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

WHERE: Office of the Federal Register
Conference Room, Suite 700
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Washington, DC 20002

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Contents

Federal Register

Vol. 76, No. 118

Monday, June 20, 2011

Agriculture Department
See Food and Nutrition Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 35832

Air Force Department
NOTICES
Meetings:
Global Positioning System Directorate, 35858–35859

Army Department
NOTICES
Privacy Act; Systems of Records, 35859–35861

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 35894–35896

Coast Guard
RULES
Anchorage Ground and Regulated Navigation Areas:
Superfund Site, New Bedford Harbor, New Bedford, MA, 35742–35744
PROPOSED RULES
Port Access Route Study; Availability:
Approaches to San Francisco, 35805–35806
Special Local Regulations for Marine Events:
Patuxent River, Solomons, MD, 35802–35805

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration

Comptroller of the Currency
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 35948

Defense Department
See Air Force Department
See Army Department
NOTICES
Meetings:
Department of Defense Wage Committee, 35858

Defense Nuclear Facilities Safety Board
NOTICES
Safety Culture at the Waste Treatment and Immobilization Plant, 35861–35864

Disability Employment Policy Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 35915–35918

Drug Enforcement Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
U.S. Official Order Forms for Schedule I and II Controlled Substances (Accountable Forms); Order Form Requisition, 35913–35914

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 35864
Proposed Priority; Special Demonstration Programs:
National Technical Assistance Projects to Improve Employment Outcomes for Individuals with Disabilities, 35864–35866

Election Assistance Commission
NOTICES
Meetings; Sunshine Act, 35866–35867

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 35867–35869
Meetings:
International Energy Agency, 35869–35870

Environmental Protection Agency
RULES
National Emission Standards for Hazardous Air Pollutants for Area Sources:
Plating and Polishing, 35744–35753
PROPOSED RULES
National Emission Standards for Hazardous Air Pollutants for Area Sources:
Plating and Polishing, 35806–35809
NOTICES
Certain New Chemicals; Receipt and Status Information, 35886–35891
Meetings:
Local Government Advisory Committee and Small Community Advisory Subcommittee, 35891–35892
Project Waiver of Buy American Requirement of the American Recovery and Reinvestment Act of 2009:
Salt Lake City, UT, 35892

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Special Conditions:
Gulfstream Aerospace LP Model G250 Airplane Automatic Power Reserve, an Automatic Takeoff Thrust Control System, 35736–35739
PROPOSED RULES
Amendment of Class E Airspace:
Shelby, NC, 35799–35801

Federal Communications Commission
PROPOSED RULES
Review of the Emergency Alert System, 35810–35831
Television Broadcasting Services:
Eau Claire, WI, 35831
NOTICES
Termination of Dormant Proceedings, 35892–35893

Federal Emergency Management Agency
RULES
Changes in Flood Elevation Determinations, 35753–35755
NOTICES
Meetings:
Federal Radiological Preparedness Coordinating Committee, 35902

Federal Energy Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 35870–35873
Applications:
Blue Heron Hydro LLC, 35873–35876
Union Electric Co. (dba Ameren Missouri), 35874–35875
Combined Filings, 35877–35880
Complaints:
Chevron Products Co. v. SFPP, LP, 35880–35881
ConocoPhillips Co. v. SFPP, LP, 35881–35882
Effectiveness of Exempt Wholesale Generator Status, 35882
Environmental Assessments; Availability, etc.:
Distrigas of Massachusetts LLC Heating Value and Wobbe Index Reduction Project, 35882–35884
Gas Transmission Northwest LLC Carty Lateral Project, 35884–35886
Orange Cove Irrigation District, and Friant Power Authority, 35886
Procedural Schedule for Licensing:
FirstLight Hydro Generating Co., City of Norwich Department of Public Utilities, 35886

Federal Housing Finance Agency
RULES
Conservatorship and Receivership, 35724–35736
PROPOSED RULES
Prudential Management and Operations Standards, 35791–35799

Federal Reserve System
RULES
Consumer Leasing, 35721–35722
Truth in Lending, 35722–35724
NOTICES
Changes in Bank Control:
Acquisitions of Shares of Bank or Bank Holding Company, 35893
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 35893–35894

Federal Transit Administration
NOTICES
Limitations on Claims against Proposed Public Transportation Projects, 35939–35941

Fish and Wildlife Service
NOTICES
Endangered and Threatened Wildlife and Plants:
Five-Year Status Reviews of 12 Species in the Mountain–Prairie Region, 35906–35908

Food and Drug Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Request for Designation as Country Not Subject to the Restrictions Applicable to Human Food and Cosmetics Manufactured From, Processed With, or Otherwise Containing, Material From Cattle, 35897–35899
Scientific and Technical Issues Related to Pharmaceutical Current Good Manufacturing Practice, 35896–35897
Determinations of Regulatory Review Period for Purposes of Patent Extension:
MYFORTIC, 35899

Food and Nutrition Service
PROPOSED RULES
Updated Trafficking Definition and Supplemental Nutrition Assistance Program Dual Participation, 35787–35791

Foreign Assets Control Office
RULES
Foreign Assets Control Regulations:
Transaction Control Regulations (Regulations Prohibiting Transactions Involving Shipment of Certain Merchandise Between Foreign Countries), 35739–35740
North Korea Sanctions Regulations, 35740–35742

General Services Administration
NOTICES
Establishment of the Green Building Advisory Committee, 35894

Health and Human Services Department
See Children and Families Administration
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health

Health Resources and Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 35900

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

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application for Energy Innovation Fund – Multifamily Pilot Program, 35904–35905
Participation Agreement, Follow-up Survey, and Key Informant Interview Guide for The Impact of Housing and Services Interventions on Homeless Families, 35903–35904
Section 8 Fair Market Rent Surveys, 35905–35906

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service

International Trade Administration
NOTICES
Antidumping Duty Administrative Reviews and New Shipper Reviews, etc.:
Folding Metal Tables and Chairs from People's Republic of China, 35832–35842

International Trade Commission
NOTICES
Commission Determinations to Conduct Full Five-Year Reviews Concerning the Antidumping Duty Orders:
Brass Sheet and Strip from France, Germany, Italy, and Japan, 35910
Complaints, 35910–35912
Investigations:
Business Jet Aircraft Industry; Structure and Factors Affecting Competitiveness , 35912–35913

Justice Department
See Drug Enforcement Administration

Labor Department
See Disability Employment Policy Office
See Mine Safety and Health Administration
See Occupational Safety and Health Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Report of Changes That May Affect Your Black Lung Benefits, 35914–35915
Voluntary Protection Program Information, 35914

Land Management Bureau
NOTICES
Conveyance of Public Lands for Airport Purposes in Clark County, NV; Correction, 35908
Filing of Plats of Survey:
Oregon/Washington, 35908
Proposed Reinstatements of Terminated Oil and Gas Leases:
Colorado COC64168, 35909
Proposed Withdrawal Extension and Opportunity for Public Meeting, Wyoming; Correction, 35909

Maritime Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 35941
Offer for Public Sale of Two High Speed Vessels, 35941–35943
Requested Administrative Waivers of Coastwise Trade Laws, 35943–35946

Mine Safety and Health Administration
PROPOSED RULES
Examinations of Work Areas in Underground Coal Mines and Pattern of Violations, 35801–35802

National Archives and Records Administration
NOTICES
Nixon Presidential Historical Materials; Opening of Materials, 35918–35919

National Institutes of Health
NOTICES
Meetings:
Center for Scientific Review, 35900–35901
Eunice Kennedy Shriver National Institute of Child Health and Human Development, 35902
National Institute of General Medical Sciences, 35901
National Institute on Aging, 35901–35902

National Oceanic and Atmospheric Administration
RULES
Fisheries of the Exclusive Economic Zone Off Alaska:
Bering Sea and Aleutian Islands Crab Rationalization Program, 35772–35786
Listing Endangered and Threatened Species:
Threatened Status for Oregon Coast Coho Salmon Evolutionarily Significant Unit, 35755–35771
NOTICES
Applications:
Endangered Species; File No. 15685, 35842
Endangered and Threatened Species; Take of Anadromous Fish, 35842–35856
Incidental Taking of Marine Mammals:
Explosive Removal of Offshore Structures in the Gulf of Mexico, 35856
Meetings:
Caribbean Fishery Management Council, 35857–35858
Fisheries of the South Atlantic; Southeast Data, Assessment, and Review, 35856–35857

National Park Service
NOTICES
Temporary Concession Contract for Big South Fork National Recreation Area, 35909
Temporary Concession Contract for Blue Ridge Parkway, 35909–35910

National Science Foundation
NOTICES
Buy American Waivers Under the American Recovery and Reinvestment Act of 2009, 35919–35922

Nuclear Regulatory Commission
NOTICES
Interim Staff Guidances:
Environmental Report for Applications to Construct and/or Operate Medical Isotope Production Facilities, 35922
Issuance of Regulatory Guide, 35922–35923
Proposed Model Safety Evaluation for Plant Specific Adoption of Technical Specifications:
Revision to Steam Generator Program Inspection Frequencies and Tube Sample Selection, 35923–35924

Occupational Safety and Health Administration
NOTICES
Susan Harwood Training Grant Program, FY 2011, 35918

Presidential Documents
EXECUTIVE ORDERS
SelectUSA Initiative; Establishment (EO 13577), 35715–35717
ADMINISTRATIVE ORDERS
Jerusalem Embassy Act; Suspension of Limitations (Presidential Determination)
No. 2011–10 of June 3, 2011, 35713
Libya and Cote d'Ivoire; Unexpected Urgent Refugee and Migration Needs (Presidential Determination)
No. 2011–11 of June 8, 2011, 35719
Russian Federation; Continuation of National Emergency (Notice of June 17, 2011), 35953–35956

Securities and Exchange Commission
NOTICES
Self-Regulatory Organizations; Proposed Rule Changes:
C2 Options Exchange, Inc., 35928–35930
Chicago Board Options Exchange, Inc., 35926–35928
EDGA Exchange, Inc., 35924–35926
Financial Industry Regulatory Authority, Inc., 35933–35934
NASDAQ Stock Market LLC, 35930–35931
National Securities Clearing Corp., 35931–35933
Suspension of Trading Orders:
BP International, Inc., et al., 35935
SHC Corp. (f/k/a Victormaxx Technologies), et al., 35934–35935

Small Business Administration
NOTICES
Disaster Declarations:
New Mexico, 35935
South Dakota; Amendment 2, 35935–35936
Major Disaster Declarations:
Alaska, 35936–35937
Arkansas; Amendment 6, 35937
Illinois, 35936
Kentucky; Amendment 3, 35937–35938
Kentucky; Amendment 6, 35938
New York, 35937
South Dakota; Amendment 3, 35936

State Department
NOTICES
Specially Designated Global Terrorists:
Othman al–Ghamdi, etc., 35938

Surface Transportation Board
NOTICES
Abandonment Exemptions:
BNSF Railway Co., Los Angeles County, CA, 35946–35947
Modified Rail Certificates:
Maine Northern Railway Co., Aroostook and Penobscot Counties, ME, 35947–35948

Transportation Department
See Federal Aviation Administration
See Federal Transit Administration
See Maritime Administration
See Surface Transportation Board
NOTICES
Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits, 35938–35939

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

U.S. Customs and Border Protection
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Report of Diversion, 35902–35903

Veterans Affairs Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Civil Rights Discrimination Complaint, 35949
Disability Benefits Questionnaires – Group 3, 35950–35951
Disabled Veterans Application for Vocational Rehabilitation, 35948–35949
Living Will and Durable Power of Attorney for Health Care, 35950
Servicer's Staff Appraisal Reviewer Application, 35949–35950

Separate Parts In This Issue

Part II
Presidential Documents, 35953–35956

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Executive Orders:
13577.....35715

Administrative Orders:
Notices:
Notice of June 17, 2011 35955
Presidential Determinations:
No. 2011-10 of June 3, 2011 35713
No. 2011-11 of June 8, 2011 35719

Proposed Rules:
271.....35787
273.....35787
281.....35787

12 CFR
213.....35721
226 (2 documents) 35722, 35723
1229.....35724
1237.....35724

Proposed Rules:
1236.....35791

14 CFR
25.....35736

Proposed Rules:
71.....35799

30 CFR

Proposed Rules:
75.....35801
104.....35801

31 CFR
500.....35739
505.....35739
510.....35740

33 CFR
110.....35742
165.....35742

Proposed Rules:
100.....35802
167.....35805

40 CFR
63.....35744

Proposed Rules:
63.....35806

44 CFR
65.....35753

47 CFR

Proposed Rules:
11.....35810
73.....35831

50 CFR
223.....35755
680 (2 documents) 35772, 35781

Federal Register
Vol. 76, No. 118
Monday, June 20, 2011

Presidential Documents

Title 3—

The President

Presidential Determination No. 2011–10 of June 3, 2011

Suspension of Limitations Under the Jerusalem Embassy Act

Memorandum for the Secretary of State

Pursuant to the authority vested in me as President by the Constitution and the laws of the United States, including section 7(a) of the Jerusalem Embassy Act of 1995 (Public Law 104–45) (the ''Act''), I hereby determine that it is necessary, in order to protect the national security interests of the United States, to suspend for a period of 6 months the limitations set forth in sections 3(b) and 7(b) of the Act.

You are hereby authorized and directed to transmit this determination to the Congress, accompanied by a report in accordance with section 7(a) of the Act, and to publish the determination in the *Federal Register*.

This suspension shall take effect after transmission of this determination and report to the Congress.

THE WHITE HOUSE,
Washington, June 3, 2011

[FR Doc. 2011–15439
Filed 6–17–11; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Executive Order 13577 of June 15, 2011

Establishment of the SelectUSA Initiative

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to support private-sector job creation and enhance economic growth by encouraging and supporting business investment in the United States, it is hereby ordered as follows:

Section 1. *Policy.* Business investment in the United States by both domestic and foreign firms, whether in the form of new equipment or facilities or the expansion of existing facilities, is a major engine of economic growth and job creation. In an era of global capital mobility, the United States faces increasing competition for retaining and attracting industries of the future and the jobs they create. My Administration is committed to enhancing the efforts of the United States to win the growing global competition for business investment by leveraging our advantages as the premier business location in the world.

As a place to do business, the United States offers a hardworking, diverse, and educated workforce, strong protection of intellectual property rights, a predictable and transparent legal system, relatively low taxes, highly developed infrastructure, and access to the world's most lucrative consumer market. We welcome both domestic and foreign businesses to invest across the broad spectrum of the U.S. market.

The Federal Government lacks the centralized investment promotion infrastructure and resources to attract business investment that is often found in other industrialized countries. Currently, States and cities are competing against foreign governments to attract business investment. Our Nation needs to retain business investment and pursue and win new investment in the United States by better marketing our strengths, providing clear, complete, and consistent information, and removing unnecessary obstacles to investment.

Sec. 2. *SelectUSA Initiative.* (a) *Establishment.* There is established the SelectUSA Initiative (Initiative), a Government-wide initiative to attract and retain investment in the American economy. The Initiative is to be housed in the Department of Commerce. The mission of this Initiative shall be to facilitate business investment in the United States in order to create jobs, spur economic growth, and promote American competitiveness. The Initiative will provide enhanced coordination of Federal activities in order to increase the impact of Federal resources that support both domestic and foreign investment in the United States. In providing assistance, the Initiative shall work to maximize impact on business investment, job creation, and economic growth. The Initiative shall work on behalf of the entire Nation and shall exercise strict neutrality with regard to specific locations within the United States.

(b) *Functions.*

(i) The Initiative shall coordinate outreach and engagement by the Federal Government to promote the United States as the premier location to operate a business.

(ii) The Initiative shall serve as an ombudsman that facilitates the resolution of issues involving Federal programs or activities related to pending investments.

(iii) The Initiative shall provide information to domestic and foreign firms on: the investment climate in the United States; Federal programs and incentives available to investors; and State and local economic development organizations.

(iv) The Initiative shall report quarterly to the President through the National Economic Council, the Domestic Policy Council, and the National Security Staff, describing its outreach activities, requests for information received, and efforts to resolve issues.

(c) *Administration.* The Department of Commerce shall provide funding and administrative support for the Initiative through resources and staff assigned to work on the Initiative, to the extent permitted by law and within existing appropriations. The Secretary of Commerce shall designate a senior staff member as the Executive Director to lead the Initiative. The Executive Director shall coordinate activities both within the Department of Commerce and with other executive departments and agencies that have activities relating to business investment decisions.

(d) *Federal Interagency Investment Working Group.*

(i) There is established the Federal Interagency Investment Working Group (Working Group), which will be convened and chaired by the Initiative's Executive Director, in coordination with the Director of the National Economic Council.

(ii) The Working Group shall consist of senior officials from the Departments of State, the Treasury, Defense, Justice, the Interior, Agriculture, Commerce, Labor, Veterans Affairs, Health and Human Services, Housing and Urban Development, Transportation, Energy, Education, and Homeland Security, the Environmental Protection Agency, the Small Business Administration, the Export-Import Bank of the United States, the Office of the United States Trade Representative, the Domestic Policy Council, the National Economic Council, the National Security Staff, the Office of Management and Budget, and the Council of Economic Advisers, as well as such additional executive departments, agencies, and offices as the Secretary of Commerce may designate. Senior officials shall be designated by and report to the Deputy Secretary or official at the equivalent level of their respective offices, departments, and agencies.

(iii) The Working Group shall coordinate activities to promote business investment and respond to specific issues that affect business investment decisions.

(iv) The Department of Commerce shall provide funding and administrative support for the Working Group to the extent permitted by law and within existing appropriations.

(e) *Department and Agency Participation.* All executive departments and agencies that have activities relating to business investment decisions shall cooperate with the Initiative, as requested by the Initiative's Executive Director, to support its objectives.

Sec. 3. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to an executive department, agency, or the head thereof, or the status of that department or agency within the Federal Government; or

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

THE WHITE HOUSE,
June 15, 2011.

[FR Doc. 2011–15443
Filed 6–17–11; 8:45 am]
Billing code 3195–W1–P

Presidential Documents

Presidential Determination No. 2011–11 of June 8, 2011

Unexpected Urgent Refugee and Migration Needs Related to Libya and Côte d'Ivoire

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States, including section 2(c)(1) of the Migration and Refugee Assistance Act of 1962 (the ''Act''), as amended (22 U.S.C. 2601(c)(1)), I hereby determine, pursuant to section 2(c)(1) of the Act, that it is important to the national interest to furnish assistance under the Act, in an amount not to exceed $15 million from the United States Emergency Refugee and Migration Assistance Fund, for the purpose of meeting unexpected and urgent refugee and migration needs, including by contributions to international, governmental, and nongovernmental organizations and payment of administrative expenses of the Bureau of Population, Refugees, and Migration of the Department of State, related to the humanitarian crises resulting from the violence in Libya and Côte d'Ivoire.

You are authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
Washington, June 8, 2011

[FR Doc. 2011–15441
Filed 6–17–11; 8:45 am]
Billing code 4710–10–P

Rules and Regulations

Federal Register
Vol. 76, No. 118
Monday, June 20, 2011

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

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FEDERAL RESERVE SYSTEM

12 CFR Part 213

[Regulation M; Docket No. R–1423]

Consumer Leasing

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule, staff commentary.

SUMMARY: The Board is publishing a final rule amending the staff commentary that interprets the requirements of Regulation M, which implements the Consumer Leasing Act (CLA). Effective July 21, 2011, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amends the CLA by increasing the threshold for exempt consumer leases from $25,000 to $50,000. In addition, the Dodd-Frank Act requires that this threshold be adjusted annually by any annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W). Accordingly, based on the annual percentage increase in the CPI–W as of June 1, 2011, the Board is adjusting the exemption threshold from $50,000 to $51,800, effective January 1, 2012.

Because the Dodd-Frank Act also requires similar adjustments in the Truth in Lending Act's threshold for exempt consumer credit transactions, the Board is making similar amendments to Regulation Z elsewhere in today's **Federal Register.**

DATES: This final rule is effective January 1, 2012.

FOR FURTHER INFORMATION CONTACT: Lorna M. Neill, Senior Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667 or 452–2412; for users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

Effective July 21, 2011, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) increases the threshold in the Consumer Leasing Act (CLA) for exempt consumer leases from $25,000 to $50,000. Public Law 111–203 § 1100E, 124 Stat. 1376 (2010). In addition, the Dodd-Frank Act requires that this threshold be adjusted annually for inflation by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W), as published by the Bureau of Labor Statistics. In April 2011, the Board issued a final rule amending Regulation M (which implements the CLA) consistent with these provisions of the Dodd-Frank Act. 76 FR 18349 (Apr. 4, 2011).

As amended, § 213.2(e)(1) of Regulation M provides that the exemption threshold will be adjusted annually effective January 1 of each year based on any annual percentage increase in the CPI–W that was in effect on the preceding June 1. Furthermore, any increase in the threshold amount will be rounded to the nearest $100 increment. For example, if the annual percentage increase in the CPI–W would result in a $950 increase in the threshold amount, the threshold amount will be increased by $1,000. However, if the annual percentage increase in the CPI–W would result in a $949 increase in the threshold amount, the threshold amount will be increased by $900. *See* comment 2(e)–9.

II. Adjustment and Commentary Revision

Effective January 1, 2012, the adjusted exemption threshold amount is $51,800. This adjustment is based on the CPI–W index in effect on June 1, 2011, which was reported on May 13, 2011. The Bureau of Labor Statistics publishes consumer-based indices monthly, but does not report a CPI change on June 1; adjustments are reported in the middle of the month. The CPI–W is a subset of the CPI–U index (based on all urban consumers) and represents approximately 32 percent of the U.S. population. The adjustment reflects a 3.6 percent increase in the CPI–W from April 2010 to April 2011 and is rounded to the nearest $100 increment. Accordingly, the Board is revising comment 2(e)–9 (as amended effective July 21, 2011) to add a new subparagraph 2(e)–9.iii stating that, from January 1, 2012 through December 31, 2012, the threshold amount is $51,800. This revision is effective January 1, 2012.

Under the Administrative Procedures Act, notice and opportunity for public comment are not required if the Board finds that notice and public comment are unnecessary. 5 U.S.C. 553(b)(B). This annual adjustment is required by statute. The amendment in this notice is technical and applies the method previously established in Regulation M for determining any adjustments to the exemption threshold. For these reasons, the Board has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary. Therefore, the amendment is adopted in final form.

III. Regulatory Flexibility Analysis

The Board certifies that this amendment to Regulation M will not have a significant economic impact on a substantial number of small entities. The only change is to adjust the exemption threshold to reflect any annual percentage increase in the CPI–W. This change is required by statute. In addition, the Board believes that this amendment will not have a significant impact on a substantial number of small entities for the reasons stated in its April 2011 final rule. *See* 76 FR 18349, 18351–52.

List of Subjects in 12 CFR Part 213

Advertising, Consumer leasing, Consumer protection, Federal Reserve System, Reporting and recordkeeping requirements.

Text of Final Revisions

For the reasons set forth in the preamble, the Board amends Regulation M, 12 CFR part 213, as set forth below:

PART 213—CONSUMER LEASING (REGULATION M)

■ 1. The authority citation for part 213 continues to read as follows:

Authority: 15 U.S.C. 1604 and 1667f; Pub. L. 111–203 § 1100E, 124 Stat. 1376.

■ 2. In Supplement I to Part 213 as amended effective July 21, 2012 in 76 FR18349 (Apr. 4, 2011), under *Section 213.2—Definitions,* under *2(e) Consumer Lease,* paragraph 9.iii is added effective January 1, 2012.

The addition reads as follows:

Supplement I to Part 213—Official Staff Interpretations

* * * * *

Subpart A—General

* * * * *

§ 213.2—Definitions

* * * * *

2(e) Consumer Lease.

9. *Threshold amount.* * * *

* * * * *

iii. From January 1, 2012 through December 31, 2012, the threshold amount is $51,800.

* * * * *

By order of the Board of Governors of the Federal Reserve System, June 13, 2011.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2011–15180 Filed 6–17–11; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R–1424]

Truth in Lending

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule, staff commentary.

SUMMARY: The Board is publishing a final rule amending the staff commentary that interprets the requirements of Regulation Z, which implements the Truth in Lending Act (TILA). Effective July 21, 2011, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amends TILA by increasing the threshold for exempt consumer credit transactions from $25,000 to $50,000. In addition, the Dodd-Frank Act requires that this threshold be adjusted annually by any annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W). Accordingly, based on the annual percentage increase in the CPI–W as of June 1, 2011, the Board is adjusting the exemption threshold from $50,000 to $51,800, effective January 1, 2012.

Because the Dodd-Frank Act also requires similar adjustments in the Consumer Leasing Act's threshold for exempt consumer leases, the Board is making similar amendments to Regulation M elsewhere in today's **Federal Register**.

DATES: This final rule is effective January 1, 2012.

FOR FURTHER INFORMATION CONTACT: Lorna M. Neill, Senior Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667 or 452–2412; for users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

Effective July 21, 2011, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) increases the threshold in the Truth in Lending Act (TILA) for exempt consumer credit transactions from $25,000 to $50,000. Public Law 111–203 § 1100E, 124 Stat. 1376 (2010). In addition, the Dodd-Frank Act requires that this threshold be adjusted annually for inflation by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W), as published by the Bureau of Labor Statistics. In April 2011, the Board issued a final rule amending Regulation Z (which implements TILA) consistent with these provisions of the Dodd-Frank Act. 76 FR 18354 (Apr. 4, 2011).

As amended, § 226.3(b)(1)(ii) of Regulation Z provides that the exemption threshold will be adjusted annually effective January 1 of each year based on any annual percentage increase in the CPI–W that was in effect on the preceding June 1. Furthermore, any increase in the threshold amount will be rounded to the nearest $100 increment. For example, if the annual percentage increase in the CPI–W would result in a $950 increase in the threshold amount, the threshold amount will be increased by $1,000. However, if the annual percentage increase in the CPI–W would result in a $949 increase in the threshold amount, the threshold amount will be increased by $900. *See* comment 3(b)–1.

II. Adjustment and Commentary Revision

Effective January 1, 2012, the adjusted exemption threshold amount is $51,800. This adjustment is based on the CPI–W index in effect on June 1, 2011, which was reported on May 13, 2011. The Bureau of Labor Statistics publishes consumer-based indices monthly, but does not report a CPI change on June 1; adjustments are reported in the middle of the month. The CPI–W is a subset of the CPI–U index (based on all urban consumers) and represents approximately 32 percent of the U.S. population. The adjustment reflects a 3.6 percent increase in the CPI–W from April 2010 to April 2011 and is rounded to the nearest $100 increment. Accordingly, the Board is revising comment 3(b)–1 (as amended effective July 21, 2011) to add a new subparagraph 3(b)–1.iii stating that, from January 1, 2012 through December 31, 2012, the threshold amount is $51,800. This revision is effective January 1, 2012.

Under the Administrative Procedures Act, notice and opportunity for public comment are not required if the Board finds that notice and public comment are unnecessary. 5 U.S.C. 553(b)(B). This annual adjustment is required by statute. The amendment in this notice is technical and applies the method previously established in Regulation Z for determining any adjustments to the exemption threshold. For these reasons, the Board has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary. Therefore, the amendment is adopted in final form.

III. Regulatory Flexibility Analysis

The Board certifies that this amendment to Regulation Z will not have a significant economic impact on a substantial number of small entities. The only change is to adjust the exemption threshold to reflect any annual percentage increase in the CPI–W. This change is required by statute. In addition, the Board believes that this amendment will not have a significant impact on a substantial number of small entities for the reasons stated in its April 2011 final rule. *See* 76 FR 18354, 18360–61.

List of Subjects in 12 CFR Part 226

Advertising, Consumer protection, Federal Reserve System, Reporting and recordkeeping requirements, Truth in Lending.

Text of Final Revisions

For the reasons set forth in the preamble, the Board amends Regulation Z, 12 CFR part 226, as set forth below:

PART 226—TRUTH IN LENDING (REGULATION Z)

■ 1. The authority citation for part 226 continues to read as follows:

Authority: 12 U.S.C. 3806; 15 U.S.C. 1604, 1637(c)(5), and 1639(l); Pub. L. 111–24 § 2, 123 Stat. 1734; Pub. L. 111–203, 124 Stat. 1376.

Subpart B—Open-End Credit

■ 2. In Supplement I to Part 226 as amended effective July 21, 2011 in 76 FR 18354 (Apr. 4, 2011), under *Section 226.3—Exempt Transactions,* under *3(b)*

Credit over applicable threshold amount, paragraph 1.iii is added effective January 1, 2012.

The addition reads as follows:

Supplement I to Part 226—Official Staff Interpretations

* * * * *

Subpart A—General

* * * * *

§ 226.3—Exempt Transactions

* * * * *

3(b) Credit over applicable threshold amount.

1. *Threshold amount.* * * *

* * * * *

iii. From January 1, 2012 through December 31, 2012, the threshold amount is $51,800.

* * * * *

By order of the Board of Governors of the Federal Reserve System, June 13, 2011.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2011–15178 Filed 6–17–11; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R–1422]

Truth in Lending

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; staff commentary.

SUMMARY: The Board is publishing a final rule amending the staff commentary that interprets the requirements of Regulation Z (Truth in Lending). The Board is required to adjust annually the dollar amount that triggers requirements for certain home mortgage loans bearing fees above a certain amount. The Home Ownership and Equity Protection Act of 1994 (HOEPA) sets forth rules for home-secured loans in which the total points and fees payable by the consumer at or before loan consummation exceed the greater of $400 or 8 percent of the total loan amount. In keeping with the statute, the Board has annually adjusted the $400 amount based on the annual percentage change reflected in the Consumer Price Index as reported on June 1. The adjusted dollar amount for 2012 is $611.

