUD USER information line and TTY numbers, telephone numbers are not toll-free.)

FOR FURTHER INFORMATION CONTACT: Arlette Mussington, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street, SW., (L'Enfant Plaza, Room 2206), Washington, DC 20410; telephone 202–402–4109, (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended). This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection 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; (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 collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Moving to Work Demonstration.

OMB Control Number: 2577–0216.

Description of the need for the information and proposed use. The MTW Demonstration was authorized under Section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104–134, 110 Stat 1321), dated April 26, 1996. The MTW Demonstration initially permitted up to 30 PHAs to participate in the demonstration program. Nineteen PHAs were selected for participation in the MTW demonstration in response to a HUD Notice published in the **Federal Register** on December 18, 1996 and five of the 30 slots were filled through the Jobs-Plus Community Response Initiative. The 2009 and 2010 appropriations allowed HUD to add six additional PHA to participate in the MTW Demonstration. As part of HUD's 2009 budget appropriation (Section 236, title II, division I of the Omnibus Appropriations Act, 2009, enacted March 11, 2009), Congress directed HUD to add three agencies to the MTW program. As part of HUD's 2010 budget appropriation (Section 232, title II, division A of the Consolidated Appropriations Act, 2010, enacted December 16, 2009), Congress authorized HUD to add three agencies to the MTW demonstration.

All public housing authorities (PHA) are required to submit a five (5) year plan and annual plans as stated in Section 5A of the 1937 Act, as amended; however, for PHAs with specific types of Moving to Work (MTW) demonstration agreements (33 at the time of submission of this request) the

MTW annual plan and annual report are submitted in lieu of the standard annual and 5 year PHA plans.

Revisions are being made to the 50900 form to streamline the Plan and Report submission process to increase the accuracy of data collection for the demonstration. Further, the form has been revised so that the respondents are not asked to provide duplicated information to the Department.

Agency form number, if applicable: HUD–50900.

Members of affected public: Public housing agencies that participate in the Moving to Work demonstration.

Estimation of the total number of hours needed to prepare the information collection including number of respondents: The estimated number of respondents is 36 PHAs that submit annual MTW Plans and Reports. The total reporting burden is 4,320 hours.

Status of the proposed information collection: Revision to currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, as amended.

Dated: May 3, 2011.

Merrie Nichols-Dixon,

Deputy Director for Office of Policy, Programs, and Legislative Initiatives.

[FR Doc. 2011–12000 Filed 5–13–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR936000–14300000–ET0000; HAG–11–0082; OROR–10898]

Public Land Order No. 7766; Extension of Public Land Order No. 6856; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order extends the duration of the withdrawal created by Public Land Order No. 6856 for an additional 20-year period. The extension is necessary to continue protection of the unique natural and ecological research values of the Abbott Creek Research Natural Area, which would otherwise expire on May 5, 2011.

DATES: *Effective Date:* May 6, 2011.

FOR FURTHER INFORMATION CONTACT: Charles R. Roy, Bureau of Land Management, Oregon/Washington State Office, 503–808–6189, or Dianne Torpin, U.S. Forest Service, Pacific Northwest Region, 503–808–2422.

SUPPLEMENTARY INFORMATION: The purpose for which the withdrawal was first made requires this extension to continue protection of the unique natural and ecological research values at the Abbott Creek Research Natural Area. The withdrawal extended by this order will expire on May 5, 2031, unless as a result of a review conducted prior to the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal will be further extended.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, it is ordered as follows:

Public Land Order No. 6856 (56 FR 20550 (1991)), that withdrew 2,760.94 acres of National Forest System land from location and entry under the United States mining laws (30 U.S.C. Ch 2), but not from leasing under the mineral leasing laws, to protect the Abbott Creek Research Natural Area, is hereby extended for an additional 20-year period until May 5, 2031.

(Authority: 43 CFR 2310.4)

Dated: May 2, 2011.

Wilma A. Lewis,

Assistant Secretary, Land and Minerals Management.

[FR Doc. 2011–11870 Filed 5–13–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR936000–L14300000–ET0000; HAG–11–0112; OROR–10887]

Public Land Order No. 7767; Extension of Public Land Order No. 6857; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order extends the duration of the withdrawal created by Public Land Order No. 6857 for an additional 20-year period. The extension is necessary to continue protection of the scenic and recreational values, along with the investment of Federal funds at the Squaw Lakes Recreation Area, that would otherwise expire on May 5, 2011.

DATES: *Effective Date:* May 6, 2011.

FOR FURTHER INFORMATION CONTACT: Charles R. Roy, Bureau of Land Management, Oregon/Washington State Office, 503–808–6189, or Dianne Torpin, U.S. Forest Service, Pacific Northwest Region, 503–808–2422.

SUPPLEMENTARY INFORMATION: The purpose for which the withdrawal was first made requires this extension in order to continue protection of the scenic and recreational values, along with the investment of Federal funds at the Squaw Lakes Recreation Area. The withdrawal extended by this order will expire on May 5, 2031, unless as a result of a review conducted prior to the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be further extended.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, it is ordered as follows:

Public Land Order No. 6857 (56 FR 20551 (1991)), which withdrew 540 acres of National Forest System land from location and entry under the United States mining laws (30 U.S.C. Ch 2), but not from leasing under the mineral leasing laws, to protect the Squaw Lakes Recreation Area, is hereby extended for an additional 20-year period until May 5, 2031.

Authority: 43 CFR 2310.4.

Dated: May 2, 2011.

Wilma A. Lewis,

Assistant Secretary, Land and Minerals Management.

[FR Doc. 2011–11873 Filed 5–13–11; 8:45 am]

BILLING CODE 3410–11–P

INTERNATIONAL TRADE COMMISSION

Government in the Sunshine Act Meeting Notice

[USITC SE–11–013]

AGENCY: United States International Trade Commission.

TIME AND DATE: May 19, 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. 701–TA–384 and 731–TA–806–808 (Second Review) (Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil, Japan, and Russia). The Commission is currently scheduled to transmit its determinations and Commissioners' opinions to the

Secretary of Commerce on or before June 2, 2011.

5. *Outstanding Action Jackets:* None.

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.

Issued: May 11, 2011.

By order of the Commission.

William R. Bishop,

Hearings and Meetings Coordinator,

[FR Doc. 2011–12022 Filed 5–12–11; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Modification to Consent Decree Under the Resource Conservation and Recovery Act

Notice is hereby given that on April 26, 2011, a proposed First Modification to the Consent Decree previously entered in *United States et al.* v. *HPI Products, Inc., et al.,* No. 08–06133 (W.D. Mo.) was filed with the United States District Court for the Western District of Missouri. The proposed First Modification extends the deadlines for Defendant HPI to make its first civil penalty payment and to submit certain environmental reports to the United States Environmental Protection Agency.

The Department of Justice will receive comments relating to the proposed First Modification for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States et al.* v. *HPI Products, Inc., et al.,* DJ Ref. No. 90–5–1–1–09338.

The proposed First Modification may be examined at the Environmental Protection Agency, Region 7, 901 N. 5th St., Kansas City, KS 66101. During the public comment period, the proposed First Modification may also be examined on the following Department of Justice Web site, *http://www.justice.gov/enrd/Consent_Decrees.html.* A copy of the proposed First Modification 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 $2.50 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2011–11842 Filed 5–13–11; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Wage and Hour Division

Proposed Extension of the Approval of Information Collection Requirements

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). 44 U.S.C. 3056(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Wage and Hour Division is soliciting comments concerning its proposal to extend Office of Management and Budget (OMB) approval of the Information Collection: Regulations 29 CFR part 547, Requirements of a "Bona Fide Thrift or Savings Plan" and Regulations 29 CFR part 549, Requirements of a "Bona Fide Profit-Sharing Plan or Trust". A copy of the proposed information request can be obtained by contacting the office listed below in the **FOR FURTHER INFORMATION CONTACT** section of this Notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before July 15, 2011.

ADDRESSES: You may submit comments identified by Control Number 1235–0013, by either one of the following methods: *E-mail: WHDPRAComments@dol.gov*; *Mail, Hand Delivery, Courier:* Division of Regulation, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, DC 20210. *Instructions:* Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via e-mail or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for OMB approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Mary Ziegler, Director, Division of Regulations, Legislation, and Interpretations, Wage and Hour, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Copies of this notice may be obtained in alternative formats (Large Print, Braille, Audio Tape, or Disc), upon request, by calling (202) 693–0023 (not a toll-free number). TTY/TTD callers may dial toll-free (877) 889–5627 to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION:

I. *Background:* Section 7(e)(3)(b) of the Fair Labor Standards Act permits the exclusion from an employee's regular rate of pay, payments on behalf of an employee to a "bona fide" thrift or savings plan, profit-sharing plan or trust. Regulations, 29 CFR parts 547 and 549 set forth the requirements for what constitutes a "bona fide" thrift or savings plan, profit-sharing plan or trust. The maintenance of the records required by the regulations enables Department of Labor investigators to determine whether contributions to a given thrift or savings plan, profit-sharing plan, or trust may be excluded in calculating the regular rate of pay for overtime purposes in compliance with section 7(e)(3)(b) of the FLSA. Without these records, such a determination could not be made. This information collection is currently approved for use through November 30, 2011.

II. *Review Focus:* The Department of Labor is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the

functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. *Current Actions:* The Department of Labor seeks approval for the extension of this currently approved information collection in order to determine whether contributions to a given thrift or savings plan or profit-sharing plan or trust may be excluded in calculating the regular rate of pay for overtime purposes under section (7)(e)(3)(b) of the Fair Labor Standards Act.

Type of Review: Extension.

Agency: Wage and Hour Division.

Title: Requirements of a Bona Fide Thrift or Savings Plan (29 CFR part 547) and Requirements of a Bona Fide Profit-Sharing Plan or Trust (29 CFR part 549).

OMB Number: 1235–0013.

Affected Public: Business or not for-profit, Not-for-profit institution, Farms, and State, Local or Tribal Government.

Total Respondents: 589,500.

Total Annual Responses: 589,500.

Estimated Total Burden Hours (Recordkeeping): 328.

Frequency: On occasion.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Dated: May 10, 2011.

Mary Ziegler,

Director, Division of Regulation, Legislation, and Interpretation.

[FR Doc. 2011–11897 Filed 5–13–11; 8:45 am]

BILLING CODE 4510–27–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 10–046]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Lori Parker, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Lori Parker, NASA Clearance Officer, NASA Headquarters, 300 E Street, SW., JF0000, Washington, DC 20546, (202) 358–1351, *Lori.Parker@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

AARIN is application for the public to fly in SSC's restricted air space. The application distributes the information to the appropriate employees, such as security for badging. The application produces a permit number when it is approved or a notification when it is rejected. At the moment, this process is performed through a series of e-mails, whereas AARIN's data will be in an electronic database.

II. Method of Collection

Electronic.

III. Data

Title: Application for Air Range Information and Notification (AARIN).

OMB Number: 2700–XXXX.

Type of Review: Existing collection in use without an OMB control number.

Affected Public: Federal Government; State, Local, or Tribal Government; Individuals or Households; Business or other for-profit; not-for-profit institutions.

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent: 1.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 50 hours.

Estimated Total Annual Cost: $0.00.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

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

Lori Parker,

NASA Clearance Officer.

[FR Doc. 2011–11874 Filed 5–13–11; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act; Notice of Agency Meeting

TIME AND DATE: 10 a.m., Thursday, May 19, 2011.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Final Rule—Part 740 of NCUA's Rules and Regulations, Accuracy of Advertising and Notice of Insured Status.
2. Final Rule—Part 745 of NCUA's Rules and Regulations, Share Insurance and Appendix.
3. Final Rule—Part 750 of NCUA's Rules and Regulations, Golden Parachute and Indemnification Payments.
4. Proposed Rule—Part 705 of NCUA's Rules and Regulations, Community Development Revolving Loan Fund.
5. Voluntary Prepayment of Stabilization Fund Assessment.
6. Insurance Fund Report.

RECESS: 11:15 a.m.

TIME AND DATE: 11:30 a.m., Thursday, May 19, 2011.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Insurance Appeal. Closed pursuant to exemption (6).

2. Personnel (2). Closed pursuant to exemption (2).

3. Consideration of Supervisory Activity. Closed pursuant to some or all of the following: Exemptions (8), (9)(A)(ii) and 9(B).

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, *Telephone:* 703–518–6304.

Mary Rupp,

Board Secretary.

[FR Doc. 2011–12070 Filed 5–12–11; 4:15 pm]

BILLING CODE 7535–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that one meeting of the Arts Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 as follows (ending time is approximate):

Music (application review): June 1, 2011, by teleconference. This meeting, from 2 p.m. to 2:30 p.m. EDT, will be closed.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of February 15, 2011, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202–682–5691.

Dated: May 11, 2011.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 2011–11891 Filed 5–13–11; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request reinstatement and approval of this data collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this information collection.

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

DATES: Written comments should be received by July 15, 2011 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by e-mail to *splimpto@nsf.gov.*

FOR FURTHER INFORMATION CONTACT: Suzanne Plimpton on (703) 292–7556 or send e-mail to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: FY 2011 and FY 2013 Survey of Science and Engineering Research Facilities.

OMB Control Number: 3145–0101.

Expiration Date of Approval: October 31, 2010.

Type of Request: Intent to seek approval to reinstate an information collection for three years.

Proposed Project: The National Science Foundation Survey of Science and Engineering Research Facilities is a Congressionally mandated (Public Law 99–159), biennial survey that has been conducted since 1986. The survey collects data on the amount, condition, and costs of the physical facilities used to conduct science and engineering research. The survey also requests information on the networking and high performance computing capacity at the surveyed institutions, a critical part of the infrastructure for science and engineering research. Due to the rapidity of technological change, these questions are continually updated. It was expected by Congress that this survey would provide the data necessary to describe the status and needs of science and engineering research facilities and to formulate appropriate solutions to documented needs. During the FY 2007 and FY 2009 survey cycles, data were collected from a population of approximately 495 research-performing colleges and universities and approximately 163 nonprofit biomedical research institutions receiving research support from the National Institutes of Health.

Use of the Information: Analysis of the Facilities Survey data will provide updated information on the status of scientific and engineering research facilities and capabilities. The information can be used by Federal policy makers, planners, and budget analysts in making policy decisions, as well as by institutional academic officials, the scientific/engineering establishment, and state agencies and legislatures that fund universities.

Burden on the Public: The Facilities Survey will be sent by mail to approximately 495 higher education institutions. The completion time per academic institution is expected to average 41 hours. Assuming a 95% response rate, this would result in an estimated burden of 19,280 hours for academic institutions.

Dated: May 15, 2011.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2011–11953 Filed 5–13–11; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2010–0383]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and

Budget (OMB) and solicitation of public comment.

SUMMARY: The NRC invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR part 73, "Physical Protection of Plants and Materials."

2. *Current OMB approval number:* 3150–0002.

3. *How often the collection is required:* On occasion, with the exception of the initial submittal of revised Security Plans, Safeguards Contingency Plans, and Security Training and Qualification Plans. Required reports are submitted and evaluated as events occur.

4. *Who is required or asked to report:* Nuclear power reactor licensees, licensed under 10 CFR part 50 or 52 who possess, use, import, export, transport, or deliver to a carrier for transport, special nuclear material; Category I fuel facilities; Category II and III facilities; research and test reactors; 200 state contacts; and 262 other nuclear materials licensees.

5. *The number of annual respondents:* 580.

6. *The number of hours needed annually to complete the requirement or request:* 508,133 hours (35,705 reporting plus 10,280 third-party notification plus 462,148 recordkeeping).

7. *Abstract:* NRC regulations in 10 CFR part 73 prescribe requirements to establish and maintain a physical protection system and security organization with capabilities for protection of (1) special nuclear material (SNM) at fixed sites, (2) SNM in transit, and (3) plants in which SNM is used. The objective is to ensure that activities involving special nuclear material are consistent with interests of common defense and security and that these activities do not constitute an unreasonable risk to public health and safety. The information in the reports and records submitted by licensees is used by the NRC staff to ensure that the health and safety of the public and the environment are protected, and licensee possession and use of special nuclear material is in compliance with license and regulatory requirements.

Submit, by July 15, 2011, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee publicly available documents, including the draft 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 submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2010–0383. You may submit your comments by any of the following methods: Electronic comments: Go to *http://www.regulations.gov* and search for Docket No. NRC–2010–0383. Mail comments to NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Questions about the information collection requirements may be directed to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–6258, or by e-mail to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 11th day of May 2011.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2011–11894 Filed 5–13–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0006]

Sunshine Act Meeting

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATE: Weeks of May 16, 23, 30, June 6, 13, 20, 2011.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of May 16, 2011

There are no meetings scheduled for the week of May 16, 2011.

Week of May 23, 2011—Tentative

Friday, May 27, 2011

9 a.m.
Briefing on Results of the Agency Action Review Meeting (AARM) (Public Meeting). (*Contact:* Rani Franovich, 301–415–1868.)

This meeting will be webcast live at the Web address—*http://www.nrc.gov*.

Week of May 30, 2011—Tentative

Thursday, June 2, 2011

9:30 a.m.
Briefing on Human Capital and Equal Employment Opportunity (EEO) (Public Meeting). (*Contact:* Susan Salter, 301–492–2206.)

This meeting will be webcast live at the Web address—*http://www.nrc.gov*.

Week of June 6, 2011—Tentative

Monday, June 6, 2011

10 a.m.
Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting). (*Contact:* Tanny Santos, 301–415–7270.)

This meeting will be webcast live at the Web address—*http://www.nrc.gov*.

Week of June 13, 2011—Tentative

Wednesday, June 15, 2011

9:30 a.m.
Briefing on the Progress of the Task Force Review of NRC Processes and Regulations Following Events in Japan (Public Meeting). (*Contact:* Nathan Sanfilippo, 301–415–3951.)

This meeting will be webcast live at the Web address—*http://www.nrc.gov*.

Week of June 20, 2011—Tentative

There are no meetings scheduled for the week of June 20, 2011.

Additional Information

The Briefing on the Progress of the Task Force Review of NRC Processes

and Regulations Following Events in Japan previously scheduled on June 16, 2011, has been rescheduled on June 15, 2011.

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415–1292. Contact person for more information: Rochelle Bavol, (301) 415–1651.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Bill Dosch, Chief, Work Life and Benefits Branch, at 301–415–6200, *TDD:* 301–415–2100, or by e-mail at *william.dosch@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an e-mail to *darlene.wright@nrc.gov*.

May 11, 2011.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2011–12040 Filed 5–12–11; 4:15 pm]

BILLING CODE 7590–01–P

PEACE CORPS

Information Collection Requests Under OMB Review

AGENCY: Peace Corps.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for approval of an existing collection in use without an OMB Control Number. In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Peace Corps invites the general public to comment on this request for approval of an existing collection in use without an OMB Control Number, Peace Corps Response Applicant Personal and Professional Reference forms.

DATES: Submit comments on or before July 15, 2011.

ADDRESSES: Comments should be addressed to Denora Miller, Freedom of Information Act Officer. Denora Miller can be contacted by telephone at 202–692–1236 or e-mail at *pcfr@peacecorps.gov.* E-mail comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Denora Miller at Peace Corps address above.

SUPPLEMENTARY INFORMATION: This information collection is used by Peace Corps Response staff to learn from someone, who knows a volunteer applicant and his or her background, whether the applicant possesses the necessary characteristics and skills to serve as a Peace Corps Response Volunteer.

OMB Control Number: 0420-pending.

Title: Reference Form for Peace Corps Response Candidates (Professional). Reference Form for Peace Corps Response Candidates (Personal).

Type of Review: Existing collection in use without an OMB Control Number.

Affected Public: Returned Peace Corps Volunteer and general public.

Respondents' Obligation to Reply: Voluntary.

Burden to the Public:

a. Estimated number of applicants: 2,500.

b. Estimated number of applicants who submit references: 500.

c. Estimated number of references required per applicant: 2.

d. Estimated number of reference forms received: 1,000.

e. Frequency of response: One time.

f. Estimated average time to respond: 10 minutes.

g. Annual burden hours: 167 hours.

h. Estimated annual cost to respondents: $0.00.

General Description of Collection: The information collected on the reference forms for Peace Corps Response applicants is part of the screening and selection process. The information collected from an applicant's references helps the recruitment and placement specialists determine whether a particular applicant possesses the skills and characteristics to serve as a Peace Corps Response Volunteer.

Request for Comment: Peace Corps invites comments on whether the proposed collection of information is necessary for proper performance of the functions of the Peace Corps Response, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice issued in Washington, DC, on May 10, 2011.

Earl W. Yates,

Associate Director, Management.

[FR Doc. 2011–11875 Filed 5–13–11; 8:45 am]

BILLING CODE 6051–01–P

PEACE CORPS

Information Collection Requests Under OMB Review

AGENCY: Peace Corps.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Peace Corps will submit the following information collection request to the Office of Management and Budget (OMB) for approval. In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Peace Corps invites the general public to comment on this request for approval of a new proposed information collection, Peace Corps Response Application (OMB Control Number 0420—pending). This process is conducted in accordance with 5 CFR 1320.10.

DATES: Submit comments on or before July 15, 2011.

ADDRESSES: Comments should be addressed to Denora Miller, Freedom of Information Act Officer. Denora Miller can be contacted by telephone at 202–692–1236 or e-mail at *pcfr@peacecorps.gov.* E-mail comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Denora Miller at Peace Corps address above.

SUPPLEMENTARY INFORMATION: This information collection will be used by Peace Corps Response staff to perform initial screening for potential candidates for specific Peace Corps Response assignments. The information collection requests basic information about an applicant's technical and language skills and availability for Peace Corps Response assignments. Peace Corps Response deploys volunteers throughout the world to work in short term assistance (6 months on average) projects.

Method: The Peace Corps Response application will be available on the

Peace Corps Web site and will be submitted electronically to Peace Corps Response.

Title: Peace Corps Response Application Form.

OMB Control Number: 0420—pending.

Type of Review: New.

Affected Public: Returned Peace Corps Volunteer and general public.

Respondents' Obligation To Reply: Voluntary.

Burden to the Public:

(a) Estimated number of respondents: 2,500.

(b) Frequency of response: one time.

(c) Estimated average burden per response: 60 minutes.

(d) Estimated total reporting burden: 2,500 hours.

(e) Estimated annual cost to respondents: $0.00.

General Description of Collection: The Peace Corps Response Application is necessary to recruit qualified Volunteers to serve in the Peace Corps' Peace Corps Response program. This information collection will be used by Peace Corps Response staff to perform initial screening for potential candidates for specific Peace Corps Response assignments. Applicants are recruited from the Returned Peace Corps Volunteer community as well as from the general public.

Request for Comment: Peace Corps invites comments on whether the proposed collection of information is necessary for proper performance of the functions of the Peace Corps Response, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice issued in Washington, DC, on May 10, 2011.

Earl W. Yates,

Associate Director, Management.

[FR Doc. 2011–11879 Filed 5–13–11; 8:45 am]

BILLING CODE 6051–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold an Open Meeting on May 18, 2011 at 10 a.m., in the Auditorium, Room L–002.

The subject matter of the Open Meeting will be:

The Commission will consider whether to propose new rules and amendments to existing rules to implement provisions of Subtitle C of Title IX of the Dodd-Frank Wall Street Reform and Consumer Protection Act that would apply to credit rating agencies registered with the Commission as nationally recognized statistical rating organizations, providers of third-party due diligence services for asset-backed securities, and issuers and underwriters of asset-backed securities.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: May 11, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–12018 Filed 5–12–11; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Securities Act of 1933, Release No. 9206/May 11, 2011; Securities Exchange Act of 1934, Release No. 64462/May 11, 2011; Order Directing Funding for the Governmental Accounting Standards Board

President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") on July 21, 2010.[1] The Dodd-Frank Act, among other things, added Section 19(g) to the Securities Act of 1933 ("Securities Act") to create a mechanism for funding the Governmental Accounting Standards Board ("GASB").[2]

Section 19(g) of the Securities Act provides that the Commission may, subject to the limitations imposed by Section 15B of the Securities Exchange Act of 1934 ("Exchange Act"),[3] require a national securities association registered under the Exchange Act to establish a reasonable annual accounting support fee to adequately fund the annual budget of the GASB, and to establish rules and procedures, in consultation with the principal organizations representing State governors, legislators, local elected officials, and State and local finance officers, to provide for the equitable allocation, assessment, and collection of the accounting support fee from the members of the association, and the remittance of all such accounting support fees to the Financial Accounting Foundation.[4]

For purposes of this order and as provided in Securities Act Section 19(g), the annual budget of the GASB is the annual budget reviewed and approved according to the internal procedures of the Financial Accounting Foundation.[5] Any fees or funds collected shall be used to support the efforts of the GASB to establish standards of financial accounting and reporting recognized as generally accepted accounting principles applicable to State and local governments of the United States.[6] The annual accounting support fees collected for a fiscal year shall not exceed the recoverable annual budgeted expenses of the GASB (which may include operating expenses, capital, and accrued items).[7]

Accounting support fees collected and other receipts of the GASB shall not be considered public monies of the United States.[8] Nothing in this order shall be construed to provide the Commission or any national securities association direct or indirect oversight of the budget or technical agenda of the GASB, or affect the setting of generally accepted accounting principles by the GASB.[9] In addition, nothing in this order shall be construed to impair or limit the authority of a State or local government to establish accounting and financial reporting standards.[10]

To provide for an independent and more reliable funding mechanism for the GASB, the Commission has determined that the Financial Industry Regulatory Authority, Inc. ("FINRA") shall establish such a reasonable accounting support fee and related rules and procedures to provide funding for the GASB. Accordingly,

It is ordered, pursuant to Section 19(g) of the Securities Act, that FINRA establish (a) a reasonable annual accounting support fee to adequately fund the annual budget of the GASB; and (b) rules and procedures, in consultation with the principal organizations representing State

[1] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

[2] *See* Section 978 of the Dodd-Frank Act.