DATES: *Effective Date:* January 1, 2012.

FOR FURTHER INFORMATION CONTACT: Nikita M. Pastor, Senior Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667. For the users of Telecommunications Device for the Deaf (''TDD'') only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

The Truth in Lending Act (TILA; 15 U.S.C. 1601–1666j) requires creditors to disclose credit terms and the cost of consumer credit as an annual percentage rate. The act requires additional disclosures for loans secured by a consumer's home, and permits consumers to cancel certain transactions that involve their principal dwelling. TILA is implemented by the Board's Regulation Z (12 CFR part 226). The Board's official staff commentary (12 CFR part 226 (Supp. I)) interprets the regulation, and provides guidance to creditors in applying the regulation to specific transactions.

In 1995, the Board published amendments to Regulation Z implementing HOEPA, contained in the Riegle Community Development and Regulatory Improvement Act of 1994, Public Law 103–325, 108 Stat. 2160 (60 FR 15463). These amendments, contained in §§ 226.32 and 226.34 of the regulation, impose substantive limitations and additional disclosure requirements on certain closed-end home mortgage loans bearing rates or fees above a certain percentage or amount. As enacted, the statute requires creditors to comply with the HOEPA requirements if the total points and fees payable by the consumer at or before loan consummation exceed the greater of $400 or 8 percent of the total loan amount. TILA and Regulation Z provide that the $400 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index (CPI) that was reported on the preceding June 1. 15 U.S.C. 1602(aa)(3) and 12 CFR 226.32(a)(1)(ii). The Board adjusted the $400 amount to $592 for the year 2011.

The Bureau of Labor Statistics publishes consumer-based indices monthly, but does not report a CPI change on June 1; adjustments are reported in the middle of each month. The Board uses the CPI–U index, which is based on all urban consumers and represents approximately 87 percent of the U.S. population, as the index for adjusting the $400 dollar figure. The adjustment to the CPI–U index reported by the Bureau of Labor Statistics on May 13, 2011, was the CPI–U index in effect on June 1, and reflects the percentage change from April 2010 to April 2011. The adjustment to the $400 figure below reflects a 3.2 percent increase in the CPI–U index for this period and is rounded to whole dollars for ease of compliance.

The fee trigger being adjusted in this **Federal Register** notice pursuant to TILA section 103(aa) is used in determining whether a loan is covered by section 226.32 of Regulation Z. Such loans have generally been known as ''HOEPA loans.'' In July 2008, the Board revised Regulation Z to adopt additional protections for ''higher-priced'' loans, using its authority under TILA section 129(l)(2). Those revisions define a class of dwelling-secured transactions, described in section 226.35 of Regulation Z, using a threshold based on average market rates that the Board publishes on a regular basis. The adjustment published today does not affect the triggers adopted in July 2008 for higher-priced loans.

On July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Reform Act'') was enacted into law.[1] Section 1431 of the Reform Act revises the statutory fee trigger for HOEPA loans. The amendments made by Section 1431 of the Reform Act will be implemented in a future rulemaking. Accordingly, the adjustment to the fee trigger that is being published today will become effective on January 1, 2012 and will apply for one year, or until final rules under Section 1431 of the Reform Act become effective, whichever is earlier.

II. Adjustment and Commentary Revision

Effective January 1, 2012, for purposes of determining whether a home mortgage transaction is covered by 12 CFR 226.32 (based on the total points and fees payable by the consumer at or before loan consummation), a loan is covered if the points and fees exceed the greater of $611 or 8 percent of the total loan amount. Comment 32(a)(1)(ii)–2, which lists the adjustments for each year, is amended to reflect the dollar adjustment for 2012. Because the timing and method of the adjustment are set by statute, the Board finds that notice and public comment on the change are unnecessary. 5 U.S.C. 553(b)(B).

III. Regulatory Flexibility Analysis

The Board certifies that this amendment to Regulation Z will not have a significant economic impact on a substantial number of small entities. The only change is to increase the threshold for transactions requiring HOEPA disclosures. This change is mandated by statute.

[1] Public Law 111–203, 124 Stat. 1376.

List of Subjects in 12 CFR Part 226

Advertising, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Truth in lending.

For the reasons set forth in the preamble, the Board amends Regulation Z, 12 CFR part 226, as set forth below:

PART 226—TRUTH IN LENDING (REGULATION Z)

■ 1. The authority citation for part 226 continues to read as follows:

Authority: 12 U.S.C. 3806; 15 U.S.C. 1604 and 1637(c)(5).

■ 2. In Supplement I to Part 226, under *Section 226.32—Requirements for Certain Closed-End Home Mortgages,* under Paragraph 32(a)(1)(ii), paragraph 2.xvii. is added to read as follows:

Supplement I to Part 226—Official Staff Interpretations

* * * * *

Subpart E—Special Rules for Certain Home Mortgage Transactions

* * * * *

Section 226.32—Requirements for Certain Closed-End Home Mortgages 32(a) Coverage

* * * * *

Paragraph 32(a)(1)(ii)

* * * * *

2. * * *

xvii. For 2012, $611, reflecting a 3.2 percent increase in the CPI–U from June 2010 to June 2011, rounded to the nearest whole dollar.

* * * * *

By order of the Board of Governors of the Federal Reserve System, acting through the Director of the Division of Consumer and Community Affairs under delegated authority, June 13, 2011.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2011–15179 Filed 6–17–11; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Parts 1229 and 1237

RIN 2590–AA23

Conservatorship and Receivership

AGENCY: Federal Housing Finance Agency.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Agency (FHFA) is issuing a final rule to establish a framework for conservatorship and receivership operations for the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Home Loan Banks, as contemplated by the Housing and Economic Recovery Act of 2008 (HERA). HERA amended the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act) by adding, among other provisions, section 1367, Authority Over Critically Undercapitalized Regulated Entities. The rule will implement this provision, and will ensure that these operations advance FHFA's critical safety and soundness and mission requirements. The rule seeks to protect the public interest in the transparency of conservatorship and receivership operations for the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises), and the Federal Home Loan Banks (Banks) (collectively, the regulated entities).

DATES: *Effective Date:* This rule is effective July 20, 2011.

FOR FURTHER INFORMATION CONTACT: Frank Wright, Senior Counsel, Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552, (202) 414–6439 (not a toll-free number); or Mark D. Laponsky, Deputy General Counsel, Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552, (202) 414–3832 (not a toll-free number). The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Housing and Economic Recovery Act of 2008 (HERA), Public Law 110–289, 122 Stat. 2654, amended the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 *et seq.*) (Safety and Soundness Act), and the Federal Home Loan Bank Act (12 U.S.C. 1421–1449) (Bank Act) to establish FHFA as an independent agency of the Federal government.[1] FHFA was established as an independent agency of the Federal Government with all of the authorities necessary to oversee vital components of our country's secondary mortgage markets—the regulated entities and the Office of Finance of the Federal Home Loan Bank System.

The Safety and Soundness Act provides that FHFA is headed by a Director with general supervisory and regulatory authority over the regulated entities and over the Office of Finance,[2] expressly to ensure that the regulated entities operate in a safe and sound manner, including maintaining adequate capital and internal controls; foster liquid, efficient, competitive, and resilient national housing finance markets; comply with the Safety and Soundness Act and rules, regulations, guidelines, and orders issued under the Safety and Soundness Act and the authorizing statutes (*i.e.,* the charter acts of the Enterprises and the Bank Act); and carry out their respective missions through activities and operations that are authorized and consistent with the Safety and Soundness Act, their respective authorizing statutes, and the public interest.[3]

In addition, this law combined the staffs of the now abolished Office of Federal Housing Enterprise Oversight (OFHEO), the now abolished Federal Housing Finance Board (Finance Board), and the Government-Sponsored Enterprise (GSE) mission office at the Department of Housing and Urban Development (HUD). By pooling the expertise of the staffs of OFHEO, the Finance Board, and the GSE mission staff at HUD, Congress intended to strengthen the regulatory and supervisory oversight of the 14 housing-related GSEs.

The Enterprises, combined, own or guarantee more than $5 trillion of residential mortgages in the United States (U.S.), and play a key role in housing finance and the U.S. economy. The Banks, with combined assets of nearly $850 billion, support the housing market by making advances (*i.e.,* loans secured by acceptable collateral) to their member commercial banks, thrifts, and credit unions, assuring a ready flow of mortgage funding.

Because FHFA's mission is to promote housing and a strong national housing finance system by ensuring the safety and soundness of the Enterprises and the Banks, HERA amended the Safety and Soundness Act to make explicit FHFA's general regulatory and supervisory authority. To this end, section 1311(b)(1) of the Safety and Soundness Act expressly makes each regulated entity ''subject to the supervision and regulation of the Agency,'' thus amplifying the broad supervisory authority of the Director. *See* 12 U.S.C. 4511(b)(1). Moreover, the Safety and Soundness Act underscores the breadth of this authority by

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

[2] *See* sections 1101 and 1102 of HERA, amending sections 1311 and 1312 of the Safety and Soundness Act, codified at 12 U.S.C. 4511and 4512.

[3] *See* 12 U.S.C. 4513(a)(1)(B).

expressly conveying ''general regulatory authority'' over the regulated entities to the Director. *See* 12 U.S.C. 4511(b)(2); *see also* 12 U.S.C. 4513(a)(1)(B).[4] In addition, the Safety and Soundness Act, as amended by HERA, provides that ''[t]he Agency may prescribe such regulations as the Agency determines to be appropriate regarding the conduct of conservatorships or receiverships.'' 12 U.S.C. 4617(b)(1).

The Enterprises are currently in conservatorship. FHFA as Conservator has been responsible for the conduct and administration of all aspects of the operations, business, and affairs of both Enterprises since September 6, 2008, the date on which the Director placed Fannie Mae and Freddie Mac in conservatorship. As Conservator, FHFA is authorized to take such action as may be ''necessary to put the regulated entity in a sound and solvent condition'' and ''appropriate to carry on the business of the regulated entity and preserve and conserve the assets and property of the regulated entity.'' 12 U.S.C. 4617(b)(2)(D). Similarly, FHFA, as Conservator, may ''transfer or sell any asset or liability of the regulated entity in default, and may do so without any approval, assignment, or consent with respect to such transfer or sale.'' *Id.* 4617(b)(2)(G).

The United States Department of the Treasury (''Treasury'') facilitated FHFA's decision to utilize its statutory conservatorship powers in an effort to restore the Enterprises' financial health by agreeing to make funding available to the Enterprises pursuant to Senior Preferred Stock Purchase Agreements (''Treasury Agreements'').[5] Pursuant to these Agreements, as subsequently amended, Treasury has made available, through the Conservator, capital (''Treasury Commitments'') to each of the Enterprises in return for senior preferred stock carrying a preference with regard to dividends and the distribution of assets of the Enterprise in liquidation. As Conservator, FHFA has already drawn on the Treasury Commitments several times to prevent a negative net worth position that would trigger mandatory receivership of each Enterprise.

Congress authorized the Treasury Agreements in section 1117 of HERA, which amended each of the Enterprises' authorizing statutes (Fannie Mae, 12 U.S.C. 1716 *et seq.;* Freddie Mac, 12 U.S.C. 1451 *et seq.*) to empower Treasury to purchase securities of the Enterprises subject to certain conditions. These conditions include that Treasury ''protect the taxpayers'' by taking into consideration, among other things, ''[t]he need for preferences or priorities regarding payments to the Government'' and ''[r]estrictions on the use of corporate resources.'' Pursuant to this statutory mandate, the Treasury Agreements imposed several such preferences, priorities, and restrictions. For instance, while the Treasury Agreements authorize the Conservator to draw on the Treasury Commitment for funds equal to the amount by which an Enterprise's liabilities exceed its assets, excluded from this calculation are liabilities that the Conservator determines shall be subordinated, including ''a claim against [an Enterprise] arising from rescission of a purchase or sale of a security issued by [an Enterprise] * * * or for damages arising from the purchase, sale, or retention of such a security.'' Treasury Agreements § 1, definition of ''Deficiency Amount,'' subparagraph (iii). In other words, the Conservator may determine to subordinate such a liability, with the effect that funds could not be drawn under the Treasury Agreements to satisfy it. The Treasury Agreements also contain restrictions on the declaration or payment of dividends or other distributions with respect to the Enterprises' equity interests; redeeming, purchasing, retiring, or otherwise acquiring for value any of the Enterprises' equity interests; or selling, transferring, or otherwise disposing of all or any portion of the Enterprises' assets other than in the ordinary course of business or under other limited exceptions. Treasury Agreements §§ 5.1 and 5.4. In promulgating these regulations, FHFA is required to ''ensure that the purposes of * * * the authorizing statutes,'' including the authorizing statutes' provisions for stock purchases by Treasury and the preferences, priorities, and restrictions attendant to such purchases, ''are accomplished.'' 12 U.S.C. 4526(a).

At the time FHFA established the conservatorships, and on several occasions since, FHFA has noted that the conservatorships, combined with the Treasury Senior Preferred Stock Agreements described above, provide an opportunity for Congress to direct the ultimate resolution of the Enterprises.

II. Final Rule

This final regulation describes, codifies, and implements the changes to the statutory regime enacted by HERA, the authorities granted to FHFA, and eliminates ambiguities regarding those changes. The final rule does not, and the proposed rule, published in the **Federal Register** at 75 FR 39462 (July 9, 2010), did not, recite all provisions of law relevant to the regulated entities in conservatorship or receivership. It sets out the basic and general framework for conservatorships and receiverships, supplementing statutory provisions that FHFA believed needed elaboration or explanation. The rule cannot be read or applied in isolation, but must be read while also consulting the enabling statutes of FHFA and the regulated entities. The regulation is part of FHFA's implementation of the powers provided by HERA, and does not seek to anticipate or predict future conservatorships or receiverships.

The final rule includes provisions that describe the basic authorities of FHFA when acting as conservator or receiver, including the enforcement and repudiation of contracts. Reflecting the approach in HERA, the rule parallels many of the provisions in the Federal Deposit Insurance Corporation (FDIC) receivership and conservatorship regulations. The rule necessarily differs in some respects, however, from the FDIC regulations, because not all of the regulated entities are depository institutions, none is a Federally insured depository institution, and their important public missions, reflected in congressional charters, differ from those of banks and thrifts.

The final rule establishes procedures for conservatorship and receivership and priorities of claims for contract parties and other claimants. These priorities set forth the order in which various classes of claimants will be paid, partially or in full, in the event that a regulated entity is unable to pay all valid claims.

The final rule contains several provisions that address whether and to what extent claims against the regulated entities by current or former holders of their equity interests for rescission or damages arising from the purchase, sale, or retention of such equity interests will be paid while those entities are in

[4] Other provisions in the Safety and Soundness Act recognize the independence and general regulatory authority of the Director. Section 1311(c) of the Safety and Soundness Act provides that the authority of the Director ''to take actions under subtitles B and C [of Title I of HERA] shall not in any way limit the general supervisory and regulatory authority granted to the Director under subsection (b).'' *See* 12 U.S.C. 4511(c). Similarly, section 1319G(a) of the Safety and Soundness Act provides ample, independent authority for the issuance of ''any regulations, guidelines, or orders necessary to carry out the duties of the Director under this title or the authorizing statutes, and to ensure that the purposes of this title and the authorizing statutes are accomplished.'' *See* 12 U.S.C. 4519G(a).

[5] The Treasury Agreements and their amendments are available to the public for review at *http://www.fhfa.gov/webfiles/1099/conservatorship21709.pdf* and *http://www.financialstability.gov/roadtostability/homeowner.html.*

conservatorship or receivership. The potential impact of such claims may be significant and may jeopardize FHFA's ability to fulfill its statutory mission to restore soundness and solvency to insolvent regulated entities and to preserve and conserve their assets and property.

The rule clarifies that for purposes of priority determinations, claims arising from rescission of a purchase or sale of an equity security of a regulated entity, or for damages arising from the purchase, sale, or retention of such a security, will be treated as would the underlying security that establishes the right to the claim. The rule also classifies a payment of these types of claims as a capital distribution, which is prohibited during conservatorship, absent the express approval of the Director. Moreover, the rule provides that payment of securities litigation claims will be held in abeyance during a conservatorship, except as otherwise ordered by the Director. In the event of receivership, such claims will be treated according to the process established by statute and by regulations in this part.

A. Comments

FHFA has considered all of the comments in developing the final rule. FHFA accepted some of the commenters' recommendations and has made changes in the final rule, although the basic approach adopted in the proposed rule remains the same. The changes made in the final rule improve upon the basic approach proposed by FHFA by clarifying certain provisions and by improving the structure of the rule. Specific comments, FHFA's responses, and changes adopted in the final rule are described in greater detail below in the sections describing the relevant rule provisions.

FHFA received comments from a variety of sources, including shareholders for the Enterprises in conservatorship, counsel for shareholder litigants, members of Congress, and the Federal Home Loan Banks.

B. Final Rule Provisions

1. Comments Relating to Shareholder Claims

Some of the fiercest objections to the proposed rule were made against the provisions that would address the status of shareholder claims in conservatorship and receivership. FHFA received several comments from Enterprise shareholders, attorneys for shareholders engaged in litigation against the Enterprises, and several members of Congress, who raised the following concerns:

Redress for victims of securities fraud. Shareholders urged FHFA not to adopt the proposed rule because the rule would deny victims of securities fraud any avenue for meaningful redress. These commenters also argued that the proposed rule would insulate Fannie Mae and Freddie Mac and their management from accountability for fraud.

After full consideration of these comments, FHFA has determined their concerns to be unfounded. The reality in any insolvency is that there are not enough assets to satisfy everyone with a claim on those assets. The priority provisions of 12 U.S.C. 4617(c) and regulations in this part simply recognize that reality. In light of the different risk profiles that investors and creditors accept when dealing with a business entity, subordination is the rule in corporate bankruptcies. The comments offer no sound reasons why the public policies supporting the rule in bankruptcy are not equally applicable in the context of the entities regulated by FHFA. If anything, the policy justifications for subordination of shareholder claims relative to the Enterprises currently in conservatorship is even greater because of the unique arrangements by which the Enterprises are being kept solvent through infusions of Treasury funds. If securities litigation claimants were treated as ordinary creditors, payment of such a claim against the Enterprises would represent a wealth transfer from the taxpayers of the United States to certain current and former shareholders of Fannie Mae and Freddie Mac. This was not the intent of the Treasury Agreements, and subordination avoids this unintended and unfair result.

FHFA does not intend to allow anyone under its jurisdiction to escape accountability for fraud. The rule, however, deals with a different issue: The priority of competing claims against a limited estate. In the conservatorships of Fannie Mae and Freddie Mac, FHFA immediately replaced the management that was in charge of Fannie Mae and Freddie Mac at the time plaintiffs in the pending securities cases allege the fraud occurred. As set forth in FHFA's 2008 Report to Congress, FHFA fundamentally changed Enterprise management and governance practices by appointing new CEOs, nonexecutive chairmen, and boards of directors to both Enterprises, and by working with both Enterprises to establish a new board committee structure with key changes in charters and responsibilities.[6] Therefore, whether shareholder plaintiffs can collect on claims or judgments against Fannie Mae or Freddie Mac has no connection to and does not further any interest plaintiffs may have in holding accountable the alleged perpetrators of any fraud. Given the financial situations of the Enterprises, the burden of payments on private claims would fall on the U.S. taxpayers, who through the Treasury Agreements provide infusions of cash to make up any quarterly net worth deficits, not on individuals alleged to be responsible for fraud.

Treatment and subordination of securities fraud claims. Shareholder counsel objected to § 1237.9 of the proposed rule, which would address, among other things, the priority of securities litigation claims in receivership. The proposal reflected a balancing of interests based on the sources of claims. Securities fraud claims in litigation would not exist but for ownership of the underlying security. Therefore, the proposal called for subordinating such claims and, as a matter of fundamental fairness, treating them just as any other claim based on ownership of the security.

By permitting recovery by equity-holders only after creditors have been paid in full, this rule reflects the longstanding ''general rule of equity'' that ''stockholders take last in the estate of a bankrupt corporation.'' *Gaff* v. *FDIC,* 919 F.2d 384, 392 (6th Cir. 1990); *see also In re Stirling Homex Corp. (Jezarian* v. *Raichle),* 579 F.2d 206, 211 (2d Cir. 1978) (''[A]fter all creditors have been paid, provision may be made for stockholders. When the debtor is insolvent, the stockholders, as such, receive nothing.''). The rationale underlying this rule is that ''[b]ecause, unlike creditors and depositors, stockholders stand to gain a share of corporate profits, stockholders should take the primary risk of the enterprise failing.'' *Gaff,* 919 F.2d at 392. Moreover, creditors deal with a corporation ''in reliance upon the protection and security provided by the money invested by the corporation's stockholders—the so-called 'equity cushion.' '' *Stirling Homex,* 579 F.2d at 214.

The provisions of § 1237.9, confirming that a securities litigation claim has the same priority in receivership as the underlying security out of which it arises, would harmonize aspects of receiverships under the Safety and Soundness Act with the

[6] FHFA Report to Congress—2008 (May 18, 2009), at 80, available at *http://www.fhfa.gov/webfiles/2335/FHFA_ReportToCongress2008508rev.pdf.*

bankruptcy regime that applies to most publicly traded corporations. In aligning the priority of securities litigation Claims in receivership with their treatment in bankruptcy, FHFA follows in the path of a number of Federal circuit courts that have looked to the U.S. Bankruptcy Code for guidance on relative priorities of shareholder claims as well as other issues arising in receiverships of financial institutions. *See, e.g., Gaff,* 919 F.2d at 393–96; *Office and Professional Employees Int'l Union* v. *FDIC,* 962 F.2d 63, 68 (D.C. Cir. 1992) (Ruth Bader Ginsburg, J.); *First Empire Bank-New York* v. *FDIC,* 572 F.2d 1361, 1368 (9th Cir. 1978).

The shareholder counsel contend that the Supreme Court's decision in *Oppenheimer* v. *Harriman National Bank & Trust Co. et al.,* 301 U.S. 206 (1937), mandates that securities fraud claims be treated as creditor claims unless the statute includes specific language akin to section 510(b) of the Bankruptcy Code. They assert that the majority of courts have rejected subordination of securities litigation claims in financial institution receiverships, and that the legislative history of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, from which much of the structure of HERA's conservatorship and receivership regime was drawn, contradicts FHFA's proposed interpretation of HERA, citing cases such as *FDIC* v. *Jenkins et al.,* 888 F.2d 1537 (11th Cir. 1989), *Howard* v. *Haddad,* 916 F.2d 170 (4th Cir. 1990), and *Hayes* v. *Gross,* 982 F.2d 104 (3d Cir. 1992).

FHFA disagrees. *Oppenheimer* is not controlling, fundamentally because it involved a receivership under a different statute. Furthermore, it did not hold that subordination of shareholder claims is inappropriate in all receiverships, or that a statute must use ''magic words'' to provide or allow for subordination. As one court has explained, *Oppenheimer's* holding was heavily dependent on the fact that the rescinding shareholder previously satisfied his statutory obligation to creditors under then-existing ''double liability'' laws. *Northwest Racquet Swim & Health Clubs, Inc.* v. *Resolution Trust Corp. (RTC),* 927 F.2d 355, 361 n.17 (8th Cir. 1991) (rejecting attempt by holder of failed thrift's subordinated debt to rescind for alleged fraud and thereby recover on par with general creditors).

The courts' decisions in *Jenkins, Howard,* and *Hayes* do not address subordination of securities litigation claims in relation to competing creditors of an institution. They address the priority of FDIC claims against a failed bank's officers and directors relative to the claims private plaintiffs have against those same defendants. The proposed rule and final rule do not address the priority that FHFA's claims against officers and directors of the Enterprises have versus private plaintiff claims. This rule confirms and clarifies the priority among competing claims against the Enterprises themselves. The *Jenkins, Howard,* and *Hayes* decisions do not reach that issue or contradict the proposed rule. For example, in *Jenkins* the court observed that section 510(b) of the Bankruptcy Code provides for subordination of shareholder ''claims against the debtor or an affiliate of the debtor,'' but noted that ''[i]n the present case, however, the shareholders are not attempting to collect on assets of the failed bank. Rather, they are proceeding against solvent third-parties in non-derivative shareholder suits,'' a different situation than is addressed by section 510(b). 888 F.2d at 1545.

Prohibiting capital distributions and payment of securities litigation judgments.

Shareholder counsel also asserts that HERA does not grant FHFA as conservator the authority to prohibit capital distributions or payment of securities litigation claims. In one of their comments, shareholder counsel argued that the agency could not assert the authority to define securities litigation claims as capital distributions and to prohibit such distributions absent an express statutory grant of such authority.

FHFA rejects this argument, as it ignores the fact that the Safety and Soundness Act and HERA grant FHFA broad authority as Conservator to manage the conservatorship estate, including the authority to restrict capital distributions that would cause a regulated entity to become undercapitalized. As one of the primary objectives of conservatorship of a regulated entity would be restoring that regulated entity to a sound and solvent condition, allowing capital distributions to deplete the entity's conservatorship assets would be inconsistent with the agency's statutory goals, as they would result in removing capital at a time when the Conservator is charged with rehabilitating the regulated entity. Under the Safety and Soundness Act and HERA, FHFA has a statutory charge to work to restore a regulated entity in conservatorship to a sound and solvent condition, and to take any action authorized by this section, which FHFA determines to be in the best interests of the regulated entity or FHFA. This express statutory grant of authority grants FHFA as Conservator authority to address capital distribution and other claims against the conservatorship estate in the manner that it deems appropriate.

Shareholder counsel also asserts that HERA does not authorize the Conservator to defy or disregard a Federal court judgment. They suggest that this alleged lack of authority for proposed §§ 1237.12 and 1237.13 is underscored by the fact that 12 U.S.C. 4617(b)(11)(C), which forbids attachment or execution of receivership assets, does not apply during conservatorship, which means a judgment creditor could seize an Enterprise's assets during conservatorship using conventional execution remedies.

FHFA believes that this comment misperceives both the nature of a money judgment and the role of a conservator. In Federal court, ''[a] money judgment 'is not an order to the defendant; it is an adjudication of his rights or liabilities.' '' 12 Wright & Miller, Federal Practice & Procedure, § 3011 at 94 (2d ed. 2010) (quoting D. Dobbs, Handbook of the Law of Remedies (1971)). ''[W]hen a party fails to satisfy a court-imposed money judgment, the appropriate remedy is a writ of execution, not a finding of contempt.'' *Combs* v. *Ryan's Coal Co. Inc.,* 785 F.2d 970, 980 (11th Cir. 1986); *accord Shuffler* v. *Heritage Bank,* 720 F.2d 1141, 1147–48 (9th Cir. 1983). Thus, not voluntarily writing a check to cover a money judgment out of a limited estate does not constitute ''defiance'' or ''disregard'' of that judgment. Moreover, because the essential function of a conservator is to preserve and conserve the institution's assets, courts are loath to require a conservator to make any particular expenditure out of the conservatorship estate. *See, e.g., Rosa* v. *RTC,* 938 F.2d 383, 398 (3d Cir. 1991) (reversing injunction requiring bank in conservatorship to make pension contributions required by the Employee Retirement Income Security Act because ''implementation of the injunctive provisions would clearly require the distribution of the assets of City Savings and thereby encroach on the power of the conservator (now receiver) to preserve and dispose of those assets within its control. * * * [and] could result in forcing City Savings to accord the [pension] trustee, and therefore the beneficiaries of the plan, a preference over other creditors'').

Validity of final rules issued by FHFA.

Counsel for shareholder litigants raised a further objection to the proposed rule, arguing that any final rule issued by FHFA would be fundamentally flawed and invalid

because FHFA's head is not a validly appointed officer. They contend that the absence of a Senate-confirmed Director for FHFA means that the Appointments Clause of the U.S. Constitution [7] has not been met satisfied which makes it impossible for FHFA to issue binding regulations. FHFA's statute provides for a presidentially designated and Acting Director, without Senate confirmation. FHFA is led by such an Acting Director designated by the President in September 2009. Nonetheless, shareholder counsel argues that the Appointments Clause only permits such acting officials to serve temporarily, and not for an extended or indefinite period of time. They also assert that the designation and appointment of FHFA's Acting Director is invalid unless the appointee succeeds a Senate-confirmed Director because HERA only allows the Acting Director to carry out the duties of a Director. Shareholders' counsel argues that the Acting Director's authority is only derivative of the preceding FHFA Director, a Senate-confirmed Director of a predecessor agency who served as Director of FHFA as provided by statute rather than by a Senate-confirmed appointment to the position. Therefore, according to shareholders' counsel, the Acting Director has no authority because his predecessor had no authority without a Senate confirmation.

The argument is without foundation. FHFA's Acting Director, was properly designated by the President as Acting Director pursuant to 12 U.S.C. 4512(f), which does not require Senate confirmation. Nor does the U.S. Constitution require Senate confirmation for an official designated to serve in an acting capacity. The former Director was the incumbent Director of OFHEO and properly took office pursuant to HERA's transitional provision, 12 U.S.C. 4512(b)(5), when OFHEO's functions were transferred to FHFA as its successor agency. Any alleged question about the validity of the former Director's service would not, in any event, impair the President's subsequent designation of FHFA's Acting Director. Finally, neither the U.S. Constitution nor the statute limits the time period for which FHFA's Acting Director may serve. Accordingly, the Acting Director is properly serving as Acting Director and FHFA has the power to issue this final rule.

2. Joint Comment by the Federal Home Loan Banks

The twelve Federal Home Loan Banks (Banks) submitted a joint comment in response to the proposed rule that introduced a number of concerns about the proposed rule.

Differences between the Banks and the Enterprises.

The Banks commented that the proposed rule did not address the unique differences between the Banks and the Enterprises, as required by section 1201 of HERA.[8] They assert that the final rule should apply only to the Enterprises and that FHFA should issue a separate proposed rule specific to the Banks.

According to the Banks, the proposed rule failed to account for their banking activities, including the rights of depositors and the treatment of assets held in safekeeping arrangements, trust or custodial accounts, and other third-party assets. The Banks assert that this failure is highlighted by a few words in the proposed rule's Supplementary Information stating that the ''GSEs are not depository institutions,'' [9] noting that the statement is untrue with respect to the Banks. While the Banks do take deposits from members, they are not insured depository institutions and such deposits are not a significant funding source for them. Consolidated obligations (''COs'') are their principal funding source. FHFA continues to believe, after consideration of the statutory factors, that the regulations in this part are appropriate to both the Enterprises and the Banks. The joint comment also notes that the proposed rule does not include provisions contained in FDIC conservatorship and receivership regulations, such as provisions addressing qualified financial contracts, treatment of financial assets transferred in connection with a securitization or participation, post-insolvency interest, or various policy statements issued by the FDIC with respect to conservatorship and receiverships. The joint comment suggests that these provisions provide certainty for parties seeking to do business with depository institutions regulated by the FDIC, and suggests that FHFA consider whether these issues should be addressed in connection with the proposed rule.

FHFA believes that the proposed rule adequately accounts for the unique differences between the Banks and the Enterprises and does not require special provisions relating to one or the other. Section 1145 of HERA amended section 1367 of the Safety and Soundness Act to establish a comprehensive and overarching conservatorship and receivership process for both the Enterprises and the Banks. The proposed rule was not, and the final rule is not, intended to codify in regulations the entirety of the statutory conservatorship and receivership regime. The final rule must be read in its context as elaborating on, not substituting for or replacing, statutory text. Moreover, while the proposed rule sought to develop and expand a regulatory framework that parallels the FDIC approach to conservatorships and receiverships, the goal of the proposed rule was never to create a regulatory framework that precisely mirrored the FDIC regulatory regime. This is partly due to differences between the enabling statutes of FHFA and the FDIC, and to the important differences between the regulated entities and the depository institutions insured by the FDIC. The agency has elected to address these issues, to the extent it may become necessary to do so, through policy statements, policy guidances, and decisions by the agency, the conservator or the receiver.

The statutory provisions for conservatorship and receivership, as explained below, provide the guidance necessary for matters that the Banks contend were ignored in the proposed rule. The Banks' comment boils down to an objection that the proposed rule does not recite the statute or does not seek to embellish clear statutory language that applies to them, but might not apply to the Enterprises.

The statutory provisions for conservatorship and receivership provide that ''[t]he rights of the conservator or receiver appointed under this section shall be subject to the limitations on the powers of a receiver under sections 402 through 407 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA).[10] Section 402 of the FDICIA defines ''depository institution,'' ''net entitlement,'' ''net obligation,'' and ''netting contract,'' as they apply to banking transactions. 12 U.S.C. 4402(6), (12), (13) and (14). Section 403 of the FDICIA (''Enforceability of security agreements'') requires:

> The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of Title 11) [relating to bankruptcy], *and shall*

[7] U.S. Const. Art. II, § 2, cl. 2.

[8] 12 U.S.C. 4513, as amended.

[9] 75 FR 39462, 39464. The entire sentence in Supplementary Information to the proposed rule reads: ''The proposed regulation necessarily differs in some respects, however, from the FDIC regulations, because the GSEs are not depository institutions, and their important public missions differ from those of banks and thrifts.''

[10] 12 U.S.C. 4402–4407.

not be stayed, avoided, or otherwise limited by any State or Federal law (other than section 1821(e) of this title [relating to the FDIC's authority to affirm a conservator's and receiver's authority with respect to certain types of contracts], section 1787(c) of this title, and section 78eee(b)(2) of Title 15).

12 U.S.C. 4403(f) (emphasis added).

Section 1367(b)(5)(D) of the Safety and Soundness Act (''Authority to Disallow Claims'') covers the receiver's authority to disallow any portion of any claim by a creditor or claim of security, preference, or priority that is not proven to the satisfaction of the receiver. Section 1367(b) also limits the scope of a receiver's authority to disallow claims with respect to ''(I) any extension of credit from any Federal Reserve Bank, Federal Home Loan Bank, or the United States Treasury; or (II) any security interest in the assets of the regulated entity securing any such extension of credit.'' 12 U.S.C. 4617(b)(5)(D)(iii) (emphasis added).

Consolidated obligations and joint and several liability.

The Banks argued that the proposed rule did not adequately address the joint and several liability of the Banks for COs that they issue. FHFA does not believe that COs require separate treatment in the rule, as opposed to policy statements or discretionary decisions in the context of specific conservatorships and receiverships.

The Banks note that, under 12 CFR 966.9(a), each Bank, individually and collectively, has an obligation to make full and timely payment of all principal and interest on COs when due. Based upon this joint and several liability structure, the Banks contend that if a Bank were placed in conservatorship or receivership and could not make required payments on its COs, this would trigger the requirement that one or more other Banks make the principal and interest payments on the COs on a continuing basis. They noted that this obligation is subject to a right of reimbursement by the non-paying Bank. According to the Banks, the proposed rule's infirmity is its failure to explain how this reimbursement right, including the right to receive interest, would be treated by the conservator or receiver. However, they offered no explanation for why the rule should address these obligations as distinct from any others.

FHFA does not believe that specific provisions are needed in this regulation to address COs and the Banks' joint and several liability on them. Unpaid COs of a defaulted Bank would be general-creditor obligations of that Bank's receivership. In such a case, the Director might well direct other Banks to make payments on those COs to ensure that investors in them received timely payment and market confidence in the Bank System was maintained. The Director has authority to do that under current regulation,[11] which regulations in this part do not affect. Under that regulation, the Banks that paid COs on which a defaulted Bank was primarily liable would have a claim for reimbursement against the defaulted Bank,[12] and that claim would be a general-creditor obligation of the defaulted Bank. None of these outcomes require special provision in this rule. As a practical matter, a troubled Bank might be resolved without creating receivership claims based on COs. In the case of a Bank placed in conservatorship, the Bank would likely continue to pay on its COs as the payments came due. Similarly, if a Bank were closed and the COs transferred to a limited-life regulated entity (LLRE), that LLRE would likely also continue to pay on those COs as the payments came due. In addition, in the case of a Bank that was closed and its assets and liabilities transferred to one or more acquiring Banks, those transactions would plausibly include assignment and apportionment of the failed Bank's COs to and among the acquiring Banks, which would continue to pay on those COs as the payments came due. Therefore, the priority of receivership claims relating to COs would be relevant only in a case of a Bank placed in a liquidating receivership. As stated above, FHFA believes that the situation can be addressed by regulations in this part without making specific provision for COs.

The Banks argued that their joint and several liability for COs could result in a troubled Bank being merged with another Bank under section 26 of the Bank Act, as amended by section 1209 of HERA. 12 U.S.C. 1446.[13] They urged FHFA to delay issuing a conservatorship and receivership rule that covers the Banks until it first publishes proposed rules on Bank voluntary mergers. FHFA does not make any speculation on whether such mergers might result from the Banks' joint and several liability on COs, and does not consider either this rule on conservatorship and receivership or a rule on voluntary mergers of the Banks as dependent on each other. In any event, the rule on voluntary mergers has already been proposed,[14] and work is proceeding on the final rule.

Administrative expenses.

The Banks raised an issue about claims for administrative expenses that receive heightened priority in a resolution. They argued that, in the event a Bank were in a troubled condition, or in default or in danger of default, one or more other Banks could voluntarily provide (or be required to provide by court order, or by FHFA direction or otherwise) some form of managerial, financial, or other assistance to the Bank. They asserted that, because of the Banks' joint and several liability for COs issued by any of the Banks, the final rule should address the priority of a Bank's claim for repayment from another Bank, when the latter Bank is placed into conservatorship or receivership. The determination of whether an expense incurred, either before or during receivership, is entitled to priority as an administrative expense of the receiver, is vested in the discretion of the receiver. FHFA does not believe that the statute requires, or that prudence counsels in favor of, advance prescriptive determination that certain specific types of claims, even those based on providing financial support for a troubled institution, always will be administrative expenses.

The Banks observe that the FDIC has a regulation stating that ''administrative expenses of the receiver * * * shall include both pre-failure and post-failure obligations that the receiver determines are necessary and appropriate to facilitate the smooth and orderly liquidation or other resolution of the institution.'' [15] FHFA does not believe that further elaboration of that type is needed in FHFA's regulation, because section 1367(c)(3) of the Safety and Soundness Act already defines ''administrative expenses'' to include ''any obligations that the receiver determines are necessary and appropriate to facilitate the smooth and orderly liquidation or other resolution of the regulated entity.'' 12 U.S.C. 4617(c)(3).

Priority of expenses and unsecured claims.

The Banks suggested FHFA add clarifying language to § 1237.9 of the proposed rule, which states that the lowest priority of claim is accorded to ''[a]ny obligation to current or former shareholders or members arising as a result of their current or former status as shareholders or members, including without limitation, any Securities

[11] 12 CFR 966.9(d)(1).

[12] 12 CFR 966.9(d)(2).

[13] Section 1209 of HERA (''Voluntary Mergers Authorized'') amended section 26 of the Bank Act, and provides, in part, that any Bank may, with the approval of the Director of FHFA and the boards of directors of the Banks involved, merge with another Bank.

[14] 75 FR 72751 (Nov. 26, 2010).

[15] 12 CFR 360.4.

Litigation Claim.'' They argue that members, or former members, of a Bank may have a wide range of transactions and relationships with a failed Bank that could result in obligations that constitute creditor rather than equity holder claims against the receivership. They asserted that members can maintain deposits with a Bank, or enter into transactions under which they are otherwise treated as a creditor of a Bank. These obligations, transactions and relationships arise, because of the nature of the Bank System, from the shareholder status of the member or former member. But, the Banks maintain these types of member transactions and relationships are distinct from a member's, or former member's, ownership of capital stock. They urged FHFA to exempt from § 1237.9(a)(4) of the proposed rule obligations of a failed Bank to members or former members arising from transactions or relationships other than the ownership of capital stock in that Bank, so that those obligations would be treated the same as similar claims by nonmembers.

FHFA is persuaded that the organizational uniqueness of the Bank System requires a clarification to § 1237.9(a)(4) of the final rule. The final rule clarifies that, with respect to members of a failed Bank, the lowest priority position does not apply to claims arising from transactions or relationships distinct from the claimant's past or present ownership, purchase, sale or retention of an equity security of the Bank.

The Banks also commented that eleven of the twelve Banks operate under capital plans adopted under 12 U.S.C. 1426, and approved by the Finance Board. They stated that these capital plans, in accordance with the Bank Act and implementing regulations, may provide for different priorities among holders of various forms of capital stock of a Bank and recommend that FHFA further amend § 1237.9(a)(4) of the proposed rule to address this issue of competing priorities. FHFA agrees that when a regulated entity has issued multiple classes of capital stock, priority as between holders of those different classes should be determined by the capital plans or other underlying corporate instruments, even though all are within § 1237.9(a)(4). Thus, there may be multiple subpriorities within § 1237.9(a)(4). The Safety and Soundness Act establishes the general priorities, including claims of capital stock owners. 12 U.S.C. 4617(c). Within the fourth priority of claims, the priority inhabited by stockholders' claims, FHFA intends to recognize the different stock priorities that may exist among classes and categories of stock, including preferred and common stockholders, and has added language to this effect to § 1237.9(a)(4).

Perfected security interests, safekeeping, and other trust holdings.

The Banks contend that perfected security interests (including exceptions for preferences and fraudulent conveyances), safekeeping, and other trust holdings should be addressed specifically in the final rule to ensure that the interests and legitimate legal rights of third-parties are recognized.

FHFA considered the comment and concludes that no revision of the proposed rule is necessary to address the concerns the Banks have raised. Protection of security interests, with appropriate exceptions for preferential and fraudulent transfers, is provided in 12 U.S.C. 4617(d)(12). The avoidance of fraudulent transfers also is covered in 12 U.S.C. 4617(b)(15). Property held in trust and in custodial arrangements generally is not considered a part of a receivership estate available to satisfy general creditor claims. To the extent appropriate, FHFA expects to follow FDIC and bankruptcy practice in giving effect to this concept in a receivership of a regulated entity.

Period for contract repudiation.

The Banks objected to the provision of the proposed rule that would create an 18-month period for the conservator or receiver to determine whether to repudiate burdensome contracts of a troubled regulated entity. In their joint comment, the Banks suggested that FHFA instead adopt a six-month period for repudiation determinations, or address such matters on a case-by-case basis. While maximizing the discretion of a conservator or receiver by remaining silent as to the reasonable time for repudiation may have some appeal, FHFA does not believe that either a six-month or an open-ended period is appropriate.

FHFA has considered whether to revise that provision of the proposed rule, and has determined that the 18-month period should remain in the final rule. In the proposed rule, FHFA explained that FHFA's experiences as conservator for Fannie Mae and Freddie Mac have shown that it could take at least 18 months for a conservator or receiver to obtain the facts needed to make accurate determinations about its rights of repudiation. Due to the complexity of the contracts and commercial relationships of the regulated entities, FHFA believes that an 18-month period adequately and appropriately balances the need to fully assess the state of a troubled institution, the need for repudiation and the interests of contractual counterparties. Subsequently, experiences as Conservator have given FHFA no reason to change that decision. Moreover, the interests of contractual counterparties are protected by provisions such as 12 U.S.C. 4617(d)(7)(B), which mandates that payments to a counterparty for performance that a conservator or receiver accepts under a pre-conservatorship or -receivership contract for services before making a determination to repudiate the contract shall be treated as an administrative expense of the conservatorship or receivership.

Distinctions between FHFA as conservator and FHFA as receiver.

The Banks' joint comment suggests that § 1237.3 of the proposed rule failed to properly distinguish between actions FHFA is authorized or directed to take in its capacity as conservator from those that the agency is authorized or directed to take as receiver. Specifically, the joint comment notes that § 1237.3 of the proposed rule would provide FHFA as receiver with the authority to continue the missions of the regulated entity; ensure that the operations and activities of each regulated entity foster liquid, efficient, competitive and resilient national housing markets; and ensure that each regulated entity operates in a safe and sound manner. The Banks contend that this authority is limited exclusively to the actions of FHFA as conservator, because FHFA is required to liquidate a regulated entity in receivership.

The ultimate responsibility of FHFA as receiver is to resolve and liquidate the existing entity. A conservator's goal is to continue the operations of a regulated entity, rehabilitate it and return it to a safe, sound and solvent condition. While operating an entity in conservatorship, continuation of the mission of the institution and fostering liquid, efficient, competitive and resilient national housing markets may be in the regulated entity's best interest, and are consistent with the Safety and Soundness Act's provisions governing operating entities. These activities of a conservator may not be aligned with the ultimate duty of a receiver, although in the process of finally resolving a regulated entity FHFA will need to strike the proper balance between continuing certain operations pending liquidation and terminating other operations. This balance may include temporarily operating in support of the failed institution's mission. FHFA agrees with the Banks that some activities appropriate in conservatorship are less consistent with a receivership. Section 1237.3 of the final rule has been

revised to recognize the receiver's responsibility to liquidate an entity in receivership.

Treatment of certain types of contracts and commercial agreements.

The Banks' joint comment raises questions about the possible treatment of several types of contracts and commercial agreements in conservatorship and receivership, including the treatment of completed sales of certain assets and liabilities between individual Banks and third-parties, standby letters of credit issued on behalf of Bank members and housing associates, subsidies provided under a Bank's Affordable Housing Program, or contracts for services provided to one or more other Banks. The Banks suggest that the treatment of these various contracts and agreements be addressed in the rule, and ask that FHFA state that it will not use its powers of repudiation as conservator or receiver to set aside or repudiate these obligations and transactions.

FHFA has considered whether to make a declaration about the status of those and other contracts in this rule, and has determined that this rulemaking is not the appropriate vehicle for such an announcement. This rule is not designed and FHFA has declined to limit the discretion of the agency as a future conservator or receiver. The circumstances of any future conservatorship and receivership can vary greatly, and it is necessary for FHFA to preserve the flexibility for the agency as conservator or receiver to make decisions based upon the specific issues facing that troubled regulated entity.

Expedited determination of claims.

The Banks observed that § 1237.7 of the proposed rule provides that FHFA, as receiver, will determine whether or not to allow a claim within 180 days from the date the claim is filed. They contend, however, that the Safety and Soundness Act requires FHFA to establish a separate procedure for expedited relief and claim determination within 90 days after the date of filing for certain claimants. The Banks suggest that the rule should establish the expedited claims process.

Although section 1367(b)(8) of the Safety and Soundness Act requires FHFA to ''establish a procedure for expedited relief outside of the routine claims process * * * [in section 1367(b)(5)]'' and a 90-day determination period for certain claims, the statute does not require a regulation establishing the expedited procedures. In fact, the statutory text is so explicit that codifying regulatory procedures for expedited claims is more likely to confuse than clarify processing. FHFA believes that implementing these specific provisions is best left to internal operating procedures that can be adjusted quickly as needed to provide consistent notice to claimants and set up internal processes for handling expedited claims separately from routine claims. The purpose of the rule is not to recite the statute, and in this instance the statute is sufficient.

Alternate resolution procedures.

Section 1237.8 of the proposed rule provides that claimants seeking ''a review of the determination of claims may seek alternative dispute resolution [(''ADR'')] from [FHFA] as receiver in lieu of a judicial determination.'' The Banks asserted that Congress intended ADR to be an alternative to the normal process established under 12 U.S.C. 4617(b)(5) for the receiver to make the initial determination on a claim. Therefore, referring to 12 U.S.C. 4617(b)(7)(A)(i), they contend that FHFA is limited to offering claimants a choice of both non-binding ADR that does not bar subsequent judicial review or binding ADR that precludes judicial review.

FHFA believes that the Banks' interpretation of the statute is excessively narrow and ignores the broad authority and command to the agency. Section 1367(b)(7) of the Safety and Soundness Act provides that ''[t]he Agency shall establish such alternative dispute resolution processes as may be appropriate for the resolution of claims filed under paragraph (5)(A)(i) [*i.e.,* the routine claims allowance/disallowance provision].'' 12 U.S.C. 4617(b)(7)(A)(i). This language unambiguously leaves to FHFA the determination of appropriateness. The statute is expressly optional with respect to whether binding or non-binding ADR should be used and that the choice to participate in ADR cannot be forced by one party. 12 U.S.C. 4617(b)(7)(A)(iii). FHFA has determined that ADR is appropriate if all parties agree to it and accept that a condition of ADR is that it is in lieu of seeking judicial relief. Specific procedures and processes are left to development ''by order, policy statement, or directive,'' as provided in § 1237.8 of the proposed rule. No change in the proposal is required or warranted.

Limited-Life Regulated Entities.

The Banks raised numerous issues regarding proposed rule §§ 1237.10 and 1237.11 with respect to the establishment and operation of a LLRE. They objected that the proposed rule failed to identify or address the wide range of issues that could arise in the context of an LLRE, including the impact of such an entity on members of the Bank in receivership, holders of Bank COs, and other creditors and counterparties of the Bank in receivership. The Banks asked whether a ''LLRE Bank'' would be considered a new Bank that would cover the same district, and have the same membership, that was served by the Bank in receivership or whether a new permanent Bank would be established to serve that district contemporaneously with the LLRE; whether the LLRE Bank would assume some or all of the primary obligations on COs of the Bank in receivership or on the contracts of the failed Bank; whether it could fund its operations by becoming a primary obligor on new Bank System COs (and, if so, how would such primary obligations be treated upon the termination of the LLRE Bank); and how the existence of the LLRE Bank would impact the Securities and Exchange Commission disclosure obligations of the related Bank for FHFA reporting purposes.

FHFA responds that there is no requirement for the establishment of an LLRE in the case of a failed Bank, unlike in the case of a failed Enterprise. Further, reasons for and details of the operation and establishment of an LLRE are likely to vary based on the specific reasons for failure, the nature of the failed institution's assets and liabilities, and the resolution methodology selected by the receiver. The specificity the Banks suggested, if contained in regulatory text, could restrict the receiver's ability to structure the resolution of a failed institution and leverage its assets and liabilities for the best interests of the Bank System. To the extent that statutory language does not provide answers to the Banks questions, FHFA does not believe it appropriate to limit the resolution tools available to it through a regulation.

Such flexibility is consistent with the statutory framework. For example, section 1367(i)(1)(B)(i) of the Safety and Soundness Act provides that a LLRE may ''assume such liabilities of the regulated entity that is in default or in danger of default as the Agency may, in its discretion, determine to be appropriate. * * *'' 12 U.S.C. 4617(i)(1)(B)(i). Subparagraph (B)(ii) authorizes the LLRE to ''purchase such assets of the regulated entity that is in default, or in danger of default, as the Agency may, in its discretion determine to be appropriate.'' Subparagraph (B)(iii) authorizes the LLRE to ''perform any other temporary function which the Agency may, in its discretion, prescribe in accordance with this section.'' The statutory discretion vested in the agency

is significant and necessary. FHFA declines to restrict the discretion Congress vested in it to unnecessarily tie its hands when resolving failed institutions in the future.

The Banks also suggest that the language in § 1237.13(b) of the proposed rule, stating that no shareholder or creditor of a regulated entity shall have any right or claim against the charter of that regulated entity once FHFA has been appointed receiver for the regulated entity and a limited-life regulated entity has succeeded to the charter, does not appear to apply to a Bank in receivership, since 12 U.S.C. 4617(i)(1)(A)(i) provides for FHFA to grant a temporary charter to a limited-life regulated entity for a Bank in receivership.

FHFA does not agree with this comment. The charters are not entities in receivership against which claims can be asserted, nor are the charters assets of a receivership estate from which claims can be paid.

3. Comments From Other Sources

In addition to the comments received from shareholders for the Enterprises in conservatorship, counsel for shareholder litigants, members of Congress, and Banks, FHFA received comments from various other parties, who raised the following concerns:

The conservatorships of Fannie Mae and Freddie Mac.

The Mortgage Bankers Association (MBA) commented that the proposal was too theoretical, preferring a rule that more specifically addressed the issues associated with the current conservatorships of Fannie Mae and Freddie Mac. The MBA suggested that a rule should answer questions such as the specific treatment of subordinated and senior debtholders, and could identify the operations and departments of the Enterprises that are likely to be retained in receivership.

The MBA suggested that FHFA should have used the rulemaking process to explain to the public the criteria that FHFA might use in deciding whether to place the Enterprises into receivership. In their view, announcing in advance the factors or milestones that would trigger receivership would prevent that determination from appearing arbitrary. Finally, the MBA suggested that FHFA could use the rule to set forth the agency's goals in a receivership. They argued that this would give FHFA a chance to explain how several of the possible roles for receivership—a least-cost resolution of the Enterprises, maintaining ongoing support of the housing market by protecting the infrastructure of the Enterprises, or using the assets of the Enterprises to lay the foundation for a new secondary housing market structure—would be applied by FHFA as receiver.

Bank of America also recommended that any final rule issued by FHFA clearly, narrowly, and carefully define the goals of conservatorship or receivership, and other commenters also noted that the proposed rule did not provide a specific model for Fannie Mae and Freddie Mac after the end of the conservatorships and the absence of a detailed restructuring plan for the Enterprises. Other commenters also argued that the proposed rule failed to address the treatment of Fannie Mae or Freddie Mac preferred shareholders in an Enterprise receivership or the potential for harm to shareholders by diminishing or extinguishing the value of their equity interests.

The rule is designed to implement and expand the general framework for conservatorship and receivership operations for the regulated entities. This rule and rulemaking generally are not appropriate vehicles through which to predict the specific resolution of hypothetical future events. It would be too limiting on agency authority to use the rule to explain to the public the criteria that FHFA might use in deciding whether to place the Enterprises into receivership. The criteria for establishing receiverships are enumerated in the Safety and Soundness Act.[16] Congress left considerable decision-making discretion to the agency, and FHFA sees no reason to limit that discretion through a final rule when future circumstances are unknown.

It would be inappropriate to use the rule to explain how several of the asserted possible roles for receivership—a least-cost resolution of the Enterprises, maintaining ongoing support of the housing market by protecting the infrastructure of the Enterprises, or using the assets of the Enterprises to lay the foundation for a new secondary housing market structure—would be applied by the agency as receiver. By leaving such strategic decisions about receivership for the future, the rule retains necessary discretion for the agency to deal with events as they unfold and not artificially limiting a future receiver's choices.

Moreover, this rule is not intended to address discretionary decisions about the treatment of assets in the conservatorship estate, as general policies on that subject are more appropriately handled in FHFA policy guidances and other agency policy statements. More specific discretionary decisions are better addressed by the Conservator on a case-by-case basis. In either case, neither type of decisions is appropriate for a rule that would address conservatorship and receivership operations for all the regulated entities. This rule seeks to avoid limiting the discretion of FHFA as Conservator or Receiver in future insolvencies. The circumstances of each conservatorship or receivership are unique to the issues facing that particular troubled regulated entity. For that reason FHFA has decided to preserve the discretionary authority of the agency as conservator or receiver in addressing those issues, instead of attempting to craft one set of policies that would govern every circumstance.

Notice and hearing before transfer or sale of any asset or liability.

Bank of America has also suggested modifying § 1237.3(c) to provide that the transfer or sale of any asset or liability of an Enterprise in conservatorship or receivership occur only after provision of notice to affected parties and an opportunity for a hearing, unless such transfer or sale is part of the Enterprise's ordinary course of business. FHFA rejects this suggestion. Implementing such a proposal would unnecessarily restrict the ability of FHFA as conservator or receiver to act quickly and decisively in preserving and conserving the assets of a regulated entity. The commenter did not describe any precedent for such a potentially cumbersome process in the conservatorship and receivership practices and procedures of other financial regulators.

Language clarifications for § 1237.9 of the rule.

Bank of America also suggested making § 1237.9 of the proposed rule clearer by substituting the word ''claimants'' for ''creditors'' in paragraph (b), and substituting the term ''claim of'' for ''obligation to'' in paragraph (a)(4). In response to these suggestions, ''creditors'' has been changed to ''claimants'' in § 1237.9(b), and ''obligation to'' has been changed to ''claim by'' in § 1237.9(a)(4), and conforming changes have been made to the rule.

Payment of dividends to shareholders during conservatorship.

Some commenters suggested that the rule should address the payment of dividends to shareholders during conservatorship. While FHFA as conservator may restrict dividends for safety and soundness reasons under the Safety and Soundness Act and the Bank Act, a regulated entity may generally

[16] 12 U.S.C. 4617(a).

pay dividends to shareholders only when it is adequately capitalized. It is unlikely that a regulated entity in conservatorship would be permitted to pay dividends while it is unable to meet its capital requirements. This rulemaking is not the appropriate vehicle for establishing a policy for the payment of dividends by a regulated entity in conservatorship, as this rule was not intended to address specific discretionary decisions about the treatment of assets from the conservatorship estate, and was not designed to limit the discretion of FHFA as conservator in future conservatorships.

Definitional changes.

The proposed definition of ''Executive officer'' required adjustment to identify the different sources for the definition with respect to the Enterprises and the Banks. The term is clarified in this final rule. A technical correction is made to the definition of ''Authorizing statutes.'' The proposed definition of ''Capital distribution'' was located in part 1229, the FHFA rule on capital classifications and prompt corrective action, as more appropriate than amending an OFHEO rule that predated the enactment of HERA.

The definition of ''Capital distribution'' to include payments of securities litigation claims applies only to the Enterprises. 12 U.S.C. 4513(f) requires FHFA, prior to promulgating regulations relating to the Banks, to consider the differences between the Banks and Enterprises, relating to, among other things, the Banks' cooperative ownership structure and capital structure. There is no established marketplace for capital stock of the Banks and it is not publicly traded. Although the Banks are registered with the Securities and Exchange Commission, the capital stock of the Banks is purchased by members, and redeemed by the applicable Bank, at stated par value rather than any market price. As a result, the Banks face less exposure to securities litigation claims than the Enterprises, whose equity securities are publicly traded with fluctuating market prices. For the Banks, ''capital distribution'' during conservatorship and receivership shall retain the meaning assigned in Subpart A of FHFA's rule on capital classifications and prompt corrective action, at § 1229.1.

III. Regulatory Impacts

Paperwork Reduction Act

The final regulation does not contain any information collection requirement that requires the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). FHFA has considered the impact of this final regulation under the RFA. FHFA certifies that the final regulation is not likely to have a significant economic impact on a substantial number of small business entities because the regulation is applicable only to the regulated entities, which are not small entities for purposes of the RFA.

List of Subjects

12 CFR Part 1229

Capital, Federal home loan banks, Government-sponsored enterprises, Reporting and recordkeeping requirements.

12 CFR Part 1237

Capital, Conservator, Federal home loan banks, Government-sponsored enterprises, Receiver.

Accordingly, for the reasons stated in the Supplementary Information, under the authority of 12 U.S.C. 4513b, 4526, and 4617 the Federal Housing Finance Agency amends chapter XII of Title 12, Code of Federal Regulations, as follows:

CHAPTER XII—FEDERAL HOUSING FINANCE AGENCY

Subchapter B—Entity Regulations

PART 1229—CAPITAL CLASSIFICATIONS AND PROMPT CORRECTIVE ACTION

■ 1. Amend part 1229 of subchapter B by adding new subpart B to read as follows:

Subpart B—Enterprises

Sec.
1229.13 Definitions.