[3] *See* 15 U.S.C. 78o–4.

[4] *See* 15 U.S.C. 77s(g)(1).

[5] *See* 15 U.S.C. 77s(g)(2).

[6] *See* 15 U.S.C. 77s(g)(3).

[7] *See* 15 U.S.C. 77s(g)(4).

[8] *See* 15 U.S.C. 77s(g)(5)(A).

[9] *See* 15 U.S.C. 77s(g)(5)(B).

[10] *See* 15 U.S.C. 77s(g)(5)(C).

governors, legislators, local elected officials, and State and local finance officers, to provide for the equitable allocation, assessment, and collection of the accounting support fee from its members, and the remittance of all such accounting support fees to the Financial Accounting Foundation.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–11931 Filed 5–13–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64439; File No. SR–BX–2011–023]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Fees for Non Co-Location Services

May 9, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 28, 2011, NASDAQ OMX BX, Inc. ("BX" or "Exchange") 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 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 modify fees for non co-location services. While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on May 1, 2011. The text of the proposed rule change is available at *http://nasdaqomxbx.cchwallstreet.com/*, at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is amending Rule 7051 entitled "Direct Connectivity to Nasdaq" to establish pricing for customers who are not co-located in the Exchange's data center, but require shared cabinet space and power for optional routers, switches, or modems to support their direct circuit connections. The Exchange proposes to assess customers who are not co-located in the Exchange's data center monthly fees for space based on a height unit of approximately two inches high, commonly call a "U" space and a maximum power of 125 Watts per U space.

Currently, non co-located customers are assessed fees for direct circuit connection to the Exchange, as well as installation of an optional on-site cable router.[3] However, there is no charge to non co-located customers for the space and utility cost to maintain the optional router. As more and more non co-located customers seek to utilize the optional router, the Exchange must utilize more space and utilities to accommodate the influx. It has become a necessity for the Exchange to offset the space and utility cost to maintain the optional router in the same manner as has been established for co-located customers. Additionally, the optional router may include other networks devices (*e.g.,* switches or modems) to operate the customer's business. While co-located customers are assessed the same per U fee, the co-located customers are assessed in increments of a 4U Block at $600 per month. The Exchange seeks to establish and make transparent the fees imposed for space and utility costs to non co-located customers.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[4] in general, and with Section 6(b)(4) of the Act,[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls. The Exchange believes the proposed fees are reasonable and equitable for the reasons below.

The Exchange operates in a highly competitive market in which exchanges offer non co-location services as a means to facilitate the trading activities of those customers who believe that the non co-location services enhance the efficiency of their trading. Accordingly, fees charged for non co-location services are constrained by the fees charged to co-located customers, as well as fees charged by other exchanges, taking into consideration the different costs associated with the two service types. It should be noted, however, that the costs associated with a co-located customer are primarily fixed costs that include the costs of renting or owning data center space and retaining a staff of technical personnel. Accordingly, the Exchange establishes a range of non co-location fees with the goal of covering these same fixed costs and covering less significant marginal costs, such as the cost of electricity.

The Exchange proposes the same fee for non co-located customers and co-located customers because the space and utility cost are comparable. If a particular exchange charges excessive fees for non co-location services that are comparable to co-location services, affected members will opt to terminate their non co-location arrangements with that exchange, and pursue range of alternative trading strategies not dependent upon the Exchange's non co-location service. Accordingly, the exchange charging excessive fees would stand to lose not only non co-location revenues and any other revenues associated with the non co-located customer's operations. Moreover, all of the Exchange's fees for space and utility costs services are equitably allocated and non-discriminatory in that all non co-location customers are offered the same space and utility service as the co-located customers, and, there is no differentiation among customers with regard to the fees charged for such costs.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* BX Rule 7051, Direct Connectivity to BX, Release No. 62969 (September 22, 2010), 75 FR 59777 (September 28, 2010) (SR–BX–2010–064).

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(4).

As discussed above, the Exchange believes that proposed fees for non co-location services are comparable to the same service provided to co-locations customers. Additionally, such costs are constrained by the robust competition for order flow among exchanges and non-exchange markets, because non co-location exists to advance that competition, and excessive fees for non co-location services would serve to impair an exchange's ability to compete for order flow rather than burdening competition.

Other exchanges charge the customer for fixed costs to house routers and other equipment to conduct its business on the premises; however, they are in a co-location relationship. For instance, the International Stock Exchange ("ISE") charges 4.75% of ISE's equipment costs for equipment lease maintenance.[6] The Chicago Board Options Exchange (CBOE) charges $100 per month for each Shelf for Equipment.[7] The Chicago Stock Exchange, Inc. ("CHX") charges $45 per month plus a one-time set up of $150 for 1 U of space. An additional Rack Mount will cost an extra $45 per month and a one-time fee of $150.[8] Since the Exchange seeks to charge a comparable price for its non co-located customers for the similar service, the Exchange believes, based on the charges of BX and the other exchanges mentioned above, that $150 per month is a comparable price.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

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.[9] 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. 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 proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–BX–2011–023 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2011–023. 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 will also be available for inspection and copying at the principal office of the self-regulatory organization. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2011–023 and should be submitted on or before June 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–11886 Filed 5–13–11; 8:45 am]

BILLING CODE 8011–01–P

[6] *See* ISE Schedule of Fees, page 10, at *http://www.ise.com/assets/documents/OptionsExchange/legal/fee/fee_schedule.pdf.*

[7] *See* CBOE Fee schedule, page 8 *http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf.*

[8] *See* CHX Fee Schedule, page 9, at *http://www.chx.com/content/participant_information/Downloadable_Docs/Rules/CHX_Fee_Schedule_04252011.pdf.*

[9] 15 U.S.C. 78s(b)(3)(a)(ii).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64455; File No. SR–MSRB–2011–06]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of Rule Change Consisting of Fee Changes to Its Historical Transaction Data Reports

May 10, 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 April 27, 2011, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. 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 Municipal Securities Rulemaking Board ("MSRB" or "Board") has filed with the SEC a proposed rule change relating to the MSRB's Historical Transaction Data Reports (the MSRB "Historical Data Product"). The proposed rule change would increase the fee for a one calendar year data set of the Historical Data Product from $600 to $2,500, which the MSRB believes is a fair and reasonable fee for such municipal securities transaction data. Additionally, the MSRB proposes a one-time set-up fee of $2,000 to be charged to each Historical Data Product purchaser to partially offset administrative costs (the "set-up fee"); provided, however, that the MSRB would not impose the set-up fee on any prior purchaser of the Historical Data Product or current subscriber to an MSRB Subscription Service, including the MSRB Real-Time Transaction Data Subscription Service, Comprehensive Transaction Data Subscription Service,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Short-Term Obligation Rate Transparency Subscription Service, Primary Market Disclosure Subscription Service, or Continuing Disclosure Subscription Service.[3] The MSRB has filed the proposal as a fee change, pursuant to Section 19(b)(3)(A)(ii)[4] of the Act and Rule 19b–4(f)(2) thereunder,[5] which renders the proposal effective upon filing with the Commission.

The text of the proposed rule change is available on the MSRB's Web site at *http://www.msrb.org/Rules-and-Interpretations/SEC-Filings/2011-Filings.aspx,* at the MSRB's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB 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 Board 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 the proposed rule change is to align the MSRB's Historical Data Product charges with other fees established by the MSRB, and to partially offset the cost of operating and maintaining the MSRB's Market Information Transparency Programs and the MSRB Real-Time Transaction Reporting System ("RTRS"). Since the Historical Data Product was first approved by the SEC in 2004,[6] the MSRB has not increased the fee for the product. It has remained at a nominal level for over six years. The MSRB currently charges an annual fee of $10,000 for a subscription to the MSRB Real-Time Transaction Data Subscription Service, and an annual fee of $5,000 for a subscription to the delayed transaction service, the MSRB Comprehensive Transaction Data Subscription Service, which includes three delayed transaction reports—the T+1 Report, T+5 Report, and T+20 Report.

The proposed rule change would increase the fee for a one calendar year data set of the Historical Data Product from $600 to $2,500, which the MSRB believes is a fair and reasonable fee for such municipal securities transaction data. Additionally, the MSRB proposes a one-time set-up fee of $2,000 to be charged to each Historical Data Product purchaser to partially offset administrative costs (the "set-up fee"); provided, however, that the MSRB would not impose the set-up fee on any prior purchaser of the Historical Data Product or current subscriber to an MSRB Subscription Service, including the MSRB Real-Time Transaction Data Subscription Service, Comprehensive Transaction Data Subscription Service, Short-Term Obligation Rate Transparency Subscription Service, Primary Market Disclosure Subscription Service, or Continuing Disclosure Subscription Service.

The transaction information provided in the Historical Data Product is the same as that currently provided in the MSRB's Comprehensive Transaction Data Subscription Service, including the trade date, the CUSIP number of the issue traded, a short description of the issue, the size of the transaction (including the exact par amount reported to the MSRB on transaction amounts greater than one million dollars), the time of trade as reported by the dealer, the price of the transaction, the dealer-reported yield (if any), and a designation as to whether the transaction is a sale by a dealer to a customer, a purchase from a customer, or an inter-dealer trade. The same information provided through the Historical Data Product will remain available to the public for free on the MSRB's Electronic Municipal Market Access ("EMMA") web portal. The Historical Data Product will continue to be provided on CD–ROM[7] pursuant to the terms of the purchase agreement.[8]

2. Statutory Basis

The MSRB has adopted the proposed rule change pursuant to Section 15B(b)(2)(J) of the Securities Exchange Act of 1934 (the "Act"), which requires, in pertinent part, that the MSRB's rules shall:

> Provide that each municipal securities broker, municipal securities dealer, and municipal advisor shall pay to the Board such reasonable fees and charges as may be necessary or appropriate to defray the costs and expenses of operating and administering the Board. Such rules shall specify the amount of such fees and charges.

The MSRB believes that the proposed rule change provides for commercially reasonable fees to partially offset costs associated with operating RTRS and the market information transparency programs operated by the MSRB and producing and disseminating transaction products to purchasers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act since it will apply equally to all persons who chose to purchase the Historical Data Product, and those who chose not to pay the charge may view the same information for free on the Board's EMMA Web site.

C. Self-Regulatory Organization's Statement on Comments Received on the Proposed Rule Change by Members, Participants, or Others

Written comments were neither solicited nor received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change took effect upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act and Rule 19b–4(f)(2) thereunder. The MSRB designated the proposed rule change as establishing or changing a fee or charge of the MSRB.

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.[9]

[3] The MSRB could, in its discretion and consistent with the stated policy for certain other subscription services offered by the MSRB, waive the Historical Data Product set-up fee for not-for-profit organizations, academic institutions, or other entities or persons who desire the service for non-profit or research purposes.

[4] 15 U.S.C. 78s(b)(3)(A)(ii).

[5] 17 CFR 240.19b–4(f)(2).

[6] *See* Exchange Act Release No. 50689 (November 18, 2004) (File No. SR–MSRB–2004–05).

[7] As technology evolves or if the volume of information included in the Historical Data Product increases, the MSRB may in the future decide to use a different medium for delivering the Historical Data Product.

[8] Purchasers are subject to all of the terms of the purchase agreement to be entered into between the MSRB and each purchaser, including proprietary and intellectual property rights of third parties in information provided by such third parties that is made available through the product.

[9] *See* Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

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–MSRB–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–MSRB–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 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 MSRB's offices.

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–MSRB–2011–06 and should be submitted on or before June 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–11841 Filed 5–13–11; 8:45 am]

BILLING CODE 8011–01–P

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64441; File No. SR–Phlx–2011–60]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ OMX PHLX LLC To Modify Fees for Non Co-Location Services

May 9, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1], and Rule 19b–4 thereunder,[2] notice is hereby given that on April 28, 2011, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify fees for non co-location services. While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on May 1, 2011.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.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 aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is amending the Phlx Fee Schedule, Section VI entitled "Direct Connectivity to Phlx" to establish pricing for customers who are not co-located in the Exchange's data center, but require shared cabinet space and power for optional routers, switches, or modems to support their direct circuit connections. The Exchange proposes to assess customers who are not co-located in the Exchange's data center monthly fees for space based on a height unit of approximately two inches high, commonly call a "U" space and a maximum power of 125 Watts per U space.

Currently, non co-located customers are assessed fees for direct circuit connection to the Exchange, as well as installation of an optional on-site cable router.[3] However, there is no charge to non co-located customers for the space and utility cost to maintain the optional router. As more and more non co-located customers seek to utilize the optional router, the Exchange must utilize more space and utilities to accommodate the influx. It has become a necessity for the Exchange to offset the space and utility cost to maintain the optional router in the same manner as has been established for co-located customers. Additionally, the optional router may include other networks devices (*e.g.,* switches or modems) to operate the customer's business.

While co-located customers are assessed the same per U fee, the co-located customers are assessed in increments of a 4U Block at $600 per month. The Exchange seeks to establish and make transparent the fees imposed for space and utility costs to non co-located customers.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[4] in general, and with Section 6(b)(4) of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* NASDAQ OMX PHLX LLC Fee Schedule, Section VI, Access Service, Cancellation, Membership, Regulatory and Other Fees, Direct Connectivity to Nasdaq, Release No. 62639 (August 4, 2010), 75 FR 48391 (August 10, 2010) (SR–PHLX–2010–89).

[4] 15 U.S.C. 78f.

the Act,[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls. The Exchange believes the proposed fees are reasonable and equitable for the reasons below.

The Exchange operates in a highly competitive market in which exchanges offer non co-location services as a means to facilitate the trading activities of those customers who believe that the non co-location services enhance the efficiency of their trading. Accordingly, fees charged for non co-location services are constrained by the fees charged to co-located customers, as well as fees charged by other exchanges, taking into consideration the different costs associated with the two service types. It should be noted, however, that the costs associated with a co-located customer are primarily fixed costs that include the costs of renting or owning data center space and retaining a staff of technical personnel. Accordingly, the Exchange establishes a range of non co-location fees with the goal of covering these same fixed costs and covering less significant marginal costs, such as the cost of electricity.

The Exchange proposes the same fee for non co-located customers and co-located customers because the space and utility cost are comparable. If a particular exchange charges excessive fees for non co-location services that are comparable to co-location services, affected members will opt to terminate their non co-location arrangements with that exchange, and pursue range of alternative trading strategies not dependent upon the Exchange's non co-location service. Accordingly, the exchange charging excessive fees would stand to lose not only non co-location revenues and any other revenues associated with the non co-located customer's operations. Moreover, all of the Exchange's fees for space and utility costs services are equitably allocated and non-discriminatory in that all non co-location customers are offered the same space and utility service as the co-located customers, and, there is no differentiation among customers with regard to the fees charged for such costs.

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 not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[6] 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. 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 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–Phlx–2011–60 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–Phlx–2011–60. This file number should be included on the subject line if e-mail is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal offices 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–Phlx–2011–60, and should be submitted on or before June 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–11859 Filed 5–13–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64453; File No. SR–NASDAQ–2011–062]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Fees for Members Using the NASDAQ Market Center

May 10, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 29, 2011, The NASDAQ Stock Market LLC ("NASDAQ") 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 NASDAQ. 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 the Substance of the Proposed Rule Change

NASDAQ proposes to modify pricing for NASDAQ members using the NASDAQ Market Center. NASDAQ has

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

designated this change to be operative on May 2, 2011. The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/*, at NASDAQ's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ 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. NASDAQ 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

NASDAQ is amending Rule 7018 to make modifications to its pricing schedule for execution of quotes/orders through the NASDAQ Market Center of securities priced at $1 or more. Under the pricing schedule, NASDAQ offers a credit to liquidity providers, with the size of the credit varying based on a range of parameters specified in the fee schedule. The lowest liquidity provider rebate is $0.0020 per share executed for displayed quotes/orders and $0.0010 per share executed for non-displayed quotes/orders. Under the proposed change, NASDAQ will modify the parameters under which members may qualify for higher liquidity provider rebates. In general, the changes will broaden the circumstances under which members may qualify for a higher rebate, although in some circumstances the changes may reduce a particular member's rebate.

First, NASDAQ is simplifying the method of determining whether a member qualifies for its highest rebate tier of $0.0015 per share executed for non-displayed quotes/orders and $0.00295 per share executed for displayed quotes/orders. Currently, a member's eligibility for this tier is based on its achieving certain levels of liquidity provision that vary depending on overall trading volumes during the month. Thus, a member qualifies for the highest credit if it has an average daily volume through the NASDAQ Market Center in all securities during the month of: (i) More than 95 million shares of liquidity provided, if average total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities is more than 10 billion shares per day during the month; (ii) more than 85 million shares of liquidity provided, if average total consolidated volume is between 9,000,000,001 and 10 billion shares per day during the month; (iii) more than 75 million shares of liquidity provided, if average total consolidated volume is between 8,000,000,001 and 9 billion shares per day during the month; and (iv) more than 65 million shares of liquidity provided, if average total consolidated volume is 8 billion or fewer shares per day during the month. The liquidity must be provided through a single market participant identifier ("MPID") of the member. Under this approach, depending on the volume during a month, a member may be required to provide liquidity that represents varying percentages of the total consolidated volume in order to achieve the tier. In order to adopt a requirement that is consistent from month to month, NASDAQ is modifying the requirement so that it is directly tied to a member's percentage of total consolidated volume during the month, with any member providing liquidity through a single MPID that represents more than 0.90% of the total becoming eligible for the rebate tier. NASDAQ believes that this change will make the amount of liquidity provision required to achieve the highest rebate tier more predictable and less prone to month-to-month changes than under the current approach. For example, under the current approach, in a month with 9 billion shares of average total consolidated volume per day, a member would be required to provide a daily average of 75 million shares of liquidity, or approximately 0.83% of the total, while in a month with slightly over 9 billion shares of average total consolidated volume per day, the requirement would rise to 85 million shares of liquidity, or about 0.94% of the total. Under the changed approach, the member would be required to provide 0.90% of the total, regardless of the volume during that month. The change will ensure that a member providing that level of liquidity will consistently receive the highest rebate, whereas a member providing that level of liquidity under the current schedule might receive the highest rebate in some months but not in others as overall market volumes fluctuated. For example, during the first three months of 2011, as well as the month of April 2011,[3] average daily trading volumes were 8.158 billion, 7.804 billion, 7.870 billion, and 6.970 billion shares, respectively. Thus, a member seeking to receive this rebate tier during January 2011 was required to provide a daily average of more than 75 million shares of liquidity per day during January 2011, and a daily average of more than 65 million shares during each of February, March, and April. However, in each of these months, the required volumes represented 0.919%, 0.833%, 0.826%, and 0.933%, respectively, of the total. Thus, a member providing the new required threshold of 0.90% would have received the highest rebate in only two of the four months under the current approach. Moreover, to the extent that trading volumes remain at or near April 2011 levels, the new approach will make it consistently easier for members to reach the volume levels required for the highest tier.

Second, NASDAQ currently offers a rebate tier of $0.0015 per share executed for quotes/orders that are not displayed and $0.0029 per share executed for quotes/orders that are displayed to members providing a daily average of more than 35 million shares of liquidity during the month, through one or more of its MPIDs. This tier is currently not tied to overall market volumes, and therefore may be more difficult for a member to achieve in a low volume month. NASDAQ is modifying the tier to make it available to a member providing liquidity through one or more of its MPIDs that represents more than 0.45% of total consolidated trading volume. As a result, the required threshold will be lowered for any month with an average trading volume lower than 7,777,777,778 shares per day, but raised for months with higher trading volumes. To the extent that trading volumes remain at or near April 2011 levels, the new approach will make it consistently easier for members to reach the volume levels required for the highest tier.

Third, in order to retain a favorable rebate tier for members that provide a specified minimum level of liquidity without regard to overall market trading volumes, NASDAQ is also introducing a new rebate tier for members that provide a daily average of more than 25 million shares of liquidity during a month, through one or more MPIDs. Such members will receive a credit of $0.0010 per share executed for non-displayed quotes/orders, and $0.0027 per share executed for displayed quotes/orders. In addition, NASDAQ is retaining a tier for members providing a

[3] Based on volume data through April 26, 2011.

daily average of more than 20 million share of liquidity, under which it pays a rebate of $0.0010 per share executed for non-displayed liquidity and $0.0025 per share executed for displayed liquidity.[4] These rebate tiers would be expected to benefit members whose order flow does not rise during high volume months, but that nevertheless provide the specified levels of liquidity, thereby contributing to the depth and market quality of the NASDAQ book.

Fourth, NASDAQ currently provides a rebate tier for members that provide specified quantities of liquidity in general and with respect to stocks listed on venues other than NASDAQ and the New York Stock Exchange ("Tape B stocks") in particular. Currently, the rebate is available to members that provide a daily average of more than 20 million shares of liquidity during the month, including a daily average of more than 8 million shares of liquidity in Tape B stocks. Such members receive a rebate of $0.0015 per share executed for non-displayed quotes/orders and a rebate of $0.0029 per share executed for displayed quotes/orders. As with several other tiers, NASDAQ is modifying the tier requirements to specify percentages of total consolidated volume rather than share volumes. Specifically, a member will be eligible for this rebate tier if it provides liquidity through one or more MPIDs that represents more than 0.30% of total consolidated volume, and shares of liquidity in Tape B stocks that represent more than 0.10% of total consolidated volume. As a result, the required threshold for overall liquidity provided will be lowered in a month with average daily trading volumes below 6,666,666,667 shares, while the required threshold for Tape B liquidity would be lowered in a month with average daily trading volumes below 8 billion shares.

Fifth, NASDAQ is introducing new liquidity provider rebate tiers that focus on the extent to which a member accesses liquidity as well as its level of liquidity provision. Because members accessing high levels of liquidity contribute to the quality of the NASDAQ market through the payment of fees and by encouraging members that post liquidity to post orders that seek to interact with incoming orders, NASDAQ believes that it is appropriate to offer an enhanced liquidity provider rebate to such members. Specifically, if a member accesses shares of liquidity through one or more of its MPIDs that represent more than 0.65% of total consolidated volume, and also provides a daily average of at least 2 million shares of liquidity through one or more MPIDs, NASDAQ will pay a rebate of $0.0015 per share executed for the member's non-displayed quotes/orders, and $0.0029 per share executed for its displayed quotes/orders. Similarly, if a member accesses shares of liquidity through one or more of its MPIDs that represent more than 0.45% of total consolidated volume, and also provides a daily average of at least 2 million shares of liquidity through one or more MPIDs, NASDAQ will pay a rebate of $0.0010 per share executed for the member's non-displayed quotes/orders, and $0.0025 per share executed for its displayed quotes/orders.

Finally, with respect to liquidity provider rebate tiers focused on members active in both the NASDAQ Stock Market and the NASDAQ Options Market, NASDAQ is modifying its existing tiers and adding a new tier. Currently, a member that provides a daily average of more than 10 million shares of liquidity in the NASDAQ Stock Market, and trades a daily average of more than 130,000 contracts in the NASDAQ Options Market is eligible to receive a rebate of $0.0015 per share executed for its non-displayed quotes/orders and $0.0029 per share executed for its displayed quotes/orders. NASDAQ is reducing the required daily average number of options contracts to 115,000, while modifying the liquidity provision threshold to require shares of liquidity representing more than 0.15% of total consolidated volume. The required volume of liquidity provision would thereby be reduced in any month with an average daily volume of less than 6,666,666,667 shares.