Authority: 12 U.S.C. 4513b, 4526, 4613, 4614, 4615, 4616, 4617.

Subpart B—Enterprises

§ 1229.13 Definitions.

For purposes of this subpart:

Capital distribution means—

(1) Any dividend or other distribution in cash or in kind made with respect to any shares of, or other ownership interest in, an Enterprise, except a dividend consisting only of shares of the Enterprise;

(2) Any payment made by an Enterprise to repurchase, redeem, retire, or otherwise acquire any of its shares or other ownership interests, including any extension of credit made to finance an acquisition by the Enterprise of such shares or other ownership interests, except to the extent the Enterprise makes a payment to repurchase its shares for the purpose of fulfilling an obligation of the Enterprise under an employee stock ownership plan that is qualified under the Internal Revenue Code of 1986 (26 U.S.C. 401 *et seq.*) or any substantially equivalent plan as determined by the Director of FHFA in writing in advance; and

(3) Any payment of any claim, whether or not reduced to judgment, liquidated or unliquidated, fixed, contingent, matured or unmatured, disputed or undisputed, legal, equitable, secured or unsecured, arising from rescission of a purchase or sale of an equity security of an Enterprise or for damages arising from the purchase, sale, or retention of such a security.

■ 2. Add part 1237 to subchapter B to read as follows:

PART 1237—CONSERVATORSHIP AND RECEIVERSHIP

Sec.
1237.1 Purpose and applicability.
1237.2 Definitions.

Subpart A—Powers

1237.3 Powers of the Agency as conservator or receiver.
1237.4 Receivership following conservatorship; administrative expenses.
1237.5 Contracts entered into before appointment of a conservator or receiver.
1237.6 Authority to enforce contracts.

Subpart B—Claims

1237.7 Period for determination of claims.
1237.8 Alternate procedures for determination of claims.
1237.9 Priority of expenses and unsecured claims.

Subpart C—Limited-Life Regulated Entities

1237.10 Limited-life regulated entities.
1237.11 Authority of limited-life regulated entities to obtain credit.

Subpart D—Other

1237.12 Capital distributions while in conservatorship.
1237.13 Payment of Securities Litigation Claims while in conservatorship.
1237.14 Golden parachute payments [Reserved].

Authority: 12 U.S.C. 4513b, 4526, 4617.

§ 1237.1 Purpose and applicability.

The provisions of this part shall apply to the appointment and operations of the Federal Housing Finance Agency (''Agency'') as conservator or receiver of a regulated entity. These provisions implement and supplement the procedures and process set forth in the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended, by the Housing and Economic Recovery Act of 2008 (HERA), Public Law 110–289 for conduct of a conservatorship or receivership of such entity.

§ 1237.2 Definitions.

For the purposes of this part the following definitions shall apply:

Agency means the Federal Housing Finance Agency (''FHFA'') established under 12 U.S.C. 4511, as amended.

Authorizing statutes mean—

(1) The Federal National Mortgage Association Charter Act,

(2) The Federal Home Loan Mortgage Corporation Act, and

(3) The Federal Home Loan Bank Act.

Capital distribution has, with respect to a Bank, the definition stated in § 1229.1 of this chapter, and with respect to an Enterprise, the definition stated in § 1229.13 of this chapter.

Compensation means any payment of money or the provision of any other thing of current or potential value in connection with employment.

Conservator means the Agency as appointed by the Director as conservator for a regulated entity.

Default; in danger of default:

(1) *Default* means, with respect to a regulated entity, any official determination by the Director, pursuant to which a conservator or receiver is appointed for a regulated entity.

(2) *In danger of default* means, with respect to a regulated entity, the definition under section 1303(8)(B) of the Safety and Soundness Act or applicable FHFA regulations.

Director means the Director of the Federal Housing Finance Agency.

Enterprise means the Federal National Mortgage Association and any affiliate thereof or the Federal Home Loan Mortgage Corporation and any affiliate thereof.

Entity-affiliated party means any party meeting the definition of an entity-affiliated party under section 1303(11) of the Safety and Soundness Act or applicable FHFA regulations.

Equity security of any person shall mean any and all shares, interests, rights to purchase or otherwise acquire, warrants, options, participations or other equivalents of or interests (however designated) in equity, ownership or profits of such person, including any preferred stock, any limited or general partnership interest and any limited liability company membership interest, and any securities or other rights or interests convertible into or exchangeable for any of the foregoing.

Executive officer means, with respect to an Enterprise, any person meeting the definition of executive officer under section 1303(12) of the Safety and Soundness Act and applicable FHFA regulations under that section, and, with respect to a Bank, an executive officer as defined in applicable FHFA regulations.

Golden parachute payment means, with respect to a regulated entity, the definition under 12 CFR part 1231 or other applicable FHFA regulations.

Limited-life regulated entity means an entity established by the Agency under section 1367(i) of the Safety and Soundness Act with respect to a Federal Home Loan Bank in default or in danger of default, or with respect to an Enterprise in default or in danger of default.

Receiver means the Agency as appointed by the Director to act as receiver for a regulated entity.

Regulated entity means:

(1) The Federal National Mortgage Association and any affiliate thereof;

(2) The Federal Home Loan Mortgage Corporation and any affiliate thereof; and

(3) Any Federal Home Loan Bank.

Securities litigation claim means any claim, whether or not reduced to judgment, liquidated or unliquidated, fixed, contingent, matured or unmatured, disputed or undisputed, legal, equitable, secured or unsecured, arising from rescission of a purchase or sale of an equity security of a regulated entity or for damages arising from the purchase, sale, or retention of such a security.

Transfer means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the equity of redemption of the regulated entity.

Subpart A—Powers

§ 1237.3 Powers of the Agency as conservator or receiver.

(a) *Operation of the regulated entity.* The Agency, as it determines appropriate to its operations as either conservator or receiver, may:

(1) Take over the assets of and operate the regulated entity with all the powers of the shareholders (including the authority to vote shares of any and all classes of voting stock), the directors, and the officers of the regulated entity and conduct all business of the regulated entity;

(2) Continue the missions of the regulated entity;

(3) Ensure that the operations and activities of each regulated entity foster liquid, efficient, competitive, and resilient national housing finance markets;

(4) Ensure that each regulated entity operates in a safe and sound manner;

(5) Collect all obligations and money due the regulated entity;

(6) Perform all functions of the regulated entity in the name of the regulated entity that are consistent with the appointment as conservator or receiver;

(7) Preserve and conserve the assets and property of the regulated entity (including the exclusive authority to investigate and prosecute claims of any type on behalf of the regulated entity, or to delegate to management of the regulated entity the authority to investigate and prosecute claims); and

(8) Provide by contract for assistance in fulfilling any function, activity, action, or duty of the Agency as conservator or receiver.

(b) *Agency as receiver.* The Agency, as receiver, shall place the regulated entity in liquidation, employing the additional powers expressed in 12 U.S.C. 4617(b)(2)(E).

(c) *Powers as conservator or receiver.* The Agency, as conservator or receiver, shall have all powers and authorities specifically provided by section 1367 of the Safety and Soundness Act and paragraph (a) of this section, including incidental powers, which include the authority to suspend capital classifications under section 1364(e)(1) of the Safety and Soundness Act during the duration of the conservatorship or receivership of that regulated entity.

(d) *Transfer or sale of assets and liabilities.* The Agency may, as conservator or receiver, transfer or sell any asset or liability of the regulated entity in default, and may do so without any approval, assignment, or consent with respect to such transfer or sale. Exercise of this authority by the Agency as conservator will nullify any restraints on sales or transfers in any agreement not entered into by the Agency as conservator. Exercise of this authority by the Agency as receiver will nullify any restraints on sales or transfers in any agreement not entered into by the Agency as receiver.

§ 1237.4 Receivership following conservatorship; administrative expenses.

If a receivership immediately succeeds a conservatorship, the administrative expenses of the conservatorship shall also be deemed to be administrative expenses of the subsequent receivership.

§ 1237.5 Contracts entered into before appointment of a conservator or receiver.

(a) The conservator or receiver for any regulated entity may disaffirm or repudiate any contract or lease to which such regulated entity is a party pursuant to section 1367(d) of the Safety and Soundness Act.

(b) For purposes of section 1367(d)(2) of the Safety and Soundness Act, a reasonable period shall be defined as a period of 18 months following the appointment of a conservator or receiver.

§ 1237.6 Authority to enforce contracts.

The conservator or receiver may enforce any contract entered into by the regulated entity pursuant to the provisions and subject to the restrictions of section 1367(d)(13) of the Safety and Soundness Act.

Subpart B—Claims

§ 1237.7 Period for determination of claims.

Before the end of the 180-day period beginning on the date on which any claim against a regulated entity is filed with the Agency as receiver, the Agency shall determine whether to allow or disallow the claim and shall notify the claimant of any determination with respect to such claim. This period may be extended by a written agreement between the claimant and the Agency as receiver, which may include an agreement to toll any applicable statute of limitations.

§ 1237.8 Alternate procedures for determination of claims.

Claimants seeking a review of the determination of claims may seek alternative dispute resolution from the Agency as receiver in lieu of a judicial determination. The Director may by order, policy statement, or directive establish alternative dispute resolution procedures for this purpose.

§ 1237.9 Priority of expenses and unsecured claims.

(a) *General.* The receiver will grant priority to unsecured claims against a regulated entity or the receiver for that regulated entity that are proven to the satisfaction of the receiver in the following order:

(1) Administrative expenses of the receiver (or an immediately preceding conservator).

(2) Any other general or senior liability of the regulated entity (that is not a liability described under paragraph (a)(3) or (a)(4) of this section).

(3) Any obligation subordinated to general creditors (that is not an obligation described under paragraph (a)(4) of this section).

(4) Any claim by current or former shareholders or members arising as a result of their current or former status as shareholders or members, including, without limitation, any securities litigation claim. Within this priority level, the receiver shall recognize the priorities of shareholder claims *inter se,* such as that preferred shareholder claims are prior to common shareholder claims. This subparagraph (a)(4) shall not apply to any claim by a current or former member of a Federal Home Loan Bank that arises from transactions or relationships distinct from the current or former member's ownership, purchase, sale, or retention of an equity security of the Federal Home Loan Bank.

(b) *Similarly situated creditors.* All claimants that are similarly situated shall be treated in a similar manner, except that the receiver may take any action (including making payments) that does not comply with this section, if:

(1) The Director determines that such action is necessary to maximize the value of the assets of the regulated entity, to maximize the present value return from the sale or other disposition of the assets of the regulated entity, or to minimize the amount of any loss realized upon the sale or other disposition of the assets of the regulated entity; and

(2) All claimants that are similarly situated under paragraph (a) of this section receive not less than the amount such claimants would have received if the receiver liquidated the assets and liabilities of the regulated entity in receivership and such action had not been taken.

(c) *Priority determined at default.* The receiver will determine priority based on a claim's status at the time of default, such default having occurred at the time of entry into the receivership, or if a conservatorship immediately preceded the receivership, at the time of entry into the conservatorship provided the claim then existed.

Subpart C—Limited-Life Regulated Entities

§ 1237.10 Limited-life regulated entities.

(a) *Status.* The United States Government shall be considered a person for purposes of section 1367(i)(6)(C)(i) of the Safety and Soundness Act.

(b) *Investment authority.* The requirements of section 1367(i)(4) shall apply only to the liquidity portfolio of a limited-life regulated entity.

(c) *Policies and procedures.* The Agency may draft such policies and procedures with respect to limited-life regulated entities as it determines to be necessary and appropriate, including policies and procedures regarding the timing of the creation of limited-life regulated entities.

§ 1237.11 Authority of limited-life regulated entities to obtain credit.

(a) *Ability to obtain credit.* A limited-life regulated entity may obtain unsecured credit and issue unsecured debt.

(b) *Inability to obtain credit.* If a limited-life regulated entity is unable to obtain unsecured credit or issue unsecured debt, the Director may authorize the obtaining of credit or the issuance of debt by the limited-life regulated entity with priority over any and all of the obligations of the limited-life regulated entity, secured by a lien on property of the limited-life regulated entity that is not otherwise subject to a lien, or secured by a junior lien on property of the limited-life regulated entity that is subject to a lien.

(c) *Limitations.* The Director, after notice and a hearing, may authorize a limited-life regulated entity to obtain credit or issue debt that is secured by a senior or equal lien on property of the limited-life regulated entity that is already subject to a lien (other than mortgages that collateralize the mortgage-backed securities issued or guaranteed by an Enterprise) only if the limited-life regulated entity is unable to obtain such credit or issue such debt otherwise on commercially reasonable terms and there is adequate protection of the interest of the holder of the earlier lien on the property with respect to which such senior or equal lien is proposed to be granted.

(d) *Adequate protection.* The adequate protection referred to in paragraph (c) of this section may be provided by:

(1) Requiring the limited-life regulated entity to make a cash payment or periodic cash payments to the holder of the earlier lien, to the extent that there is likely to be a decrease in the

value of such holder's interest in the property subject to the lien;

(2) Providing to the holder of the earlier lien an additional or replacement lien to the extent that there is likely to be a decrease in the value of such holder's interest in the property subject to the lien; or

(3) Granting the holder of the earlier lien such other relief, other than entitling such holder to compensation allowable as an administrative expense under section 1367(c) of the Safety and Soundness Act, as will result in the realization by such holder of the equivalent of such holder's interest in such property.

Subpart D—Other

§ 1237.12 Capital distributions while in conservatorship.

(a) Except as provided in paragraph (b) of this section, a regulated entity shall make no capital distribution while in conservatorship.

(b) The Director may authorize, or may delegate the authority to authorize, a capital distribution that would otherwise be prohibited by paragraph (a) of this section if he or she determines that such capital distribution:

(1) Will enhance the ability of the regulated entity to meet the risk-based capital level and the minimum capital level for the regulated entity;

(2) Will contribute to the long-term financial safety and soundness of the regulated entity;

(3) Is otherwise in the interest of the regulated entity; or

(4) Is otherwise in the public interest.

(c) This section is intended to supplement and shall not replace or affect any other restriction on capital distributions imposed by statute or regulation.

§ 1237.13 Payment of Securities Litigation Claims while in conservatorship.

(a) *Payment of Securities Litigation Claims while in conservatorship.* The Agency, as conservator, will not pay a Securities Litigation Claim against a regulated entity, except to the extent the Director determines is in the interest of the conservatorship.

(b) *Claims against limited-life regulated entities.* A limited-life regulated entity shall not assume, acquire, or succeed to any obligation that a regulated entity for which a receiver has been appointed may have to any shareholder of the regulated entity that arises as a result of the status of that person as a shareholder of the regulated entity, including any Securities Litigation Claim. No creditor of the regulated entity shall have a claim against a limited-life regulated entity unless the receiver has transferred that liability to the limited-life regulated entity. The charter of the regulated entity, or of the limited-life regulated entity, is not an asset against which any claim can be made by any creditor or shareholder of the regulated entity.

§ 1237.14 Golden parachute payments [Reserved]

Dated: June 14, 2011.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2011–15098 Filed 6–17–11; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM459; Special Conditions No. 25–432–SC]

Special Conditions: Gulfstream Aerospace LP (GALP) Model G250 Airplane Automatic Power Reserve (APR), an Automatic Takeoff Thrust Control System (ATTCS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Gulfstream Aerospace LP (GALP) Model G250 airplane. This airplane will have a novel or unusual design feature associated with go-around performance credit for use of Automatic Power Reserve (APR), an Automatic Takeoff Thrust Control System (ATTCS). The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is June 13, 2011. We must receive your comments by August 4, 2011.

ADDRESSES: You must mail two copies of your comments to: Federal Aviation Administration, Transport Airplane Directorate, *Attn:* Rules Docket (ANM–113), Docket No. NM459, 1601 Lind Avenue, SW., Renton, Washington 98057–3356. You may deliver two copies to the Transport Airplane Directorate at the above address. You must mark your comments: Docket No. NM459. You can inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Joe Jacobsen, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2011; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice of, and opportunity for prior public comment on, these special conditions are impracticable because the substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel about these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

If you want us to acknowledge receipt of your comments on these special conditions, include with your comments a self-addressed, stamped postcard on which you have written the docket number. We will stamp the date on the postcard and mail it back to you.

Background

On March 30, 2006, GALP applied for a type certificate for their new Model G250 airplane. The G250 is an 8–10

passenger (19 maximum), twin-engine airplane with a maximum operating altitude of 45,000 feet and a range of approximately 3,400 nautical miles. Airplane dimensions are 61.69-foot wing span, 66.6-foot overall length, and 20.8-foot tail height. Maximum takeoff weight is 39,600 pounds and maximum landing weight 32,700 pounds. Maximum cruise speed is mach 0.85, dive speed is mach 0.92. The avionics suite will be the Rockwell Collins Pro Line Fusion.

Type Certification Basis

Under the provisions of 14 CFR 21.17, GALP must show that the Model G250 airplane meets the applicable provisions of part 25 as amended by Amendments 25–1 through 25–117.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model G250 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model.

In addition to the applicable airworthiness regulations and special conditions, the Model G250 airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34 and the noise-certification requirements of 14 CFR part 36; and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Model G250 will incorporate the following novel or unusual design feature:

GALP has requested approval to use an Automatic Takeoff Thrust Control System (ATTCS; referred to by GALP as Automatic Power Reserve (APR)) as the performance level in showing compliance with the approach climb requirements of 14 CFR 25.121(d). Section 25.904 and Appendix I to part 25 of 14 CFR limit the application of performance credit for ATTCS to takeoff only. Since the airworthiness regulations do not contain appropriate safety standards for approach climb performance using ATTCS, special conditions are required to ensure a level of safety equivalent to that established in the regulations.

Discussion

GALP is proposing to use the APR function of the Model G250 airplane during go-around and is requesting approach climb performance credit for the use of the additional power provided by the uptrim. The GALP powerplant control system comprises a Full Authority Digital Electronic Control (FADEC) for the Honeywell AS907–2–1G engine. The control system includes an ATTCS feature referred to as APR.

The ATTCS (APR) function is integrated into the FADEC such that there is no separate circuitry for the APR function. Both FADECs are connected via a communications bus. Each FADEC sends information to the other. When the FADEC of any engine detects either the loss of communication or an indication of significant thrust loss from the opposite engine, the FADEC of the healthy (or both) engine will increase the power to the APR rating and the ''APR'' (activated) icon will appear on the EICAS inside the N1 gauge for the engine with its Throttle Lever Angle (TLA) set at takeoff (TO) power. In addition, APR is always available to the flightcrew for each engine, with its TLA set at TO power by pushing the ''APR manual'' pushbutton. If the TRA is not set to the TO power setting, this just arms both engines for APR. Once manually armed, whenever either TLA is advanced to the TO power setting, that engine increases power to APR rating regardless of the condition of the other engine.

The APR feature is always armed unless the flight crew selects to disarm it for single-engine-operation training purposes. When this disarmed condition is active, an amber caution message is provided. The normal operating procedure will be to leave APR armed at all times. The APR function will be checked as part of the normal FADEC continuous self-test feature. The engine, by virtue of the integrated power schedule imbedded in the FADEC software, cannot continue running if uptrim fails. This function is retained even in the case of a FADEC single-channel failure.

The above description highlights the fact that the APR power is available at all times for any TO operational segment without any additional action from the pilot. This applies during takeoff and go-around (TOGA). The aircraft performance data is based on the availability of the uptrim power during takeoff and approach climb.

The ATTCS, as incorporated on the Model G250 airplane, allows the pilot to use the ''Auto APR'' procedure for the one-engine-inoperative (OEI) case and the ''Manual APR'' procedure while both engines are operative; in either case, the pilot obtains the additional go-around power by moving the power levers to the TO power setting. Full APR thrust is provided up to 20,000 ft. MSL.

The part 25 standards for ATTCS, contained in § 25.904 and Appendix I, specifically restrict performance credit for ATTCS to takeoff. Expanding the scope of the standards to include other phases of flight, including go-around, was considered at the time the standards were issued, but flightcrew-workload issues precluded further consideration. As the preamble of amendment 62 to part 25 states:

> ''In regard to ATTCS credit for approach climb and go-around maneuvers, current regulations preclude a higher power for the approach climb (Sec. 25.121(d)) than for the landing climb (Sec. 25.119). The workload required for the flightcrew to monitor and select from multiple in-flight power settings in the event of an engine failure during a critical point in the approach, landing, or go-around operations is excessive. Therefore, the FAA does not agree that the scope of the amendment should be changed to include the use of ATTCS for anything except the takeoff phase.''

The ATTCS incorporated on the Model G250 airplane allows the pilot to use the same power-setting procedure during a go-around regardless of whether or not an engine fails. In either case, the pilot obtains go-around power by moving the power levers to the TOGA detent. Since the ATTCS is always armed, it will function automatically following an engine failure, and advance the remaining engine to the APR power level.

Because the airworthiness regulations do not contain appropriate safety standards to allow approach climb performance credit for ATTCS, special conditions are required to ensure a level of safety equivalent to that established in the regulations. The definition of a critical time interval for the approach climb case, during which time it must be extremely improbable to violate a flight path based on the § 25.121(d) gradient requirement, is of primary importance. In the event of a simultaneous failure of an engine and the APR function, falling below the minimum flight path defined by the 2.5-degree approach, decision height, and climb gradient required by § 25.121(d) must be shown to be an extremely improbable event during this critical time interval. The § 25.121(d) gradient requirement implies a minimum OEI

flight-path capability with the airplane in the approach configuration. The engine may have been inoperative before initiating the go-around, or it may become inoperative during the go-around. The definition of the critical time interval must consider both possibilities.

Applicability

As discussed above, these special conditions are applicable to the GALP Model G250 airplane. Should GALP apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on the GALP Model G250 airplane. It is not a rule of general applicability and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

The FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the GALP Model G250 airplane.

For approval to use the power provided by the ATTCS to determine the approach climb performance limitations, the GALP Model G250 airplane must comply with the requirements of § 25.904 and Appendix I to Part 25, including the following requirements pertaining to the go-around phase of flight:

1. *General.* An Automatic Takeoff Thrust Control System (ATTCS) is defined as the entire automatic system, including all devices, both mechanical and electrical, that sense engine failure, transmit signals, actuate fuel controls or power levers, or increase engine power by other means, on operating engines to achieve scheduled thrust or power increases, and to furnish cockpit information regarding system operation.

2. *ATTCS.* The engine-power control system that automatically resets the power or thrust on the operating engine (following engine failure during the approach for landing) must comply with the following requirements stated in paragraphs 2.a, 2.b, and 2.c:

a. Performance and System Reliability Requirements. The probability analysis must include consideration of ATTCS failure occurring after the time at which the flightcrew last verifies that the ATTCS is in a condition to operate until the beginning of the critical time interval.

b. Thrust or Power Setting.

(1) The initial thrust or power setting on each engine at the beginning of the takeoff roll or go-around may not be less than:

(i) That required to permit normal operation of all safety-related systems and equipment dependent upon engine thrust or power-lever position; or

(ii) That shown to be free of hazardous engine-response characteristics, and not to result in any unsafe aircraft operating or handling characteristics when thrust or power is increased from the initial takeoff or go-around thrust or power to the maximum approved takeoff thrust or power.

(2) For approval of an ATTCS system for go-around, the thrust or power setting procedure must be the same for go-arounds initiated with all engines operating as for go-arounds initiated with one engine inoperative.

c. Powerplant Controls. In addition to the requirements of § 25.1141, no single failure or malfunction, or probable combination thereof, of the ATTCS, including associated systems, may cause the failure of any powerplant function necessary for safety. The ATTCS must be designed to:

(1) Apply thrust or power on the operating engine(s), following any one engine failure during takeoff or go-around, to achieve the maximum approved takeoff thrust or power without exceeding engine operating limits; and

(2) Provide a means to verify to the flightcrew, before takeoff and before beginning an approach for landing, that the ATTCS is in a condition to operate.

3. Critical Time Interval. The definition of the Critical Time Interval in appendix I, § I25.2(b) will be expanded to include the following:

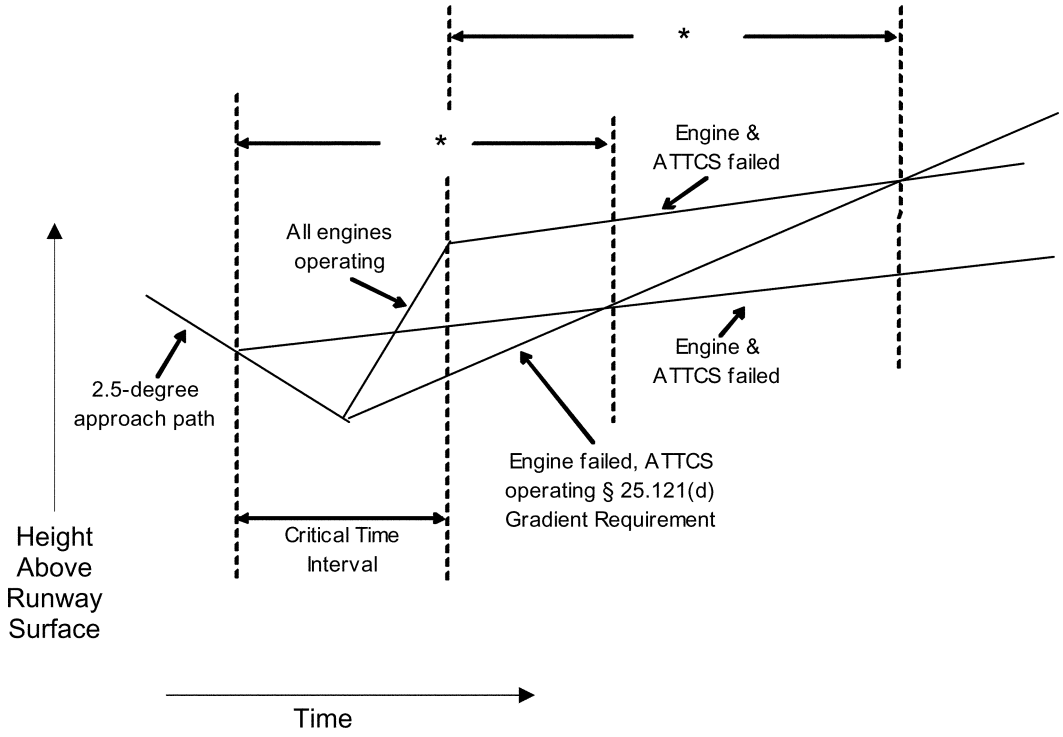
a. When conducting an approach for landing using ATTCS, the critical time interval is defined as follows:

(1) The critical time interval *begins* at a point on a 2.5-degree approach glide path from which, assuming a simultaneous engine and ATTCS failure, the resulting approach climb flight path intersects a flight path originating at a later point on the same approach path, corresponding to the part 25 OEI approach climb gradient. The period of time, from the point of simultaneous engine and ATTCS failure to the intersection of these flight paths, must be no shorter than the time interval used in evaluating the critical time interval for takeoff, beginning from the point of simultaneous engine and ATTCS failure and ending upon reaching a height of 400 feet.

(2) The critical time interval *ends* at the point on a minimum-performance, all-engines-operating, go-around flight path from which, assuming simultaneous engine and ATTCS failure, the resulting minimum approach climb flight path intersects a flight path corresponding to the part 25 minimum, OEI approach climb gradient. The all-engines-operating, go-around flight path, and the part 25 OEI approach climb gradient flight path, both originate from a common point on a 2.5-degree approach path. The period of time, from the point of simultaneous engine and ATTCS failure to the intersection of these flight paths, must be no shorter than the time interval used in evaluating the critical time interval for the takeoff, beginning from the point of simultaneous engine and ATTCS failure and ending upon reaching a height of 400 feet.

b. The critical time interval must be determined at the altitude resulting in the longest critical time interval for which OEI approach climb performance data are presented in the Airplane Flight Manual.

c. The critical time interval is illustrated in the following figure:



* The engine-and-ATTCS failed time interval must be no shorter than the time interval from the point of simultaneous engine and ATTCS failure to a height of 400 feet used to comply with I25.2(b) for ATTCS use during takeoff.

Issued in Renton, Washington on June 13, 2011.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–15175 Filed 6–17–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 500 and 505

Foreign Assets Control Regulations; Transaction Control Regulations (Regulations Prohibiting Transactions Involving the Shipment of Certain Merchandise Between Foreign Countries)

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (''OFAC'') is removing parts 500 and 505 from 31 CFR chapter V pursuant to Proclamation 8271 of June 26, 2008, which terminated the exercise of the President's authorities under the Trading With the Enemy Act with respect to North Korea. Those authorities were implemented by 31 CFR parts 500 and 505.

DATES: *Effective Date:* June 20, 2011.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Sanctions Compliance & Evaluation, *tel.*: 202/622–2490, Assistant Director for Licensing, *tel.*: 202/622–2480, Assistant Director for Policy, *tel.*: 202/622–4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), *tel.*: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site *http://www.treasury.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, *tel.:* 202/622–0077.

Background

On June 26, 2008, the President issued Proclamation 8271, ''Termination of the Exercise of Authorities Under the Trading With the Enemy Act With Respect to North Korea'' (73 FR 36785, June 27, 2008), effective at 12:01 a.m. eastern daylight time on June 27, 2008. In Proclamation 8271, the President found that the continuation of the exercise of authorities under the Trading With the Enemy Act (50 U.S.C. App. 1 *et seq.*) (''TWEA'') with respect to North Korea, as authorized in Proclamation 2914 of December 16, 1950 (15 FR 9029, December 19, 1950), and most recently continued under Presidential Determination 2007–32 of September 13, 2007 (72 FR 53407, September 18, 2007), was no longer in the national interest of the United States. Accordingly, in section 1 of Proclamation 8271, the President terminated the exercise of TWEA authorities with respect to North Korea, which were implemented by the Foreign Assets Control Regulations, 31 CFR part 500 (the ''FACR''), and the Transaction Control Regulations, 31 CFR part 505 (the ''TCR''), and rescinded Presidential Determination 2007–32 with respect to North Korea.

Section 2 of Proclamation 8271 authorized and directed the Secretary of the Treasury to take all appropriate measures within the Secretary's authority to give effect to the proclamation.

The only effective provisions in the FACR and TCR immediately prior to the issuance of Proclamation 8271 were those that related to North Korea. Since the issuance of Proclamation 8271, those regulations, to the extent promulgated under TWEA authorities, are no longer in force with respect to North Korea. In a separate final rule also being published today, OFAC is amending the North Korea Sanctions Regulations, 31 CFR part 510, to

implement Executive Order 13570 of April 18, 2011, which prohibits the importation into the United States, directly or indirectly, of any goods, services, or technology from North Korea, unless otherwise authorized. As amended, the North Korea Sanctions Regulations will replace certain provisions of the FACR promulgated under sections 73 and 74 of the Arms Export Control Act (22 U.S.C. 2797b and 2797c), which were the only remaining effective provisions of the FACR. Accordingly, OFAC is removing the FACR and the TCR from 31 CFR chapter V.

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

List of Subjects

31 CFR Part 500

Administrative practice and procedure, Banking, Banks, Blocking of assets, Credit, Foreign trade, Imports, North Korea, Penalties, Reporting and recordkeeping requirements, Securities, Services.

31 CFR Part 505

Administrative practice and procedure, Banking, Banks, Blocking of assets, Credit, Foreign trade, North Korea, Penalties, Reporting and recordkeeping requirements, Securities, Services.

PARTS 500 AND 505—[REMOVED]

■ For the reasons set forth in the preamble, and under the authority of Proclamation 8271 of June 26, 2008, the Department of the Treasury's Office of Foreign Assets Control removes parts 500 and 505 from 31 CFR chapter V.

Dated: June 13, 2011.

Adam J. Szubin,

Director, Office of Foreign Assets Control, Department of the Treasury.

[FR Doc. 2011–15168 Filed 6–17–11; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 510

North Korea Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (''OFAC'') is amending the North Korea Sanctions Regulations to implement Executive Order 13570 of April 18, 2011. OFAC intends to supplement these regulations with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy.

DATES: *Effective Date:* June 20, 2011.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Sanctions Compliance & Evaluation, *tel.:* 202/622–2490, Assistant Director for Licensing, *tel.:* 202/622–2480, Assistant Director for Policy, *tel.:* 202/622–4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), *tel.:* 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treasury.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, *tel.:* 202/622–0077.

Background

On June 26, 2008, the President, invoking the authority of, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA'') and the National Emergencies Act (50 U.S.C. 1601–1651) (the ''NEA''), issued Executive Order 13466 (73 FR 36787, June 27, 2008) (''E.O. 13466''). On August 30, 2010, the President, invoking the authority of, *inter alia,* IEEPA, the NEA, and section 5 of the United Nations Participation Act (22 U.S.C. 287c) (the ''UNPA''), issued Executive Order 13551 (75 FR 53837, September 1, 2010) (''E.O. 13551''), effective at 12:01 p.m. eastern daylight time on August 30, 2010.

On November 4, 2010, the Department of the Treasury's Office of Foreign Assets Control published the North Korea Sanctions Regulations, 31 CFR part 510 (the ''Regulations''), to implement E.O. 13466 and E.O. 13551, pursuant to authorities delegated to the Secretary of the Treasury in those orders (75 FR 67912, November 4, 2010).

On April 18, 2011, the President, invoking the authority of, *inter alia,* IEEPA, the NEA, and the UNPA, issued Executive Order 13570 (76 FR 22291, April 20, 2011) (''E.O. 13570''), effective at 12:01 a.m. eastern daylight time on April 19, 2011.

This final rule amends the Regulations to implement E.O. 13570, pursuant to authorities delegated to the Secretary of the Treasury in E.O. 13570. A copy of E.O. 13570 appears in appendix C to this part.

These amendments to the Regulations are being published in abbreviated form at this time for the purpose of providing immediate guidance to the public. OFAC intends to supplement part 510 with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy. (The appendices to the Regulations will be removed when OFAC publishes a more comprehensive set of regulations.)

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the ''Reporting, Procedures and Penalties Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 510

Administrative practice and procedure, Imports, North Korea, Services.

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control amends part 510 of 31 CFR chapter V as follows:

PART 510—NORTH KOREA SANCTIONS REGULATIONS

■ 1. Revise the authority citation for part 510 to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; 22 U.S.C. 287c; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13466, 73 FR 36787, June 27, 2008, 3 CFR, 2008 Comp., p. 195; E.O. 13551, 75 FR 53837, September 1, 2010; E.O. 13570, 76 FR 22291, April 20, 2011.

Subpart B—Prohibitions

■ 2. Amend § 510.201 by redesignating Note 1 to § 510.201(a) as Note to § 510.201(a), redesignating Note 1 to § 510.201 and Note 2 to § 510.201 as Note 1 to § 510.201(b) and Note 2 to § 510.201(b), respectively, redesignating Note 3 to § 510.201 as Note to § 510.201, and adding new paragraph (c) to read as follows:

§ 510.201 Prohibited transactions.

* * * * *

(c) All transactions prohibited pursuant to Executive Order 13570 are also prohibited pursuant to this part.

Subpart C—General Definitions

■ 3. Amend § 510.302 by revising paragraphs (b) and (c) and adding new paragraph (d) to read as follows:

§ 510.302 Effective date.

* * * * *

(b) With respect to a person listed in the Annex to E.O. 13551, 12:01 p.m. eastern daylight time, August 30, 2010;

(c) With respect to a person whose property and interests in property are otherwise blocked pursuant to E.O. 13551, the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked; or

(d) With respect to E.O. 13570, 12:01 a.m. eastern daylight time, April 19, 2011.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

■ 4. Add new § 510.501 to read as follows:

§ 510.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

Subpart H—Procedures

■ 5. Add new § 510.801 to read as follows:

§ 510.801 Procedures

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

■ 6. Revise § 510.802 to read as follows:

§ 510.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13466 of June 26, 2008 (73 FR 36787, June 27, 2008), Executive Order 13551 of August 30, 2010 (75 FR 53837, September 1, 2010), Executive Order 13570 of April 18, 2011 (76 FR 22291, April 20, 2011), and any further Executive orders relating to the national emergency declared in Executive Order 13466 may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

■ 7. Add new appendix C to part 510 to read as follows:

Appendix C to Part 510—Executive Order 13570

Executive Order 13570 of April 18, 2011

Prohibiting Certain Transactions With Respect to North Korea

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), section 5 of the United Nations Participation Act of 1945 (22 U.S.C. 287c) (UNPA), and section 301 of title 3, United States Code, and in view of United Nations Security Council Resolution (UNSCR) 1718 of October 14, 2006, and UNSCR 1874 of June 12, 2009,

I, BARACK OBAMA, President of the United States of America, in order to take additional steps to address the national emergency declared in Executive Order 13466 of June 26, 2008, and expanded in Executive Order 13551 of August 30, 2010, that will ensure implementation of the import restrictions contained in UNSCRs 1718 and 1874 and complement the import restrictions provided for in the Arms Export Control Act (22 U.S.C. 2751 *et seq.*), hereby order:

Section 1. Except to the extent provided in statutes or in licenses, regulations, orders, or directives that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the date of this order, the importation into the United States, directly or indirectly, of any goods, services, or technology from North Korea is prohibited.

Sec. 2. (a) Any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 3. The provisions of Executive Orders 13466 and 13551 remain in effect, and this order does not affect any action taken pursuant to those orders.

Sec. 4. For the purposes of this order:

(a) The term ''person'' means an individual or entity;

(b) The term ''entity'' means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization;

(c) The term ''United States person'' means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States;

(d) The term ''North Korea'' includes the territory of the Democratic People's Republic of Korea and the Government of North Korea; and

(e) The term ''Government of North Korea'' means the Government of the Democratic People's Republic of Korea, its agencies, instrumentalities, and controlled entities.

Sec. 5. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA and the UNPA as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 6. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Sec. 7. This order is effective at 12:01 a.m. eastern daylight time on April 19, 2011.

Barack Obama,

THE WHITE HOUSE,

April 18, 2011.

Dated: June 13, 2011.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2011–15166 Filed 6–17–11; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 110 and 165

[Docket No. USCG–2010–1119]

RIN 1625–AA01; 1625–AA11

Superfund Site, New Bedford Harbor, New Bedford, MA: Anchorage Ground and Regulated Navigation Area

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending an existing anchorage ground which currently overlaps a pilot underwater cap (''pilot cap'') in the U.S. Environmental Protection Agency's (EPA) New Bedford Harbor Superfund Site in New Bedford, MA. The Coast Guard is also establishing a regulated navigation area (RNA) prohibiting activities that disturb the seabed around the site. The RNA would not affect transit or navigation of the area.

DATES: This rule is effective July 20, 2011.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2010–1119 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–1119 in the ''Keyword'' box, and then clicking ''Search.'' This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Lieutenant Junior Grade Isaac Slavitt, Waterways Management Branch, First Coast Guard District; telephone 617–223–8385, e-mail *Isaac.M.Slavitt@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 12, 2011, we published a notice of proposed rulemaking (NPRM) entitled ''Superfund Site, New Bedford Harbor, New Bedford, MA: Anchorage Ground and Regulated Navigation Area'' in the **Federal Register** (76 FR 20287). We received no comments on the proposed rule. A public meeting was not requested and none was held. The Commonwealth of Massachusetts completed a review of this regulatory action and concurred that the activity's effects on resources and uses in Massachusetts coastal zone are consistent with the Coast Zone Management enforceable program policies. The Commonwealth had no objection to the Coast Guard implementing the action in less than 90 days from the date of initial notification as provided in 15 CFR 930.36(b)(2).

Basis and Purpose

The legal basis for the proposed rule is 33 U.S.C. 471, 1221–1236, 2030, 2035, and 2071; 46 U.S.C. chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define regulatory anchorage grounds and RNAs.

The purpose of the rule is to minimize the potential for human exposure to contamination and to help protect the integrity of the EPA's remedy at a portion of the New Bedford Harbor Superfund Site by reducing an existing anchorage ground so that it no longer overlaps the pilot cap, and by placing the pilot cap in a RNA that would protect the site from damage by mariners, and protect mariners and the general public from contaminants in the site.

Background

The New Bedford Superfund cleanup site is an urban tidal estuary with sediments contaminated by polychlorinated biphenyls (PCBs) and heavy metals. An extensive history and background of the cleanup project can be found on the EPA's Web site, at *http://www.epa.gov/nbh/.*

The specific cleanup project and surrounding area addressed by this regulation is the Pilot Underwater Cap (''pilot cap''), which is located south of the New Bedford Harbor hurricane barrier in the outer harbor. The pilot cap consists of sand and gravel covering approximately 20 acres of contaminated sediments. Based on data collected in 2010, the thickness of the cap is predominantly one to two feet (98% of the cap area has a thickness greater than one foot; 68% greater than two feet; and in a few isolated areas, the thickness is up to 6.4 feet). A copy of the latest data for the pilot cap area can be found on EPA's Web site for New Bedford Harbor: *http://www.epa.gov/nbh.* While the pilot cap is protective of human health and the environment, it remains vulnerable to human actions that tend to disturb the seabed.

Several maritime practices that involve physical contact with the seabed (*e.g.,* anchoring, dragging, trawling, and spudding) pose a specific threat to the pilot cap. It is also conceivable that PCBs or heavy metals could stick to gear penetrating the seabed; any contaminants that come up with gear could create a threat to human health and the environment. The RNA would prohibit these specific activities without in any way inhibiting surface navigation.

Discussion of Comments and Changes

The Coast Guard received no comments on the proposed rulemaking. No changes were made in the Final Rule.

Regulatory Analyses

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

Executive Order 12866 and Executive Order 13563

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

Small Entities

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

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

entities, some of which might be small entities: The owners or operators of recreational and small fishing vessels intending to anchor in New Bedford's outer harbor.

The rule would not have a significant economic impact on a substantial number of small entities for the following reasons: Normal surface navigation will not be affected; approximately half of the existing anchorage area will still be available for use, and there is another, much larger anchorage nearby; the number of vessels using the anchorage is limited due to draft (less than or equal to 18 feet); and anchoring over the pilot cap could pose a risk to human health and the environment, making it an already unattractive option.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraphs (34)(f) and (34)(g) of the Instruction because it involves shrinking an existing anchorage ground, and establishing an RNA prohibiting activities that disturb the seabed.

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

List of Subjects

33 CFR Part 110

Anchorage grounds.

33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 110 and 165 as follows:

PART 110—ANCHORAGE REGULATIONS

■ 1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Amend § 110.140, by revising paragraph (a)(2) to read as follows:

§ 110.140 Buzzards Bay, Nantucket Sound, and adjacent waters, Mass.

(a) * * *

(2) *Anchorage B.* All waters bounded by a line beginning at 41°36′42.3″ N, 070°54′24.9″ W; thence to 41°36′55.5″ N, 070°54′06.6″ W; thence to 41°36′13.6″ N, 070°53′40.2″ W; thence to 41°36′11.1″ N, 070°54′07.6″ W; thence along the shoreline to the beginning point.

* * * * *

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 3. The authority citation for Part 165 continues to read as follows:

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

■ 4. Add § 165.125 to read as follows:

§ 165.125 Regulated Navigation Area; EPA Superfund Site, New Bedford Harbor, Massachusetts.

(a) *Location.* The regulated navigation area encompasses all waters bounded by a line beginning at 41°37′22.5″ N, 070°54′34.1″ W; thence to 41°37′14.4″ N, 070°54′19.6″ W; thence to 41°36′58.5″ N, 070°54′08.1″ W; thence to 41°36′45.0″ N, 070°54′26.9″ W; thence along the shoreline and south side of the hurricane barrier to the beginning point.

(b) *Regulations.* (1) All vessels and persons are prohibited from activities that would disturb the seabed within the regulated navigation area, including but not limited to anchoring, dragging, trawling, and spudding. Vessels may otherwise transit or navigate within this area without reservation.

(2) The prohibition described in paragraph (b)(1) of this section shall not apply to vessels or persons engaged in activities associated with remediation efforts in the New Bedford Harbor Superfund Site, provided that the Coast Guard Captain of the Port (COTP) Southeastern New England, is given advance notice of those activities by the U.S. Environmental Protection Agency (EPA).

(c) *Waivers.* The Captain of the Port (COTP) Southeastern New England may, in consultation with the U.S. EPA, authorize a waiver from this section if he or she determines that the proposed activity can be performed without undue risk to environmental remediation efforts. Requests for waivers should be submitted in writing to Commander, U.S. Coast Guard Sector Southeastern New England, 1 Little Harbor Road, Woods Hole, MA, 02543, with a copy to the U.S. Environmental Protection Agency, Region 1, New Bedford Harbor Remedial Project Manager, 5 Post Office Square, Suite 100 (OSRR07), Boston, MA 02109, to facilitate review by the EPA and U.S. Coast Guard.

Dated: June 6, 2011.

D.A. Neptun,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 2011–15164 Filed 6–17–11; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2005–0084; FRL–9320–6]

RIN 2060–AM37

Amendments to National Emission Standards for Hazardous Air Pollutants for Area Sources: Plating and Polishing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; amendments.

SUMMARY: On June 12, 2008, EPA issued national emission standards for control of hazardous air pollutants (HAP) for the plating and polishing area source category under section 112 of the Clean Air Act (CAA). In today's action, EPA is taking direct final action to amend the national emission standards for HAP (NESHAP) for the plating and polishing area source category. These final amendments clarify that the emission control requirements of the plating and polishing area source NESHAP do not apply to any bench-scale activities. Also, several technical corrections and clarifications that do not make significant changes in the rule's requirements have been made to the rule text. We are making these amendments by direct final rule, without prior proposal, because we view these revisions as noncontroversial and anticipate no adverse comments. Consistent with Executive Order 13563, ''Improving Regulation and Regulatory Review,'' issued on January 18, 2011, this amended rule will increase flexibility and freedom of choice for the public, and make the rule more clear and intelligible which, as a result, will reduce the burden.

DATES: This final rule is effective on September 19, 2011 without further notice, unless EPA receives significant adverse comment by July 20, 2011. If the effective date is delayed, timely notice will be published in the **Federal Register**. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that some or all of the amendments in this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2005–0084, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* Comments may be sent by electronic mail (e-mail) to *a-and-r-docket@epa.gov,* Attention Docket ID No. EPA–HQ–OAR–2005–0084.
- *Fax:* Fax your comments to: (202) 566–9744, Attention Docket ID No. EPA–HQ–OAR–2005–0084.
- *Mail:* Send your comments to: Air and Radiation Docket and Information Center, Environmental Protection Agency, *Mailcode:* 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–OAR–2005–0084. Please include a total of two copies.
- *Hand Delivery:* In person or by courier, deliver comments to: EPA Docket Center, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20004. Such deliveries are accepted only during the Docket's normal hours of operation and special arrangements should be made for deliveries of boxed information. Please include a total of two copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2005–0084. 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 *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *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 EPA Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Dr. Donna Lee Jones, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (D243–02), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, *telephone number:* (919) 541–5251; *fax number:* (919) 541–3207; *e-mail address: Jones.DonnaLee@epa.gov.*

SUPPLEMENTARY INFORMATION: The information presented in this preamble is organized as follows:

I. Why is EPA using a direct final rule?
II. Does this action apply to me?
III. Where can I get a copy of this document?
IV. What should I consider as I prepare my comments to EPA?
V. Why are we amending this rule?
VI. What are the changes to the area source NESHAP for plating and polishing operations?
A. Clarification of Applicability to Bench-Scale Operations
B. Other Technical Corrections and Clarifications
VII. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act

I. Why is EPA using a direct final rule?

EPA is publishing this final rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no significant adverse comment. These amendments to the national emission standards for hazardous air pollutants (NESHAP) for plating and polishing operations that are area sources (40 CFR part 63, subpart WWWWWW) consist of a clarification stating that the emission control requirements of the plating and polishing area source rule do not apply to bench-scale activities, and technical corrections and clarifications that do not make material changes to the rule's requirements. However, in the ''Proposed Rules'' section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to amend the area source standards if EPA receives significant adverse comments on this final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on the rule, see the **ADDRESSES** section of this document. If we receive significant adverse comments, we will withdraw only those provisions on which we received significant adverse comments. We will publish a timely withdrawal in the **Federal Register** indicating which provisions will become effective and which provisions are being withdrawn.

II. Does this action apply to me?

The regulated categories and entities potentially affected by the final rule include:

Category	NAICS code [1]	Examples of regulated entities
Industry	332813	Area source facilities engaged in any one or more types of nonchromium electroplating; electropolishing; electroforming; electroless plating, including thermal metal spraying, chromate conversion coating, and coloring; or mechanical polishing of metals and formed products for the trade. Regulated sources do not include chromium electroplating and chromium anodizing sources, as those sources are subject to 40 CFR part 63, subpart N, ''Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.''
Manufacturing	32, 33	Area source establishments engaged in one or more types of nonchromium electroplating; electropolishing; electroforming; electroless plating, including thermal metal spraying, chromate conversion coating, and coloring; or mechanical polishing of metals and formed products for the trade. Examples include: 33251, Hardware Manufacturing; 323111, Commercial Gravure Printing; 332116, Metal Stamping; 332722, Bolt, Nut, Screw, Rivet, and Washer Manufacturing; 332811, Metal Heat Treating; 332812, Metal Coating, Engraving (except Jewelry and Silverware), and Allied Services to Manufacturers; 332913, Plumbing Fixture Fitting and Trim Manufacturing; Other Metal Valve and Pipe Fitting Manufacturing; 332999, All Other Miscellaneous Fabricated Metal Product Manufacturing; 334412, Bare Printed Circuit Board Manufacturing; 336412, Aircraft Engine and Engine Parts Manufacturing; and 339911, Jewelry (except Costume) Manufacturing.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. To determine whether your facility will be regulated by this action, you should examine the applicability criteria in 40 CFR 63.11475 of subpart WWWWWW (NESHAP: Area Source Standards for Plating and Polishing Operations). If you have any questions regarding the applicability of this action to a particular entity, consult either the air permit authority for the entity or your EPA regional representative as listed in § 63.13 of the General Provisions to part 63 (40 CFR part 63, subpart A).

III. Where can I get a copy of this document?

In addition to being available in the docket, an electronic copy of this final action will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of this final action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: *http://www.epa.gov/ttn/oarpg/*. The TTN provides information and technology exchange in various areas of air pollution control.

IV. What should I consider as I prepare my comments to EPA?

Do not submit information containing CBI to EPA through *http://www.regulations.gov* or e-mail. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2005–0084. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

V. Why are we amending this rule?

On July 1, 2008 (73 FR 37741), we issued the NESHAP for Area Sources: Plating and Polishing (40 CFR part 63, subpart WWWWWW). The final rule establishes air emission control requirements for new and existing facilities that are area sources of hazardous air pollutants. The final standards establish emission standards in the form of management practices for new and existing tanks, thermal spraying equipment, and dry mechanical polishing equipment in certain plating and polishing processes. These final emission standards reflect EPA's determination regarding the generally achievable control technology (GACT) and/or management practices for the area source category.

In the time period since promulgation, it has come to our attention that certain aspects of the rule as promulgated have led to misinterpretations, inconsistencies, and confusion regarding the applicability of the rule. These amendments make several technical corrections and clarifications to the rule's text that should reduce misinterpretations. Therefore, we are amending and correcting parts of the rule to address these issues.

In addition to fulfilling the mandate in CAA section 112, these amendments are also responsive to Executive Order 13563, ''Improving Regulation and Regulatory Review,'' issued on January 18, 2011, which directs each Federal agency to ''periodically review its existing significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives.'' EPA's amended rule will increase flexibility and freedom of choice for the public, and make the rule more clear and intelligible which, as a result, will reduce the burden.

VI. What are the changes to the area source NESHAP for plating and polishing operations?

We are amending this rule to clarify and correct inconsistencies and inadequacies of the rule language that have come to our attention since promulgation. These items are discussed in this section. There is also a red-line version of the regulatory text in the docket that shows the effect of these changes on the promulgated rule.

A. Clarification of Applicability for Bench-Scale Operations

EPA is making these amendments to the NESHAP for plating and polishing operations that are area sources (40 CFR part 63, subpart WWWWWW) to clarify that the rule was not intended to apply to process units that are bench-scale operations.

Based on available inventory information, we believe that HAP emissions from bench-scale activities were not part of the 1990 baseline inventory that supported the area source listing decision for this category. The plating and polishing category includes job shop operations dedicated to plating and polishing operations, and original equipment manufacturers with large-scale plating and polishing processes. We believe that this definition is also consistent with the basis of the listing of the plating and polishing source category in the 1990 air toxics inventory. Therefore, this proposed amendment clarifies that the emission control requirements of the plating and polishing area source rule do not apply to bench-scale activities. Further, our experience is that the types of plating and polishing operations that are bench scale use small containers on the scale of 25 gallons or less, and any potential air emissions would be too low to measure. Bench-scale processes are defined in this final rule as: ''Any operation that is small enough to be performed on a bench, table, or similar structure so that the equipment is not directly contacting the floor.''

B. Other Technical Corrections and Clarifications

To clarify our intent in the rule and reduce misinterpretations that have come to our attention since the final rule was published in July 2008, we have made certain clarifications and technical corrections to the rule text.

We are clarifying that certain process units and operations are not part of the affected activity, based on our knowledge of the area source inventory on which the source category description was derived. These processes include activities such as plating, polishing, coating or thermal spraying conducted to repair surfaces or equipment. Similarly, other EPA area source rules also do not include repair and maintenance activities at manufacturing facilities as affected operations for air pollution control purposes, such as area source regulations for Nine Metal Fabrication and Finishing source categories (40 CFR part 63, subpart XXXXXX).

In addition, we are clarifying the descriptions of standards and management practices to better reflect the industry and manufacturer's equipment operations. For example, in the standards and compliance requirements, the addition of wetting agents/fume suppressants to tank baths has been clarified to reflect

manufacturers' specifications, including flexibility to the operator that may be provided in the specifications. We intended the requirements of the final rule to be consistent with practices conducted based on manufacturers' specifications. Definitions of operations and procedures were also corrected in order to clarify the scope of the rule, the affected processes, and make applicability and other definitions consistent within the rule. These are listed in the following paragraphs.

We are clarifying that certain operations were not part of the original urban air toxics inventory on which this source category was defined and, therefore, we are revising the regulatory text to clarify that these operations are not subject to the requirements of the rule, as described below.

We are clarifying that the affected operations do not include plating or polishing performed to repair equipment or for maintenance purposes. The final rule excluded repair operations performed with thermal spraying as a result of comments received after proposal. In the time period since the rule was promulgated, we learned that plating or coating was also done for repair purposes, usually with small paint brushes and not in tanks. Therefore, we have amended the rule to add ''any'' plating and polishing process as the types of repair processes which are not affected operations under the rule. This change is based on the original urban air toxics inventory on which the source category was defined.

We are clarifying that certain operations were intended to be part of the affected sources and, therefore, we are revising the regulatory text to clarify that these operations are subject to the requirements of the rule, as described below.

We are clarifying that thermal spraying is another process to which the requirements for dry mechanical polishing apply. The final rule stated that dry mechanical polishing was an affected process if performed after plating. Since thermal spraying is one of the plating and polishing processes used to plate metal onto surfaces, we intended to include dry mechanical polishing done after thermal spraying as an affected process, and are making that clarification in today's action.

We are also clarifying that language of the rule to reflect the fact that flame spraying, which is a different name for thermal spraying, is subject to the rule. We are also clarifying that thermal and flame spraying do not include spray painting at ambient temperatures. After promulgation of the final rule, we learned that flame spraying is another name for thermal spraying—both terms are used for an identical process. However, spray coating at room temperatures is another process entirely, with a different definition, and is already addressed under subpart HHHHHH of this part, which regulates spray painting and other similar spray coating processes performed without the use of heat or flame. Therefore, spray coating at room temperatures is not subject to the requirements of this rule.

In addition, we are making clarifications to the rule language to better describe certain rule requirements which have been misinterpreted since the time of promulgation. The following is a discussion of these items.

First, we are clarifying that although Material Safety Data Sheets (MSDS) may be used to determine the amount of plating and polishing metal HAP in materials used in the plating or polishing process, MSDS are not required to be used and are not the only method to determine HAP content. Other methods include laboratory analysis or engineering estimate of the HAP content of the bath, which are also reliable indicators of HAP content. The reference to MSDS in the final rule was only intended to provide an example of readily available resources to determine the HAP content of materials used in plating and polishing and was not meant to be the exclusive method to be used. Other methods of analysis are available, such as laboratory testing, which provide equal and often better information than the MSDS. Therefore, we are amending the rule to allow these other methods.

We are also clarifying that for plating or polishing tanks, the HAP content may be determined from the final bath contents ''as used'' to plate or to polish rather than the HAP content of the individual components, to better reflect the fact that HAP emissions are based on the concentration of HAP within the tank. The most important concentration of plating HAP as it relates to the potential for HAP to be emitted is the concentration of HAP within the tank. We received information after promulgation of the final rule demonstrating that measuring the concentration of pure ingredients in the pure form (''as added'') could misrepresent the HAP concentration within the tank for some platers. Therefore, in today's action we are amending the rule to also allow measurement of HAP content of the final solution within the tank to determine applicability to the rule. We are retaining the ''as added'' measurement point since this point provides a conservative value because the materials added will only be more dilute once they are placed in the tank, and because it may be easier to perform the measurement ''as added'' for some plating operations. Facilities may still use the HAP concentrations specified in the individual MSDS for each ingredient used in the tank to establish the total HAP content of the tank for the purposes of this rule.

We are clarifying that when facilities add wetting agent/fume suppressant to replenish the plating baths, they can add these ingredients in amounts such that the bath contents are returned to that of the original make-up of the bath and do not have to add the full amounts originally added on startup. Adding more wetting agent/fume suppressant than needed to return the bath contents to their original make-up will not necessarily reduce HAP emissions. This revision ensures that the concentration of the wetting agent/fume suppressant does not change. The wetting agent/fume suppressant concentration in the tank is one of the key features for proper plating as well as for emission control. However, adding more wetting agent/fume suppressant beyond the amount recommended by the manufacturer is not necessarily better for pollution control and in many cases could be detrimental to the plating process itself. Therefore, we are permitting the addition of smaller amounts of wetting agent than that original amount as long as the amount added brings the tank back to its original concentration of wetting agent/fume suppressant. We intended in the final rule that platers maintain the concentration of wetting agent/fume suppressant as recommended by the manufacturer and this change today enables platers to add only the amount that is needed to maintain the correct concentration.