Similarly, a member that currently provides shares representing 1.0% or more of the total consolidated volume in the NASDAQ Stock Market, and trades a daily average of more than 300,000 contracts in the NASDAQ Options Market, is eligible to receive a rebate of $0.0015 per share executed for its non-displayed quotes/orders and $0.00295 per share executed for its displayed quotes/orders. NASDAQ is reducing the liquidity provision threshold to require shares of liquidity representing more than 0.90% of total consolidated volume.[5]

Under the new tier for members active in both markets, a member will be eligible to receive $0.0010 per share executed with respect to non-displayed quotes/orders and $0.0025 per share executed with respect to displayed quotes/orders if it provides shares of liquidity representing more than 0.10% of the total consolidated volume for the month, and also trades an average daily volume of more than 115,000 contracts on the NASDAQ Options Market during the month.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[6] in general, and with Section 6(b)(4) of the Act,[7] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls. All similarly situated members are subject to the same fee structure, and access to NASDAQ is offered on fair and non-discriminatory terms.

The filing introduces many changes with respect to the liquidity provider rebates paid by NASDAQ, but NASDAQ believes that the overall effect of the changes will be to make it easier for members to receive higher rebates, particularly in months with lower trading volumes, thereby reducing prices for those members that were previously unable to qualify for an enhanced rebate but that are able to do so under the revised pricing schedule. All of the proposed rebate tiers are based upon a member's level of activity in the NASDAQ Stock Market and/or NASDAQ Options Market.

With respect to the replacement of share thresholds with percentage thresholds for certain of NASDAQ's existing rebate tiers,[8] NASDAQ believes that the change is reasonable, because it will result in more predictability from month to month with respect to the levels of liquidity provision required to

[4] NASDAQ is making non-substantive changes to the text that describes this rebate tier, however. Specifically, the text had contained references to levels of liquidity provision with respect to stocks listed on venues other than NASDAQ and the New York Stock Exchange that were needed to distinguish the requirements of the tier from the requirements of another similarly worded tier. Because the requirements of the other tier are being modified, the distinguishing language is being deleted.

[5] NASDAQ is also deleting the word "average" from the provision since it is superfluous: A member providing a given percentage of the average total consolidated volume on each day during the month would provide the same percentage of the total consolidated volume for the entire month. NASDAQ is also amending Rule 7018(j) to stipulate that any trading day on which the market is not open for the entire trading day (such as the day after Thanksgiving) will be excluded from the calculation of total consolidated volume as well as average daily volume.

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(4).

[8] Specifically, the tiers for members providing more than 0.90% of total consolidated volume, for members providing more than 0.45% of total consolidated volume, and for members providing more than 0.30% of total consolidated volume, including 0.10% in Tape B stocks.

receive the applicable rebate levels. Although the changes will make it easier to achieve applicable rebate tiers in some months and more difficult in other months, depending on overall market volumes, NASDAQ believes that the levels of activity required to achieve higher tiers are generally consistent with existing requirements for these tiers. Moreover, like existing rebate tiers tied to volume levels, as in effect at NASDAQ and other markets, the proposed rebate tiers are equitable and non-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 volumes.

Similarly, the proposed new rebate tier for members providing an average daily volume of more than 25 million shares of liquidity will provide members with greater opportunities to receive a higher rebate. Accordingly, it is reasonable because it will reduce fees for members providing more than 25 million, but fewer than 35 million shares of liquidity per day, and is non-discriminatory and equitable because it is open to all members on an equal basis and provides discounts that are reasonably related to the value to an exchange's market quality associated with volumes.

The new rebate tiers for members that access high volumes of liquidity and provide a daily average of at least 2 million shares of liquidity are reasonable because they will reduce fees for members that qualify for the tiers. Moreover, NASDAQ believes that they are non-discriminatory and 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 volumes. Although many rebate tiers focus on levels of liquidity provision, NASDAQ believes that is also reasonable and equitable to reduce fees for members that access high volumes of liquidity, because the presence of such members' order flow in turn attracts members that seek to post quotes/orders to interact with incoming order flow.

With respect to pricing changes for members active on both the NASDAQ Market Center and the NASDAQ Options Market, NASDAQ has noted in its prior filings with regard to existing rebate tiers focused on such members that the tiers are responsive to the convergence of trading in which members simultaneously trade different asset classes within a single strategy.[9] NASDAQ also notes that cash equities and options markets are linked, with liquidity and trading patterns on one market affecting those on the other. Accordingly, pricing incentives that encourage market participant activity in both markets recognize that activity in the options markets also supports price discovery and liquidity provision in the NASDAQ Market Center. Moreover, NASDAQ believes that these changes are reasonable because they will make it easier for members active in both markets to qualify for an enhanced rebate, and are also non-discriminatory and equitable. They are open to all members, but are not the exclusive means by which members may qualify for the associated rebate levels. Accordingly, members are not required to trade in the NASDAQ Options Market in order to receive the applicable rebates.

Finally, NASDAQ notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, NASDAQ must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. NASDAQ believes that the proposed rule change reflects this competitive environment because it will broaden the conditions under which members may qualify for higher liquidity provider rebates.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Because the market for order execution and routing is extremely competitive, members may readily opt to disfavor NASDAQ's execution services if they believe that alternatives offer them better value. For this reason and the reasons discussed in connection with the statutory basis for the proposed rule change, NASDAQ does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

[9] Securities Exchange Act Release No. 64003 (March 2, 2011), 76 FR 12784 (March 8, 2011) (SR–NASDAQ–2011–028); Securities Exchange Act Release No. 59879 (May 6, 2009), 74 FR 22619 (May 13, 2009) (SR–NASDAQ–2009–041).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

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.[10] 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. 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 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–NASDAQ–2011–062 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–NASDAQ–2011–062. 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

[10] 15 U.S.C. 78s(b)(3)(a)(ii).

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the principal office of NASDAQ. 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–NASDAQ–2011–062, and should be submitted on or before June 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–11860 Filed 5–13–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64457; File No. SR–BX–2011–024]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Codify the Collection of the Covered Sales Fee

May 10, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 2, 2011, NASDAQ OMX BX, Inc. ("BX" or "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 Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter V, Sec. 2 (Fees and Charges) of the Rules of the Boston Options Exchange Group, LLC ("BOX") to codify the collection of the Covered Sales Fee. The text of the proposed rule change is available at the principal office of the Exchange, the Commission's Public Reference Room, on the Commission's Web site at *http://www.sec.gov,* and also on the Exchange's Internet Web site at *http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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

Pursuant to Section 31 of the Securities and Exchange Act of 1934 ("the Act")[5] and Rule 31 thereunder,[6] national securities exchanges and associations (collectively, "SROs") are required to pay a transaction fee to the Securities and Exchange Commission ("Commission") that is designed to recover the costs related to the government's supervision and regulation of the securities markets and securities professionals. To offset this obligation, Participants are assessed charges in connection with satisfaction of the Exchange's payment obligations under Section 31. This fee is collected indirectly from Participants through their clearing firms by the Options Clearing Corporation ("OCC") on behalf of the Exchange. The fee defrays the cost of the Section 31 fee triggered by the covered sale. The fee assessed to a Participant is equal to the Section 31 fee assessed by the Commission for the covered sale. The fee is collected by billing the Participant's designated clearing firm for the amount owed by the Participant to the Exchange. Assessing a sale fee is common practice among national exchanges.[7]

The Exchange is now proposing to codify this process by adopting the proposed Section 2(c) to Chapter V of the BOX Trading Rules. This proposed amendment codifies that the fee now referred to as the Covered Sale Fee is collected indirectly from Options Participants through their clearing firms by a designated clearing agency, as defined by the Act, on behalf of the Exchange and that to the extent there may be any excess monies collected under this Rule, the Exchange may retain those monies to help fund its general operating expenses. In addition, newly proposed Section 2(c) sets forth and explains the circumstances when a Covered Sale Fee is assessed by the Exchange to an Options Participant as follows: (i) When a sale in option securities occurs with respect to which the Exchange is obligated to pay a fee to the Commission under Section 31 of the Act; and (2) when a sell order in option securities is routed for execution at an away market other than on BOX, resulting in a covered sale on that market and an obligation of the Routing Broker providing routing services for BOX, as described in Chapter XII, Sec. 5, Supp. Material .01 of the BOX Trading Rules, to pay the related sales fee of that away market.[8]

Finally, the Exchange proposes to reletter the remainder of Section 2.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[9] in general, and furthers the objectives of Section (b)(4),[10] in particular, in that it

[11] 17 CFR 200.30–3(a)(12).

[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] 15 U.S.C. 78ee.

[6] 17 CFR 240.31.

[7] *See e.g.* International Securities Exchange ("ISE") Rule 212 and NASDAQ OMX PHLX ("PHLX") Rule 607.

[8] Sell orders in options securities entered into BOX that are routed to another market for execution, however, do not result in a covered sale on the Exchange. Execution of such routed orders is facilitated by Routing Broker(s), which executes the routed order on the away market on behalf of the Participant. Such routed sell orders result in a covered sale on the away market, which incurs a Section 31 fee obligation. The away market assesses a sale fee on the Routing Broker to defray the cost of the Section 31 fee obligation. In turn, as proposed, the Exchange will assess the Participant, the original selling party, a Covered Sale Fee to defray the cost of the Section 31 fee passed on by the away market pursuant to its sale fee. As such, the Exchange's Covered Sale Fee offsets the sale fee the Routing Broker(s) is assessed by the away market, and BOX reimburses the amounts paid by the Routing Broker(s) to the away markets, the result of which is to place the parties involved in the transaction in the same position as if the covered sale had occurred on the Exchange.

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(4).

is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Participants and other persons using the facilities. The proposed rule is codifying a practice currently employed by Exchange and the OCC. By adopting this rule, the Exchange is providing Participants with a description of the Covered Sale Fee and the process by which the Covered Sale Fee is collected.

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 not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act [11] and Rule 19b–4(f)(2) thereunder,[12] because it establishes or changes a due, fee, or other charge applicable only to a member.

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–BX–2011–024 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2011–024. 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–BX–2011–024 and should be submitted on or before June 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–11917 Filed 5–13–11; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 240.19b–4(f)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64463; File No. SR–NASDAQ–2011–037]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Approving Proposed Rule Change To Modify Chapter V, Section 4 and Chapter VI, Section 8 of the Exchange's Rules Relating to Opening and Halt Crosses on the NASDAQ Options Market

May 11, 2011.

I. Introduction

On March 15, 2011, The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] a proposed rule change to modify the procedures for the opening of trading at the start of the trading day and at the resumption of trading following a trading halt on the NASDAQ Options Market ("NOM"). The proposed rule change was published for comment in the **Federal Register** on April 4, 2011.[3] The Commission received no comment letters regarding the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to modify Chapter V, Section 4 and Chapter VI, Section 8 of the Exchange's rules ("NOM Rules") governing the opening of trading at the start of the trading day and at the resumption of trading following a trading halt on NOM. Specifically, the Exchange proposes to: (1) Eliminate one tie-breaker and modify a second tie-breaker used to establish the Current Reference Price and cross price; (2) modify the circumstances whereby the Exchange disseminates an indicative indicator of "market;" (3) change the start time for imbalance and indicative data dissemination; (4) clarify when an Order Imbalance Indicator is disseminated; and (5) establish a halt cross.

A. Elimination of the Order Imbalance Tie-Breaker and Modification of the Mid-Point Tie-Breaker

NOM currently employs a series of tie-breakers that resolve instances where multiple prices satisfy the conditions for

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 64143 (March 29, 2011), 76 FR 18589 (April 4, 2011) ("Notice").

executing the opening cross. These tie-breakers govern the calculation of the Current Reference Price, which is disseminated to market participants prior to the execution of the opening cross, and the calculation of the actual cross price.[4] The tie-breakers are criteria that operate in a hierarchy. If one and only one price satisfies the first criterion, the system has no need to consider the second tie-breaker, and, instead, the system will execute the cross. Conversely, if multiple prices satisfy the first criterion, the algorithm turns to the second criterion, and, if multiple prices satisfy the second criterion, the algorithm then turns to the third criterion. Currently, the first tie-breaker is the single price at which the maximum number of contracts of Eligible Interest [5] can be paired at or within the National Best Bid and Offer ("NBBO").[6]

The Exchange proposes to eliminate what currently serves as the second tie-breaker (the "Order Imbalance Tie-Breaker").[7] Specifically, under this second tie-breaker, when more than one price satisfies the first condition for the opening cross, the system will choose the price which minimizes the order imbalance remaining if the cross were to be executed.

The Exchange represents that it has determined to eliminate the Order Imbalance Tie-Breaker because it has not proven useful in augmenting price discovery prior to the cross or in operating an effective opening cross.[8] The Exchange noted that it initially adopted the Order Imbalance Tie-Breaker based upon its successful use in the equities opening cross.[9] However, the Exchange believes that, in its experience, the Order Imbalance Tie-Breaker has not performed well for the options cross because imbalances occur less often in the options market and such imbalances generally are much smaller in size than in the equities market.[10] As a result, the Exchange believes that the size of an imbalance in an options cross rarely provides a meaningful basis for distinguishing between multiple prices at which a cross could occur and that elimination of the Order Imbalance Tie-Breaker would not hinder price discovery and would allow the Exchange to focus the cross on the most relevant criteria.[11]

In addition, the Exchange is proposing to modify the current third tie-breaker (the "Mid-Point Tie-Breaker").[12] Rather than choosing the mid-point of the NBBO, as happens today under this tie-breaker, the Exchange would choose a price that it believes more accurately represents the supply and demand in the market at the time of reference price dissemination and/or auction execution.[13] To achieve that end, the Exchange would set a minimum threshold price, based on the higher of the last-crossed NOM offer or the National Best Bid, and a maximum threshold price, based on the lower of the last-crossed NOM bid or the National Best Offer. The mid-point (in $0.01 increments) of those threshold prices would be the Current Reference Price or opening cross price if this Mid-Point Tie-Breaker were reached.[14] The Exchange believes that this formulation would improve price discovery and execution quality.[15]

B. Modification of Indicative Indicator Dissemination of "Market"

The indicative price is the price at which the NOM opening cross would occur if the opening cross were to occur at that time.[16] The Exchange disseminates an indicative indicator for "market buy" or "market sell" if marketable buy (sell) contracts would remain unexecuted above (below) the Near or Far Clearing Prices, respectively.[17] The Exchange proposes to modify when an indicative inidcator is disseminated with a price of "market buy" or "market sell." [18] First, such message would be disseminated when there is trading interest with a market price that is not offset, not when there is marketable interest, as is currently the practice. Second, whether NOM disseminates an indicative price of "market" would no longer depend upon the available interest being priced lower or higher than the Near or Far Clearing Prices, respectively. The Exchange believes this formulation of "market" will reduce any potential for confusion about its dissemination practices.[19]

C. Change of the Start Time for Data Dissemination

The Exchange also proposes to change the time at which imbalance and indicative price data will begin to be disseminated.[20] Currently, the Exchange begins indicative data dissemination at 9:25 a.m. EST. However, the Exchange represents that it has received feedback from market participants that certain option classes might benefit from a different dissemination window due to the trading characteristics of such option classes.[21] Accordingly, the Exchange proposes to commence dissemination of the imbalance and indicative price data anywhere between 9:20 a.m. and 9:28 a.m. EST. The initial default time to begin dissemination will remain at 9:25 a.m. EST, but the Exchange would have discretion to pick a different time for an option class. When the Exchange does change the start time for data dissemination, the new start time of imbalance and data dissemination for such class would be published in advance and with equal access on the NASDAQ Trader Web ite.[22] The Exchange represents that deviations from the default start time of 9:25 a.m. EST would be rare.[23]

D. Clarification of Dissemination of the Order Imbalance Indicator

The Exchange proposes to clarify when an Order Imbalance Indicator will be disseminated just prior to the opening cross.[24] Currently, any time an imbalance remains just prior to the opening cross, the Exchange disseminates a final Order Imbalance Indicator. As proposed, NASDAQ would disseminate this final Order Imbalance Indicator only when the imbalance contains routable trading interest that is marketable against the NBBO. The Exchange believes non-routable interest is best served by being posted on NOM after execution of the opening cross.[25] Once the cross is

[4] *See* NOM Rules Chapter VI, Section 8(a)(2)(A), (b)(2).

[5] "Eligible Interest" is any quotation or any order that may be entered into the system and designated with a time-in-force of IOC, DAY, GTC, EXPR. *See* NOM Rules Chapter VI, Section 8(a)(4).

[6] *See* NOM Rules Chapter VI, Section 8(a)(2)(A)(i), (b)(2)(A).

[7] *See* NOM Rules Chapter VI, Section 8(a)(2)(A)(ii), (b)(2)(B).

[8] *See* Notice, *supra* note 3, 76 FR at 18589–90.

[9] *See id.* at 18590.

[10] *See id.*

[11] *See id.*

[12] *See* NOM Rules Chapter VI, Section 8(a)(2)(A)(iv), (b)(2)(C).

[13] *See* Notice, *supra* note 3, 76 FR at 18590.

[14] The Exchange provides three examples, illustrating the operation of this new Mid-Point Tie-Breaker in the Notice. *See id.*

[15] *See id.*

[16] *See* NOM Rules Chapter VI, Section 8(a)(E).

[17] *See* NOM Rules Chapter VI, Section 8(a)(E)(iii). The Near and Far Clearing Prices are defined in NASDAQ Rule 4752. For the purpose of NOM Rules Chapter VI, Section 8, both are equal to the Current Reference Price. *See* NOM Rules Chapter VI, Section 8(a)(2)(E)(i)–(ii).

[18] NOM Rules Chapter VI, Section 8(a)(2)(E)(iii) governs when this dissemination occurs.

[19] *See* Notice, *supra* note 3, 76 FR at 18590.

[20] NOM Rules Chapter VI, Section 8(b)(1) governs when this dissemination occurs.

[21] *See* Notice, *supra* note 3, 76 FR at 18590.

[22] *See id.*

[23] *See id.*

[24] NOM Rules Chapter VI, Section 8(b)(5) governs when this dissemination occurs.

[25] *See* Notice, *supra* note 3, 76 FR at 18590. The Exchange states that the goal of NOM's open is to attract as much liquidity as possible to interact with any orders that are marketable at the time of the open. *See id.* The Exchange believes that the change to post non-routable orders (at the NBBO) rather than disseminating additional imbalance messages

executed and the order is posted, that trading interest would be disseminated as part of the Exchange's best bid or offer via the consolidated data feed. The Exchange believes this broad dissemination would better advertise the trading interest and thereby increase the likelihood of an execution.[26] Additionally, the Exchange proposes to clarify that, after the opening cross is executed, all orders in the imbalance would be cancelled, routed, or posted in accordance with the entering party's instructions.

E. Establishment of a Halt Cross

Finally, in order to provide a more orderly opening of the market after a trading halt, the Exchange proposes to establish an opening cross after the termination of a trading halt.[27] The opening cross following a trading halt would operate in the same manner as the opening cross at the start of the trading day, including dissemination of the Order Imbalance Indicator, matching algorithm, and posting or routing of interest that remains unexecuted following execution of the cross. The opening cross for halted options would differ from the opening cross only in the time at which it occurs.[28]

III. Discussion

After careful review of the proposal, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[29] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[30] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the proposed elimination of the Order Imbalance Tie-Breaker and modification of the Mid-Point Tie-Breaker are consistent with the Act. Although the Exchange is eliminating the Order Imbalance Tie Breaker and modifying the Mid-Point Tie Breaker, the Exchange will continue to employ a series of tie-breakers to determine the Current Reference Price and the opening cross price where multiple prices satisfy the conditions for executing the opening cross. The Exchange represents that, since NOM was launched on March 31, 2008, it has monitored the operation of the market to identify instances where market efficiency can be enhanced.[31] According to the Exchange, the Order Imbalance Tie-Breaker has not proven useful in augmenting price discovery prior to the opening cross or in operating an effective opening cross.[32] The Exchange also believes that the proposed modification to the Mid-Point Tie-Breaker will more accurately represent the supply and demand in the market at the time of reference price dissemination and/or auction execution.[33] The Commission believes that the elimination of the Order Imbalance Tie Breaker is reasonable, given that the Exchange has not found it to be useful in augmenting price discovery. The Exchange is not proposing to change the primary criteria whereby the Current Reference Price is calculated to be the single price at which the maximum number of contracts of Eligible Interest can be paired at or within the NBBO. If more than one price satisfies this condition, the Exchange will continue to employ a series of iterative tie-breakers that are designed to facilitate an orderly opening. Further, the proposed change to the Mid-Point Tie-Breaker is intended to aid in facilitating orderly openings at prices reflective of the market. Accordingly, as revised, the Exchange's opening process will continue to be designed to facilitate orderly openings and encourage price discovery and liquidity.

The Commission finds that the proposed modification to the dissemination of an indicative indicator of "market buy" or "market sell" is consistent with the Act. The Exchange proposes to disseminate the indicative message of "market buy" or "market sell" when there is interest with a market price that is not offset, irrespective of the Near or Far Clearing Prices. Currently, such message is disseminated only when there is marketable interest depending on whether the available interest is lower or higher than the Near or Far Clearing Prices, respectively. This change is intended to reduce any potential for confusion regarding the meaning of an indicator that specifies "market."[34] The Commission believes that NASDAQ's revised dissemination of a "market" indicator in connection with its opening process will benefit investors and improve transparency by providing market participants with useful information during the opening cross.

The Commission finds that the proposed change to allow NOM to select a different start time for imbalance and indicative data dissemination for a class within the window of 9:20 a.m. and 9:28 a.m. EST is consistent with the Act. Currently, the Exchange begins indicative data dissemination at 9:25 a.m. EST as previously approved by the Commission.[35] The Exchange represents that it will continue to use 9:25 a.m. EST as the default start time and that changes to this default start time will be rare. The Commission notes that, if the Exchange decides to change the start time, then it will publish the new time of imbalance and indicative price data dissemination commencement in advance on the publicly accessible NASDAQ Trader website. This change will give the Exchange more flexibility to determine the most appropriate time for data dissemination in an option class that NASDAQ believes will be most conducive to price discovery based on the trading characteristics of such option class. Further, the Commission believes that the advance notice on the NASDAQ Trader website of any change in the commencement of dissemination of imbalance and indicative price data will continue to ensure certainty with respect to the time of dissemination.

provides more advertisement for the order because it is broadcast over the consolidated quote feed rather than just NASDAQ's proprietary market data feeds. *See id.* Additionally, for routable orders, the Exchange would continue the current process of advertising the order(s) via an imbalance message on its proprietary market data feeds rather than opening immediately and routing the order away. By doing this, the Exchange represents that its goal is to get the order a price that is equal to or better than the away quoted price. *See id.*

[26] *See id.*

[27] When the Exchange first proposed rules for NOM, it planned to resume trading after a halt by conducting a "Halt Cross." In response to comments received on that proposal that the market relies on price discovery from the underlying security rather than on the availability of interest in a cross, the Exchange determined to remove the Halt Cross. *See* Securities Exchange Act Release Nos. 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR–NASDAQ–2007–004) and (SR–NASDAQ–2007–080) (approval order regarding NOM Rules including Chapters III and XIV).

[28] *See* NOM Rules Chapter V, Section 4 (providing that trading in an option that has been the subject of a halt shall be resumed upon the determination by Nasdaq Regulation that the conditions which led to the halt are no longer present or that the interests of a fair and orderly market are best served by a resumption of trading).

[29] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[30] 15 U.S.C. 78f(b)(5).

[31] *See, e.g.,* Securities Exchange Act Release Nos. 57822 (May 15, 2008), 73 FR 29800 (May 22, 2008)) (SR–NASDAQ–2008–045); 57977 (June 17, 2008), 73 FR 35429 (June 23, 2008) (SR–NASDAQ–2008–052); 60905 (Oct. 30, 2009), 74 FR 57544 (Nov. 6, 2009)) (SR–NASDAQ–2009–033). *See also* Notice, *supra* note 3, 76 FR at 18589.

[32] *See* Notice, *supra* note 3, 76 FR at 18589–90.

[33] *See id.*

[34] *See* Notice, *supra* note 3, 76 FR at 18590.