We are also clarifying the definition of startup of an affected plating or polishing bath to explain that startup of the bath does not include events where only the tank's heating or agitation and other mechanical operations are turned back on after being turned off for a period of time. The chemical make-up of the original tank bath is the key point in time at which startup of the tanks occurs, rather than the existence of electricity supplied to the tanks for heating, agitation, or other physical conditions. Therefore, we are revising the definition of the startup of tanks to specify that this time is when the tank baths are originally created. If startup begins at the time electricity is delivered to the tank, this could lead to facilities refraining from turning off the power when the tanks are not in use to avoid startup requirements when the plating is

resumed. This practice could lead to wasting of energy and possibly increases in air pollution as tanks remain heated or agitated for hours longer than needed. Therefore, by defining tank startup as the time of the original bath make-up, we are encouraging facilities to shut down the electricity to their tanks when not in use and eliminating unnecessary startup procedures to comply with the rule.

We are also adding ''cartridge'' filters as a type of filter that can fulfill the control requirement in all instances where the general category of ''filters'' are specified. Cartridge filters are a specific type of filter used in air pollution control that give the same performance as fabric filters in terms of particle control in, for example, dry mechanical polishing or thermal spraying. Cartridge filters are more compact than fabric filters and more useful in industrial machinery settings where space is limited. Therefore, we have added cartridge filters as a type of filter permitted as a control device under the rule.

We are also clarifying that the rule requirement to maintain and record the minimum amount of time that tank covers must be used is only applicable when covers are the sole method of complying with the GACT operating standards, and these requirements for recordkeeping do not apply when another method is used to comply with the GACT operating standards, or when covers are used as a management practice. The use of covers is a method of complying with the GACT operating standards for electroplating processes as well for complying with the management practices for both electrolytic and electroless plating, and polishing operations. When covers are used as a management practice, there are no specific requirements under the rule for the amount of time or the amount of surface area coverage as there is for the GACT operating standards. Covers used for complying with the GACT operating standard are more critical to emission control and therefore need to have stricter time requirements, such as 95 percent of the plating time or, in the case of continuous plating, cover 75 percent of the surface area. Covers used as a management practice are used on processes where either control of emissions is not critical to pollution control due to low emissions, or where other methods of control are being used to meet the GACT requirements, such as wetting agents/fume suppressant. In many cases, covers are used as a management practice where the process does not allow the covers to be used for as much time or over as much surface area as the operating standards in the rule. Factors that can interfere in the use of covers for as long as needed to meet the GACT operating standard are, for example, processes where workers have to remove and load parts frequently. In this situation, another method of achieving the operating standard is used, such as wetting agents/fume suppressant. The use of covers for any part of the plating time, regardless of other controls or practices employed, is a management strategy for pollution prevention and should be encouraged.

Therefore, we are clarifying that when covers are used as a management practice, facilities are not required to document the time the covers are in place in the same way as covers used for meeting the GACT operating standard. We are amending the rule today to make this point clear and to encourage pollution prevention achieved by the use of covers, in general.

We are also clarifying that limiting and recording the time of plating to fulfill the flash or short-term requirements in the rule is only applicable when facilities comply with the GACT standard of this subpart solely by limiting the plating time of the affected tank, and do not apply to plating done for short periods of time in general, where other methods are used to comply with the GACT standards. Tanks that perform plating for short periods of time, in general, are not required to use the GACT regulatory option of limiting and recording plating time to comply with the rule if another method of compliance is used.

Similar to the discussion above on the use of covers, if facilities with short-term plating use another method to comply with the rule, we encourage them to still keep their plating times short and, hence, minimize potential pollution. Therefore, we are clarifying that documentation is not required for the practice of short-term plating, in general, when another method of compliance with the rule is used.

We are clarifying that if a new affected source is started after July 1, 2008, an Initial Notification must be submitted upon startup. The final rule erroneously required the Initial Notification for new sources to be submitted after 120 days of startup of the process (§ 63.11509(a)(3) ''What are my notification, reporting, and recordkeeping requirements?'') as a result of a typographical error. Since we generally require initial notification for new sources upon startup, we have corrected the submittal date of the initial notification.

We are clarifying that if a facility makes a change to the methods of compliance with the standard, an amended Notification of Compliance Status should be submitted within 30 days of the change. Note that this does not apply to any changes in the listed management practices. This requirement is intended to ensure that EPA is aware of changes in the process or controls that may affect HAP emissions and compliance with the rule. This notification can be in the form of the annual report already required under the rule. This additional step includes the small task of mailing beyond the already required preparation of the annual report, and should not occur for many facilities in the industry and also not frequently. Therefore we estimate that the burden of this additional requirement is negligible. Electronic notifications may be allowable by the air permit authorities or EPA regional representative in some states or regions.

We are also clarifying that the management practices apply to all affected plating and polishing operations, as practicable, not just affected plating tanks. In the final rule, the management practices were intended to apply to all plating and polishing operations under this subpart and this amendment corrects that applicability. The word ''plating'' as used in the promulgated rule was intended to be a short phrase to represent all plating and polishing operations. Although most of the management practices do apply to tanks, there are others that apply to all plating and polishing sources, such as: ''general good housekeeping,'' such as regular sweeping or vacuuming, if needed; ''periodic washdowns,'' as practicable; and ''regular inspections'' to identify leaks and other opportunities for pollution prevention. Therefore, we are clarifying that management practices apply to all plating and polishing operations.

We have also made corrections that were primarily typographical in nature, and added definitions for terms used in the rule that were not defined or needed to be clarified to clarify our original intent in the rule. The revised or added definitions to the rule are as follows (in alphabetical order): ''bath,'' ''bench-scale plating or polishing,'' ''conversion coatings,'' ''dry mechanical polishing,'' ''electropolishing,'' ''fabric filter,'' ''flash electroplating,'' ''maintenance,'' ''major facility,'' ''metal coating operation,'' ''metal HAP content,'' ''non-electrolytic plating,'' ''plating and polishing facility,'' ''plating and polishing metal HAP,'' ''plating and polishing process

tanks,'' ''repair,'' ''startup of the tank bath,'' and ''thermal spraying.''

Finally, we are updating Table 1 of the rule entitled ''Applicability of General Provisions to Plating and Polishing Area Sources,'' to reflect changes in the General Provisions that have occurred since the rule was originally promulgated. Specifically, the previous provisions relating to startup, shutdown, and malfunctions have been removed, in light of the DC Circuit's decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (DC Cir. 2008). The emissions standards for plating and polishing area sources are expressed as management practices, and these management practice requirements can be met at all times. Therefore, exempting sources from meeting these standards during periods of startup, shutdown, and malfunction is not appropriate.

VII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the Executive Order.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. These final amendments clarify that the emission control requirements of the plating and polishing area source rule do not apply to bench-scale activities. Also, several technical corrections and clarifications that do not make material changes in the rule's requirements have been made to the rule text. No new burden is associated with these requirements because the burden was included in the approved information request (ICR) for the existing rule. The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations (40 CFR part 63 subpart WWWWWW) under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* and has been assigned OMB control number 2060–0623. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

For the purposes of assessing the impacts of this final rule on small entities, small entity is defined as: (1) a small business that meets the Small Business Administration size standards for small businesses at 13 CFR 121.201 (whose parent company has fewer than 500 employees for NAICS code 332813); (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. We have determined that the small entities in this area source category will not incur any adverse impacts because this action makes only technical corrections and clarifications that increase flexibility and does not create any new requirements or burdens. No costs are associated with these amendments to the NESHAP.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or Tribal governments or the private sector. The action imposes no enforceable duty on any State, local or Tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. The technical corrections and clarifications made through this action contain no requirements that apply to such governments, impose no obligations upon them, and will not result in any expenditures by them or any disproportionate impacts on them.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The final rule makes certain technical corrections and clarifications to the NESHAP for plating and polishing area sources. These final corrections and clarifications do not impose requirements on State and local governments. Thus, Executive Order 13132 does not apply to the final rule.

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

This final action does not have Tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 6, 2000). This final rule makes certain technical corrections and clarifications to the NESHAP for plating and polishing area sources. These final corrections and clarifications do not impose requirements on Tribal governments. They also have no direct effects on Tribal governments, 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. Thus, Executive Order 13175 does not apply to this action.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it makes technical corrections and clarifications to the area source NESHAP for plating and polishing area sources which is based solely on technology performance.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104–113, section 12(d), 15 U.S.C. 272 note) directs EPA to use voluntary consensus

standards (VCS) in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. The VCS are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through the Office of Management and Budget, explanations when the Agency does not use available and applicable VCS.

This final rule does not involve technical standards. Therefore, EPA did not consider the use of any VCS.

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

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

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The technical corrections and clarifications in this final rule do not change the level of control required by the NESHAP.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. EPA will submit a report containing these final rule amendments 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 final rule amendments in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This final rule will be effective on September 19, 2011.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 14, 2011.

Lisa P. Jackson,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

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

■ 2. Section 63.11504 is amended as follows:
■ a. By revising paragraph (a)(1)(iv); and
■ b. By revising paragraph (a)(2) to read as follows:

§ 63.11504 Am I subject to this subpart?

(a) * * *

(1) * * *

(iv) Dry mechanical polishing of finished metals and formed products after plating or thermal spraying.

* * * * *

(2) A plating or polishing facility is an area source of HAP emissions, where an area source is any stationary source or group of stationary sources within a contiguous area under common control that does not have the potential to emit any single HAP at a rate of 9.07 megagrams per year (Mg/yr) (10 tons per year (tpy)) or more and any combination of HAP at a rate of 22.68 Mg/yr (25 tpy) or more.

■ 3. Section 63.11505 is amended as follows:
■ a. By revising paragraph (d)(4);
■ b. By revising paragraph (d)(5); and
■ c. By revising paragraph (d)(6) to read as follows:

§ 63.11505 What parts of my plant does this subpart cover?

* * * * *

(d) * * *

(4) Plating, polishing, coating, or thermal spraying conducted to repair surfaces or equipment.

(5) Dry mechanical polishing conducted to restore the original finish to a surface.

(6) Any plating or polishing process that uses process materials that contain cadmium, chromium, lead, or nickel (as the metal) in amounts less than 0.1 percent by weight, or that contain manganese in amounts less than 1.0 percent by weight (as the metal), as used. Information used to determine the amount of plating and polishing metal HAP in materials used in the plating or polishing process may include information reported on the Material Safety Data Sheet for the material, but is not required. For plating or polishing tanks, the HAP content may be determined from the final bath contents ''as used'' to plate or to polish.

■ 4. Section 63.11507 is amended as follows:
■ a. By revising paragraph (a)(1);
■ b. By revising paragraph (a)(1)(ii);
■ c. By revising paragraph (d)(1);
■ d. By revising paragraph (e);
■ e. By revising paragraph (f)(1); and
■ f. By revising paragraph (f)(2) to read as follows:

§ 63.11507 What are my standards and management practices?

(a) * * *

(1) You must use a wetting agent/fume suppressant in the bath of the affected tank, as defined in § 63.11511, ''What definitions apply to this subpart?'' and according to paragraphs (a)(1)(i) through (iii) of this section.

* * * * *

(ii) You must add wetting agent/fume suppressant in proportion to the other bath chemistry ingredients that are added to replenish the bath, as in the original make-up of the bath, or in proportions such that the bath contents are returned to that of the original make-up of the bath.

(d) * * *

(1) You must measure and record the pH of the bath upon startup of the bath, as defined in § 63.11511, ''What definitions apply to this subpart?'' No additional pH measurements are required.

* * * * *

(e) If you own or operate an affected new or existing dry mechanical polishing machine that emits one or more of the plating and polishing metal HAP, you must operate a capture system that captures particulate matter (PM) emissions from the dry mechanical polishing process and transports the emissions to a cartridge, fabric, or high efficiency particulate air (HEPA) filter, according to paragraphs (e)(1) and (2) of this section.

* * * * *

(f) * * *

(1) For existing permanent thermal spraying operations, you must operate a capture system that collects PM emissions from the thermal spraying process and transports the emissions to

a water curtain, fabric filter, cartridge, or HEPA filter, according to paragraphs (f)(1)(i) and (ii) of this section.

* * * * *

(2) For new permanent thermal spraying operations, you must operate a capture system that collects PM emissions from the thermal spraying process and transports the emissions to a fabric, cartridge, or HEPA filter, according to paragraphs (f)(2)(i) and (ii) of this section.

■ 5. Section 63.11508 is amended as follows:

■ a. By revising paragraph (c)(3);
■ b. By revising paragraph (c)(4);
■ c. By revising paragraph (c)(5);
■ d. By revising paragraph (c)(6);
■ e. By revising paragraph (c)(7)(i);
■ f. By revising paragraph (c)(9)(i);
■ g. By revising paragraph (c)(10)(i);
■ h. By revising paragraph (d)(3)(ii);
■ i. By revising paragraph (d)(3)(ii)(A);
■ j. By revising paragraph (d)(5);
■ k. By revising paragraph (d)(6); and
■ l. By revising paragraph (d)(7) to read as follows:

§ 63.11508 What are my compliance requirements?

* * * * *

(c) * * *

(3) If you own or operate an affected batch electrolytic process tank, as defined in § 63.11511, ''What definitions apply to this subpart?'' that contains one or more of the plating and polishing metal HAP and which is subject to the requirements in § 63.11507(a), ''What are my standards and management practices?'' and you use a tank cover, as defined in § 63.11511, to comply with § 11507(a), (b) or (c) of this subpart, you must demonstrate initial compliance according to paragraphs (c)(3)(i) through (iv) of this section.

* * * * *

(4) If you own or operate an affected continuous electrolytic process tank, as defined in § 63.11511, ''What definitions apply to this subpart?'' that contains one or more of the plating and polishing metal HAP and is subject to the requirements in § 63.11507(a), ''What are my standards and management practices?'' and you cover the tank surface to comply with § 11507(a), (b) or (c) of this subpart, you must demonstrate initial compliance according to paragraphs (c)(4)(i) through (iv) of this section.

* * * * *

(5) If you own or operate an affected flash or short-term electroplating tank that contains one or more of the plating and polishing metal HAP and is subject to the requirements in § 63.11507(b), ''What are my standards and management practices?'' and you comply with § 11507(a), (b) or (c) of this subpart by limiting the plating time of the affected tank, you must demonstrate initial compliance according to paragraphs (c)(5)(i) through (iii) of this section.

* * * * *

(6) If you own or operate an affected flash or short-term electroplating tank that contains one or more of the plating and polishing metal HAP and is subject to the requirements in § 63.11507(b), ''What are my standards and management practices?'' and you comply with § 11507(a), (b) or (c) of this subpart by operating the affected tank with a cover, you must demonstrate initial compliance according to paragraphs (c)(6)(i) through (iv) of this section.

* * * * *

(7) * * *

(i) You must report in your Notification of Compliance Status the pH of the bath solution that was measured at startup, as defined in § 63.11511, according to the requirements of § 63.11507(d)(1).

* * * * *

(9) * * *

(i) You must install a control system that is designed to capture PM emissions from the thermal spraying operation and exhaust them to a water curtain, or a cartridge, fabric, or HEPA filter.

* * * * *

(10) * * *

(i) You must install and operate a control system that is designed to capture PM emissions from the thermal spraying operation and exhaust them to a cartridge, fabric, or HEPA filter.

* * * * *

(d) * * *

(3) * * *

(ii) For tanks where the wetting agent/fume suppressant is a separate ingredient from the other tank additives, you must demonstrate continuous compliance according to paragraphs (d)(3)(ii) (A) and (B) this section.

(A) You must add wetting agent/fume suppressant in proportion to the other bath chemistry ingredients that are added to replenish the tank bath, as in the original make-up of the tank; or in proportion such that the bath is brought back to the original make-up of the tank.

* * * * *

(5) If you own or operate an affected flash or short-term electroplating tank that contains one or more of the plating and polishing metal HAP and is subject to the requirements in § 63.11507(b), ''What are my standards and management practices?'' and you comply with § 11507(a), (b) or (c) of this subpart by limiting the plating time for the affected tank, you must demonstrate continuous compliance according to paragraphs (d)(5)(i) through (iii) of this section.

* * * * *

(6) If you own or operate an affected batch electrolytic process tank that contains one or more of the plating and polishing metal HAP and is subject to the requirements of § 63.11507(a), ''What are my standards and management practices?'' or a flash or short-term electroplating tank that contains one or more of the plating and polishing metal HAP and is subject to the requirements in § 63.11507(b), and you comply with § 11507(a), (b) or (c) of this section by operating the affected tank with a cover, you must demonstrate continuous compliance according to paragraphs (d)(6)(i) through (iii) of this section.

* * * * *

(7) If you own or operate an affected continuous electrolytic process tank that contains one or more of the plating and polishing metal HAP and is subject to the requirements in § 63.11507(a), ''What are my standards and management practices?'' and you comply with § 11507(a), (b) or (c) of this subpart by operating the affected tank with a cover, you must demonstrate continuous compliance according to paragraphs (d)(7)(i) and (ii) of this section.

■ 6. Section 63.11509 is amended as follows:

■ a. By revising paragraph (a)(4);
■ b. By revising paragraph (b);
■ c. By adding new paragraph (b)(3);
■ d. By revising paragraph (c)(3);
■ e. By revising paragraph (c)(4);
■ f. By revising paragraph (c)(5); and
■ g. By revising paragraph (c)(6);

§ 63.11509 What are my notification, reporting, and recordkeeping requirements?

(a) * * *

(4) If you startup your new affected source after July 1, 2008, you must submit an Initial Notification when you become subject to this subpart.

(b) If you own or operate an affected source, you must submit a Notification of Compliance Status in accordance with paragraphs (b)(1) through (3) of this section.

* * * * *

(3) If a facility makes a change to any items in (b)(2)(i), iii, and (iv) of this section that does not result in a deviation, an amended Notification of

Compliance Status should be submitted within 30 days of the change.

(c) * * *

(3) If you own or operate an affected flash or short-term electroplating tank that is subject to the requirements in § 63.11507(b), ''What are my standards and management practices?'' and you comply with § 11507(a), (b) or (c) of this subpart by limiting the plating time of the affected tank, you must state in your annual compliance certification that you have limited short-term or flash electroplating to no more than 1 cumulative hour per day or 3 cumulative minutes per hour of plating time.

(4) If you own or operate an affected batch electrolytic process tank that is subject to the requirements of § 63.11507(a) or a flash or short-term electroplating tank that is subject to the requirements in § 63.11507(b), ''What are my standards and management practices?'' and you comply with § 11507(a), (b) or (c) of this subpart by operating the affected tank with a cover, you must state in your annual certification that you have operated the tank with the cover in place at least 95 percent of the electrolytic process time.

(5) If you own or operate an affected continuous electrolytic process tank that is subject to the requirements of § 63.11507(a), ''What are my standards and management practices?'' and you comply with § 11507(a), (b) or (c) of this subpart by operating the affected tank with a cover, you must state in your annual certification that you have covered at least 75 percent of the surface area of the tank during all periods of electrolytic process operation.

(6) If you own or operate an affected tank or other affected plating and polishing operation that is subject to the management practices specified in § 63.11507(g), ''What are my standards and management practices?'' you must state in your annual compliance certification that you have implemented the applicable management practices, as practicable.

■ 7. Section 63.11511 is amended by:

■ a. Adding, in alphabetical order, new definitions of ''bench-scale plating or polishing,'' ''conversion coatings,'' ''major facility,'' ''maintenance,'' ''metal HAP content,'' ''repair,'' and ''startup of the tank bath''; and

■ b. Revising the definitions of ''bath,'' ''dry mechanical polishing,'' ''electropolishing,'' ''fabric filter,'' ''flash electroplating,'' ''metal coating operation,'' ''non-electrolytic plating,'' ''plating and polishing facility,'' ''plating and polishing metal HAP,'' ''plating and polishing process tanks,'' and ''thermal spraying.''

§ 63.11511 What definitions apply to this subpart?

* * * * *

Bath means the liquid contents of a tank, as defined in this section, which is used for electroplating, electroforming, electropolishing, or other metal coating processes at a plating and polishing facility.

Bench-scale means any operation that is small enough to be performed on a bench, table, or similar structure so that the equipment is not directly contacting the floor.

* * * * *

Conversion coatings are coatings that form a hard metal finish on an object when the object is submerged in a tank bath or solution that contains the conversion coatings. Conversion coatings for the purposes of this rule include coatings composed of chromium, as well as the other plating and polishing metal HAP, where no electrical current is used.

* * * * *

Dry mechanical polishing means a process used for removing defects from and smoothing the surface of finished metals and formed products after plating or thermal spraying with any of the plating and polishing metal HAP, as defined in this section, using automatic or manually-operated machines that have hard-faced abrasive wheels or belts and where no liquids or fluids are used to trap the removed metal particles. The affected process does not include polishing with use of pastes, liquids, lubricants, or any other added materials.

* * * * *

Electropolishing means an electrolytic process performed in a tank after plating that uses or emits any of the plating and polishing metal HAP, as defined in this section, in which a work piece is attached to an anode immersed in a bath, and the metal substrate is dissolved electrolytically, thereby removing the surface contaminant; electropolishing is also called electrolytic polishing. For the purposes of this subpart, electropolishing does not include bench-scale operations.

Fabric filter means a type of control device used for collecting PM by filtering a process exhaust stream through a filter or filter media. A fabric filter is also known as a baghouse.

Filters, for the purposes of this rule, include cartridge, fabric, or HEPA filters, as defined in this section.

Flash electroplating means an electrolytic process performed in a tank that uses or emits any of the plating and polishing metal HAP, as defined in this section, and that is used no more than 3 cumulative minutes per hour or no more than 1 cumulative hour per day.

* * * * *

A major facility for HAP is any facility that emits greater than 10 tpy of any HAP, or that emits a combined total of all HAP of over 25 tpy, where the HAP used to determine the total facility emissions are not restricted to only plating and polishing metal HAP nor from only plating and polishing operations.

* * * * *

Maintenance is any process at a plating and polishing facility that is performed to keep the process equipment or the facility operating properly and is not performed on items to be sold as products.

* * * * *

Metal coating operation means any process performed either in a tank that contains liquids or as part of a thermal spraying operation, that applies one or more plating and polishing metal HAP, as defined in this section, to the surface of parts and products used in manufacturing. These processes include but are not limited to: non-chromium electroplating; electroforming; electropolishing; non-electrolytic metal coating processes, such as chromate conversion coating, electroless nickel plating, nickel acetate sealing, sodium dichromate sealing, and manganese phosphate coating; and thermal or flame spraying.

Metal HAP content of material used in plating and polishing is the HAP content as determined from an analysis or engineering estimate of the HAP contents of the tank bath or solution, in the case of plating, metal coating, or electropolishing; or the HAP content of the metal coating being applied in the case of thermal spraying. Safety data sheet (SDS) information may be used in lieu of testing or engineering estimates but is not required to be used.

* * * * *

Non-electrolytic plating means a process that uses or emits any of the plating and polishing metal HAP, as defined in this section, in which metallic ions in a plating bath or solution are reduced to form a metal coating at the surface of a catalytic substrate without the use of external electrical energy. Non-electrolytic plating is also called electroless plating. Examples include chromate conversion coating, nickel acetate sealing, electroless nickel plating, sodium dichromate sealing, and manganese phosphate coating.

* * * * *

Plating and polishing facility means a facility engaged in one or more of the

following processes that uses or emits any of the plating and polishing metal HAP, as defined in this section: electroplating processes other than chromium electroplating (*i.e.,* non-chromium electroplating); electroless plating; other non-electrolytic metal coating processes performed in a tank, such as chromate conversion coating, nickel acetate sealing, sodium dichromate sealing, and manganese phosphate coating; thermal spraying; and the dry mechanical polishing of finished metals and formed products after plating or thermal spraying. Plating is performed in a tank or thermally sprayed so that a metal coating is irreversibly applied to an object. Plating and polishing does not include any bench-scale processes.

Plating and polishing metal HAP means any compound of any of the following metals: Cadmium, chromium, lead, manganese, and nickel, or any of these metals in the elemental form, with the exception of lead. Any material that does not contain cadmium, chromium, lead, or nickel in amounts greater than or equal to 0.1 percent by weight (as the metal), and does not contain manganese in amounts greater than or equal to 1.0 percent by weight (as the metal), as reported on the Material Safety Data Sheet for the material, is not considered to be a plating and polishing metal HAP.

Plating and polishing process tanks means any tank in which a process is performed at an affected plating and polishing facility that uses or has the potential to emit any of the plating and polishing metal HAP, as defined in this section. The processes performed in plating and polishing tanks include the following: Electroplating processes other than chromium electroplating (*i.e.,* non-chromium electroplating) performed in a tank; electroless plating; and non-electrolytic metal coating processes, such as chromate conversion coating, nickel acetate sealing, sodium dichromate sealing, and manganese phosphate coating; and electropolishing. This term does not include tanks containing solutions that are used to clean, rinse or wash parts prior to placing the parts in a plating and polishing process tank, or subsequent to removing the parts from a plating and polishing process tank. This term also does not include any bench-scale operations.

* * * * *

Repair means any process used to return a finished object or tool back to its original function or shape.

* * * * *

Startup of the tank bath is when the components or relative proportions of the various components in the bath have been altered from the most recent operating period. Startup of the bath does not include events where only the tank's heating or agitation and other mechanical operations are turned back on after being turned off for a period of time.

* * * * *

Thermal spraying (also referred to as metal spraying or flame spraying) is a process that uses or emits any of the plating and polishing metal HAP, as defined in this section, in which a metallic coating is applied by projecting heated, molten, or semi-molten metal particles onto a substrate. Commonly-used thermal spraying methods include high velocity oxy-fuel (HVOF) spraying, flame spraying, electric arc spraying, plasma arc spraying, and detonation gun spraying. This operation does not include spray painting at ambient temperatures.

■ 8. Table 1 to Subart WWWWWW of Part 63 is revised to read as follows:

TABLE 1 TO SUBPART WWWWWW OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO PLATING AND POLISHING AREA SOURCES

Citation	Subject
63.1 [1]	Applicability.
63.2	Definitions.
63.3	Units and abbreviations.
63.4	Prohibited activities.
63.6(a), (b)(1)–(b)(5), (c)(1), (c)(2), (c)(5), and (j)	Compliance with standards and maintenance requirements.
63.10(a), (b)(1), (b)(2)(i)–(iii), (xiv), (b)(3), (d)(1), (f)	Recordkeeping and reporting.
63.12	State authority and delegations.
63.13	Addresses of State air pollution control agencies and EPA regional offices.
63.14	Incorporation by reference.
63.15	Availability of information and confidentiality.

[FR Doc. 2011–15274 Filed 6–17–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–B–1199]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the Base (1% annual-chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

DATES: These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Maps (FIRMs) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Federal Insurance and Mitigation Administrator reconsider the changes. The modified BFEs may be changed during the 90-day period.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472,

(202) 646–4064, or (e-mail) *luis.rodriguez1@dhs.gov.*

SUPPLEMENTARY INFORMATION: The modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The changes in BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This interim rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This interim rule involves no policies that have federalism implications under Executive Order 13132, Federalism.

Executive Order 12988, Civil Justice Reform. This interim rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

■ 1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

■ 2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama:					
Jefferson	Unincorporated areas of Jefferson County (10–04–7732P).	April 6, 2011; April 13, 2011; *The Alabama Messenger.*	The Honorable David Carrington, President, Jefferson County Commission, 716 Richard Arrington Jr. Boulevard North, Birmingham, AL 35203.	August 11, 2011	010217
Tuscaloosa	City of Tuscaloosa (10–04–6941P).	April 4, 2011; April 11, 2011; *The Tuscaloosa News.*	The Honorable Walter Maddox, Mayor, City of Tuscaloosa, 2201 University Boulevard, Tuscaloosa, AL 35401.	April 29, 2011	010203
Arizona:					
Maricopa	City of Tolleson (10–09–3593P).	April 26, 2011; May 3, 2011; *The West Valley Business.*	The Honorable Adolfo F. Gámez, Mayor, City of Tolleson, 9555 West Van Buren Street, Tolleson, AZ 85353.	April 18, 2011	040055
Mohave	City of Lake Havasu City (10–09–2386P).	April 7, 2011; April 14, 2011; *The Today's News-Herald.*	The Honorable Mark S. Nexsen, Mayor, City of Lake Havasu City, 2330 McCulloch Boulevard, Lake Havasu City, AZ 86403.	March 28, 2011	040116
Yavapai	Unincoporated areas of Yavapai County (11–09–0165P).	April 7, 2011; April 14, 2011; *The Daily Courier.*	The Honorable Carol Springer, Chair, Yavapai County Board of Supervisors, 1015 Fair Street, Prescott, AZ 86305.	August 12, 2011	040093
Colorado:					
Arapahoe	City of Aurora (10–08–0937P).	March 17, 2011; March 24, 2011; *The Aurora Sentinel.*	The Honorable Ed Tauer, Mayor, City of Aurora, 15151 East Alameda Parkway, Aurora, CO 80012.	March 10, 2011	080002
Mesa	Unincorporated areas of Mesa County (11–08–0384P).	May 3, 2011; May 10, 2011; *The Daily Sentinel.*	The Honorable Janet Rowland, Chair, Mesa County Board of Commissioners, P.O. Box 20000, Grand Junction, CO 81502.	April 26, 2011	080115
Routt	City of Steamboat Springs (11–08–0283P).	May 1, 2011; May 8, 2011; *The Steamboat Pilot & Today.*	Mr. Jon B. Roberts, City of Steamboat Springs Manager, P.O. Box 775088, Steamboat Springs, CO 80477.	September 6, 2011	080159
Florida:					
Monroe	Unincorporated areas of Monroe County (11–04–2239P).	April 6, 2011; April 13, 2011; *The Key West Citizen.*	The Honorable Heather Carruthers, Mayor, Monroe County, 530 Whitehead Street, Key West, FL 33040.	August 11, 2011	125129
Volusia	Unincorporated areas of Volusia County (10–04–4834P).	April 7, 2011; April 14, 2011; *The Beacon.*	Mr. James Dinneen, Volusia County Manager, 123 West Indiana Avenue, DeLand, FL 32720.	August 12, 2011	125155
Georgia:					

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Bryan	Unincorporated areas of Bryan County (10–04–4427P).	April 6, 2011; April 13, 2011; *The Bryan County News*.	The Honorable Jimmy Burnsed, Chairman, Bryan County Board of Commissioners, 51 North Courthouse Street, Pembroke, GA 31321.	August 11, 2011	130016
Forsyth	Unincorporated areas of Forsyth County (11–04–1171P).	March 23, 2011; March 30, 2011; *The Forsyth County News*.	The Honorable Brian R. Tam, Chairman, Forsyth County Board of Commissioners, 110 East Main Street, Suite 210, Cumming, GA 30040.	July 28, 2011	130312
Montana:					
Yellowstone	Unincorporated areas of Yellowstone County (10–08–0854P).	March 31, 2011; April 7, 2011; *The Billings Gazette*.	The Honorable Bill Kennedy, Chairman, Yellowstone County Board of Commissioners, P.O. Box 35000, Billings, MT 59107.	August 5, 2011	300142
Nevada:					
Douglas	Unincorporated areas of Douglas County (10–09–3566P).	April 6, 2011; April 13, 2011; *The Record-Courier*.	The Honorable Michael A. Olson Chairman, Douglas County Board of Commissioners, 3605 Silverado Drive, Carson City, NV 89705.	August 11, 2011	320008
North Carolina:					
Caldwell	Unincorporated areas of Caldwell County (10–04–7739P).	January 20, 2011; January 27, 2011; *The Lenoir News-Topic*.	Mr. Stan Kiser, Caldwell County Manager, P.O. Box 2200, 905 West Avenue Northwest, Lenoir, NC 28645.	May 27, 2011	370039
Columbus	Unincorporated areas of Columbus County (10–04–6815P).	April 7, 2011; April 14, 2011; *The News Reporter*.	Mr. Giles E. Byrd, Chairman, Columbus County Board of Commissioners, 112 West Smith Street, Whiteville, NC 28472.	August 12, 2011	370305
Durham	City of Durham (10–04–4374P).	March 30, 2011; April 6, 2011; *The Herald-Sun*.	The Honorable William V. Bell, Mayor, City of Durham, 101 City Hall Plaza, Durham, NC 27701.	August 4, 2011	370086

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 10, 2011.