[35] *See id.*

The Commission finds that the proposed modification to the dissemination of the final Order Imbalance Indicator is consistent with the Act. Currently, any time an imbalance remains just prior to the opening cross, the Exchange disseminates one last Order Imbalance Indicator. The Exchange proposes to disseminate that final Order Imbalance Indicator only when the imbalance contains routable trading interest that is marketable against the NBBO. After the opening cross is executed, any non-routable interest that is not cancelled will be posted. As such, dissemination of this interest will be broadcast via the consolidated quote. The effect of this change is that the Exchange will not disseminate the very last Order Imbalance Indicator that it would otherwise have disseminated right before the opening cross when the imbalance only contains non-routable interest. While this change could have the effect of reducing the last message on imbalances that the Exchange currently sends immediately before the opening cross, it also mitigates message traffic for orders that the Exchange expects would post immediately thereafter. The Commission believes this change will not adversely affect transparency with respect to imbalance information immediately prior to the opening cross.

The Commission finds that the proposed establishment of an opening cross following a trading halt is consistent with the Act. The Exchange believes that conducting an opening cross will provide a more orderly opening of the market after a halt, particularly to the extent that NOM attracts higher levels of liquidity than it did previously.[36] The Commission notes that the halt cross will operate in the same manner as the opening cross. It is also consistent with the use of an opening cross following a trading halt on NASDAQ's equities platform.[37] The Commission notes that similar auctions are used by other options markets following a trading halt.[38] The Commission believes that the adoption of a halt cross is designed to provide for a fair and orderly re-opening of the market and contribute to the quality of executions following a trading halt.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[39] that the proposed rule change (SR–NASDAQ–2011–037) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[40]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–11919 Filed 5–13–11; 8:45 am]

BILLING CODE 8011–01–P

[36] *See id.* at 18591.

[37] *See* NASDAQ Rule 4753.

[38] *See, e.g.,* Securities Exchange Act Release No. 54238 (July 28, 2006), 71 FR 44758, 44762 (August 7, 2006) (SR–NYSEArca–2006–13) (approving the OX Trading Platform, including trading auctions following halts, for NYSE Arca, Inc. ("NYSE Arca")); Securities Exchange Act Release No. 59472 (February 27, 2009), 74 FR 9843, 9851 (March 6, 2009) (SR–NYSEALTR–2008–14) (finding that NYSE Alternext US LLC's (now NYSE Amex LLC) rules on trading auctions and procedures for trading halts are closely modeled on the rules of NYSE Arca and consistent with the Act).

[39] 15 U.S.C. 78s(b)(2).

[40] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64451; File No. SR–Phlx–2011–59]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ OMX PHLX LLC Relating to Inactive Nominees

May 10, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on May 3, 2011, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") 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 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 codify its existing procedures to designate an Inactive Nominee as an effective permit holder and make other non-substantive clarifying changes to the text of Rule 925 titled "Inactive Nominees." [3]

The Exchange is also proposing to amend certain typographical errors in Exchange Rules 1 and 124 and By-Law Article II.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqtrader.com/micro.aspx?id=PHLXfilings,* at the principal office of the Exchange, at the Commission's Public Reference Room, and on the Commission's Web site at *http://www.sec.gov.*

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 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 the proposed rule change is to codify the Exchange's existing procedures for designating an Inactive Nominee as an effective permit holder. Additionally, the Exchange is proposing to amend the text of Rule 925 to delete irrelevant and repetitive rule language.

Rule 925 titled "Inactive Nominees" states that a member organization may designate an individual as an "Inactive Nominee" and shall pay for the privilege of maintaining that status.[4] Further, to be eligible as an Inactive Nominee, an individual must be approved as eligible to hold a permit in accordance with the Exchange's By-Laws and Rules. Pursuant to Rule 925, an Inactive Nominee does not have any rights or

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term "inactive nominee" means a natural person associated with and designated as such by a member organization and who has been approved for such status and is registered as such with the Membership Department. An Inactive Nominee shall have no rights or privileges under a permit unless and until said Inactive Nominee becomes admitted as a member of the Exchange pursuant to the By-Laws and Rules of the Exchange. An Inactive Nominee merely stands ready to exercise rights under a permit upon notice by the member organization to the Membership Department on an expedited basis. *See* Exchange Rule 1(i) [sic].

[4] The Exchange assesses an Inactive Nominee Fee of $500 for every six months and a monthly Trading Floor Personnel Registration Fee of $100 on Inactive Nominees. *See* the Exchange's Fee Schedule. An Inactive Nominee is also assessed the Application and Initiation Fees when such person applies to be an Inactive Nominee. Such fees are reassessed if there is a lapse in the Inactive Nominee's membership status. However, an Inactive Nominee would not be assessed the Application and Initiation Fees if such Inactive Nominee applied for membership without a lapse in that individual's association with a particular member organization. *See* Securities Exchange Act Release No. 64010 (March 2, 2011), 76 FR 12780 (March 8, 2011) (SR–Phlx–2011–26).

privileges of a permit holder unless and until the Inactive Nominee becomes an effective permit holder and all applicable Exchange fees are paid.[5]

The Exchange proposes to add additional language to Rule 925 to codify the existing practice of notifying the Membership Department when a member organization desires to designate an Inactive Nominee as an effective permit holder. The Exchange is proposing to add language to state that the member organization is required to notify the member organization of its desire to designate an Inactive Nominee as an effective permit holder in writing and prior to the opening of trading on any business day.[6] Further, the member organization must identify the name of the permit holder that the Inactive Nominee will be acting on behalf of as well as the expected duration that such Inactive Nominee will remain activated. This practice of notifying the Membership Department of the Inactive Nominee designation exists today. Members were previously notified that the Exchange required notice prior to such a designation.[7] The Exchange desires to codify this practice in its Rules.

Additionally, the Exchange is proposing to add a statement that an Inactive Nominee shall meet all membership requirements including examinations administered by the Exchange to clarify a requirement that was included in the original Inactive Nominee rule filing which was approved by the Commission.[8] Finally, the Exchange is proposing additional non-substantive amendments to the text of Rule 925 to remove irrelevant and repetitive language.

The Exchange recently filed a rule change, to among other things, amend several Exchange Rules.[9] Among those Rules, the Exchange amended Rule 124 and inadvertently removed the word "Options" before the term "Exchange Official." The Exchange is proposing to add the word "Options" in two places in Rule 124 to conform to the remainder of the Rule.[10] Additionally, the Exchange inadvertently capitalized the word "Rule" in Exchange Rule 1(aa) titled "Protected Bid, Offer or Quotation." The word "Rule" in that definition refers to rules of Regulation NMS and not the Exchange's Rules and therefore that term should be lowercase.

Finally, the Exchange proposes to correct one typographical error in the Exchange's By-Laws. By-Law Article II, Section 2–3, titled "Filling of Vacancies" states that in the event of a board vacancy, specifically a Member Representative Director position, the Member shall elect a Person from a list of candidates prepared by the Member Nominating Committee to fill such vacancy.[11] The Exchange mirrored the language of the NASDAQ Stock Market LLC's By-Laws in adopting this language. The term "Member" was intended to refer to the limited liability company Member, not an Exchange member. The Exchange desires to change the word "Member" to "Stockholder" in order to properly reflect the intent of the provision and correspond to the Exchange's Limited Liability Company Agreement.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[12] in general, and furthers the objectives of Section 6(b)(5) of the Act[13] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by codifying procedures to designate Inactive Nominees as effective permit holders within its Rules.

The Exchange believes that providing member organizations information related to the eligibility and requirements of Inactive Nominees within Rule 925 further clarifies the member organization's obligations with respect to the designation of Inactive Nominees as effective permit holders.

Finally, the Exchange believes that the proposed amendments to correct typographical errors would further clarify the Exchange's Rules.

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 not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A) of the Act[14] and Rule 19b–4(f)(1)[15] thereunder, the Exchange has designated this proposal as one that constitutes a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the SRO, and therefore has become effective.

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. 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 proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[5] The Inactive Nominee allows a member to have additional flexibility in obtaining coverage on the trading floor. An Inactive Nominee stands ready to assume a membership upon notice by the member requesting that a specific permit be transferred intra-firm on an expedited and temporary basis. This transfer allows an Inactive Nominee to become an effective member of the Exchange. By way of example, an Inactive Nominee would be activated in the event of an emergency due to illness or other factors. This would allow a member organization to have a full staff available to conduct business on the Exchange trading floor.

[6] This requirement is noted in the original rule change which established the Inactive Nominee, but the language was not carried over to the rule text. *See* Securities Exchange Act Release No. 39851 (April 10, 1998), 63 FR 19282 (April 17, 1998) (SR–Phlx–97–35).

[7] *See* Exchange Memorandum number 1701–02.

[8] *See* Securities Exchange Act Release No. 39851 (April 10, 1998), 63 FR 19282 (April 17, 1998) (SR–Phlx–97–35) (a rule change which subjected Inactive Nominees to the membership application process, including fees, including a fee for the privilege of maintaining an inactive nominee status).

[9] *See* Securities Exchange Act Release No. 64338 (April 25, 2011), 76 FR 12180 (March 4, 2011) [sic] (SR–Phlx–2011–13).

[10] The term "Options Exchange Official" is defined in Rule 1(w).

[11] The entire provision of Article II, Section 2–3 is as follows: "[i]f a Member Representative Director position shall become vacant prior to the expiration of such person's term, or if an increase in the size of the Board results in the creation of a new Member Representative Director position, the Member shall elect a Person from a list of candidates prepared by the Member Nominating Committee to fill such vacancy, except that if the remaining term of office for the vacant Director position is less than six months, no replacement shall be required."

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(1).

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–Phlx–2011–59 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–Phlx–2011–59. 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–Phlx–2011–59 and should be submitted on or before June 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–11898 Filed 5–13–11; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64440; File No. SR–NASDAQ–2011–061]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Fees for Non Co-Location Services

May 9, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 28, 2011, The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange") 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 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 the Substance of the Proposed Rule Change

The Exchange proposes to modify fees for non co-location services. While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on May 1, 2011. The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/*, at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is amending Rule 7051 entitled "Direct Connectivity to Nasdaq" to establish pricing for customers who are not co-located in NASDAQ's data center, but require shared cabinet space and power for optional routers, switches, or modems to support their direct circuit connections. The Exchange proposes to assess customers who are not co-located in NASDAQ's data center monthly fees for space based on a height unit of approximately two inches high, commonly call a "U" space and a maximum power of 125 Watts per U space.

Currently, non co-located customers are assessed fees for direct circuit connection to NASDAQ, as well as installation of an optional on-site cable router.[3] However, there is no charge to non co-located customers for the space and utility cost to maintain the optional router. As more and more non co-located customers seek to utilize the optional router, the Exchange must utilize more space and utilities to accommodate the influx. It has become a necessity for NASDAQ to offset the space and utility cost to maintain the optional router in the same manner as has been established for co-located customers. Additionally, the optional router may include other networks devices (*e.g.,* switches or modems) to operate the customer's business.

While co-located customers are assessed the same per U fee, the co-located customers are assessed in increments of a 4U Block at $600 per month. The Exchange seeks to establish and make transparent the fees imposed for space and utility costs to non co-located customers.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[4] in general, and with Section 6(b)(4) of the Act,[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls. The Exchange believes the

[3] *See* NASDAQ Rule 7051, Direct Connectivity to Nasdaq, Release No. 62663 (August 9, 2010), 75 FR 49543 (August 13, 2010) (SR–NASDAQ–2010–77) [sic].

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(4).

proposed fees are reasonable and equitable for the reasons below.

The Exchange operates in a highly competitive market in which exchanges offer non co-location services as a means to facilitate the trading activities of those customers who believe that the non co-location services enhance the efficiency of their trading. Accordingly, fees charged for non co-location services are constrained by the fees charged to co-located customers, as well as fees charged by other exchanges, taking into consideration the different costs associated with the two service types. It should be noted, however, that the costs associated with a co-located customer are primarily fixed costs that include the costs of renting or owning data center space and retaining a staff of technical personnel. Accordingly, the Exchange establishes a range of non co-location fees with the goal of covering these same fixed costs and covering less significant marginal costs, such as the cost of electricity.

The Exchange proposes the same fee for non co-located customers and co-located customers because the space and utility cost are comparable. If a particular exchange charges excessive fees for non co-location services that are comparable to co-location services, affected members will opt to terminate their non co-location arrangements with that exchange, and pursue range of alternative trading strategies not dependent upon the Exchange's non co-location service. Accordingly, the exchange charging excessive fees would stand to lose not only non co-location revenues and any other revenues associated with the non co-located customer's operations. Moreover, all of the Exchange's fees for space and utility costs services are equitably allocated and non-discriminatory in that all non co-location customers are offered the same space and utility service as the co-located customers, and, there is no differentiation among customers with regard to the fees charged for such costs.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. As discussed above, the Exchange believes that proposed fees for non co-location services are comparable to the same service provided to co-locations customers. Additionally, such costs are constrained by the robust competition for order flow among exchanges and non-exchange markets, because non co-location exists to advance that competition, and excessive fees for non co-location services would serve to impair an exchange's ability to compete for order flow rather than burdening competition.

Other exchanges charge the customer for fixed costs to house routers and other equipment to conduct its business on the premises; however, they are in a co-location relationship. For instance, the International Stock Exchange ("ISE") charges 4.75% of ISE's equipment costs for equipment lease maintenance.[6] The Chicago Board Options Exchange (CBOE) charges $100 per month for each Shelf for Equipment.[7] The Chicago Stock Exchange, Inc. ("CHX") charges $45 per month plus a one-time set up of $150 for 1 U of space. An additional Rack Mount will cost an extra $45 per month and a one-time fee of $150.[8] Since the Exchange seeks to charge a comparable price for its non co-located customers for the similar service, the Exchange believes, based on the charges of NASDAQ and the other exchanges mentioned above, that $150 per month is a comparable price.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

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.[9] 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. 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 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–NASDAQ–2011–061 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–NASDAQ–2011–061. This file number should be included on the subject line if e-mail is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal offices 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–NASDAQ–2011–061, and should be submitted on or before June 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–11858 Filed 5–13–11; 8:45 am]

BILLING CODE 8011–01–P

[6] *See* ISE Schedule of Fees, page 10, at *http://www.ise.com/assets/documents/OptionsExchange/legal/fee/fee_schedule.pdf.*

[7] *See* CBOE Fee Schedule, page 8, at *http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf.*

[8] *See* CHX Fee Schedule, page 9, at *http://www.chx.com/content/participant_information/Downloadable_Docs/Rules/CHX_Fee_Schedule_04252011.pdf.*

[9] 15 U.S.C. 78s(b)(3)(a)(ii).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64454; File No. SR–CBOE–2011–043]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Strategy Fee Cap and Clarifications to the CBOE Fees Schedule

May 10, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on April 28, 2011, the Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") proposes to amend its strategy fee cap program and clarify its Fees Schedule in certain respects. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/legal*), at the Exchange's Office of the Secretary and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE 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. CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange currently caps market-maker and broker-dealer transaction fees at $1,000 for all reversals,[3] conversions[4] and jelly roll[5] strategies executed on the same trading day in the same Flexible Exchange (FLEX) option class, excluding any option class on which the Exchange charges the surcharge fee under Footnote 14 of the CBOE Fees Schedule.[6] Such transaction fees are further capped at $25,000 per month per initiating member or firm. To qualify transactions for the cap a rebate request with supporting documentation must be submitted to the Exchange within 3 business days of the transactions.

The Exchange proposes to amend Footnote 13 of the Fees Schedule to expand the fee cap for reversals, conversions and jelly roll strategies to non-FLEX options classes. Thus, reversals, conversions and jelly roll strategy transactions in non-FLEX options classes would also be eligible for the fee cap, except that any option class on which the Exchange charges the Index License surcharge fee under Footnote 14 of the CBOE Fees Schedule would continue to be excluded from the cap.[7] Other exchanges also cap transaction fees resulting from reversals, conversions and jelly roll strategies in non-FLEX options classes.[8]

In addition, the Exchange proposes several clarifying changes to the Fees Schedule relating to the strategy fee cap program. First, the Exchange proposes to amend Footnote 13 of the Fees Schedule to change references to "surcharge fee" and "license fee" to Index License surcharge fee, and to clarify that Index License surcharge fees associated with dividend, merger and short stock interest strategies (and not reversal, conversion and jelly roll strategies) will be passed through to trading participants on these strategies on a pro-rata basis. This is because options classes subject to the Index License surcharge fee are not included under the fee cap for reversals, conversions and jelly rolls. Second, the Exchange proposes to further amend Footnote 13 by adding the definitions of reversal strategy, conversion strategy and jelly roll strategy.[9] Third, the Exchange proposes to amend Footnote 10 of the Fees Schedule relating to the Liquidity Provider Sliding Scale to clarify that contract volume resulting from any of the strategies defined in Footnote 13 (and not just dividend, merger and short stock interest strategies) will not apply towards reaching the sliding scale volume thresholds because such contracts have already received the benefit of the strategy fee cap.[10] Finally, for the same reason, the Exchange proposes to amend Footnote 11 of the Fees Schedule relating to the Multiply-Listed Option Fee Cap and CBOE Proprietary Products Sliding Scale for Clearing Trading Permit Holder Proprietary Orders to clarify that transaction fees and contract volume resulting from any of the strategies defined in Footnote 13 will not apply towards reaching the fee cap and the sliding scale volume thresholds.[11]

The Exchange also proposes a clean-up change to the Fees Schedule. On December 10, 2010, the Exchange filed a proposed rule change to increase the Options Regulatory Fee from $.004 per

[3] A reversal strategy is established by combining a short security position with a short put and a long call position that shares the same strike and expiration.

[4] A conversion strategy is established by combining a long position in the underlying security with a long put and a short call position that shares the same strike and expiration.

[5] A jelly roll strategy is created by entering into two separate positions simultaneously. One position involves buying a put and selling a call with the same strike price and expiration. The second position involves selling a put and buying a call, with the same strike price, but a different expiration from the first position.

[6] *See* CBOE Fees Schedule, Footnote 13 and Securities Exchange Act Release No. 61915 (April 15, 2010), 75 FR 21076 (April 22, 2010). In addition to the fee cap for reversals, conversions and jelly rolls, Footnote 13 provides for a similar but separate fee cap for dividend, merger and short stock interest strategies.

[7] The Exchange recently renamed the surcharge fee under Footnote 14 of the Fees Schedule the "Index License surcharge fee". *See* Securities Exchange Act Release No. 64304 (April 15, 2011), 77 FR 22427 (April 21, 2011).

[8] *See* the options fee schedules of NYSE Amex, LLC and NYSE Arca, LLC.

[9] *Supra* footnotes 1, 2, 3 and 4.

[10] The Commission notes that CBOE's practice has been to not apply contract volume resulting from any of the strategies defined or identified in Footnote 13 (dividend, merger, short stock interest, reversals, conversions and jelly roll strategies) towards reaching the Liquidity Provider Sliding Scale volume thresholds. *See* e-mail from Jaime Galvan, Assistant Secretary, CBOE, to Andrew Madar, Senior Special Counsel, Division of Trading and Markets ("Division"), Commission, dated May 9, 2011.

[11] The Commission notes that CBOE's practice has been to not apply transaction fees and contract volume resulting from dividend, merger and short stock interest strategies as defined in Footnote 13 towards reaching the Multiply-Listed Options Fee Cap and CBOE Proprietary Products Sliding Scale. *See* e-mail from Jaime Galvan, Assistant Secretary, CBOE, to Andrew Madar, Senior Special Counsel, Division, Commission, dated May 9, 2011. In addition, the Multiply-Listed Options Fee Cap and CBOE Proprietary Products Sliding Scale applies only to "firm" orders, which are not elibigle for the fee cap program for reversals, conversions and jelly rolls. *Id.*

contract to $.0045 per contract.[12] The new ORF was to take effect on January 3, 2011, therefore the old ORF rate of $.004 per contract was not removed from Section 12(A) of the Fees Schedule at that time. The Exchange proposes to delete the reference to the old rate of $.004 per contract from Section 12(A) of the Fees Schedule.

The proposed fee changes will take effect on May 2, 2011.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act"),[13] in general, and furthers the objectives of Section 6(b)(4)[14] of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE Trading Permit Holders and other persons using its facilities. The Exchange believes the proposed rule change is equitable, reasonable and not unfairly discriminatory in that it would further lower fees for market participants that trade these strategies by expanding the fee cap for reversal, conversion and jelly roll strategies to apply to all options classes traded on the Exchange except those which are subject to the Index License surcharge fee. In addition, the proposed rule change would allow the Exchange to remain competitive with other exchanges that offer similar fee cap programs.[15] The proposed rule change would also clarify portions of the Fees Schedule relating to the strategy fee cap program and the Options Regulatory Fee.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of 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.

[12] *See* Securities Exchange Act Release No. 63524 (December 10, 2010), 75 FR 78780 (December 16, 2010).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4).

[15] *Supra* footnote 6.

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[16] and subparagraph (f)(2) of Rule 19b–4.[17] 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–CBOE–2011–043 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2011–043. 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–CBOE–2011–043 and should be submitted on or before June 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–11838 Filed 5–13–11; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78s(b)(3)(a)(ii).

[17] 17 CFR 240.19b–4(f)(2).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64456; File No. 4–629]

Solicitation of Comment To Assist in Study on Assigned Credit Ratings

AGENCY: Securities and Exchange Commission.

ACTION: Request for comment.

SUMMARY: The Securities and Exchange Commission ("Commission") requests public comment to assist it in carrying out a study on, among other matters, the feasibility of establishing a system in which a public or private utility or a self-regulatory organization ("SRO") assigns nationally recognized statistical rating organizations ("NRSROs") to determine credit ratings for structured finance products. This study, and a resulting report to Congress, are required by Section 939F of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "Dodd-Frank Act").

DATES: The Commission will accept comments on matters related to the study on or before September 13, 2011.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/other.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number 4–629 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 4–629. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov*). Comments are also 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. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Randall W. Roy, Assistant Director, at (202) 551–5522; Alan A. Dunetz, Branch Chief, at (212) 336–0072; Kevin S. Davey, Securities Compliance Examiner, at (212) 336–0075; Kristin A. Devitto, Securities Compliance Examiner, at (212) 336–0038; Diane Audino, Securities Compliance Examiner, at (212) 336–0076, or Timothy C. Fox, at (202) 551–5687, Special Counsel, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–7010.

I. Background

On July 21, 2010, President Obama signed the Dodd-Frank Act into law.[1] Under Section 939F of the Dodd-Frank Act ("Section 939F"), the Commission must submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not later than 24 months after the date of enactment of the Dodd-Frank Act, a report containing: (1) The findings of a study on matters related to assigning credit ratings for structured finance products; and (2) any recommendations for regulatory or statutory changes that the Commission determines should be made to implement the findings of the study.[2]

Section 939F provides that the Commission, in carrying out the study, shall address four areas. One, the credit rating process for structured finance products and the conflicts of interest associated with the issuer-pay and the subscriber-pay models.[3] Two, the feasibility of establishing a system in which a public or private utility or an SRO assigns NRSROs to determine the credit ratings for structured finance products, including: (1) An assessment of potential mechanisms for determining fees for NRSROs for structured finance products; (2) appropriate methods for paying fees to NRSROs to rate structured finance products; (3) the extent to which the creation of such a system would be viewed as the creation of moral hazard by the Federal Government; and (4) any constitutional or other issues concerning the establishment of such a system.[4] Three, the range of metrics one could use to determine the accuracy of credit ratings for structured finance products.[5] Four, alternative means for compensating NRSROs that would create incentives for accurate credit ratings for structured finance products.[6]

In addition, Section 939F provides that, after submission of the report to Congress resulting from the study, the Commission shall, by rule, as the Commission determines is necessary or appropriate in the public interest or for the protection of investors, establish a system for the assignment of NRSROs to determine the initial credit ratings of structured finance products, in a manner that prevents the issuer, sponsor, or underwriter of the structured finance product from selecting the NRSRO that will determine the initial credit ratings and monitor such credit ratings.[7] In issuing any rule, the Commission is required to give thorough consideration to the provisions of Section 15E(w) of the Securities Exchange Act of 1934, as that provision would have been added by Section 939D of H.R. 4173 (111th Congress), as passed by the Senate on May 20, 2010 (the "Section 15E(w) Provisions"), and shall implement the system described in such Section 939D (the "Section 15E(w) System") unless the Commission determines that an alternative system would better serve the public interest and the protection of investors.[8]

In carrying out the study required by Section 939F, the Commission believes that comments, proposals, data, and analysis from interested parties representing a wide range views of, and involvement in, the market for structured finance products and the role of NRSROs in that market would provide valuable assistance. In this regard, the Commission seeks comment from: (1) Investors and other persons who use credit ratings; (2) participants in pensions funds and other retirement vehicles that may hold structured finance products; (3) portfolio and fund managers; (4) investment advisers; (5) insurance companies; (6) credit rating agencies; (7) financial institutions; (8) originators of financial assets that are securitized into structured finance products (including, but not limited to, originators of residential and commercial real estate loans, corporate loans, student loans, credit card receivables, consumer loans and leases, auto loans and leases, auto floor plans, equipment loans and leases, and any other financial assets that are securitized); (9) issuers, underwriters, sponsors, and depositors involved in the issuance of structured finance products; (10) regulators; (11) members of the academic community; and (12) any other persons who have views concerning, and involvement in, the market for structured finance products and the role of NRSROs in that market. In addition, given the complexity of the issues surrounding the matters to be addressed in the study, the Commission believes an extended comment period of 120 days is appropriate in order to provide sufficient opportunity for all interested parties to consider and respond to the questions and provide any additional comments, proposals, data, and analysis they believe germane to the study.

II. Request for Comment

The Commission requests that interested parties provide comments,

[1] Public Law 111–203, 124 Stat. 1376, H.R. 4173 (2010).

[2] *See* Section 939F. Section 939F(a) provides that, for purposes of Section 939F, the term "structured finance product" means an "asset-backed security," as defined in Section 3(a)(77) of the Securities Exchange Act of 1934 ("Exchange Act"), as added by Section 941 of the Dodd-Frank Act (15 U.S.C. 78c(a)(77)), and any structured product based on an asset-backed security, as determined by the Commission, by rule. For the purposes of this solicitation of comment, the term "structured finance product" means an "asset-backed security" as defined in Section 3(a)(77) of the Exchange Act and, to the extent not included in that definition, any security or money market instrument issued by an asset pool or as part of any asset-backed or mortgage-backed securities transaction. *See, e.g.,* 17 CFR 240.17g–2(a)(2)(iii), (a)(7), and (b)(9), 17 CFR 240.17g–3(a)(6), 17 CFR 240.17g–5(a)(3) and (b)(9), and 17 CFR 17g–6(a)(4). *See also Amendments to Rules for Nationally Recognized Statistical Rating Organizations,* Exchange Act Release No. 61050 (Nov. 23, 2009), 74 FR at 63832 (Dec. 4, 2009), at 74 FR 63832, footnote 3.

[3] *See* Public Law 111–203 § 939F(b)(1).

[4] *See* Public Law 111–203 § 939F(b)(2)(A) through (B).

[5] *See* Public Law 111–203 § 939F(b)(3).

[6] *See* Public Law 111–203 § 939F(b)(4).

[7] *See* Public Law 111–203 § 939F(d).

[8] *Id.* For ease of reference, the Section 15E(w) Provisions are attached as an Appendix to this solicitation of comments.

proposals, data, and analysis in response to the questions below, as appropriate, given their views of, and involvement in, the market for structured finance products and the role of NRSROs in that market.[9] In this regard, the Commission requests that interested parties address the topics and questions set forth in three sections below. Section II.A seeks comment on the credit rating process for structured finance products and the conflicts of interest associated with the issuer-pay and the subscriber-pay models.[10] Section II.B seeks comment on the Section 15E(w) System for assigning NRSROs to determine credit ratings for structured finance products. Finally, Section II.C seeks comment on potential alternatives to the Section 15E(w) System.

In addition, the General Accountability Office ("GAO") has developed a framework ("GAO Framework") for Congress and others to use in evaluating or crafting alternative compensation models for NRSROs.[11] The GAO notes that this framework could be used by the Commission to "evaluate current proposals for compensating NRSROs, develop new proposals, and identify trade-offs among them" in carrying out the study required by Section 939F.[12] Consequently, the Commission requests in Sections II.B and II.C that interested parties use the GAO Framework to evaluate, respectively, the Section 15E(w) System and potential alternatives to that system, including alternatives not identified in this release.[13]

Finally, the Commission notes that 10 credit rating agencies currently are registered as NRSROs, eight of which are registered in the class of credit rating for issuers of asset-backed securities.[14] Based on information disclosed by these eight NRSROs in their most recently updated Form NRSROs, the Commission estimates that approximately 94% of the outstanding credit ratings for structured finance products were determined by the three largest NRSROs (*see* Figure 1 below).[15] The Commission requests that interested parties, in responding to the topics and questions below address, as applicable, the likely impact the proposals would have on the concentration of issuance of credit ratings for structured finance products among NRSROs.

[9] The Commission has received a comment that relates to matters in this solicitation of comment as part of its general request for public input on regulatory initiatives under the Dodd-Frank Act. *See* letter from Anne Simpson of CalPERS dated October 4, 2010. This comment and others relating to credit rating agencies are available at: *http://www.sec.gov/comments/df-title-ix/credit-rating-agencies/credit-rating-agencies.shtml.*

[10] Section 939F(b)(1) requires the Commission to address these matters in carrying out the study. *See* Public Law 111–203 § 939F(b)(1).

[11] *See Securities and Exchange Commission: Action Needed to Improve Rating Agency Registration Program and Performance Related Disclosures,* GAO Report 10–782 (September 2010) ("GAO Report 10–782") at pp. 79–93. As discussed below, the GAO Framework consists of a seven factor test to use in evaluating alternative compensation models for NRSROs. *Id.* The seven factors are: (1) Independence (the ability for the compensation model to mitigate conflicts of interest inherent between the entity paying for the rating and the NRSRO); (2) accountability (the ability of the compensation model to promote NRSRO responsibility for the accuracy and timeliness of their ratings); (3) competition (the extent to which the compensation model creates an environment in which NRSROs compete for customers by producing higher-quality ratings at competitive prices); (4) transparency (the accessibility, usability, and clarity of the compensation model and the dissemination of information on the model to market participants); (5) feasibility (the simplicity and ease with which the compensation model can be implemented in the securities market); (6) market acceptance and choice (the willingness of the securities market to accept the compensation model, the ratings produced under that model, and any new market players established by the compensation model); and (7) oversight (the evaluation of the model to help ensure it works as intended). Section 939E of the Dodd-Frank requires the GAO to conduct a study on alternative means for compensating NRSROs in order to create incentives for NRSROs to provide more accurate credit ratings, including any statutory changes that would be required to facilitate the use of an alternative means of compensation. *See* Public Law 111–203 § 939E. Section 939E further requires the GAO to provide the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not later than 18 months after the date of enactment of the Dodd-Frank Act, a report on the results of the study, including recommendations, if any, for providing incentives to credit rating agencies to improve the credit rating process. *Id.*

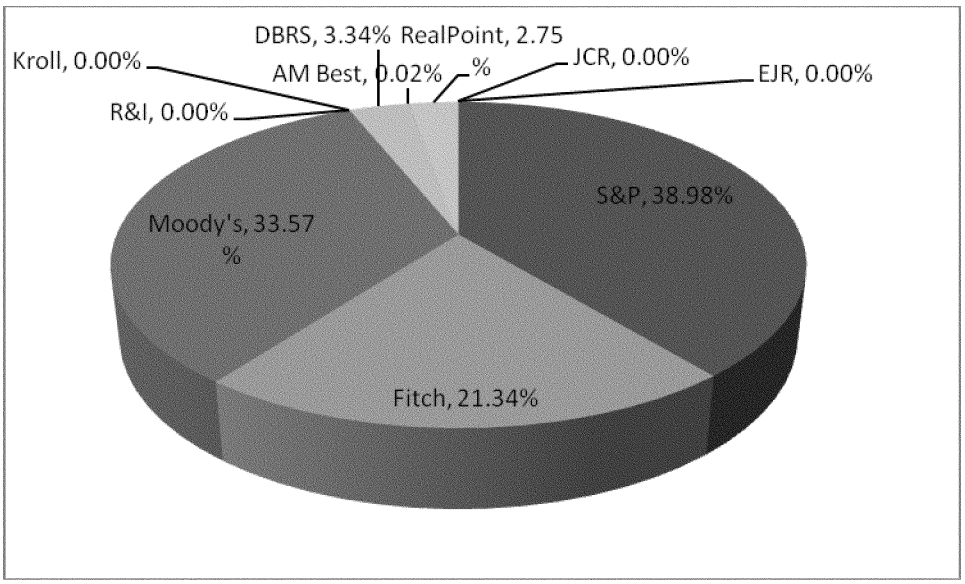
[12] GAO Report 10–782 at pp. 92–93.

[13] In addition, Section 939F requires the Commission to address specific matters with respect to the Section 15E(w) System. *See* Public Law 111–203 § 939F. While these matters may be covered broadly by the GAO Framework, the Commission requests, in Section II.B, that interested parties address these matters through a series of additional targeted questions.

[14] The classes of credit ratings for which an NRSRO can be registered are enumerated in the definition of "nationally recognized statistical rating organization" in Section 3(a)(62) of the Exchange Act: (1) Financial institutions, brokers, or dealers; (2) insurance companies; (3) corporate issuers; (4) issuers of asset-backed securities (as that term is defined in Section 1101(c) of part 229 of Title 17, Code of Federal Regulations, as in effect on the date of enactment of this paragraph); and (5) issuers of government securities, municipal securities, or securities issued by a foreign government. 15 U.S.C. 78c(a)(62).

[15] Item 7 of Form NRSRO requires an NRSRO to provide the approximate number of credit ratings outstanding in each class of credit rating for which the NRSRO is registered.

Figure 1



A. The Credit Rating Process for Structured Finance Products and the Conflicts of Interest Associated With the Issuer-Pay and the Subscriber-Pay Models

Section 939F(b)(1) provides that the Commission, in carrying out the study, shall address the credit rating process for structured finance products and the conflicts of interest associated with the issuer-pay and the subscriber-pay models.

Request for Comment

The Commission requests comments, proposals, data, and analysis to assist in analyzing the credit rating process for structured finance products and the conflicts of interest associated with the issuer-pay and the subscriber-pay models. In addition, the Commission requests comments, proposals, data, and analysis in response to the following questions:

1. Describe the processes by which an NRSRO determines an initial credit rating for a structured finance product and, thereafter, monitors that credit rating.[16] If the processes differ based on the type of structured finance product (*e.g.,* a residential mortgage backed security ("RMBS"), a commercial mortgage-backed security ("CMBS"), a collateralized debt obligation ("CDO"), a collateralized loan obligation ("CLO"), an asset backed security collateralized by credit card receivables, auto loans, auto leases, dealer floor plan financing, student loans, consumer loans, consumer leases, equipment loans, equipment leases, or other similar financial assets ("other ABS"), an issuance by an asset-backed commercial paper conduit ("ABCP"), or any other structured finance product), describe the different processes and provide any supporting data and analysis. In describing the processes for these asset classes, interested parties are encouraged to describe any strengths or weaknesses of such processes. Responses should include:

a. A description of the process by which NRSROs are compensated for determining initial credit ratings for structured finance products and for ongoing monitoring of those ratings.

b. A description of the data collection phase of the process for determining and monitoring credit ratings for structured finance products, including: The types of data collected; the sources from which the data is obtained; whether, and, if so how, the data is validated; whether the data is public or non-public; and how, if at all, the data is captured in the NRSRO's systems.

c. A description of the analytical phase of the process for determining and monitoring credit ratings for structured finance products, including the types of analyses performed (*e.g.,* cash flow, sensitivity, loss, and stress analysis).

d. A description of the process for approving and publishing a credit rating for a structured finance product, including the steps that could lead to the modification of the credit rating before it is published (*e.g.,* an issuer "appeal" process).

e. A description of how the processes identified above and any other processes relating to determining and monitoring of structured finance products (including absent or missing process steps or other process-related weaknesses) contributed, if at all, to the performance of credit ratings for structured finance products leading up and during the financial crisis. If process-related weaknesses contributed to the poor performance of credit ratings for structured finance products, describe whether and, if so, how those weaknesses have been addressed.

2. Provide data on the number of credit ratings for structured finance products initially determined by each NRSRO each year for the last ten years or identify sources of information where that data can be located. If possible, provide data for each asset class of structured finance products identified above.

3. Describe the potential conflicts of interest in the issuer-pay model in rating structured finance products. For example, in what ways, if any, does the issuer, underwriter, or sponsor ("arranger") of the structured finance product paying the NRSRO to determine the credit rating create conflicts of interest? What are the potential impacts on the NRSRO and the credit ratings issued from these conflicts of interest? Also, compare the potential conflicts in rating structured finance products with the potential conflicts in rating other classes of obligors, securities, or money

[16] In responding to the questions below about processes, interested parties are encouraged to use flow charts, if appropriate, to illustrate the processes described in responses, including using visual channels ("swim lanes") to identify NRSRO resources (*e.g.,* entities, departments, personnel) involved or used in each step of the process and the interactions between NRSRO personnel and internal and external parties during each step in the process.

market instruments, such as issuers that are financial institutions, non-financial corporations, insurance companies, and governments and municipalities. In this regard, does the concentration of underwriters and sponsors of structured finance products potentially make any conflicts more acute in this class of credit ratings? Does having a large number of clients reduce risk that a single client could unduly influence the NRSRO? In addition, are the potential conflicts of interest more acute in terms of rating certain types of structured finance products as compared with other types of structured finance products? For example, do certain types of structured finance products account for a larger percentage of revenues to NRSROs than other types of products in today's market and the market as it existed prior to the credit crisis?

4. Is there empirical data, studies, or other information that the issuer-pay conflict of interest influenced credit ratings issued by NRSROs? If so, identify and describe any such data, studies, or other information. For example, is there empirical data, studies, or other information that initial credit ratings for structured finance products determined by NRSROs operating under the issuer-pay model are higher than initial credit ratings determined by NRSROs operating under the subscriber-pay model? If so, identify and describe any such data, studies, or other information. In addition, if it can be demonstrated that conflicts influenced the credit ratings for structured finance products, is there empirical data, studies, or other information that market participants understood the impact, by for example, pricing structured finance products differently than other types of securities or money market instruments with identical ratings? If so, identify and describe any such data, studies, or other information.

5. Describe any actions that NRSROs have taken or internal controls that NRSROs have in place, or could take or put in place, to mitigate conflicts of interests in the issuer-pay model.

6. Describe the potential conflicts of interest in the subscriber-pay model in rating structured finance products. Subscriber-paid credit ratings commonly are not made available for free (and, consequently, not broadly disseminated to the marketplace). What impact, if any, does this have on market participants' ability to detect conflicts of interest? In addition, address how the interests of subscribers may create potential incentives to unduly influence an NRSRO in determining a credit rating? For example, does a subscriber's investing limitations (*e.g.,* a subscriber may only invest in structured finance products that are rated above a certain level in the rating scale of an NRSRO or may have a long or short position that could produce gains or losses depending on how a product is rated) create conflicts of interests? If so, in what manner and to what extent? Also, do subscriber-paid NRSROs have individual subscribers that account for a material portion of their annual revenues? For example, a subscriber could be a large financial institution that purchases multiple data feeds (subscriptions) to the NRSRO's credit ratings and analysis. If so, does this create a concentrated revenue source that may make the subscriber-paid conflict more acute, similar to the concentration of structured finance sponsors in the issuer-paid context? Also address whether the diversity of interest among the subscribers mitigates the possibility that a single subscriber can unduly influence ratings? For example, is this conflict mitigated to the extent that different subscribers may have different interests with respect to how a particular security is rated?

7. Is there empirical data, studies, or other information that the subscriber-pay conflict of interest influenced credit ratings issued by NRSROs? If so, identify and describe any such data, studies, or other information.

8. Describe any actions that NRSROs have taken or internal controls that NRSROs have in place, or could take or put in place, to mitigate the conflicts of interests in the subscriber-pay model.

9. Compare the types and degree of conflicts of interest presented by the issuer-pay and subscriber-pay models.

10. Does reputational risk mitigate potential conflicts of interest in the credit rating industry? If so, describe how? If not, describe why. In responding to these questions concerning reputational risk, identify and describe any supporting empirical data, studies, or other information.

11. NRSROs as such did not become subject to registration and oversight requirements until June 2007.[17] Given that much of the activity relating to the rating of RMBS and CDOs linked to subprime mortgages occurred prior to that date, describe if, and how the registration and oversight requirements have mitigated potential conflicts of interest in the rating of structured finance products? For example, Section 15E of the Exchange Act and the Commission's rules require NRSROs, among other things, to disclose and manage conflicts of interest and, in some cases, establish absolute prohibitions against having certain conflicts of interest.[18] In addition, the goal of the Credit Rating Agency Reform Act of 2006—which established a registration and oversight program for NRSROs through self-executing provisions added to the Exchange Act and implementing rules adopted by the Commission under the Exchange Act as amended by the Rating Agency Act of 2006—was to improve ratings quality by fostering accountability, transparency, and competition in the credit rating industry. Is there empirical data, studies, or other information that the measures in Section 15E of the Exchange Act and the Commission's rules have or have not mitigated conflicts of interest in rating structured finance products? If so, identify and describe any such data, studies, or other information.

12. Would government efforts to reduce investor reliance on credit ratings such as through provisions in Sections 939 and 939A of the Dodd-Frank Act mitigate the potential conflicts of interest in the rating of structured finance products? If so, how? Would the Section 15E(w) System have the potential to increase or mitigate the impact of other efforts to reduce investor reliance on credit ratings?

13. Describe the benefits of the current process for determining credit ratings for structured finance products. For example, what are the incentives under the current processes to produce accurate credit ratings? In addition, are there benefits in allowing the arranger to select the NRSRO to determine a credit rating for a structured finance product? For example, do arrangers select NRSROs based on their knowledge of which NRSROs investors will accept as issuing credible credit ratings? In addition, do arrangers select NRSROs based on their knowledge of which NRSROs have the resources, capacity, and technical competence to determine credit ratings for the structured finance product they are intending to bring to market, or, do arrangers select an NRSRO because they believe it will give them the highest rating?

14. The Section 15E(w) System would apply only to structured finance products. What are the differences, if any, between structured finance products and other products NRSROs rate? Do these differences warrant a

[17] *See* the Credit Rating Agency Reform Act of 2006 (Pub. L. 109–291 (2006)); *see also Oversight of Credit Rating Agencies Registered as Nationally Recognized Statistical Rating Organizations,* Exchange Act Release No. 55857 (June 5, 2007), 72 FR 33564 (June 18, 2007).

[18] *See, e.g.,* 15 U.S.C. 78o–7(h), 17 CFR 240.17g–5, and Exhibit 6 to Form NRSRO (17 CFR 249b.300).

separate system for assigning credit ratings to NRSROs? If so, why?

B. The Section 15E(w) System

The Section 15E(w) System, among other things, would require the Commission to: (1) Establish a Credit Rating Agency Board ("CRA Board"), which would be an SRO; (2) select the initial members of the CRA Board; and (3) establish a schedule to ensure that the CRA Board begins assigning qualified NRSROs ("Qualified NRSROs") to provide initial ratings not later than one year after the selection of the members of the CRA Board.[19] A Qualified NRSRO would be an NRSRO that the CRA Board determines to be qualified to issue initial credit ratings with respect to one or more categories of structured finance products.[20]

An issuer that seeks an initial credit rating for a structured finance product would be prohibited from requesting such a rating from an NRSRO and, instead, be required to submit a request for the initial credit rating to the CRA Board.[21] The CRA Board would select a Qualified NRSRO to provide the initial credit rating to the issuer.[22] A Qualified NRSRO selected to determine an initial credit rating could refuse to accept a particular request by notifying the CRA Board of such refusal, and submitting to the CRA Board a written explanation of the refusal.[23] The CRA Board then would select a different Qualified NRSRO to determine the initial credit rating.[24] Qualified NRSROs would be able to determine fees unless the CRA Board determines it is necessary to issue rules on fees.[25] If rules are deemed necessary, a Qualified NRSRO would be required to charge an issuer a reasonable fee as determined by the Commission.[26]

The CRA Board would be required to prescribe rules by which it evaluates the performance of each Qualified NRSRO, including rules that require, at a minimum, an annual evaluation of each Qualified NRSRO.[27] The CRA Board, in conducting the annual evaluation would be required to consider: (1) The results of an annual examination of the Qualified NRSRO; (2) surveillance of credit ratings conducted by the Qualified NRSRO after the credit ratings are issued, including, how the rated instruments perform, the accuracy of the ratings as compared to the other NRSROs, and the effectiveness of the methodologies used by the Qualified NRSRO; and (3) any additional factors the CRA Board determines to be relevant.[28]

Request for Comment

The Commission requests comments, proposals, data, or analysis that could assist in analyzing the Section 15E(w) System. In addition, the Commission requests comments, proposals, data, and analysis in response to the following questions and, to the extent that responses would differ based on whether the CRA Board is an SRO, a public utility, or private utility, please explain the differences.[29]

1. Identify and describe the benefits of implementing the Section 15E(w) System.

2. Identify and describe the costs of implementing the Section 15E(w) System.

3. Evaluate the Section 15E(w) System using the GAO Framework by addressing the following factors: [30]

a. *Independence*—Address the ability of the Section 15E(w) System to mitigate conflicts of interest between the entity paying for the rating and the NRSRO.[31] To what extent, if any, would the Section 15E(w) System influence the relationship between the NRSRO and the entity paying for the rating? Would the Section 15E(w) System eliminate or mitigate conflict of interests between the entity paying for the rating and the NRSRO? If so, in what ways and to what extent? In addition, what potential conflicts would be created by such a system? What controls, if any would need to be implemented to mitigate these conflicts? In addition, how would the system limit conflicts of interest between users of ratings and the NRSRO, and between issuers and the NRSRO?

b. *Accountability*—Address the ability of the Section 15E(w) System to

[19] *See* subparagraph (2)(A) of the Section 15E(w) Provisions. The CRA Board initially would be composed of an odd number of members selected from the industry, with the total numerical membership of the CRA Board to be determined by the Commission. *See* subparagraph (2)(C)(i) of the Section 15E(w) Provisions. Of the members initially selected to serve on the CRA Board: (1) Not less than a majority of the members would need to be representatives of the investor industry who do not represent issuers; (2) not less than one member would need to be a representative of the issuer industry; (3) not less than one member would need to be a representative of the credit rating agency industry; and (4) not less than one member would need to be an independent member. *See* subparagraphs (2)(C)(ii)(I) through (IV) of the Section 15E(w) Provisions. The initial members of the CRA Board would be appointed to terms of 4 years. *See* subparagraph (2)(C)(i) of the Section 15E(w) Provisions. Prior to the expiration of the terms of office of the initial CRA Board members, the Commission would be required to establish fair procedures for the nomination and election of future members of the Board. *See* subparagraph (2)(C)(iv) of the Section 15E(w) Provisions.

[20] *See* subparagraphs (1)(B) and (3) of the Section 15E(w) Provisions. An NRSRO seeking to become a Qualified NRSRO with respect to a category of structured finance products would need to submit an application to the CRA Board. *See* subparagraphs (3)(A) and (B) of the Section 15E(w) Provisions. The application would need to contain: (1) Information about the institutional and technical capacity of the NRSRO to issue credit ratings; (2) information on whether the NRSRO has been exempted by the Commission from any requirements under Section 15E of the Exchange Act; and (3) any additional information the Board may require. *See* subparagraphs (3)(A)(ii)(I) through (III) of the Section 15E(w) Provisions.

[21] *See* subparagraph (4) of the Section 15E(w) Provisions. An issuer would be permitted to request or receive additional credit ratings for the structured finance product, if the initial credit rating is provided using the CRA Board assignment process. *See* subparagraph (9) of the Section 15E(w) Provisions.

[22] *See* subparagraph (5)(A) of the Section 15E(w) Provisions. The method of selecting the Qualified NRSRO would be based on an evaluation by the CRA Board of a number of alternatives designed to reduce the conflicts of interest that exist under the issuer-pays model, including a lottery or rotating assignment system. *See* subparagraph (5)(B) of the Section 15E(w) Provisions. In addition, in evaluating the selection method, the CRA Board would be required to consider: (1) The information submitted by the Qualified NRSRO in its application to become a Qualified NRSRO regarding the institutional and technical capacity of the Qualified NRSRO to issue credit ratings; (2) an, at least, annual evaluation of the performance of each Qualified NRSRO; (3) formal feedback from institutional investors; and (4) information from items (1) and (2) to implement a mechanism which increases or decreases assignments based on past performance. *See* subparagraph (5)(B)(ii) of the Section 15E(w) Provisions. The CRA Board, in choosing a selection method, would not be able to use a method that allows for the solicitation or consideration of the preferred NRSRO of the issuer. *See* subparagraph (5)(B)(iii) of the Section 15E(w) Provisions.