Sandra K. Knight,

Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2011–15308 Filed 6–17–11; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 110531311–1310–02]

RIN 0648–XA407

Listing Endangered and Threatened Species: Threatened Status for the Oregon Coast Coho Salmon Evolutionarily Significant Unit

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

ACTION: Final rule.

SUMMARY: We, the National Marine Fisheries Service (NMFS), issue a final determination to retain the threatened listing for the Oregon Coast (OC) Evolutionarily Significant Unit (ESU) of coho salmon (*Oncorhynchus kisutch*) under the Endangered Species Act (ESA). This listing determination will supersede our February 11, 2008, listing determination for this ESU. Our February 11, 2008, determinations establishing protective regulations under ESA section 4(d) and designating critical habitat for this ESU remain in effect.

DATES: Effective June 20, 2011.

ADDRESSES: NMFS, Protected Resources Division, 1201 NE., Lloyd Blvd., Suite 1100, Portland, OR 97232.

FOR FURTHER INFORMATION CONTACT: Eric Murray at the address above or at (503) 231–2378, or Marta Nammack, NMFS, Office of Protected Resources, (301) 713–1401. The final rule, references and other materials relating to this determination can be found on our Web site at *http://www.nwr.noaa.gov* or by contacting us at the address above.

SUPPLEMENTARY INFORMATION: We first proposed to list the OC coho salmon ESU as threatened under the ESA in 1995 (60 FR 38011; July 25, 1995). Since then, we have completed several status reviews for this species, and its listing classification has changed between threatened and not warranted for listing a number of times. The ESA listing status of the OC coho salmon ESU has been controversial and has attracted litigation in the past. A complete history of this ESU's listing status can be found in our May 26, 2010, proposal to retain the threatened listing for this ESU (75 FR 29489). As part of a legal settlement agreement in 2008, we committed to complete a new status review for this ESU.

The steps we follow when evaluating whether a species should be listed under the ESA are to: (1) Delineate the species under consideration; (2) review the status of the species; (3) consider the ESA section 4(a)(1) factors to identify threats facing the species; (4) assess whether certain protective efforts mitigate these threats; and (5) evaluate and assess the likelihood of the species' future persistence. We provide more detailed information and findings regarding each of these steps later in this final rule.

To aid us in the status review, we convened a team of Federal scientists, known as a biological review team (BRT). The BRT for this OC coho salmon ESU status review was composed of scientists from our Northwest and Southwest Fisheries Science Centers and the USDA Forest Service. As part of its evaluation, the BRT considered ESU boundaries, membership of fish from hatchery programs within the ESU, the risk of extinction of the ESU, and threats facing this ESU. The BRT evaluated the best available information on ESU viability criteria (abundance, ESU productivity, spatial structure, and diversity). It also considered factors affecting ESU viability, including marine survival, trends in freshwater habitat complexity, and potential effects of global climate change. It considered the work products of the Oregon/Northern California Coast Technical Recovery Team and information

submitted by the public, State agencies, and other Federal agencies.

We asked the BRT to assess the level of extinction risk facing the species, describing its confidence that the species is at high risk, moderate risk, or neither. We described a species with high risk as one that is at or near a level of abundance, productivity, and/or spatial structure that places its persistence in question. We described a species at moderate risk as one that exhibits a trajectory indicating that it is more likely than not to be at a high level of extinction risk in the foreseeable future, with the appropriate time horizon depending on the nature of the threats facing the species and the species' life history characteristics. The preliminary report of the BRT deliberations (Stout *et al.,* 2010) describes OC coho salmon biology and assesses demographic risks, threats, and overall extinction risk.

On May 26, 2010, we announced completion of the status review and a proposal to retain the threatened listing for this ESU (75 FR 29489). We solicited comments and suggestions from all interested parties including the public, other governmental agencies, the scientific community, industry, and environmental groups. Specifically, we requested information regarding: (1) Assessment methods to determine this ESU's viability; (2) this ESU's abundance, productivity, spatial structure, or diversity; (3) efforts being made to protect this ESU or its habitat; (4) threats to this ESU; and (5) changes to the condition or quantity of this ESU's habitat.

Summary of Comments Received in Response to the Proposed Rule

We solicited public comment on the proposed listing of the OC coho salmon ESU for a total of 60 days. We did not receive a request for, nor did we hold, a public hearing on the proposal. Public comments were received from 8 commenters, and copies of all public comments received are available online at: *http://www.regulations.gov/#!docketDetail;dct=FR+PR+N+O+SR+PS;rpp=10;so=DESC;sb=postedDate;po=0;D=NOAA-NMFS-2010-0112*.

Several commenters stated that they were in favor of retaining the threatened listing for this ESU but did not present any specific information to support their position. Summaries of the substantive comments received, and our responses, are provided below, organized by category.

In December 2004, the Office of Management and Budget (OMB) issued a Final Information Quality Bulletin for Peer Review establishing minimum peer review standards, a transparent process for public disclosure, and opportunities for public input. In accordance with this guidance, we solicited technical review of the preliminary status report (Stout *et al.,* 2010) from nine independent experts selected from the academic and scientific community. Each reviewer is an expert in either salmon biology, fish risk assessment methodology, ocean/salmon ecology, climate trend assessment, or landscape-scale habitat assessment. Eight reviewers responded to our request.

After considering the information provided during the public comment period and by peer reviewers, the BRT prepared a final report (Stout *et al.,* 2011). In preparing its final report, the BRT also considered some new scientific information that became available since the issuance of its preliminary report.

Response to Comments

There was substantial overlap between the comments from the peer reviewers and the substantive public comments. The comments were sufficiently similar to warrant a response to the peer reviewer's comments through our general responses below. The Oregon Department of Fish and Wildlife (ODFW) provided the most substantial technical comments. In the Pacific Northwest, there is unique co-management of salmon and their habitat shared by Federal and State agencies and tribes. Due to this shared management, we specifically identify ODFW's comments in the following section. Other individuals, agencies, and organizations who submitted comments during the public comment period are identified as ''commenters,'' while peer reviewers are referred to a ''reviewers.''

Productivity Trends

Comment 1: ODFW stated ''* * * the BRT makes generalizations regarding trends in coho salmon productivity that are not consistent with patterns of productivity observed over the last twelve years.''

Response: After reviewing its report in response to ODFW's comments, the BRT revised the ''Current Biological Status'' section extensively to add clarity and better support for their findings. In particular, they added additional information on the historical abundance of the ESU and 20th century trends in two measures of productivity: Pre-harvest recruits per spawner and the natural return ratio. The BRT concluded that there clearly has been a long-term decline in recruits per spawner during the 20th century, consistent with what has been found in previous status reviews (Weikamp *et al.,* 1995; Good *et al.,* 2005). The BRT found no evidence that this decline has reversed. In fact, recruits from the return years 1997–1999 failed to replace parental spawners: A recruitment failure occurred in all three brood cycles even before accounting for harvest-related mortalities. This was the first time this had happened since data collection began in the 1950s. In most years since 2000, improved marine survival and higher rainfall are thought to be factors that have contributed to a recent upswing in recruits. However, in the return years 2005, 2006, and 2007, recruits again failed to replace parental spawners. The BRT discussed several possible explanations for this recruitment failure, including the possibility that the higher spawning abundance levels in recent years have reached the current carrying capacity of the degraded freshwater environment. In addition, the BRT noted that while total spawning abundance has been at its highest level since the 1950s, the total numbers of recruits remain lower than in the 1950s–1970s. The BRT therefore concluded that with the current freshwater habitat conditions, the ability of the OC Coho Salmon ESU to survive another prolonged period of poor marine survival remains in question.

Persistence Analysis

Comment 2: ODFW stated ''In summary, we believe that the use of peak count data fundamentally altered the results of the Decision Support System (DSS) analysis. In addition, we believe that negative depensatory effects on coastal coho [are] extremely unlikely based on experience with other populations and because of the lack of any evidence of such effects in the Life Cycle basins or at the population scale.''

Response: The BRT's initial report (Stout *et al.,* 2010) noted that the OC coho salmon Technical Recovery Team's report (Wainwright *et al.,* 2008) analyzed the critical abundance criterion using incorrect data. In particular, the Technical Recovery Team report specifically states that this criterion should be evaluated using peak count data, but inadvertently used area under the curve data. The BRT discovered this discrepancy when rerunning the DSS for the BRT's analysis. The analysis found in the BRT's initial report (Stout *et al.,* 2010) is therefore a correction, not a change. Stated differently, the Technical Recovery Team and the BRT both

intended to use peak counts as the selected measure of spawner abundance in the DSS analysis; the use of area under the curve data in the Technical Recovery Team's report was a mistake, later corrected in the BRT's initial report (Stout *et al.,* 2010).

Comment 3: One commenter took issue with the BRT's consideration of depensation as risk based on the spawner density levels found in the North Umpqua River from 1946–2009.

Response: The spawner density levels cited by the commenter were influenced by hatchery returns, which makes it impossible to assess the response of the natural component of that population to low abundance events.

Comment 4: One commenter stated that the model results do not reflect actual production. The commenter contended that the BRT changed the DSS and eliminated the population functionality criterion from the results.

Response: This appears to be a misunderstanding of the BRT's report. The BRT included the population functionality criterion in the DSS. It did, however, discuss the need to reconsider this criterion in the future. In addition, the BRT did not rely solely on the DSS in its deliberations, but considered other factors and sources of information in reaching its final risk conclusions.

Comment 5: One commenter stated that the BRT arbitrarily changed the population assessment model metric for spawner density. The commenter contended that peak count data was arbitrarily used instead of area under the curve data in running the DSS analyses. The commenter stated that the use of area-under-the-curve counts is more commonly accepted in the fisheries profession. The commenter also contended that observer bias was not accounted for in data sets used in the BRT analyses.

Response: As discussed in our response to Comment 2, the Technical Recovery Team and the BRT both intended to use peak counts as the selected measure of spawner abundance in the DSS analysis. The use of area under the curve data in the Technical Recovery Team's report was a mistake, later corrected in the BRT's initial report (Stout *et al.,* 2010). The BRT note that the use of peak count data is well documented in the fishery management literature and cite several studies supporting the use of peak counts to assess salmon spawner abundance. Regarding observer bias, the data set obtained from the ODFW, and used in the DSS, was corrected for observer bias.

Comment 6: One commenter noted that persistence and sustainability of the North Umpqua populations of OC coho salmon is well documented. The commenter suggested that the BRT look to the historical record for evidence of the wide variation of habitat and climatic conditions under which this population has persisted.

Response: The BRT found that the North Umpqua population persistence and sustainability is confounded by high hatchery production in the recent past, and the Technical Recovery Team's productivity analysis takes that into account. That hatchery program has recently been terminated, so future analyses will be better able to assess the sustainability of the North Umpqua population. With respect to the historical record, the BRT did examine the historical record and recognized that there are strong climate driven fluctuations in OC coho salmon abundance and productivity. The BRT risk assessment and Technical Recovery Team criteria account for these fluctuations.

Comment 7: One commenter suggested that the BRT selected unscientific and untested methodologies to support continued listing of the ESU in their assessment.

Response: The BRT used the best available scientific information, including information submitted by the commenter. The overall methodology for conducting the status review was the same as NMFS has used for many past salmon status reviews and as such it has received extensive scientific review. The BRT also used specific methods and analyses developed by the Oregon/Northern California Coast Technical Recovery Team. The Technical Recovery Team consisted of a range of experts from NMFS, ODFW, USDA Forest Service, tribes and independent consultants. The tools and methods it developed reflect that expertise. Both the Technical Recovery Team and BRT reports received extensive peer review that supported the models and analyses.

Comment 8: One commenter stated ''The spawning habitat within the Umpqua River Basin is comprised of 409 miles in the Lower Umpqua and Smith River (Lower Umpqua); 433 miles in the upper main stem Umpqua including the Elk and Calapooya and other tributaries (Middle Umpqua); 656 miles in the South Umpqua basin including 131 miles in Cow Creek (South Umpqua); and 126 miles in the North Umpqua (North Umpqua). The wide distribution of habitat and spawning populations within the basin serves as an effective built-in protective mechanism against any one catastrophic event resulting in the extinction of the species.''

Response: We agree diversity and spatial structure are important factors to consider in evaluating extinction risk, and these factors were explicitly evaluated by the BRT and discussed in its report. In addition, the DSS developed by the Technical Recovery Team uses this type of information in its diversity/spatial structure criteria. Specifically, the DSS watershed-level criteria account for the occupancy of both adult spawners and juvenile OC coho salmon in the basins throughout the range of this ESU.

Comment 9: One reviewer noted that it would be useful and informative to include a master table or appendix in the BRT report that clearly listed the metrics and associated data sets that were incorporated into the DSS and the criteria to which they were applied.

Response: We agree. The BRT included this type of information in Appendix A of its final report (Stout *et al.,* 2011).

Comment 10: One commenter stated that viability models for predicting fisheries' responses to management or environmental changes are in relatively early stages of development and involve considerable uncertainty.

Response: We agree, and the BRT stated that there is significant uncertainty in the long term projections it considered. This is why the BRT considered many aspects of OC coho salmon ecology in assessing status and used a variety of information (population viability modeling, the Technical Recovery Team's DSS, habitat assessments, climate assessments, assessment of other threats) in conducting its assessment. The BRT also was careful to characterize the degree of certainty of its conclusions, and this was extensively discussed in both its preliminary and final reports.

Climate Change and Stream Temperatures

Comment 11: One reviewer provided suggestions for adding and changing climate change text, and adding information from four additional scientific articles. This reviewer is a recognized expert on global climate change and had a number of technical suggestions regarding the BRT analysis of effect of climate change on OC coho salmon and their habitat. His comments included discussion, suggestion, and additional references for the following climate related impacts: (1) Possible changes in ocean conditions and subsequent changes in marine ecosystem function, (2) possible changes in stream flow and temperature in the Pacific Northwest, and (3) possible

changes in Cascade Mountain snowpack.

Response: The BRT reviewed the suggested articles and revised the ''Effects on Climate Change'' section of the final report to reflect this new information. The reviewer's comments allowed the BRT to adjust its analysis to reflect the most recent research and latest theories on the potential effects of climate change on salmon and their habitat. Although it was able to update this section of its report, the BRT conclusions regarding climate change remained fundamentally unaltered by the addition of the new information.

Comment 12: One reviewer stated ''The inclusion of the potential impacts of climate change on coho habitat was helpful, as was the inclusion of other factors (*e.g.,* human population growth and land use conversions) that will be likely to cause problems for the species. Given the overwhelmingly strong scientific evidence for climate change and the near certainty of population growth and land conversion along the Oregon coast—all of which have major implications for habitat quality—it would have been imprudent to ignore these factors. Additionally, it is quite probable that there will be interactions among these factors, many unforeseen at present, which could exacerbate habitat loss.''

Response: The BRT carefully evaluated these threats before reaching its conclusion. The BRT noted in its conclusion that ''Finally, the BRT was also concerned that global climate change will lead to a long-term downward trend in both freshwater and marine coho salmon habitat compared to current conditions (see Climate section and Wainwright and Weitkamp, in review). There was considerable uncertainty about the magnitude of most of the specific effects climate change will have on salmon habitat, but the BRT was concerned that most changes associated with climate change are expected to result in poorer and more variable habitat conditions for OC coho salmon than exist currently. Some members of the BRT noted that changes in freshwater flow patterns as a result of climate change may not be as severe in the Oregon coast as in other parts of the Pacific Northwest, while others were concerned by recent observations of extremely poor marine survival rates for several West Coast salmon populations. The distribution of the BRT's overall risk scores reflects some of this uncertainty.'' The risks posed by climate change, poor marine conditions, and further human development in the area were key factors in reaching our conclusion to retain the threatened listing for this ESU.

Comment 13: One reviewer stated ''I work a lot on impacts of temperature on salmonids and was hoping to see a bit more than a paragraph on the issue * * * Perhaps a sentence or two emphasizing the primacy of temperature as a component of habitat and threat to salmon—I believe temperature is the #1 source of water quality impairment in Oregon.''

Response: We agree that more information on the effects of elevated stream temperatures would improve the BRT report. Additional information on elevated stream temperature and its potential effect on OC coho salmon was added to the ''Water Quality Degradation,'' ''Climate Change,'' ''Water availability,'' and ''Forest and Agricultural Conversion'' sections of the BRT report.

Comment 14: One commenter stated ''Not only are we concerned that the current BRT assessment does not reflect the true viability risk as evidenced by the quantitative data that is available for the independent populations, we are also concerned that the BRT has adopted a new and untested qualitative prediction of climatic conditions for the next 100 years that also has a significantly high uncertainty of accuracy. Unfortunately, as with the other models the BRT did not test these predictive climatic models utilizing the long term data sets that were available. In this case historic climatic records illustrate the coho evolved under a high range of climatic fluctuations—fluctuations which can be expected to occur in the future as well.''

Response: The BRT addressed the risks related to climate change using the best available scientific information, including a detailed review of available published, peer-reviewed literature relating to recent and future climate change in the Pacific Northwest and the likely effects of such change on OC coho salmon. The BRT is aware of past and likely future trends and fluctuations in the local climate, and took those trends and fluctuations into account in the analysis. The BRT noted that there is a great deal of uncertainty surrounding the effects of future climate on OC coho salmon ESU, and took that uncertainty into account as a contributing risk factor. Much of the BRT's climate analysis does rely on predictive climate models that have been tested against long-term climate data. The BRT did not conduct its own assessment of the accuracy of these models, but rather relied on a large body of peer-reviewed scientific literature that has reported such assessments.

Assessment of Habitat Trends

Comment 15: The ODFW's comments contained a number of technical questions and observations regarding the BRTs assessment of stream habitat trends. ODFW commented it was concerned that the BRT placed too much emphasis on a Bayesian analysis of habitat trends that used a small subset of the available data. It stated that the use of the ODFW Habitat Limiting Factors Model may also be inappropriate, particularly when applied to the full range of streams within the ESU. It also noted that the BRT report did not contain a full description of the Aquatic and Riparian Effectiveness Monitoring Program (AREMP) (Reeves et. al (2004), although data generated by this program played a key role in habitat modeling exercise.

Response: Scientists from our Northwest Fisheries Science Center and ODFW formed a working group to resolve these issues. In its comments, ODFW noted that the BRT's habitat analysis used a small subset of the available data. It also stated that the BRT's initial report contained insufficient explanation of the methodology used to carry out the habitat trend analysis. The group held several meetings to discuss appropriate analyses, data sets, data transforms, etc. The BRT's final report (specifically the In-Channel Stream Complexity section) was revised to reflect the progress the group made in resolving these technical issues. This issue is discussed in detail in the *New Habitat Trend Analysis* section, below.

Comment 16: One reviewer stated ''I think the conclusion here about complexity (rate of continued disturbance outpacing restoration) is likely correct, but we don't know for sure. Local ''active'' restoration activities are likely dwarfed by the larger human footprint on the landscape, but passive efforts to restore landscape condition (*e.g.,* improved forest harvest practices) will likely take decades to yield detectable positive trends. Might be worth clarifying the issue here because passive restoration is much more likely to have longer term and much more widespread benefits in the future.''

Response: We generally agree and a short clarification of this issue is now included in the BRT report's ''Stream Habitat Complexity Summary'' section. Managing watersheds in a manner that allows for natural habitat forming processes to occur is the first step in ensuring that OC coho salmon have suitable freshwater habitat. However, we also acknowledge that active

restoration is a key part of an overall strategy to improve stream habitat across the range of this ESU. Active restoration is often the fastest way to address certain reach-level concerns such as lack of instream woody debris or lack of riparian vegetation.

Fish Passage

Comment 17: ODFW commented that fish passage issues facing the OC coho salmon ESU are complex and may require additional analysis.

Response: We agree that attempting to analyze fish passage in streams across the range of this ESU is a complex task. ODFW provided several additional sources of information regarding fish passage. The BRT updated its report to reflect this new information. The BRT also considered a new data set on fish passage, the Oregon Fish Passage Barrier Data Set (OFPDS, 2009). Although this data set represents the most up-to-date catalog of fish passage blockages throughout the range of this ESU, it still does not account for some blockages on private land and certain types of blockages including berms and levees (Stout *et al.,* 2011). Berms and levees are common in lowland and estuary habitat that can be important coho salmon rearing habitat. The BRT concluded that fish passage blockages are a source of substantial uncertainty as to the true effect that fish passage barriers present to OC coho salmon.

Comment 18: One reviewer noted that ''Conclusions quoted regarding present impacts of hydropower should be expanded to consider future development as well. I know there are possible plans for hydroelectric dams to be placed in some coastal rivers, such as the Siletz River near the former town site of Valsetz. Also the development of small hydro may come into play in the future as the region develops alternative energy sources. This is becoming an issue in other parts of western North America (*e.g.*, British Columbia).''

Response: We agree that future hydropower development could affect OC coho salmon in certain areas. The BRT made a slight modification to its report to reflect this. There are, however, numerous protective measures in place to assure that future hydropower projects would be developed in a manner that reduces potential effects on this ESU. For instance, all hydropower projects in the State of Oregon must have a water right issued by the Oregon Water Resources Department. Most significant non-Federal hydropower facilities would need to be licensed by the Federal Energy Regulatory Commission. During these regulatory processes, we expect the addition of conservation measures/project modifications designed to reduce the project's effects on OC coho salmon and their habitat. Although we cannot predict, with certainty, what those specific protective measures might be, it is reasonable to conclude that major adverse effects on this ESU would be avoided. For instance, it is unlikely, although not completely impossible, that the construction of hydropower facilities would be authorized in cases where a large amount of OC coho salmon habitat would be blocked. Currently, it is far more common in the Pacific Northwest for dams to be removed to restore fish passage (*e.g.*, Marmot Dam, Elwha Dam) than for new dams to be constructed that would block fish passage. For these reasons, we do not expect development of new hydropower facilities to pose a serious threat to this ESU.

Comment 19: One reviewer provided a copy of a recent report (Bass, 2010) providing information on juvenile coho salmon movement and migration through tide gates.

Response: The BRT considered the information in the report and revised the content of the final report accordingly. The BRT noted that at a minimum, tide gates in the OC coho salmon ESU act as partial barriers to fish passage and were, for the most part, unaccounted for in past analyses. It also notes that fish passage barriers have not been identified as a major limiting factor for OC coho salmon in previous assessments conducted by ODFW; however, a great deal of uncertainty exists about the total number of passage barriers throughout the range of this ESU.

Estuaries/Wetland Life History Diversity

Comment 20: ODFW submitted a number of technical comments regarding the BRT's conclusions about the importance of estuaries to OC coho salmon. In summary, ODFW felt that the importance of estuaries to OC coho salmon is somewhat unknown. They questioned whether the BRT may have overstated the degree to which the loss of estuary habitat is a limiting factor for this ESU. ODFW noted that the Oregon Watershed Enhancement Board has funded a substantial amount of estuary restoration over the last several years. It also provided additional information about the role estuaries may play in the life cycle of OC coho salmon.

Response: Both the BRT and ODFW are in agreement that there has been significant loss of estuary habitat along the Oregon Coast during the last 100 years. We acknowledge that there is some scientific disagreement between ODFW and the BRT regarding the severity of the effect of estuary loss on the viability of the OC coho salmon ESU. However, the loss of estuary habitat is only one of many factors affecting the viability of this ESU. In its risk conclusion, the BRT did not specifically identify estuary loss as one of the primary sources of risk to this ESU. Even if the BRT were to adopt ODFW's position on the effect of estuary loss on the viability of this ESU, it would be unlikely to change the outcome of its overall risk assessment.

Comment 21: In contrast to the previous comment, a reviewer stated that ''the emphasis given to the importance of estuarine habitat is moderate and adequate given the information available in the literature.'' The reviewer noted observing juvenile OC coho salmon rearing in estuaries and feels that this life history strategy is fairly common. The reviewer also provided some specific scientific information to support this statement.

Response: This viewpoint is consistent with the BRT's position on the importance of estuaries to juvenile OC coho salmon. The BRT revised its report's section on estuaries to include the information provided by the reviewer.

Comment 22: One reviewer suggested that a somewhat broader definition of 'life history' in the glossary may be useful. The reviewer noted that a 'life history' encompasses changes experienced from birth through death, including variation in life history traits, such as the size and age at maturity and fecundity. The reviewer argued that traits such as juvenile growth rate and age at ocean emigration are aspects of species' life history.

Response: We agree and the BRT modified its definition of ''life history'' as suggested.

Restoration

Comment 23: The ODFW and Oregon Watershed Enhancement Board commented that in our proposed rule, we underestimated the variety and effectiveness of habitat and watershed process restoration efforts. ODFW also stated that we did not consider the information contained in an effectiveness monitoring report demonstrating the results of several projects designed to increase the amount of woody debris in stream reaches.

Response: In the BRT report and proposed rule, we stated that an analysis conducted by the BRT showed that habitat restoration efforts are not well matched with habitat limiting factors in some areas including the

Umpqua Basin. The comments submitted by ODFW contained a number of technical points regarding our statements about restoration efforts matching restoration needs. After reviewing these comments, we decided that the BRT habitat restoration analysis needed further consideration. We decided not to consider the results of the BRT's analysis when we evaluated efforts being made to protect the OC coho salmon ESU. Instead, we acknowledge that a number of restoration projects are occurring throughout the range of this ESU, and we expect that they will have benefits to ESU viability some time in the future. However, we do not have information available that would allow us to predict or quantify these future improvements to ESU viability. Similarly, we acknowledge that the information submitted by ODFW demonstrates that restoration efforts can increase the amount of woody debris in stream reaches and improve habitat complexity. We also agree with ODFW that these improvements are likely to lead to improved survival of OC coho salmon juveniles. However, these improvements will occur primarily at a stream-reach scale (several hundred to several thousand meters maximum). There is currently a lack of scientific information that would allow us to scale the positive collective effects of multiple restoration projects up to the population, strata, or ESU level. We are working with ODFW and our other Federal, State, and tribal co-managers to develop monitoring programs and databases that would assist us in developing these types of analyses in the future.

Even when this information becomes available, we have reason to believe that relying on active restoration to mitigate for the effects of ongoing land management that degrades OC coho salmon habitat is not feasible. The one recent study that has examined this issue (Roni *et al.,* 2010) used a new technique to estimate the amount of restoration needed within a watershed to cause a significant increase in steelhead and coho salmon production. These authors found that the percentage of floodplain and in-channel habitat that would have to be restored in a modeled watershed to detect a 25 percent increase in coho salmon and steelhead smolt production was 20 percent. Although 20 percent may seem like a low value, restoring 20 percent of floodplain and in-channel habitat in any disturbed watershed in the Pacific Northwest would be very costly (Roni *et al.,* 2010). The results of this study highlight the need to protect high quality habitat while strategically improving degraded areas with active restoration.

Comment 24: Another commenter noted that the BRT's analysis of match between habitat restoration efforts and habitat limiting factors ''* * * has the potential to provide useful guidance to local groups performing restoration, but some logical lapses affect the conclusions drawn here.'' The commenter stated that the level of detail provided ''* * * is insufficient to fully evaluate the methods, or to make good use of the results at the local level.''