[23] *See* subparagraph (5)(C)(i) of the Section 15E(w) Provisions.

[24] *See* subparagraph (5)(C)(ii) of the Section 15E(w) Provisions.

[25] *See* subparagraph (8)(B) of the Section 15E(w) Provisions.

[26] *See* subparagraph (8)(A) of the Section 15E(w) Provisions.

[27] *See* subparagraph (7)(A) of the Section 15E(w) Provisions.

[28] *See* subparagraph (7)(B) of the Section 15E(w) Provisions. While the evaluation contemplates an annual examination of the Qualified NRSRO, the Section 15E(w) Provisions do not contain an explicit requirement for the CRA Board to conduct an annual examination of each Qualified NRSRO.

[29] While the Section 15E(w) Provisions would require the Commission to establish a CRA Board that is an SRO, Section 939F expands the possible types of entities that would assign credit ratings to include potentially a public or private utility. Consequently, for the purposes of evaluating the Section 15E(w) Provisions, the Commission requests that interested parties address how the nature of each of these alternative assigning entities (SRO, Public Utility, and Private Utility) might change analysis in the responses to the questions asked below. For the purposes of the questions, the Commission uses the term "CRA Board," however, interested parties should read that term to mean potentially an SRO, public utility, or private utility.

[30] The questions for each factor in the GAO Framework in most cases mirror questions contained in GAO Report 10–782. *See* GAO Report 10–782 at pp. 85–93. Commenters are encouraged to read the relevant sections of GAO Report 10–782 for more details on the reasoning behind these questions and the issues they seek to target and elicit comment on.

[31] *See* GAO Report 10–782 at p. 85 for a broader discussion of this factor in the GAO Framework.

promote NRSRO responsibility for the accuracy and timeliness of credit ratings.[32] Specifically:

i. How would the system create or distort economic incentives for NRSROs to produce quality ratings over the life of a security?

ii. To what extent, if any, would the system create political or other influences that potentially could cause an NRSRO to consider factors other than the credit characteristics of the structured finance product when determining a credit rating for the product?

iii. How would NRSRO performance be evaluated and by whom under the system? For example, would the system rely on market forces or third parties to evaluate performance? Would the system rely on evaluations of performance by the CRA Board that assigns NRSROs to provide ratings? How would "quality" credit ratings be defined and what criteria would be used to assess ratings performance?

iv. When an NRSRO demonstrates poor performance, what would be the economic consequences under the system and who would determine those consequences? For example, how would an NRSRO's compensation or opportunity for future ratings business be linked to ratings performance?

c. *Competition*—Address the extent to which the Section 15E(w) System would create an environment in which NRSROs compete for customers by producing higher-quality ratings at competitive prices.[33] Specifically:

i. In which ways would the system encourage NRSROs to compete? To what extent would the system encourage competition around the quality of ratings, ratings fees, and product innovation? To what extent would NRSROs with higher-quality ratings be rewarded with additional ratings business? For example, once an NRSRO is deemed a qualified NRSRO would it be entitled to a *pro rata* share to all deals brought to the CRA Board based solely on its capacity? Alternatively, would the CRA Board assess the quality of the NRSRO and assign business based on qualitative metrics?

ii. To what extent would the system encourage new entrants and reduce barriers to entry in the industry? Alternatively, to what extent would the system discourage new entrants and increase barriers to entry?

iii. To what extent would the system allow for flexibility in the differing sizes, resources, and specialties of NRSROs?

iv. To what extent would market forces impact ratings fees under the system?

v. To what extent, if any, would the system incentivize NRSROs to compete other than on the basis of the accuracy and quality of their ratings?

d. *Transparency*—Address the accessibility, usability, and clarity of the Section 15E(w) System and the dissemination of information on the program to market participants.[34] Specifically, how clear would the mechanics of the system be to market participants? For example, describe the level of transparency that would exist under the system with respect to: (1) How the NRSRO would obtain ratings business; (2) how ratings fees would be determined; (3) how NRSROs would be compensated; and (4) how the program would link ratings performance to NRSRO compensation or the award of additional business.

e. *Feasibility*—Address the simplicity and ease with which the Section 15E(w) System could be implemented in the securities market.[35] Specifically:

i. Would the system be easily implemented? If not, how difficult would implementing the system be?

ii. Could the system be instituted through existing regulatory or statutory authority or is additional authority needed?

iii. What would be the costs to implement the system and who would fund them?

iv. Which body would administer the system, and would this be an established body? If not, how would it be created?

v. What, if any, infrastructure would be needed to implement the system? What information technology would be required? Which body would be responsible for developing and maintaining it?

vi. What impact would the system have on bringing new issuances to market and trading on the secondary market?

vii. How many NRSROs would be required for the system to function as intended? How would the exit of an NRSRO from the ratings industry affect the system's feasibility? What impact would the system have on the financial viability of an NRSRO?

f. *Market acceptance and choice*—Address the willingness of the securities market to accept the Section 15E(w) System, the credit ratings produced under such a system, and any new market players established by the system.[36] Specifically:

i. What role, if any, would market participants have in selecting NRSROs to produce credit ratings, assessing the quality of credit ratings, and determining NRSRO compensation? More specifically, what would the roles of issuers and investors be in these processes? Where would these roles differ between the Section 15E(w) System and other potential programs and what would be the trade-offs? Would all market participants be likely to accept the credit ratings produced under the Section 15E(w) System? If not, what would be the potential consequences for the securitization market?

ii. What impact, if any, would the system have on each market participant using the credit ratings?

iii. Would market participation need to be mandated, and if so, for which participants?

iv. To what extent, if any, might market participants discount the quality and reliability of a credit rating based on the system's approach to selecting which Qualified NRSRO would rate a structured finance product?

g. *Oversight:* Address how the Section 15E(w) System would be evaluated to help ensure that it works as intended.[37] Specifically:

i. Would the system provide for an independent internal control function?

ii. What external oversight (from a regulator or third-party auditor) would the system provide to ensure it is working as intended? In what ways would the CRA Board be held accountable for its decisions?

iii. If third-party auditors would provide external oversight with respect to the system, how would they be selected, what would be their reporting responsibilities, and to whom would they report?

iv. Who would compensate the regulatory or third-party auditor for auditing the system? How would the compensation for the regulator/auditor

[32] *See* GAO Report 10–782 at pp. 85–86 for a broader discussion of this factor in the GAO Framework.

[33] *See* GAO Report 10–782 at pp. 86–87 for a broader discussion of this factor in the GAO Framework.

[34] *See* GAO Report 10–782 at p. 88 for a broader discussion of this factor in the GAO Framework. The GAO notes that transparency in this context does not refer to the transparency or disclosure regime of the NRSROs but is specific to the transparency of the compensation model only. GAO Report 10–782 at p. 88, Footnote 112.

[35] *See* GAO Report 10–782 at pp. 88–90 for a broader discussion of this factor in the GAO Framework.

[36] *See* GAO Report 10–782 at pp. 90–91 for a broader discussion of this factor in the GAO Framework.

[37] *See* GAO Report 10–782 at pp. 92–93 for a broader discussion of this factor in the GAO Framework.

be determined? How would it be funded?

v. To what extent would a third-party auditor allow flexibility in oversight to accommodate NRSROs of different sizes?

4. *Assessment of potential mechanisms for determining fees for NRSROs.* Section 939F(b)(2)(A) requires that the Commission's study address the feasibility of establishing a system in which a CRA Board assigns NRSROs to determine the credit ratings for structured finance products, including an assessment of the potential mechanisms for determining fees for NRSROs. Consequently, to the extent not addressed in responses to the questions above with respect to the GAO Framework, the Commission requests comment, proposals, data, and analysis on the following:

a. Under the Section 15E(w) System, the CRA Board would be required to assign which NRSRO (from a pool of Qualified NRSROs) is employed to determine the initial credit rating for a structured finance product. Consequently, would the fee a Qualified NRSRO could charge the arranger need to be set by rule? For example, each Qualified NRSRO would be assured of being assigned a percentage of the credit rating business brought to the CRA Board by issuers. Depending on capacity, certain NRSROs may be assigned to determine more credit ratings than other NRSROs. Therefore, in the absence of competitive market forces, would Qualified NRSROs charge unreasonably high fees? If so, what mechanism could be used to determine the reasonable fee? Should, for example, arrangers be able to reject a Qualified NRSRO that charges above market fees? Moreover, would the amount of the fee need to depend on the type of structured finance product being rated or the complexity of the structured finance product? For example, do NRSROs typically charge different fees depending on whether the structured finance product is, for example, an RMBS, a CMBS, a CDO, a CLO, other ABS, an issuance of ABCP, or another type of structured finance product? If so, would it be appropriate to set different fees on each type of structured finance product? In addition, how would fees be determined for new product types? Furthermore, do the fees charged by NRSROs depend on their business models? If so, how would this impact the determination of what constitutes a reasonable fee? In addition, would the amount of the fee need to depend on the complexity of a structured finance product, independently of its type? Finally, do the fees charged by NRSROs depend on the policies and procedures they use to determine credit ratings? If so, how would this impact the determination of what constitutes a reasonable fee?

b. In determining the reasonableness of fees, could the fees charged by NRSROs and other credit rating agencies to rate structured finance products outside the context of the assignment process serve as a benchmark? For example, under the Section 15E(w) System, the issuer, after obtaining an initial credit rating through the assignment process, would be able to obtain additional credit ratings not assigned by the CRA Board. Would the fee charged for these unassigned credit ratings for structured finance products provide a basis to set the fees used for assigned credit ratings? Alternatively, would the fees NRSROs charge to determine other classes of credit ratings such as for financial institutions, corporate issuers, insurance companies, and government issuers provide a basis to set the fees used for the assignment process? How do the fees charged to rate these types of obligors, securities, and money market instruments differ from the fees charged to rate structured finance products?

c. How could the fee setter determine and, thereafter, monitor whether the fee established by rule constitutes an "above market fee" that over-compensates the Qualified NRSRO (potentially imposing unfair costs on issuers that might be passed on to investors) or under-compensates the NRSRO (potentially causing it to devote less resources to determining the credit rating with possible consequences in terms of the quality of the credit rating)?

d. What would be the impact if the fee set by rule was viewed as too low by NRSROs? For example, would NRSROs refuse to apply to be Qualified NRSROs? Or, would too few NRSROs apply to be Qualified NRSROs to implement the program? How would the fee setter determine the appropriate level of fee to attract a sufficient number of NRSROs to the program without imposing greater costs on issuers than would be the case when fees are determined through a competitive process?

e. Could setting fees by rule have negative impacts on the quality of credit ratings? For example, could it reduce incentives for NRSROs to compete based on producing accurate credit ratings?

f. Are there instances where SROs, public utilities, or private utilities set fees between a company and an entity providing a service to the company that could serve as models for how to set reasonable fees for purposes of assigning credit ratings business? If so, describe how the mechanisms these entities use to set reasonable fees could apply in the assigned credit rating context.

g. Provide any other comments, proposals, data, or analysis that could assist in assessing potential mechanisms determining how to set reasonable fees for assigned structured finance credit ratings.

5. *Appropriate methods for paying fees to the NRSRO.* Section 939F(b)(2)(B) requires the Commission's study to address the feasibility of establishing a system in which a CRA Board assigns NRSROs to determine the credit ratings for structured finance products, including, an assessment of appropriate methods for paying fees to the NRSROs. Consequently, to the extent not addressed in responses to the questions above with respect to the GAO Framework, the Commission requests comment, proposals, data, and analysis on the following:

a. Under the 15E(w) System, how should a fee be provided to the Qualified NRSRO selected to determine an initial credit rating for an arranger? For example, should the arranger provide the fee to the CRA Board, which, in turn, would provide the funds to the NRSRO? Would it be appropriate for the CRA Board to receive and disburse funds in this manner? For example, the CRA Board acting as a conduit for the funds could create potential risk in terms of appropriately maintaining custody of the funds, accounting for the funds, and allocating the funds to the Qualified NRSROs. In addition, it would require the CRA Board to have sophisticated operational capabilities in terms of having access to systems to process financial transactions involving hundreds of thousands of dollars between potentially hundreds of arrangers of structured finance products and the Qualified NRSROs. For these reasons, having the CRA Board serve as temporary custodian of the funds paid by arrangers to Qualified NRSROs could substantially increase the costs of operating the CRA Board. Furthermore, if the CRA Board became insolvent, would the arranger or the Qualified NRSRO have a claim for the funds? Would this depend on how much work the NRSRO had performed in terms of determining the initial credit rating? In this regard, should the CRA Board provide the funds to the Qualified NRSRO when the Qualified NRSRO is selected to determine the credit rating or when the Qualified NRSRO issues the initial credit rating? What is the current practice in terms of the timing when arrangers pay NRSROs for determining initial credit ratings? In addition, how

long is the period between the time an NRSRO is hired to determine an initial credit rating and the time the credit rating is issued? Does the length of time depend on the type of structured finance product being rated? If so, describe the different time periods.

b. Alternatively, should the arranger pay the fee directly to the selected Qualified NRSRO? If so, would this potentially negatively impact the goal of the Section 15E(w) System to address the conflict of interest arising from the issuer-pay model?

c. Should the CRA Board allocate the fee to determine the initial credit rating to the selected Qualified NRSRO over the term of the structured finance product? For example, should 50% of the fee be paid up-front and the balance of the fee be distributed periodically until all the principal and interest outstanding on the structured finance product is paid? Moreover, if the structured finance product goes into default, would it be appropriate to withhold the unpaid balance of the fee from the NRSRO? Would the appropriateness of withholding the fee depend on the initial rating? For example, if the initial rating is in one of the highest categories (*e.g.,* AAA or AA) and the bond defaults, would it be more appropriate to withhold the fee from the NRSRO than if the initial rating were in a lower category (*e.g.,* BB or CCC)? If it would be appropriate to withhold the unpaid balance of the fee in the case of default, what entity would be legally entitled to the unpaid balance of the fee? Would it be appropriate to return the unpaid balance to the issuer, underwriter, or sponsor of the structured finance product? Would it be appropriate to provide the unpaid balance to investors in the structured finance product? The Commission notes that the fees paid to rate structured finance products are a small fraction of the principal amount invested in an issuance of a structured finance product. Consequently, would a requirement to return the unpaid amount to investors create an expectation that the investors would be compensated for losses suffered if the structured finance product defaults? The Commission notes that a program of allocating the fee over the term of the structured finance product might require the CRA Board to serve as the conduit for the funds transferred from the arrangers to the Qualified NRSROs, raising the issues about custodial responsibility and attendant costs discussed above.

d. How should fees for performing surveillance of credit ratings be addressed under the Section 15E(w) System? For example, should the Qualified NRSRO selected to determine the initial credit rating be allowed to negotiate a surveillance fee directly with the arranger and receive such a fee directly from the arranger? Alternatively, should the fee to determine the initial credit rating include an amount to cover the cost of surveillance? If so, should the CRA Board disburse the surveillance fee to the Qualified NRSRO? If so, when should that distribution take place? In addition, if the Section 15E(w) System only applies to the fee for the initial credit rating, what issues would arise in terms of finding an NRSRO to provide surveillance? For example, if the selected Qualified NRSRO only agreed to provide the initial credit rating, what would happen if the arranger could not find an NRSRO to perform surveillance for a reasonable fee?

e. Provide any other comments, proposals, data, or analysis that could assist in assessing appropriate methods for paying fees to NRSROs.

6. *Extent to which the creation of such a system would be viewed as the creation of moral hazard by the Federal Government.* Section 939F(b)(2)(C) requires the Commission's study to address the feasibility of establishing a system in which a CRA Board assigns NRSROs to determine the credit ratings for structured finance products, including, an assessment of the extent to which the creation of such a system would be viewed as the creation of moral hazard by the Federal Government. Consequently, to the extent not addressed in responses to the questions above with respect to the GAO Framework, the Commission requests comment, proposals, data, and analysis on the following:

a. Would investors and other users of credit ratings view credit ratings for structured finance products determined through the CRA Board assignment process as more reliable than other credit ratings and, consequently, perform less analysis themselves before investing in a structured finance product? For example, under the Section 15E(w) System, the CRA Board would determine whether an NRSRO is qualified to issue initial credit ratings with respect to one or more categories of structured finance products. In addition, the CRA Board would be required to conduct an annual evaluation of a Qualified NRSRO to consider, among other things, (1) the surveillance of credit ratings conducted by the Qualified NRSRO after the credit ratings are issued, including, how the rated instruments perform; (2) the accuracy of the ratings as compared to the other NRSROs; and (3) the effectiveness of the methodologies used by the Qualified NRSRO. Would investors view the CRA Board as providing a "stamp of approval" on, or an endorsement of, the credit ratings determined through the assignment process? If the Section 15E(w) System would increase investor reliance on credit ratings, what potential impact would such a consequence have on government efforts to reduce investor reliance on credit ratings such as through provisions in Sections 939 and 939A of the Dodd-Frank Act? For example, would the system cause investors and other users of credit ratings to increase their reliance credit ratings for structured finance products? If so, how much do investors and other users of credit ratings currently rely on credit ratings for structured finance products and how might that level of reliance change if the Section 15E(w) System was implemented?

b. Would the CRA Board, as a governmental or quasi-governmental entity, be susceptible to political pressure in terms of its assignment of credit ratings to Qualified NRSROs or its other responsibilities? In addition, would a Qualified NRSRO assigned to determine a credit rating be susceptible to political pressure to issue a credit rating at a level favored by the CRA Board in order to obtain additional assignments from the CRA Board?

c. Provide any other comments, proposals, data, or analysis that could assist in assessing the extent to which the creation of such a system would be viewed as the creation of moral hazard by the Federal Government.

7. *Constitutional or other issues concerning the establishment of such a system.* Section 939F(b)(2)(D) requires the Commission's study to address the feasibility of establishing a system in which a CRA Board assigns NRSROs to determine the credit ratings for structured finance products, including, an assessment of any constitutional or other issues concerning the establishment of such a system. Consequently, to the extent not addressed in responses to the questions above with respect to the GAO Framework, the Commission requests comment, proposals, data, and analysis on the following:

a. In terms of operational feasibility, what is the likelihood that the number of NRSROs applying to be treated as Qualified NRSROs would be sufficient to achieve the goals of the Section 15E(w) System? For example, how many NRSROs would need to be determined to be Qualified NRSROs for the system to operate as envisioned? What would

be the metric or process for measuring or determining the number of NRSROs necessary for the system to function? For example, how would the system match the number of structured finance product issuances with the necessary capacity, resources, and expertise to rate the products in a competent and timely manner? What would be the implications for the securitization markets if an insufficient number of NRSROs are determined to be Qualified NRSROs (either because not enough applied or because the applicants did not satisfy the criteria to be treated as Qualified NRSROs)?

b. In terms of operational feasibility, what level of staffing would be necessary for the CRA Board to carry out its responsibilities? In addition, what would be the necessary expertise and qualifications of the CRA Board members and staff to carry out the CRA Board's responsibilities? How could the CRA Board ensure that it has the necessary staffing and that its staff has the necessary expertise and qualifications?

c. In terms of operational feasibility, could the process by which the CRA Board selects a Qualified NRSRO materially delay the issuance of a structured finance product and diminish the quality of the credit ratings determined through the assignment process? For example, how would the CRA Board monitor which Qualified NRSROs have current capacity to undertake the determination of a credit rating sought by an arranger? If the CRA Board selects a Qualified NRSRO that refuses to rate the structured finance product because, for example, it has reached its capacity to determine initial credit ratings, how long would it take for the CRA Board to select another Qualified NRSRO? In addition, how would the CRA Board address situations where a Qualified NRSRO misjudges its ability to undertake the assignment to determine an initial credit rating? For example, the Qualified NRSRO, in order to increase revenues, might agree to more assignments than it is capable of handling or to an assignment to rate a type of structured finance product it does not have the technical expertise to rate. Could this circumstance potentially put the arranger in a situation where it must wait far longer to obtain a credit rating than would normally be the case because the Qualified NRSRO spends time attempting to determine the initial credit rating before ultimately refusing the assignment? Moreover, could the quality of the credit ratings determined through the assignment process be compromised because the Qualified NRSRO devotes fewer resources to rating structured finance products in order to accept more assignments or accepts an assignment to rate a type of structured finance product for which it lacks adequate technical expertise? If so, how could these issues be addressed?

d. In terms of operational feasibility, how would the CRA Board under the Section 15E(w) System perform the annual evaluation of each qualified NRSRO? Would an annual evaluation be sufficient to determine which Qualified NRSROs are selected on an on-going basis to determine initial credit ratings? For example, what if a Qualified NRSRO undergoes material changes between evaluations that would impact its ability to determine credit ratings? How would this be brought to the CRA Board's attention?

e. In terms of market effects, how would the Section 15E(w) System impact the securitization markets? For example, how would it impact the origination of residential mortgages, commercial mortgages, commercial loans, credit card receivables, auto loans, auto leases, dealer floor-plans, student loans, consumer loans, consumer leases, equipment loans, equipment leases, asset-backed commercial paper, or any other financial assets that are securitized? For example, would the uncertainty over which Qualified NRSRO would be selected to determine the initial credit rating or when the initial credit rating might be issued cause originators to finance the origination of these assets through means other than securitizing them? If so, what would be the implications for these markets? For example, would it cause originators to extend less credit? If so, how would this impact the economy? Alternatively, would the 15E(w) System give investors greater confidence in the integrity of credit ratings for structured finance products? Would that increased confidence facilitate the flow of credit?

f. In terms of legal feasibility, would the establishment of a CRA Board to assign credit ratings for structured finance products raise legal issues under the U.S. Constitution? Please provide legal analysis explaining any such issues.

g. In terms of legal feasibility, would the role of the Commission in overseeing the CRA Board raise legal issues? Please provide legal analysis explaining any such issues?

h. In terms of legal feasibility, do the securities laws provide the Commission with authority to implement the Section 15E(w) System? Interested parties who believe existing authority is sufficient to implement such a system should provide legal analysis supporting their conclusions, including identifying relevant statutory authority. Interested parties who believe existing authority is not sufficient to implement such a system should provide legal analysis supporting their conclusions. In addition, interested parties are encouraged to recommend statutory amendments that could provide the authority necessary for the Commission to implement such a system.

i. In terms of the potential to mitigate conflicts, would a Qualified NRSRO assigned to determine a credit rating for a structured finance product under the Section 15E(w) System potentially have the incentive to provide a favorable credit rating to obtain future business from arrangers to determine credit ratings outside the process of the Section 15E(w) System? The Commission notes that under the Section 15E(w) System an arranger can obtain additional credit ratings from NRSROs after obtaining an initial credit rating through the CRA Board selection process. If this potential conflict would be in the Section 15E(w) System, how could it be addressed? Would the annual evaluations of the Qualified NRSROs by the CRA Board, as required under the Section 15E(w) Provisions, identify an NRSRO that was unduly influenced by this conflict?

j. In terms of the potential to mitigate conflicts, would an arranger be able to select more favorable credit ratings ("rating shop") notwithstanding the implementation of the Section 15E(w) System? If so, how?

k. In terms of the potential to mitigate conflicts, to what extent, if any, might market participants be able to create securities or money market instruments, or otherwise finance the assets underlying or linked to a structured finance product, so that the transaction does not fit within the definition of "structure finance product" and thereby avoid having to submit the deal to Section 15E(w) System? In addition, how would it be determined whether products fall within the definition of "structured finance product"?

l. Provide any other comments, proposals, data, or analysis that could assist in assessing Constitutional or other issues concerning the establishment of such a system.

8. *Range of metrics that could be used to determine the accuracy of credit ratings.* Section 939F(b)(3) requires that the Commission's study address the range of metrics that could be used to determine the accuracy of credit

ratings.[38] Consequently, to the extent not addressed in responses to the questions above with respect to the GAO Framework, the Commission requests comment, proposals, data, and analysis on the following:

a. How should the performance of credit ratings be measured in terms of accuracy?

b. Section 3(a)(60) of the Exchange Act defines the term "credit rating" to mean "an assessment of the creditworthiness of an obligor as an entity or with respect to specific securities or money market instruments." [39] How should the term "accuracy" as applied to credit ratings be defined? For example, could there be a standard definition of "accuracy" that could be applied across all credit rating agencies that determine credit ratings for structured finance products? How feasible is such a definition given the differences in the procedures and methodologies NRSROs use to determine credit ratings and the ratings scales they use to denote relative creditworthiness? For example, some NRSROs may employ highly quantitative models under which the credit ratings are particularly sensitive to real-time information and, therefore, adjust frequently. Other NRSROs may employ qualitative approaches that result in credit ratings that remain more stable.

c. Could the definition of "accuracy" be based on whether the structured finance product goes into default? For example, defaults may be very rare for some classes of structured finance products. For these classes, how would a definition of "accuracy" based on default work?

d. Depending on how an interested party defines "accuracy," what metrics could be used to measure accuracy? For example, could transition and default rates be used to measure accuracy? With respect to transition and default rates, how would their effectiveness in measuring the "accuracy" of the credit ratings be impacted by favorable or benign economic conditions? For example, in favorable economic conditions the ratings for structured finance products may remain stable and the number of defaults may be statistically insignificant.

e. Over what time horizons should the accuracy of credit ratings be measured? For example, should it be measured over a period of years, or the life of the securities? Should ratings be evaluated for accuracy at specific points in time? If accuracy should be evaluated at specific points in time, should those times relate to events experienced by the security, or be unrelated to the security (*e.g.,* calendar-related only)? Could using a specific time horizon distort how Qualified NRSROs determine credit ratings? For example, if the time horizon is longer, could Qualified NRSROs determine credit ratings at lower levels in the their rating scales in order to lessen the chance that the credit rating would be downgraded during the period? Alternatively, if the time horizon is short, could Qualified NRSROs be more prone to determine credit ratings at higher levels in their rating scales?

f. Could the method of measuring accuracy create disincentives for Qualified NRSROs to determine credit ratings for certain types of products? For example, could Qualified NRSROs refuse to rate structured finance products that are inherently more volatile in terms of potential credit risk? If so, how could this impact capital formation?

g. Provide any other comments, proposals, data, or analysis that could assist in assessing the range of metrics that could be used to determine the accuracy of credit ratings.

C. Alternative Means for Compensating NRSROs That Would Create Incentives for Accurate Credit Ratings

Section 939F(b)(4) requires the Commission's study to address alternative means for compensating NRSROs that would create incentives for accurate credit ratings. Consequently, the Commission requests interested parties to provide comments, proposals, data, and analysis on any potential alternatives to the Section 15E(w) System. In this regard, several models that would establish alternative means for compensating NRSROs are identified below.[40] The Commission requests comment on these models. In addition, the Commission requests comment on models not identified below that an interested party believes would achieve the objective of creating incentives for accurate credit ratings. Any such model should be described and analyzed using the GAO Framework.

1. The Rule 17g–5 Program

The Commission has adopted requirements codified in Rule 17g–5 designed to create a mechanism for an NRSRO that is not hired to determine a credit rating for a structured finance product to nonetheless obtain the same information the hired NRSRO receives from the arranger to determine the initial credit rating and at the same time such information is provided to the hired NRSRO (the "Rule 17g–5 Program").[41] The goal is to create a means for an NRSRO not hired to rate the structured finance product to nonetheless determine an initial credit rating at the same time the hired NRSRO determines an initial credit rating and conduct surveillance on that credit rating along with the hired NRSRO.[42] In other words, similar to the goal of Section 939F, the Rule 17g–5 Program is intended to prevent the arranger of the structured finance product from selecting the NRSRO or NRSROs that *exclusively* can determine the initial credit rating for the structured finance product.[43] When adopting the Rule 17g–

[38] As noted above the CRA Board would be required to evaluate "the accuracy of the ratings provided by the qualified [NRSRO] as compared to other [NRSROs]." *See* subparagraph (7)(B)(ii)(II) of Section 15E(w) Provisions.

[39] *See* 15 U.S.C. 78c(a)(60).

[40] Aside from the Rule 17g–5 Program, the alternatives identified below are drawn from GAO Report 10–782 at pp. 79–84. The first alternative in the GAO Report (the "Random Selection Model") is not identified below because it is similar to the Section 15E(w) System. Commenters are encouraged to read the relevant sections of GAO Report 10–782 for more details about these proposed alternative payment models and their goals and objectives.

[41] 17 CFR 240.17g–5(a)(3) and (b)(9). The Commission notes that it granted a conditional exemption to NRSROs from Rule 17g–5(a)(3) with respect to credit ratings where: (1) The issuer of the structured finance product is a non-U.S. person; and (2) the NRSRO has a reasonable basis to conclude that the structured finance product will be offered and sold upon issuance, and that any arranger linked to the structured finance product will effect transactions in the structured finance product after issuance, only in transactions that occur outside the U.S. These conditions are designed to confine the exemption's application to credit ratings of structured finance products issued in, and linked to, financial markets outside the U.S. See Exchange Act Release 62120 (May 19, 2010) 75 FR 28825 (May 24, 2010); *see also* Exchange Act Release 63363 (Nov. 23, 2010) 75 FR 73137 (Nov. 29, 2010).

[42] The Commission noted when adopting the Rule 17g–5 Program that "when an NRSRO is hired to rate a structured finance product, some of the information it relies on to determine the rating is generally not made public. As a result, structured finance products frequently are issued with ratings from only one or two NRSROs that have been hired by the arranger, with the attendant conflict of interest. The [Rule 17g–5 Program is] designed to increase the number of credit ratings extant for a given structured finance product and, in particular, to promote the issuance of credit ratings by NRSROs that are not hired by the arranger." *See Amendments to Rules for Nationally Recognized Statistical Rating Organizations,* 74 FR at 63844 (Dec. 4, 2009).

[43] *See* Public Law 111–203 § 939F(d) ("After submission of the report under subsection (c), the Commission shall, by rule, as the Commission determines is necessary or appropriate in the public interest or for the protection of investors, establish a system for the assignment of [NRSROs] to determine the initial credit ratings of structured finance products, in a manner that prevents the issuer, sponsor, or underwriter of the structured

Continued

5 Program, the Commission stated that it was designed to make it more difficult for arrangers to exert influence over the NRSROs they hire because any inappropriate rating could be exposed to the market through the unsolicited ratings issued by NRSROs not hired to rate the structured finance product.[44] The Commission also notes that investors seeking a credit rating from an NRSRO not hired to rate the structured finance product can pay an NRSRO of their choosing to rate the structured finance product using the Rule 17g–5 Program. Thus, it provides a mechanism for investors to select an NRSRO to rate a structured finance product they are considering purchasing or have purchased.

The Rule 17g–5 Program operates by requiring an NRSRO hired to determine initial credit ratings for structured finance products to maintain a password-protected Internet Web site containing a list of each such structured finance product for which it currently is in the process of determining an initial credit rating.[45] The list must be in chronological order and identify the type of security or money market instrument, the name of the issuer of the structured finance product, the date the rating process was initiated, and the Internet Web site address where the arranger of the structured finance product represents that information provided to the hired NRSRO can be accessed by other NRSROs.[46] The hired NRSRO must provide free and unlimited access to the Web site to any other NRSRO that provides it with a copy of a certification stating, among other things, that it is accessing the Web site solely for the purpose of determining or monitoring credit ratings.[47]

In addition, the hired NRSRO must obtain a written representation from the arranger of the structured finance product that the NRSRO can reasonably rely on.[48] The arranger must represent, among other things, that it will maintain a password-protected Internet Web site that other NRSROs can access.[49] Further, the arranger must represent that it will post on this Web site all information the arranger provides to the hired NRSRO, or contracts with a third party to provide to the hired NRSRO, for the purpose of determining the initial credit rating and undertaking credit rating surveillance.[50] The arranger also must represent that this information will be posted to the Internet Web site at the same time such information is provided to the hired NRSRO.[51]

The Commission notes that the Rule 17g–5 Program is but one aspect of the current registration and oversight program for NRSROs designed to address conflicts of interest, including provisions designed to promote transparency and competition. Among other things, NRSROs currently are required to establish, maintain, and enforce written policies and procedures reasonably designed to address conflicts of interest that can arise from their business.[52] In addition, NRSROs are required to disclose the types of potential conflicts of interest relating to the issuance of credit ratings and the policies and procedures they have established to address those conflicts of interest.[53] Moreover, NRSROs are prohibited from having conflicts of interest unless they have disclosed them and established policies and procedures reasonably designed to address them and, with respect to some conflicts, are prohibited from having the conflict in all circumstances.[54] Furthermore, NRSROs are required to disclose information about the performance of their credit ratings and about their procedures and methodologies for determining credit ratings.[55] These requirements are designed to mitigate potential conflicts of interest, and allow market participants to assess the quality of an NRSRO's ratings process and the ability of the NRSRO to address potential conflicts. The goal is to improve ratings quality by fostering accountability, transparency, and competition.

Request for Comment

The Commission requests interested parties to provide comments, proposals, data, and analysis on whether the Rule 17g–5 Program provides a reasonable alternative to the Section 15E(w) System in terms of objectives and goals. In addition, the Commission requests comments, proposals, data, and analysis in response to the following questions:

1. Interested parties are asked to provide a comparative evaluation of the Section 15E(w) System with the Rule 17g–5 Program using the GAO Framework.

2. If an interested party believes the Rule 17g–5 Program would not be a reasonable alternative to the Section 15E(w) System in terms of objectives and goals, could the Rule 17g–5 Program be modified to bridge the gap? If so, describe how? In addition, identify any additional benefits and costs that would result from such modifications.

3. To the extent not addressed in responding to the questions above, describe how the Rule 17g–5 Program currently is being used to determine credit ratings for structured finance products. For example, is there sufficient time between when information about a pending transaction is posted on the arranger's Internet Web site and the transaction closes for an NRSRO not hired to rate the structured finance product to determine an initial credit rating? If not, how could this issue be addressed to provide a sufficient amount of time? For example, should there be a mandatory time period before a credit rating can be issued by the hired NRSRO? In addition, are NRSROs seeking to determine unsolicited credit ratings using the Rule 17g–5 Program being asked to agree to terms and conditions that are not required of the hired NRSROs? If so, what is the rationale for requiring such different terms and conditions?

2. Investor-Owned Credit Rating Agency Model

Under the Investor-Owned Credit Rating Agency Model, sophisticated investors would establish and operate an NRSRO that would produce credit ratings for structured finance products.[56] Issuers would be required to obtain two ratings: One from the investor-owned credit rating agency and the second from their choice of NRSRO.

Request for Comment

The Commission requests interested parties to provide comments, proposals, data, and analysis on whether the

finance product from selecting the [NRSRO] that will determine the initial credit ratings and monitor such credit ratings.").

[44] *See Amendments to Rules for Nationally Recognized Statistical Rating Organizations,* 74 FR at 63844 (Dec. 4, 2009).

[45] *See* 17 CFR 240.17g–5(a)(3)(i).

[46] *Id.*

[47] *See* 17 CFR 240.17g–5(a)(3)(ii).

[48] *See* 17 CFR 240.17g–5(a)(3)(iii). When adopting the Rule 17g–5 Program, the Commission stated that the "question of whether reliance was reasonable will depend on the facts and circumstances of a given situation. Factors relevant to this analysis would include, but not be limited to: (1) Ongoing or prior failures by the arranger to adhere to the representations; or (2) a pattern of conduct by the arranger where it fails to promptly correct breaches of its representations." *See Amendments to Rules for Nationally Recognized Statistical Rating Organizations,* 74 FR at 63847 (December 4, 2009).

[49] *See* 17 CFR 240.17g–5(a)(3)(iii).

[50] *Id.*

[51] *Id.*

[52] *See* 15 U.S.C. 78o–7(h)(1).

[53] *See* Exhibits 6 and 7 to Form NRSRO and the Instructions for those Exhibits.

[54] *See* 17 CFR 240.17g–5.

[55] *See* Exhibits 1 and 2 to Form NRSRO and the Instructions for those Exhibits.

[56] *See* GAO Report 10–782 at p. 82 for a more detailed description of this model.

Investor-Owned Credit Rating Agency Model provides a reasonable alternative to the Section 15E(w) System in terms of objectives and goals. In addition, the Commission requests comments, proposals, data, and analysis in response to the following questions:

1. Interested parties are asked to provide a comparative evaluation of the Section 15E(w) System with the Investor-Owned Credit Rating Agency Model using the GAO Framework.

2. If an interested party believes the Investor-Owned Credit Rating Agency Model would be a reasonable alternative to the Section 15E(w) System in terms of objectives and goals, explain how such a program could be implemented by the Commission. Could investors be required to participate? Should they be required to participate? In addition, analyze whether the Commission could implement such a program using existing authority in the securities laws or whether statutory amendments would be necessary. Finally, identify the benefits and costs of implementing such a program.

3. Stand-Alone Model

Under the Stand-Alone Model, an NRSRO would be compensated through transaction fees imposed on original issuance and on secondary market transactions.[57] Part of the fee would be paid by the issuer or secondary-market seller and the other portion of the fee by the investors purchasing the security in either the primary or secondary markets. Further, the NRSRO would be compensated over the life of the security based on these transaction fees.

Request for Comment

The Commission requests interested parties to provide comments, proposals, data, and analysis on whether the Stand-Alone Model provides a reasonable alternative to the Section 15E(w) System in terms of objectives and goals. In addition, the Commission requests comments, proposals, data, and analysis in response to the following questions:

1. Interested parties are asked to provide a comparative evaluation of the Section 15E(w) System with the Stand-Alone Model using the GAO Framework.

2. If an interested party believes the Stand-Alone Model would be a reasonable alternative to the Section 15E(w) System in terms of objectives and goals, explain how such a program could be implemented by the Commission. In addition, analyze whether the Commission could implement such a program using existing authority in the securities laws or whether statutory amendments would be necessary. Finally, identify the benefits and costs of implementing such a program.

4. Designation Model

Under the designation model, all NRSROs would have the option of rating a new structured finance product issuance, and security holders would direct, or designate, fees to the NRSROs of their choice, based on the proportion of securities that they owned.[58] The issuer would be required to provide all interested NRSROs with the information to rate the structured finance product and pay the rating fees to a third-party administrator, which would manage the designation process. When the structured finance product was issued, the security holders would designate which of the NRSROs that rated the structured finance product should receive fees, based on their perception of research underlying the ratings. The security holders could designate one or several NRSROs. After the initial credit rating, the issuer would continue to pay maintenance rating fees to the third-party administrator, which bond holders also would allocate through the designation process every quarter over the life of the security. Additionally, under the Designation Model investors would review the quality of the work of the NRSROs and designate which firms should be compensated based on that review.[59]

Request for Comment

The Commission requests interested parties to provide comments, proposals, data, and analysis on whether the Designation Model provides a reasonable alternative to the Section 15E(w) System in terms of objectives and goals. In addition, the Commission requests comments, proposals, data, and analysis in response to the following questions:

1. Interested parties are asked to provide a comparative evaluation of the Section 15E(w) System with the Designation Model using the GAO Framework.

2. If an interested party believes the Designation Model would be a reasonable alternative to the Section 15E(w) System in terms of objectives and goals, explain how such a program could be implemented by the Commission. In addition, analyze whether the Commission could implement such a program using existing authority in the securities laws or whether statutory amendments would be necessary. Finally, identify the benefits and costs of implementing such a program.

5. User-Pay Model

Under the User-Pay Model, issuers would not pay for credit ratings of structured finance products.[60] Instead, all "users" of structured finance credit ratings would be required to enter into a contract with the NRSRO and pay for the rating service of an NRSRO. Users would be defined as "any entity that included a rated security, loan, or contract as an element of its assets or liabilities as recorded in an audited financial statement."[61] Users would also include holders of long or short positions in fixed-income instruments, as well as parties that refer to a credit rating in contractual commitments or that are parties to derivative products that rely on rated securities or entities.[62] The model would rely on third-party auditors to ensure that NRSROs receive payment from users of credit ratings.

Request for Comment

The Commission requests interested parties to provide comments, proposals, data, and analysis on whether the User-Pay Model provides a reasonable alternative to the Section 15E(w) System in terms of objectives and goals. In addition, the Commission requests comments, proposals, data, and analysis in response to the following questions:

1. Interested parties are asked to provide a comparative evaluation of the Section 15E(w) System with the User-Pay Model using the GAO Framework.

2. If an interested party believes the User-Pay Model would be a reasonable alternative to the Section 15E(w) System in terms of objectives and goals, explain how such a program could be implemented by the Commission. In addition, analyze whether the Commission could implement such a program using existing authority in the securities laws or whether statutory amendments would be necessary.

[57] *See* GAO Report 10–782 at pp. 82–83 for a more detailed description of this model.

[58] *See* GAO Report 10–782 at pp. 83–84 for a more detailed description of this model.

[59] *Id; see also* Clark, Mayree and Andrew Jones "A Free Approach to Rating Agency Function," *SEC Roundtable to Examine Oversight of Credit Rating Agencies* (April 15, 2009). A variation of the Designation Model would include imposing a moratorium between the issuance of a security and the publication of a rating by an NRSRO; *see* "Wait to Rate: How to Save the Rating Agencies (and the Capital Markets)" presentation by Pershing Square Capital Management, L.P. (May 26, 2010).

[60] *See* GAO Report 10–782 at p. 84 for a more detailed description of this model.

[61] *Id.*

[62] *Id.*

Finally, identify the benefits and costs of implementing such a program.

6. Other Alternative Models

Interested parties are encouraged to identify any other model that could serve as a reasonable alternative to the Section 15E(w) System in terms of objectives and goals.

Request for Comment

The Commission requests interested parties to provide comments, proposals, data, and analysis on any other model that they believe would provide a reasonable alternative to the Section 15E(w) System in terms of objectives and goals. In addition, the Commission requests comments, proposals, data, and analysis in response to the following questions:

1. Interested parties are asked to provide a comparative evaluation of the Section 15E(w) System with the other model.

2. If an interested party believes the other model would be a reasonable alternative to the Section 15E(w) System in terms of objectives and goals, explain how such a program could be implemented by the Commission. In addition, analyze whether the Commission could implement such a program using existing authority in the securities laws or whether statutory amendments would be necessary. Finally, identify the benefits and costs of implementing such a program.

III. Conclusion

All interested parties are invited to submit their views, in writing, on these questions.

By the Commission.

Dated: May 10, 2011.

Elizabeth M. Murphy,

Secretary.

APPENDIX—TEXT OF SECTION 15E(w) PROVISIONS [63]

BILLING CODE 8011–01–P

SEC. 939D. INITIAL CREDIT RATING ASSIGNMENTS.

Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. 78o–7), as amended by this Act, is amended by adding at the end the following:

''(w) INITIAL CREDIT RATING ASSIGNMENTS.—

''(1) DEFINITIONS.—In this subsection the following definitions shall apply:

†HR 4173 PP

[63] Section 15(w) of the Securities Exchange Act of 1934, as that provision would have been added by Section 939D of H.R. 4173 (111th Congress), as passed by the Senate on May 20, 2010.

"(A) BOARD.—The term 'Board' means the Credit Rating Agency Board established under paragraph (2).

"(B) QUALIFIED NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.—The term 'qualified nationally recognized statistical rating organization', with respect to a category of structured finance products, means a nationally recognized statistical rating organization that the Board determines, under paragraph (3)(B), to be qualified to issue initial credit ratings with respect to such category.

"(C) REGULATIONS.—

"(i) CATEGORY OF STRUCTURED FINANCE PRODUCTS.—

"(I) IN GENERAL.—The term 'category of structured finance products'—

"(aa) shall include any asset backed security and any structured product based on an asset-backed security; and

"(bb) shall be further defined and expanded by the Commission, by rule, as necessary.

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"(II) CONSIDERATIONS.—In issuing the regulations required under subclause (I), the Commission shall consider—

"(aa) the types of issuers that issue structured finance products;

"(bb) the types of investors who purchase structured finance products;

"(cc) the different categories of structured finance products according to—

"(AA) the types of capital flow and legal structure used;

"(BB) the types of underlying products used; and

"(CC) the types of terms used in debt securities;

"(dd) the different values of debt securities; and

"(ee) the different numbers of units of debt securities that are issued together.

"(ii) REASONABLE FEE.—The Board shall issue regulations to define the term 'reasonable fee'.

"(2) CREDIT RATING AGENCY BOARD.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Restoring American Financial Stability Act of 2010, the Commission shall—

"(i) establish the Credit Rating Agency Board, which shall be a self-regulatory organization;

"(ii) subject to subparagraph (C), select the initial members of the Board; and

"(iii) establish a schedule to ensure that the Board begins assigning qualified nationally recognized statistical rating organizations to provide initial ratings not later than 1 year after the selection of the members of the Board.

"(B) SCHEDULE.—The schedule established under subparagraph (A)(iii) shall prescribe when—

"(i) the Board will conduct a study of the securitization and ratings process and

provide recommendations to the Commission;

"(ii) the Commission will issue rules and regulations under this section;

"(iii) the Board may issue rules under this subsection; and

"(iv) the Board will—

"(I) begin accepting applications to select qualified national recognized statistical rating organizations; and

"(II) begin assigning qualified national recognized statistical rating organizations to provide initial ratings.

"(C) MEMBERSHIP.—

"(i) IN GENERAL.—The Board shall initially be composed of an odd number of members selected from the industry, with the total numerical membership of the Board to be determined by the Commission.

"(ii) SPECIFICATIONS.—Of the members initially selected to serve on the Board—

"(I) not less than a majority of the members shall be representatives of

the investor industry who do not represent issuers;

"(II) not less than 1 member should be a representative of the issuer industry;

"(III) not less than 1 member should be a representative of the credit rating agency industry; and

"(IV) not less than 1 member should be an independent member.

"(iii) TERMS.—Initial members shall be appointed by the Commission for a term of 4 years.

"(iv) NOMINATION AND ELECTION OF MEMBERS.—

"(I) IN GENERAL.—Prior to the expiration of the terms of office of the initial members, the Commission shall establish fair procedures for the nomination and election of future members of the Board.

"(II) MODIFICATIONS OF THE BOARD.—Prior to the expiration of the terms of office of the initial members, the Commission—

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"(aa) may increase the size of the board to a larger odd number and adjust the length of future terms; and

"(bb) shall retain the composition of members described in clause (ii).

"(v) RESPONSIBILITIES OF MEMBERS.—Members shall perform, at a minimum, the duties described in this subsection.

"(vi) RULEMAKING AUTHORITY.—The Commission shall, if it determines necessary and appropriate, issue further rules and regulations on the composition of the membership of the Board and the responsibilities of the members.

"(D) OTHER AUTHORITIES OF THE BOARD.—The Board shall have the authority to levy fees from qualified nationally recognized statistical rating organization applicants, and periodically from qualified nationally recognized statistical rating organizations as necessary to fund expenses of the Board.

"(E) REGULATION.—The Commission has the authority to regulate the activities of the Board, and issue any further regulations of the Board it deems necessary, not in contravention with the intent of this section.

"(3) BOARD SELECTION OF QUALIFIED NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.—

"(A) APPLICATION.—

"(i) IN GENERAL.—A nationally recognized statistical rating organization may submit an application to the Board, in such form and manner as the Board may require, to become a qualified nationally recognized statistical rating organization with respect to a category of structured finance products.

"(ii) CONTENTS.—An application submitted under clause (i) shall contain—

"(I) information regarding the institutional and technical capacity of the nationally recognized statistical rating organization to issue credit ratings;

"(II) information on whether the nationally recognized statistical rating organization has been exempted by the Commission from any requirements under any other provision of this section; and

"(III) any additional information the Board may require.

"(iii) REJECTION OF APPLICATIONS.—The Board may reject an application submitted under this paragraph if the nationally recognized statistical rating organization has been exempted by the Commission from any requirements under any other provision of this section.

"(B) SELECTION.—The Board shall select qualified national recognized statistical rating organizations with respect to each category of structured finance products from among nationally recognized statistical rating organizations that submit applications under subparagraph (A).

"(C) RETENTION OF STATUS AND OBLIGATIONS AFTER SELECTION.—An entity selected as a qualified nationally recognized statistical rat-

ing organization shall retain its status and obligations under the law as a nationally recognized statistical rating organization, and nothing in this subsection grants authority to the Commission or the Board to exempt qualified nationally recognized statistical rating organizations from obligations or requirements otherwise imposed by Federal law on nationally recognized statistical rating organizations.

"(4) REQUESTING AN INITIAL CREDIT RATING.—An issuer that seeks an initial credit rating for a structured finance product—

"(A) may not request an initial credit rating from a nationally recognized statistical rating organization; and

"(B) shall submit a request for an initial credit rating to the Board, in such form and manner as the Board may prescribe.

"(5) ASSIGNMENT OF RATING DUTIES.—

"(A) IN GENERAL.—For each request received by the Board under paragraph (4)(B), the Board shall select a qualified nationally recognized statistical rating organization to provide the initial credit rating to the issuer.

"(B) METHOD OF SELECTION.—

"(i) IN GENERAL.—The Board shall—

"(I) evaluate a number of selection methods, including a lottery or rotating assignment system, incorporating the factors described in clause (ii), to reduce the conflicts of interest that exist under the issuer-pays model; and

"(II) prescribe and publish the selection method to be used under subparagraph (A).

"(ii) CONSIDERATION.—In evaluating a selection method described in clause (i)(I), the Board shall consider—

"(I) the information submitted by the qualified nationally recognized statistical rating organization under paragraph (3)(A)(ii) regarding the institutional and technical capacity of the qualified nationally recognized statistical rating organization to issue credit ratings;

"(II) evaluations conducted under paragraph (7);

"(III) formal feedback from institutional investors; and

"(IV) information from subclauses (I) and (II) to implement a mechanism which increases or decreases assignments based on past performance.

"(iii) PROHIBITION.—The Board, in choosing a selection method, may not use a method that would allow for the solicitation or consideration of the preferred national recognized statistical rating organizations of the issuer.

"(iv) ADJUSTMENT OF PROCESS.—The Board shall issue rules describing the process by which it can modify the assignment process described in clause (i).

"(C) RIGHT OF REFUSAL.—

"(i) REFUSAL.—A qualified nationally recognized statistical rating organization selected under subparagraph (A) may refuse to accept a selection for a particular request by—

"(I) notifying the Board of such refusal; and

"(II) submitting to the Board a written explanation of the refusal.

"(ii) SELECTION.—Upon receipt of a notification under clause (i), the Board shall make an additional selection under subparagraph (A).

"(iii) INSPECTION REPORTS.—The Board shall annually submit any explanations of refusals received under clause (i)(II) to the Commission, and such explanatory submissions shall be published in the annual inspection reports required under subsection (p)(3)(C).

"(6) DISCLAIMER REQUIRED.—Each initial credit rating issued under this subsection shall include, in writing, the following disclaimer: 'This initial rating has not been evaluated, approved, or certified by the Government of the United States or by a Federal agency.'.

"(7) EVALUATION OF PERFORMANCE.—

"(A) IN GENERAL.—The Board shall prescribe rules by which the Board will evaluate the performance of each qualified nationally recognized statistical rating organization, including rules that require, at a minimum, an annual

evaluation of each qualified nationally recognized statistical rating organization.

"(B) CONSIDERATIONS.—The Board, in conducting an evaluation under subparagraph (A), shall consider—

"(i) the results of the annual examination conducted under subsection (p)(3);

"(ii) surveillance of credit ratings conducted by the qualified nationally recognized statistical rating organization after the credit ratings are issued, including—

"(I) how the rated instruments perform;

"(II) the accuracy of the ratings provided by the qualified nationally recognized statistical rating organization as compared to the other nationally recognized statistical rating organizations; and

"(III) the effectiveness of the methodologies used by the qualified nationally recognized statistical rating organization; and

"(iii) any additional factors the Board determines to be relevant.

"(C) REQUEST FOR REEVALUATION.—Subject to rules prescribed by the Board, and not less frequently than once a year, a qualified nationally recognized statistical rating organization may request that the Board conduct an evaluation under this paragraph.

"(D) DISCLOSURE.—The Board shall make the evaluations conducted under this paragraph available to Congress.

"(8) RATING FEES CHARGED TO ISSUERS.—

"(A) LIMITED TO REASONABLE FEES.—A qualified nationally recognized statistical rating organization shall charge an issuer a reasonable fee, as determined by the Commission, for an initial credit rating provided under this section.

"(B) FEES.—Fees may be determined by the qualified national recognized statistical rating organizations unless the Board determines it is necessary to issue rules on fees.

"(9) NO PROHIBITION ON ADDITIONAL RATINGS.—Nothing in this section shall prohibit an issuer from requesting or receiving additional credit ratings with respect to a debt security, if the initial credit rating is provided in accordance with this section.

"(10) NO PROHIBITION ON INDEPENDENT RATINGS OFFERED BY NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.—

"(A) IN GENERAL.—Nothing in this section shall prohibit a nationally recognized statistical rating organization from independently providing a credit rating with respect to a debt security, if—

"(i) the nationally recognized statistical rating organization does not enter into a contract with the issuer of the debt security to provide the initial credit rating; and

"(ii) the nationally recognized statistical rating organization is not paid by the issuer of the debt security to provide the initial credit rating.

"(B) RULE OF CONSTRUCTION.—For purposes of this section, a credit rating described in subparagraph (A) may not be construed to be an initial credit rating.

"(11) PUBLIC COMMUNICATIONS.—Any communications made with the public by an issuer with respect to the credit rating of a debt security shall clearly specify whether the credit rating was made by—

"(A) a qualified nationally recognized statistical rating organization selected under paragraph (5)(A) to provide the initial credit rating for such debt security; or

"(B) a nationally recognized statistical rating organization not selected under paragraph (5)(A).

"(12) PROHIBITION ON MISREPRESENTATION.—With respect to a debt security, it shall be unlawful for any person to misrepresent any subsequent credit rating provided for such debt security as an initial credit rating provided for such debt security by a qualified nationally recognized statistical rating organization selected under paragraph (5)(A).

"(13) INITIAL CREDIT RATING REVISION AFTER MATERIAL CHANGE IN CIRCUMSTANCE.—If the Board determines that it is necessary or appropriate in the public interest or for the protection of investors, the Board may issue regulations requiring that an issuer that has received an initial credit rating under this subsection request a revised initial credit rating, using the same method as provided under paragraph (4), each time the issuer experiences a material change in circumstances, as defined by the Board.

"(14) CONFLICTS.—

"(A) MEMBERS OR EMPLOYEES OF THE BOARD.—

"(i) LOAN OF MONEY OR SECURITIES PROHIBITED.—

"(I) IN GENERAL.—A member or employee of the Board shall not accept any loan of money or securities, or anything above nominal value, from any nationally recognized statistical rating organization, issuer, or investor.

"(II) EXCEPTION.—The prohibition in subclause (I) does not apply to a loan made in the context of disclosed, routine banking and brokerage agreements, or a loan that is clearly motivated by a personal or family relationship.

"(ii) EMPLOYMENT NEGOTIATIONS PROHIBITION.—A member or employee of the Board shall not engage in employment negotiations with any nationally recognized statistical rating organization, issuer, or investor, unless the member or employee—

"(I) discloses the negotiations immediately upon initiation of the negotiations; and

"(II) recuses himself from all proceedings concerning the entity involved in the negotiations until termination of negotiations or until termination of his employment by the Board, if an offer of employment is accepted.

"(B) CREDIT ANALYSTS.—

"(i) IN GENERAL.—A credit analyst of a qualified nationally recognized statistical rating organization shall not accept any loan of money or securities, or anything above nominal value, from any issuer or investor.

"(ii) EXCEPTION.—The prohibition described in clause (i) does not apply to a loan made in the context of disclosed, routine banking and brokerage agreements, or a loan that is clearly motivated by a personal or family relationship.

"(15) EVALUATION OF CREDIT RATING AGENCY BOARD.—Not later than 5 years after the date that the Board begins assigning qualified nationally recog-

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nized statistical rating organizations to provide initial ratings, the Commission shall submit to Congress a report that provides recommendations of—

"(A) the continuation of the Board;

"(B) any modification to the procedures of the Board; and

"(C) modifications to the provisions in this subsection.".

BILLING CODE 8011–01–C

[FR Doc. 2011–11877 Filed 5–13–11; 8:45 am]

BILLING CODE 8011–01–C

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, e-mail, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB)

Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, E-mail address: *OIRA_Submission@omb.eop.gov.*

(SSA)

Social Security Administration, DCBFM, Attn: Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–6400, E-mail address: *OPLM.RCO@ssa.gov.*

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than July 15, 2011. Individuals can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–8783 or by writing to the above e-mail address.

1. *Application for Supplemental Security Income (SSI)—20 CFR 416.207 and 416.305–416–335, Subpart C—0960–0229.* The SSI program provides aged, blind, and disabled individuals, who have little or no income, funds for food, clothing, and shelter. Individuals complete Form SSA–8000 to apply for SSI. SSA uses information from Form SSA–8000 and its electronic Intranet counterpart, the Modernized SSI Claims System (MSSICS), to determine: (1) Whether SSI claimants meet all statutory and regulatory eligibility requirements and (2) SSI payment amounts. The respondents are applicants for SSI.

Type of Request: Revision of an OMB-approved information collection.

Type of response	Number of respondents	Frequency of response	Average burden per response (minutes)	Total annual burden (hours)
Paper Form	26,548	1	36	15,929
MSSICS	143,095	1	34	81,087
MSSICS/w Signature Proxy	1,157,767	1	34	656,068
Totals	1,327,410	.....	.....	753,084

2. *Disability Update Report—20 CFR 404.1589–404.1595 and 416.988–416.996—0960–0511.* SSA periodically reviews current disability beneficiaries' cases to determine if they should continue to receive disability payments. SSA uses Form SSA–455 to determine if: (1) There is enough evidence to warrant referring the case for a full medical Continuing Disability Review (CDR); (2) the beneficiary's impairment is unchanged or only slightly changed, precluding the need for a CDR; or (3) there are unresolved work-related issues. The respondents are recipients of Social Security disability benefits.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 1,100,000.

Frequency of Response: 1.

Average Burden per Response: 15 minutes.

Estimated Annual Burden: 275,000 hours.

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them within 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than June 15, 2011. Individuals can obtain copies of the OMB clearance packages by calling the SSA Reports Clearance Officer at 410–965–8783 or by writing to the above e-mail address.

1. *Railroad Employment Questionnaire—20 CFR 404.1401, 404.1406–404.1408—0960–0078.* Railroad workers, their dependents, or survivors can concurrently apply for railroad retirement and Social Security benefits at SSA whenever the number holder, or claimant on the number holder's Social Security number, worked in the railroad industry. SSA uses the SSA–671 to coordinate Social Security claims processing with the Railroad Retirement Board, and to determine benefit entitlement and amount. The respondents are Social Security benefit applicants employed by a railroad or are dependents of railroad workers.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 125,000.

Frequency of Response: 1.

Average Burden of Response: 5 minutes.

Estimated Annual Burden: 10,417 hours.

2. *Government Pension Questionnaire—20 CFR 404.408a—0960–0160.* When someone is concurrently receiving spouse or surviving spousal Social Security benefits and a government pension based on non-Social Security earnings, SSA may reduce the benefit amount by two-thirds the amount of the government pension under the Social Security Act's Government Pension Offset (GPO) provision. We use the SSA–3885, Government Pension Questionnaire, to document such cases. SSA uses the information to determine whether GPO applies, to identify exceptions, and to determine the benefit-reduction amount and effective date. The respondents are individuals and households.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 76,000.

Frequency of Response: 1.

Average Burden per Response: 12.5 minutes.

Estimated Annual Burden: 15,833 hours.

3. *Annual Earnings Test Direct Mail Follow-Up Program Notices—20 CFR 404.452–404.455—0960–0369.* SSA developed the Annual Earnings Test Direct Mail Follow-up Program to improve beneficiary reporting on work and earnings during the year and earnings information at the end of the year. SSA may reduce benefits payable under the Social Security Act when an individual has wages or self-employment income exceeding the annual exempt amount. SSA identifies beneficiaries likely to receive more than the annual exempt amount, and requests more frequent estimates of earnings from them. When applicable, SSA also requests a future year estimate to reduce overpayments due to earnings. SSA sends letters (SSA–L9778, L9779, L9781, L9784, L9785, and L9790) to beneficiaries requesting earnings information the month prior to their attainment of full retirement age. We send each beneficiary a tailored letter that includes relevant earnings data from SSA records. The Annual Earnings Test Direct Mail Follow-up Program helps to ensure Social Security payments are correct. The respondents are working Social Security beneficiaries.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion paper version	Number of respondents	Frequency of response	Average burden per response (minutes)	Total annual burden (hours)
SSA–L9778	42,630	1	10	7,105
SSA–L9779	158,865	1	10	26,478
SSA–L9781	472,437	1	10	78,740
SSA–L9784	1,270	1	10	212
SSA–L9785	15,870	1	10	2,645
SSA–L9790	45,000	1	10	7,500
Totals	736,072	.....	.....	122,680

4. *Medicare Income-Related Monthly Adjustment Amount—Life-Changing Event Form—0960–0784.* Per the Medicare Modernization Act of 2003, reductions in the Federal subsidy for Medicare medical coverage (Medicare Part B) result in selected Medicare Part B recipients paying an income-related monthly adjustment amount (IRMAA). The Internal Revenue Service transmits income tax return data to SSA for SSA to determine the IRMAA. SSA uses Form SSA–44 to determine if a recipient qualifies for a reduction in the IRMAA. If affected Medicare recipients believe SSA should use more recent tax data because of a life-changing event that significantly reduces their income, they can report these changes to SSA and ask for a new initial determination of their IRMAA.

In November 2010, we requested emergency OMB clearance for a new SSA–44 to fulfill the provisions of the Affordable Care Act (Pub. L. 111–148), which mandates reductions in the Federal Medicare Part D prescription drug coverage subsidies, resulting in higher premiums for those who have this coverage and who have income above a specific threshold. The provisions of the law became effective January 1, 2011, and we obtained emergency clearance for this form on November 23, 2010. We are now seeking full OMB clearance for this form. The respondents are Medicare Part B and prescription drug coverage recipients and enrollees with modified adjusted gross income over a high-income threshold who experience one of the eight significant life-changing events.

Type of Request: Extension of an OMB-approved information collection.

Method of information collection	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
Personal Interview (SSA field office)	147,000	1	30	73,500
Paper Form (mailed)	39,000	1	45	29,250
Totals	186,000	.....	.....	102,750

Dated: *May 11, 2011.*

Faye Lipsky,

Reports Clearance Officer, Center for Reports Clearance, Social Security Administration.

[FR Doc. 2011–11958 Filed 5–13–11; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 7457]

The Designation of Badruddin Haqqani Also Known as Atiqullah as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the individual known as Badruddin Haqqani, also known as Atiqullah, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that "prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously," I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: April 1, 2011.

Hillary Rodham Clinton,

Secretary of State.

[FR Doc. 2011–11996 Filed 5–13–11; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2011–0035]

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 August 19, 2010. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by June 15, 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–2011–0135.

FOR FURTHER INFORMATION CONTACT: Heather Contrino, 202–366–5060, or Erica Interrante, 202–366–5048, Office of Transportation Policy Studies, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: The Next Generation of Travel Focus Groups.

Background: The awareness and use of new technologies, communication and travel options, as well as social norms will influence transportation needs of the future. As the Federal Highway Administration (FHWA) considers the future outlook of an improved National Highway System, the transportation behaviors, perspectives and needs of the younger traveler cohort (ages 16–29) is a topic of study the agency is pursuing to better evaluate future planning and policy options.

The Next Generation of Travel study, being performed through the agency's Office of Transportation Policy Studies, will examine existing and future travel patterns, as well as how new vehicle and transportation-related technologies affect generations and the future of personal travel.

Certain generational implications on transportation that FHWA will be exploring include the following: mode choice, trip type and rates, travel time and distances, vehicle ownership and characteristics, vehicle occupancy, vehicle availability, travel costs, personal income, worker status, home and work location, life cycle, internet usage and telecommuting.

FHWA will be conducting a series of focus groups with individuals in the U.S. to gain additional understanding into the travel activities, choices and views of transportation by the traveling public. The focus groups will provide important information about the next several generations of travelers, playing a critical role in informing the outcomes of the data analysis, the accuracy of the traveler profiles, and other new or emerging norms and perspectives not identified in previous work. The information collected will also be used to identify new and emerging travel behavior, perspectives and social norms not covered through statistical analysis. This is the first time that FHWA will be conducting a study on this topic.

Respondents: Approximately 20 focus groups made up of 8–10 participants each from U.S. households will be held in different regions across the country. The focus groups will include

participants from all the age cohorts; however, at least half of the focus groups will be made up of participants 16–29 years of age. The estimated total number of respondents is 200.

Frequency: The series of focus groups will be conducted once. No individual will participate in the focus groups more than once. The focus groups will be conducted during calendar year 2011.

Estimated Average Burden per Response: The estimated average burden per respondent is 60 minutes.

Estimated Total Annual Burden Hours: The estimated total annual burden for the focus group series is 200 hours.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: May 3, 2011.

Juli Huynh

Chief, Management Programs and Analysis Division.

[FR Doc. 2011–11976 Filed 5–13–11; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2010–0124]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on September 3, 2010, at 75 FR 54217.

DATES: Comments must be received on or before June 15, 2011.

ADDRESSES: 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:* NHTSA Desk Officer.

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

A Comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Kil-Jae Hong, NHTSA, 1200 New Jersey Avenue, SE., W52–232, NPO–520, Washington, DC 20590. Ms. Hong's telephone number is (202) 493–0524 and e-mail address is *kil-jae.hong@dot.gov.*

Docket: For access to the docket to read background documents, go to *http://www.regulations.gov,* or the street address listed above. Follow the online instructions for accessing the dockets.

SUPPLEMENTARY INFORMATION: In compliance with the Paperwork Reduction Act of 1995, NHTSA previously conducted a public meeting and opened a docket for a 60-day comment period. Based upon comments at the public meeting and to the docket, NHTSA revised its research plan. This notice announces that the ICR abstracted below has been forwarded to OMB for review and comment. The ICR describes the nature of the information collections and their expected burden. This is a request for new collection.

Title: 49 CFR 575—Consumer Information Regulations (section 106) Qualitative Research—Focus Groups.

OMB Control Number: Not Assigned.

Form Number: None.

Type of Request: New collection.

Affected Public: Passenger vehicle tire consumers and tire retailers.

Requested Expiration Date of Approval: Three years from approval date.

Abstract: The Energy Independence and Security Act of 2007 (EISA), enacted in December 2007, included a requirement that NHTSA develop a national tire fuel efficiency program to educate consumers about the effect of tires on automobile fuel efficiency, safety and durability. A critical step in developing the consumer information program is to conduct proper market research to understand consumers' knowledge of tire maintenance and performance, understand the tire purchase process from both the consumer and retailer's perspectives, evaluate comprehension of ratings, explore the clarity, meaningfulness and the likely resulting behaviors, and evaluate the creative and the channels for communication. NHTSA proposes a multi-phased research project to gather the data and apply analyses and results from the project to develop the consumer information program. The entire research plan is posted to this docket.

Estimated Annual Burden: 108.

Number of Respondents: 72.

NHTSA will conduct two research phases. For the first phase, NHTSA will conduct two types of qualitative research. One research project will consist of two (2) focus groups in three (3) cities. Each group will have eight (8) participants and will last two (2) hours for a total of 96 participant hours. (72 potential respondents will be contacted for initial screening calls to determine the actual focus group participants. Calls should not be more than 10 minutes each for an estimated 12 burden hours.) This is the project which is the subject of this notice. For the second research project in this phase, NHTSA will conduct on-site interviews at various tire retailers. NHTSA anticipates 30 respondents, with each interview taking 30 minutes for a total of approximately 15 participant hours. This project is addressed by a separate notice published today. The results of both projects in this research phase will be used to finalize the content of an online survey NHTSA will conduct in the second research phase.

On September 3, 2010 (75 FR 54217), NHTSA published the required 60-day notice requesting comments on both projects in the first research phase.[1] NHTSA received six comments in response to this notice: One unsigned, one each from LANXESS Corporation, Tire Industry Association (TIA), and Michelin North America and two from Rubber Manufacturers Association (RMA). LANXESS Corporation (a specialty chemicals company) and TIA indicated their support of this information collection request, noting the importance of providing consumers with related information, while the unsigned comment was opposed to this spending, but did not provide a reason why. RMA offered detailed comments on the contents of the research package. A more extensive discussion of the comments received and changes NHTSA has made to the research plan can be found in the supporting

[1] NHTSA published an amendment to this notice on September 27, 2010 (75 FR 59319) and extended the comment period in a notice published on November 24, 2010 (75 FR 71789).

statement placed in the docket for this notice.

The estimated annual burden hour for the focus groups is 108 hours. Based on the Bureau of Labor and Statistics' median hourly wage (all occupations) in the May 2009 National Occupational Employment and Wage Estimates, NHTSA estimates that it will take an average of $15.95 per hour for professional and clerical staff to gather data, distribute and print material. Therefore, the agency estimates that the cost associated with the burden hours is $1,722.60 ($15.95 per hour × 108 burden hours).

Gregory A. Walter,

Senior Associate Administrator, Policy and Operations.

[FR Doc. 2011–11974 Filed 5–13–11; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2010–0124]

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on September 3, 2010, at 75 FR 54217.

DATES: Comments must be received on or before June 15, 2011.

ADDRESSES: 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: NHTSA Desk Officer.

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

A Comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Kil-Jae Hong, NHTSA, 1200 New Jersey Avenue, SE., W52–232, NPO–520, Washington, DC 20590. Ms. Hong's telephone number is (202) 493–0524 and e-mail address is *kil-jae.hong@dot.gov.*

Docket: For access to the docket to read background documents, go to *http://www.regulations.gov,* or the street address listed above. Follow the online instructions for accessing the dockets.

SUPPLEMENTARY INFORMATION: In compliance with Paperwork Reduction Act of 1995, NHTSA previously conducted a public meeting and opened a docket for a 60-day comment period. Based upon comments at the public meeting and to the docket, NHTSA revised its research plan. This notice announces that the ICR abstracted below has been forwarded to OMB for review and comment. The ICR describes the nature of the information collections and their expected burden. This is a request for new collection.

Title: 49 CFR 575—Consumer Information Regulations (section 106) Qualitative Research—Retailer Interviews.

OMB Control Number: Not Assigned.

Form Number: None.

Type of Request: New collection.

Affected Public: Passenger vehicle tire consumers and tire retailers.

Requested Expiration Date of Approval: Three years from approval date.

Abstract: The Energy Independence and Security Act of 2007 (EISA), enacted in December 2007, included a requirement that NHTSA develop a national tire fuel efficiency program to educate consumers about the effect of tires on automobile fuel efficiency, safety and durability. A critical step in developing the consumer information program is to conduct proper market research to understand consumers' knowledge of tire maintenance and performance, understand the tire purchase process from both the consumer and retailer's perspectives, evaluate comprehension of ratings, explore the clarity, meaningfulness and the likely resulting behaviors, and evaluate the creative and the channels for communication. NHTSA proposes a multi-phased research project to gather the data and apply analyses and results from the project to develop the consumer information program. The entire research plan is posted to this docket.

Estimated Annual Burden: 15.

Number of Respondents: 30.

NHTSA will conduct two research phases. For the first phase, NHTSA will conduct two types of qualitative research. One research project will consist of two (2) focus groups in three (3) cities. Each group will have eight (8) participants and will last two (2) hours for a total of 96 participant hours. This project is addressed by a separate notice published today. For the second research project in this phase, NHTSA will conduct on-site interviews at various tire retailers. NHTSA anticipates 30 respondents, with each interview taking 30 minutes for a total of approximately 15 participant hours. This is the project which is the subject of this notice. The results of both projects in this research phase will be used to finalize the content of an online survey NHTSA will conduct in the second research phase.

On September 3, 2010 (75 FR 54217), NHTSA published the required 60-day notice requesting comments on both projects in the first research phase.[1] NHTSA received six comments in response to this notice: One unsigned, one each from LANXESS Corporation, Tire Industry Association (TIA), and Michelin North America and two from Rubber Manufacturers Association (RMA). LANXESS Corporation (a specialty chemicals company) and TIA indicated their support of this information collection request, noting the importance of providing consumers with related information, while the unsigned comment was opposed to this spending, but did not provide a reason why. RMA offered detailed comments on the contents of the research package. A more extensive discussion of the comments received and changes NHTSA has made to the research plan can be found in the supporting statement placed in the docket for this notice.

The estimated annual burden hour for the retailer interviews is 15 hours. Based on the Bureau of Labor and Statistics' median hourly wage (all occupations) in the May 2009 National Occupational Employment and Wage Estimates, NHTSA estimates that it will take an average of $15.95 per hour for professional and clerical staff to gather data, distribute and print material.

[1] NHTSA published an amendment to this notice on September 27, 2010 (75 FR 59319) and extended the comment period in a notice published on November 24, 2010 (75 FR 71789).

Therefore, the agency estimates that the cost associated with the burden hours is $239.25 ($15.95 per hour × 15 burden hours).

Gregory A. Walter,

Senior Associate Administrator, Policy and Operations.

[FR Doc. 2011–11959 Filed 5–13–11; 8:45 am]

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Federal Register

Vol. 76, No. 94

Monday, May 16, 2011

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