Response: As stated above, we will no longer be considering the results of the BRT's assessment of habitat restoration in the Umpqua in our evaluation of protective efforts for this ESU. We do believe however, that this type of analysis would be appropriate for consideration during development of a recovery plan for this ESU.

Comment 25: One reviewer pointed out the need for ''* * * a way in which future effects of restoration (again, on an ESU-wide basis) could be similarly quantified * * *'' The reviewer also noted the ''* * * pressing need to determine whether habitat is currently being lost or damaged faster than it can be restored or rehabilitated, particularly because so much money is being spent on recovering salmon habitat based on the belief that long-term improvement can be achieved at very large spatial scales.''

Response: We agree with the reviewer's statement that there is a need for a way in which future effects of restoration could be similarly quantified. As noted above, we are working with our co-managers to develop monitoring programs and data collection systems that will aide us in conducting these types of analyses in the future. In the absence of this information, we must look at measures of ESU viability to determine if restoration efforts are lowering ESU extinction risk.

Artificial Propagation

Comment 26: One commenter noted that the BRT report's section on artificial propagation and membership of hatchery programs in the ESU would benefit from more information.

Response: We agree that the addition of more information would help to clarify this section. The BRT revised its report to include more detail in this section. We must note however, that hatchery production has been significantly curtailed in this ESU and no longer represents a significant limiting factor for most populations in the ESU. There are only three remaining hatchery programs within the range of this ESU. Release numbers have been reduced 10-fold in recent years, substantially reducing interactions between hatchery and wild fish.

Beavers

Comment 27: One commenter stated that the habitat benefits beavers (*Castor canadensis*) provide are landscape-context specific. The commenter noted that beavers occur within the ESU in a variety of contexts, from brackish estuarine marshes, to lakes, to large mainstem rivers, to smaller tributaries, and the ways in which they may alter this type of aquatic habitat varies considerably. The commenter also stated that beavers are differentially vulnerable to trappers. For instance, beavers tend to be more vulnerable to trappers in headwater areas as opposed to large mainstem rivers.

Response: The BRT revised its report's section on beavers to reflect the information provided by the commenter.

Comment 28: One commenter stated that the BRT's report properly reviewed the legal status of beaver protection in Oregon, but failed to identify cougar predation as a cause of observed beaver declines.

Response: We agree with the commenter in part. Estimated cougar populations have increased since the 1970s over the entire State of Oregon from approximately 214 to over 2,800 individuals by 1992 (Keister and VanDyke, 2002). However, nothing in the literature suggests that predation on beaver is a primary cause for reduction in beaver population. The majority of studies identify deer and elk as the primary food source for cougars (Ackerman *et al.,* 1984).

Comment 29: One commenter noted that many riparian areas throughout the range of the OC coho salmon ESU have been colonized by invasive Reed canarygrass (*Phalaris arundinacea*). The commenter points out that this plant can out-compete trees and shrubs that provide food for beavers. This colonization may disrupt the natural cycle of consumption of shrubs and trees in a given area by beavers followed by recovery of this vegetation as beavers leave the area in search of food elsewhere.

Response: We agree that invasion of riparian areas by Reed canarygrass may pose a threat to beaver food supply. In response to this comment, the BRT noted that more aggressive management actions may be needed to deal with Reed canarygrass as evidenced by recent work that suggests plantings and natural

vegetation alone cannot control it. The BRT's report highlights the importance of beavers to the formation and maintenance of habitat for juvenile OC coho salmon.

Comment 30: One reviewer noted that based on the information provided in the BRT report, they could not tell if cycles or trends in beaver activity are evident. The reviewer stated that they thought there was not good evidence for a trend of any kind.

Response: In response to this comment, the BRT added the following statement to the beaver section of their report: ''Due to the limited dataset we cannot conclude that there is an overall trend and would recommend a more extensive monitoring effort be pursued to identify short and long-term trends throughout the Oregon Coast Coho Salmon ESU.''

Comment 31: One reviewer noted that some research (Pollack *et al.,* 2003) cited in the section on beavers in the BRT report was conducted in Washington state and is useful for comparison purposes but is not directly relevant to the OC coho salmon ESU.

Response: This observation is correct in that the study sites for this research were in Washington. The BRT added a paragraph to its report's section on beavers to address this issue. The BRT noted that the areas where beaver pond density is highest typically have the same physical characteristics regardless of the ecological region—lower gradient (less than 2 percent), unconfined valley bottoms, in smaller watersheds (drainage areas typically less than 10 square kilometers). Smaller, lowland, rain-dominated Puget Sound watersheds have the same basic physical and hydrological characteristics as the smaller Oregon coast watersheds, thus the relationships we see with respect to beaver pond densities in Puget Sound should also hold true for the Oregon coast.

Forest and Agriculture Conversion

Comment 32: One reviewer suggested that the BRT report would benefit from a discussion of floodplain development and storm water issues.

Response: We agree that floodplain development and storm water management have the potential to affect water quality, peak/base stream flow and several physical habitat parameters for OC coho salmon. Although these threats may not have been specifically discussed in the initial BRT report, we did note in the proposed rule that ''Urbanization has resulted in loss of streamside vegetation and added impervious surfaces, which alter normal hydraulic processes.'' We also stated in the proposed rule that ''Stormwater and agricultural runoff reaching streams is often contaminated by hydrocarbons, fertilizers, pesticides, and other contaminants.'' Nevertheless, in response to the reviewer's suggestion, the BRT added information on how these threats affect OC coho salmon habitat.

Comment 33: One commenter stated that land use conversion trends may be more complex than described in the BRT report. The commenter noted that several types of land use conversion beyond those described in the BRT report, such as agricultural to forest land, and serious agriculture operation to hobby farm, are occurring throughout the range of this ESU. The commenter also noted that residential development is occurring along many reaches of larger rivers in this area, and this may lead to increased recreational fishing.

Response: We agree that a variety of land use conversions are occurring throughout the range of this ESU. The BRT revised its report to include some of the land use conversion types identified in this comment. We also agree that greater human development, especially in riparian areas, could lead to degradation of OC coho salmon habitat. It becomes difficult to predict with any certainty, however, how some of the less common land use conversions (such as serious agricultural operation to hobby farm) would affect coho salmon habitat. The particular management changes resulting from these types of land use conversions can be expected to vary on a case-by-case basis depending on the desired outcomes of a particular land owner. For this reason, it is best to evaluate general trends in land use conversions when trying to predict how these conversions may affect OC coho salmon habitat. This is consistent with the approach taken by the BRT.

Comment 34: One reviewer noted that the BRT report's section on land use conversion did not contain significant information on some of the secondary effects of residential development–water quality degradation from septic drainage, fertilizers and pesticides, and pharmaceuticals. The reviewer noted that there is a great deal of uncertainty about these effects and that a new report on this topic was expected soon from the State of Oregon Independent Multidisciplinary Science Team.

Response: We agree that these secondary effects from residential development may pose a threat to the OC coho salmon ESU. The report of the Independent Multidisciplinary Science Team became available shortly after the publication of the initial BRT report and proposed rule. The BRT discussed this report and agreed with the conclusions of the report, namely that ''The pressures of urban and rural residential land use affect aquatic ecosystems and salmonids through alterations of, and interactions among, hydrology, physical habitat structure, water quality, and fish passage. These alterations occur at local and, especially, watershed scales, and thus require study and management at multiple scales. Urban and rural residential development causes profound changes to the pathways, volume, timing, and chemical composition of stormwater runoff. These changes alter stream physical, chemical, and biological structure and potential, as well as the connectivity of streams with their watersheds'' (IMST, 2010). The BRT updated its report to reflect this new information.

Comment 35: Several reviewers noted that climate change, invasion of exotic organisms, and increasing human development may lead to drastic changes in riparian and aquatic communities throughout the range of this ESU.

Response: In response to these comments, the BRT discussed this issue more fully, and expanded discussions and literature citations are included in its revised report in the ''Ecosystem Impacts of Non-indigenous Species,'' ''Non-indigenous Plant Species,'' and ''Non-indigenous Fish'' sections.

Data Used in Risk Assessment

Comment 36: One reviewer noted that it would be useful for the BRT to identify key data gaps in their risk assessment.

Response: The BRT revised its report to identify some of the key data gaps. For instance, the BRT noted data gaps regarding beaver populations, fish passage, and road density on private lands.

Comment 37: One commenter suggested that NMFS use annual spawner returns to the North Umpqua River as an indicator of population status throughout the ESU.

Response: We believe that evaluating the status of an entire ESU from dam counts for a single population ignores differences in populations within the ESU, such as the diversity found in the Lakes populations, and in the geology and hydrology of other systems. It would essentially restrict our analysis to a small amount of information while ignoring the substantial amount of other information available to us. The suggested approach does not take into account that the habitat in the North Umpqua population is not typical of the rest of the ESU, nor does it reflect the

diversity of other habitats found in the ESU. Also, as noted above, the North Umpqua return data have been influenced by hatchery production and thus do not reflect the status of natural populations and their habitats.

Comment 38: One commenter stated that the BRT made several key assumptions about future marine conditions that are not consistent with the known variability in ocean conditions and adopted an overall pessimistic view about future ocean conditions. The commenter stated that the BRT could have used data on this known variability to assess marine conditions in both intra-annual and inter-decadal time frames.

Response: The commenter did not identify which particular key assumptions about future marine conditions were questionable, so it is difficult to respond to this comment. However, any assumptions made by the BRT are consistent with the scientific literature regarding marine survival of coho salmon. The BRT agrees that fluctuations in marine conditions (including the Pacific Decadal Oscillation and other factors) strongly affect survival of OC coho salmon, and has accounted for such fluctuations in its analyses.

Comment 39: One commenter stated that the BRT should have considered data on climate conditions as evidenced by patterns of tree ring growth.

Response: The BRT did examine the historical record and recognized that there are strong climate driven fluctuations in abundance and productivity. These fluctuations are accounted for in both the Technical Recovery Team criteria and the BRT risk assessment.

Recommendations for Management

Comment 40: One reviewer noted the lack of any recommendations for future management within the BRT's report. The commenter thought inclusion of these recommendations would be logical and desirable.

Response: The BRT was tasked with reviewing the status of the OC coho salmon ESU. Specifically, the BRT was asked to assess the level of extinction risk for this ESU and identify the threats facing this ESU (letter from Barry Thom, Acting Regional Administrator, to Usha Varanasi, Science and Research Director of the Northwest Fisheries Science Center, August 13, 2009). Site-specific management actions designed to help conserve the OC coho salmon ESU will be identified in a forthcoming recovery plan for this species.

Predation

Comment 41: One reviewer noted that the BRT report's section on predation was dated. The reviewer recommended some reports for the BRT to consider.

Response: The BRT updated its discussion of predation with new (Johnson *et al.,* 2010) as well as older relevant literature (Schreck *et al.,* 2002; Clements and Schreck, 2003), as well as a recent population assessment of double crested cormorants within the ESU and other sources of information. The BRT concluded that the significant increases in avian predation on salmonids appears to be restricted to the Columbia River System and does not affect the OC coho salmon ESU. The Columbia River salmon ESUs suffer the greatest impact because the birds (Caspian terns and double-crested cormorants) have established large nesting colonies in close vicinity to the mainstem Columbia River.

Determination of Species Under the ESA

We are responsible for determining whether species, subspecies, or distinct population segments (DPSs) of Pacific salmon and steelhead are threatened or endangered under the ESA. To identify the proper taxonomic unit for consideration in a listing determination for salmon, we use our Policy on Applying the Definition of Species under the ESA to Pacific Salmon (ESU Policy) (56 FR 58612). Under this policy, populations of salmon substantially reproductively isolated from other conspecific populations and representing an important component in the evolutionary legacy of the biological species are considered to be an ESU. In our listing determinations for Pacific salmon under the ESA, we have treated an ESU as constituting a DPS, and hence a ''species,'' under the ESA.

The OC coho salmon ESU was identified as one of six West Coast coho salmon ESUs in a coast-wide coho status review published by NMFS in 1995 (Weitkamp *et al.,* 1995). Weitkamp *et al.* (1995) considered a variety of factors in delineating ESU boundaries, including environmental and biogeographic features of the freshwater and marine habitats occupied by coho salmon, patterns of life-history variation and patterns of genetic variation, and differences in marine distribution among populations based on tag recoveries. Regarding the OC coho salmon ESU, Weitkamp *et al.* (1995) concluded that Cape Blanco to the south and the Columbia River to the north constituted significant biogeographic and environmental transition zones that likely contributed to both reproductive isolation and evolutionary distinctiveness for coho salmon inhabiting opposite sides of these features. These findings were reinforced by discontinuities in the ocean tag recoveries at these same locations. The available genetic data also indicated that OC coho salmon north of Cape Blanco formed a discrete, although quite variable, group compared to samples from south of Cape Blanco or the Columbia River and northward.

The BRT evaluated new information related to ESU boundaries, and found evidence that no ESU boundary changes are necessary (Stout *et al.,* 2011). The basis for its conclusion is that the environmental and biogeographical information considered during the first coast-wide BRT review of coho salmon (Weitkamp *et al.,* 1995) remains unchanged, and new tagging and genetic analysis published subsequent to the original ESU boundary designation continues to support the current ESU boundaries. The BRT also evaluated ESU membership of fish from hatchery programs since the last BRT review (Good *et al.,* 2005). In doing so, it applied our Policy on the Consideration of Hatchery-Origin Fish in ESA Listing Determinations (70 FR 37204; June 28, 2005). The BRT noted that many hatchery programs within this ESU have been discontinued since the first review of coast-wide status of coho salmon (Weitkamp *et al.,* 1995). They identified only three programs—the North Fork Nehalem, Trask (Tillamook basin) and Cow Creek (South Umpqua)—that produce coho salmon within the boundaries of this ESU.

The North Fork Nehalem coho stocks are managed as an isolated harvest program. Natural-origin fish have not been intentionally incorporated into the brood stock since 1986, and only adipose fin clipped brood stock have been taken since the late 1990s. Because of this, the stock is considered to have substantial divergence from the native natural population and is not included in the OC coho salmon ESU. The Trask (Tillamook population) coho salmon stock is also managed as an isolated harvest program. Natural-origin fish have not been incorporated into the brood stock since 1996 when all returns were mass marked. Therefore, this stock is considered to have substantial divergence from the native natural population and, based on our Policy on the Consideration of Hatchery-Origin Fish in ESA Listing Determinations, is not included in the OC coho salmon ESU. The Cow Creek stock (South Umpqua population) is managed as an integrated program and is included as

part of the ESU because the original brood stock was founded from the local natural origin population and natural-origin coho salmon have been incorporated into the brood stock on a regular basis. This brood stock was founded in 1987 from natural-origin coho salmon returns to the base of Galesville Dam on Cow Creek, a tributary to the South Umpqua River. Subsequently, brood stock has continued to be collected from returns to the dam, with natural-origin coho salmon comprising 25 percent to 100 percent of the brood stock nearly every year since returning fish have been externally tagged. The Cow Creek stock is probably no more than moderately diverged from the local natural-origin coho salmon population in the South Umpqua River because of these brood stock practices and is therefore considered a part of this ESU.

Updated BRT Extinction Risk Assessment

The BRT conducted an extinction risk assessment for the OC coho salmon ESU considering available information on trends in abundance and productivity, genetic diversity, population spatial structure, and diversity. It also considered marine survival rates, trends in freshwater habitat complexity, and a variety of threats to this ESU, such as possible effects from global climate change. We received a substantial amount of information during the public comment period regarding the BRT risk assessment. One peer reviewer of the BRT report also had numerous comments on the risk assessment. After considering this information, the BRT decided to revise its risk assessment, and conduct its risk voting again, considering this new information.

The BRT noted that spawning escapements in some recent years have been the highest in the past 60 years. This is attributable to a combination of management actions and environmental conditions. In particular, harvest has been strongly curtailed since 1994, allowing more fish to return to the spawning grounds. Hatchery production has been reduced to a small fraction of the natural-origin production. Nickelson (2003) found that reduced hatchery production led directly to higher survival of naturally produced fish, and Buhle *et al.* (2009) found that the reduction in hatchery releases of OC coho salmon in the mid-1990s resulted in increased natural coho salmon abundance. Ocean survival, as measured by smolt to adult survival of Oregon Production Index area hatchery fish, generally started improving for fish returning in 1999 (Stout *et al.,* 2011). In combination, these factors have resulted in the highest spawning escapements since 1950, although total abundance before harvest peaked at the low end of what was observed in the 1970s (Stout *et al.,* 2011).

The BRT applied the DSS of the Technical Recovery Team (Wainwright *et al.,* 2008) to help assess viability and risk level for this ESU. Our proposed rule discusses the DSS in detail. The BRT updated the DSS with data through 2009. In the process of compiling data for the four years since the Technical Recovery Team analysis, the BRT discovered and reconciled several inconsistencies related to the data that are inputs into the DSS. For this reason the DSS results reported by the BRT are not directly comparable to the results presented in the Technical Recovery Team's report (Wainwright *et al.,* 2008). The DSS results from the Technical Recovery Team's report are presented in the BRT report for historical comparison but were not used by the BRT in its deliberations. Data used in the updated DSS analysis were provided by ODFW.

The DSS result for ESU persistence was 0.34. A value of 1.0 would indicate complete confidence that the ESU will persist for the next 100 years, a value of −1.0 would indicate complete certainty of failure to persist, and a value of 0 would indicate no certainty of either persistence or extinction. The BRT therefore interpreted a value of 0.34 to indicate a moderate certainty of ESU persistence over the next 100 years, assuming no future trends in factors affecting the ESU. The DSS result for ESU sustainability was 0.24, indicating a low-to-moderate certainty that the ESU is sustainable for the foreseeable future, similarly assuming no future trends in factors affecting the ESU. The overall ESU persistence and sustainability scores summarize a great deal of variability in population and stratum level information on sustainability.

New Habitat Trend Analysis

In our proposed rule, we summarized the BRT's analyses of habitat complexity across the freshwater habitat of this ESU. We received a number of comments from ODFW regarding this analysis. Scientists from our Northwest Fisheries Science Center and ODFW formed a working group to resolve the technical issues identified in the ODFW comments. A brief background on this issue is provided below.

Over the past decade (1998 to present), the ODFW has monitored wadeable streams (streams that would be shallow enough to wade across during survey efforts) to assess freshwater rearing habitat for the OC coho salmon ESU during the summer low flow period (Anlauf *et al.,* 2009). The goal of this program is to measure the status and trend of habitat conditions throughout the range of the ESU. The following variables related to the quality and quantity of aquatic habitat for coho salmon were monitored: Stream morphology, substrate composition, instream roughness, riparian structure, and winter rearing capacity (Moore, 2008). In 2009, scientists from ODFW and scientists from the BRT independently analyzed these data to answer the question ''Has juvenile coho habitat changed during ODFW's monitoring program over the past 11 years?'' These analyses reached different conclusions, and the discrepancies between the results prompted the formation of the interagency working group.

The working group found that the most important discrepancy between the BRT analysis and the ODFW analysis (Anlauf *et al.,* 2009) was that different subsets of the ODFW habitat monitoring data were used. The ODFW analysis focused only on sites designated as coho salmon spawning or rearing habitat (1st through 3rd order wadeable streams and below fish passage barriers; Anlauf *et al.,* 2009). In contrast, the BRT's analysis had included sites both within and outside of the area recognized as spawning and rearing habitat for coho salmon. Both approaches are biologically reasonable, but the working group agreed that a common dataset should be used in the joint analysis and that initially only spawning or rearing sites within the OC coho salmon ESU be included for the working group report. Subsequently, the BRT also analyzed the upstream areas in a separate analysis, because these areas also affect water quality and habitat (*e.g.,* large wood) in downstream areas where coho spawning and rearing occur.

The working group also explored whether differences in the two group's modeling approaches led to significant differences in the results, and concluded that when the same data were used, any differences in modeling approach led to at most minor differences in results. These issues are discussed in detail in the BRT report.

In the BRT's original habitat trend analysis, three measures of habitat complexity were assessed: Winter parr capacity, summer parr capacity, and channel score (AREMP). In addition to winter parr capacity, ODFW also examined trends in large woody debris, and fine organic sediment (Anlauf *et al.,* 2009). The working group agreed that the three measures of complexity would

be re-analyzed, in addition to the volume of large woody debris, and fine organic sediment in riffles.

Trend estimates were mixed and vary both among metrics and regions. Habitat complexity and summer parr capacity were decreasing in the Umpqua but increasing in the other regions. Winter parr capacity trended flat in the North Coast and Mid-Coast, but declined in the Mid-South and Umpqua. For the percent of fine sediment in riffles, there appear to be declines in the North and Mid-Coast, a positive trend in the Mid-South, and little change in the Umpqua. Large wood volume appears to have declined in the North Coast and Umpqua, and increased in the Mid-Coast and Mid-South regions.

In contrast to the coho rearing areas, trends in upstream areas were more pronounced. In particular, large woody debris declined substantially in all regions. Trends in sediment were mixed, with increases in the Mid-Coast and Mid-South, and declines in the North Coast and Umpqua

The BRT was impressed with the ODFW habitat monitoring program and believes it is an invaluable source of information on freshwater habitat trends on the Oregon coast. The results from the working group were encouraging in that they resolved some clear discrepancies between earlier analyses. The BRT concluded that the results paint a complex picture of habitat trends along the Oregon coast. Some trends, such as the increase in habitat complexity and summer parr capacity in 3 of the 4 regions were clearly encouraging. Other trends, such as the declines in large woody debris in the North Coast and Umpqua regions and in upstream areas in all regions appear more troubling. The North Coast trend in large woody debris may be a result of large debris dams that formed during the 1996 floods and have been actively redistributed over the past several years, reducing overall large woody debris densities. While the North Coast experienced a large decline, it also had the largest amount of large woody debris relative to the other regions. The declining trends in winter parr capacity (believed to be a limiting life-stage for coho production) in two regions also concerned the BRT.

BRT Extinction Risk Conclusions

To reach its final extinction risk conclusions, the BRT used a ''risk matrix'' as a method to organize and summarize the professional judgment of a panel of knowledgeable scientists with regard to extinction risk of the species. This approach is described in detail by Wainwright and Kope (1999) and has been used for over 10 years in our Pacific salmonid and other marine species status reviews. In this risk matrix approach, the collective condition of individual populations is summarized at the ESU level according to four demographic risk criteria: Abundance, growth rate/productivity, spatial structure/connectivity, and diversity. These viability criteria, outlined in McElhany *et al.* (2000), reflect concepts that are well founded in conservation biology and are generally applicable to a wide variety of species. These criteria describe demographic risks that individually and collectively provide strong indicators of extinction risk. The summary of demographic risks and other pertinent information obtained by this approach was then considered by the BRT in determining the species' overall level of extinction risk. This analysis process is described in detail in the BRT's report (Stout *et al.,* 2011). The scoring for the risk criteria correspond to the following values: 1—very low risk, 2—low risk, 3—moderate risk, 4—high risk, 5—very high risk.

After reviewing all relevant biological information for the species, each BRT member assigned a risk score to each of the four demographic criteria. The scores were tallied (means, modes, and range of scores), reviewed, and the range of perspectives discussed by the BRT before making their overall risk determination. To allow individuals to express uncertainty in determining the overall level of extinction risk facing the species, the BRT adopted the ''likelihood point'' method, often referred to as the ''FEMAT'' method because it is a variation of a method used by scientific teams evaluating options under the Northwest Forest Plan (FEMAT 1993). In this approach, each BRT member distributes ten likelihood points among the three species' extinction risk categories, reflecting their opinion of how likely that category correctly reflects the true species status. This method has been used in all status reviews for anadromous Pacific salmonids since 1999, as well as in reviews of Puget Sound rockfishes (Stout *et al.,* 2001b), Pacific herring (Stout *et al.,* 2001a; Gustafson *et al.,* 2006), Pacific hake, walleye pollock, Pacific cod (Gustafson *et al.,* 2000), and black abalone (Butler *et al.,* 2008).

In its May 2010 preliminary report, the BRT conducted both the risk assessment matrix analysis and the overall extinction risk assessment under two different sets of assumptions. First, the BRT evaluated extinction risk based on the demographic risk criteria (abundance, growth rate, spatial structure and diversity) recently exhibited by the ESU, assuming that the threats influencing ESU status would continue unchanged into the future. This case in effect assumed that all of the threats evaluated in the previous section of the report were already fully manifest in the current ESU status and would in aggregate neither worsen nor improve in the future. Also, in the 2010 preliminary report, the BRT evaluated extinction risk based on the demographic risk criteria currently exhibited by the ESU, taking into account consideration of predicted changes to threats that the BRT evaluated to be not yet manifest in the current demographic status of the ESU. In effect, this scenario asked the BRT to evaluate whether threats to the ESU would lessen, worsen, or remain constant compared to current conditions.

In the time since the completion of the last risk assessment in 2010, the BRT considered additional information on the potential magnitude and trajectory of threats including climate change, changes in ocean conditions, and trends in freshwater habitat. The BRT also further refined the time horizon used to evaluate whether the OC coho salmon ESU was at moderate risk of extinction. The BRT selected a 30 to 80 year time frame, noting that beyond this time horizon, the projected effects on OC coho salmon viability from climate change, ocean conditions, and trends in freshwater habitat become very difficult to predict with any certainty. Considering this new information, the BRT felt it unnecessary and potentially confusing to conduct the risk assessment under multiple sets of assumptions. For the final risk assessment, therefore, each BRT member evaluated all the available information on both current demographic status and future threats to come to a single overall conclusion on the degree of extinction risk.

The mean risk matrix scores for each demographic risk factor fell between the low risk (2) and moderate risk (3) categories (abundance mean score= 2.21, productivity mean score=2.63, spatial structure mean score=2.33 and diversity mean score=2.67) indicating that the BRT as a whole did not consider any of the demographic risk factors as likely to contribute substantially to a high risk of short-term extinction when considered on its own.

The overall assessment of extinction risk of the OC coho salmon ESU indicated considerable uncertainty about its status, with most likelihood points split between ''moderate risk'' and ''not at risk,'' and a small minority of points indicating ''high risk.'' The

BRT members placed 6 percent of the likelihood points in the high risk category, 47 percent of the likelihood points in the moderate risk category and 47 percent of the points in the low risk category.

The large range in the demographic risk scores and the lack of a strong mode in the overall assessment of risk were indicative of considerable uncertainty among BRT members about the current level of risk facing the ESU. This uncertainty was largely due to the difficulty in balancing the clear improvements in some aspects of the ESU's status over the last 15 years against persistent threats driving the longer term status of the ESU, which probably have not changed over the same time frame and are predicted to degrade in the future. In addition, the BRT noted that accurately predicting the long-term trend of a complex system is inherently difficult, and this also led to uncertainty in the overall risk assessment.

The BRT concluded that some aspects of the ESU's status have clearly improved since the initial status review in the mid-1990s (Weitkamp *et al.,* 1995). In particular, the BRT assigned a relatively low mean risk score to the abundance factor, noting that spawning escapements were higher in some recent years than they had been since 1970. Recent total returns (pre-harvest recruits) were also substantially higher than the low extremes of the 1990s, but still mostly below levels of the 1960s and 1970s. The BRT attributed the increased spawner escapements largely to a combination of greatly reduced harvest rates, reduced hatchery production, and improved ocean conditions. Even with the recent increases, however, pre-harvest abundance remains at approximately 10 percent of estimated historical abundance (approximately 150,000 current compared to peak abundance of approximately 1.5 million fish historical).

The BRT also noted that compared to the mid-1990s, the ESU contained relatively abundant wild populations throughout its range, leading to a relatively low risk associated with spatial structure. The BRT also discussed the observation that the recent natural origin spawning abundance of the OC coho salmon ESU was higher than that observed for other listed salmon ESUs, although some members noted that the 15-fold variability in abundance since the mid-1990s brings into question how heavily to weigh abundance as an indicator of status. Finally, the BRT noted that hundreds of individual habitat improvement projects over the last 15 years had likely benefited the ESU, although quantifying these benefits is difficult.

The BRT also discussed some ongoing positive changes that are likely to become manifest in abundance trends for the ESU in the future. In particular, hatchery production continues to be reduced with the cessation of releases in the North Umpqua River and Salmon River populations, and the BRT expects that the near-term ecological benefits from these reductions will result in improved natural production for these populations in the future. In addition, the BRT expected that reductions in hatchery releases that have occurred over the past decade may continue to produce increasingly positive effects on the survival of the ESU in the future, due to the time it may take for past genetic impacts to become attenuated.

Despite these positive factors, the BRT also had considerable concerns about the long-term viability of the ESU. The BRT continued to be concerned that there had been a long-term decline in the productivity of the ESU from the 1930s through the 1990s. Despite some improvements in productivity in the early 2000s, the BRT was concerned that the overall productivity of the ESU remains low compared to what was observed as recently as the 1960s and 1970s. The BRT was also concerned that the majority of the improvement in productivity in the early 2000s was likely due to improved ocean conditions, with a relatively smaller component due to reduced hatchery production (Buhle *et al.,* 2009).

The BRT noted that the legacy of past forest management practices combined with lowland agriculture and urban development has resulted in a situation in which the areas of highest habitat capacity (intrinsic potential) are now severely degraded. The BRT also noted that the combined ODFW/NMFS analysis of freshwater habitat trends for the Oregon coast found little evidence for an overall improving trend in freshwater habitat conditions since the mid-1990s, and evidence of negative trends in some strata. The BRT was also concerned that recent changes in the protection status of beaver, which through their dam building activities create coho salmon habitat, could result in further negative trends in habitat quality. The BRT was therefore concerned that when ocean conditions cycle back to a period of poor survival for coho salmon, the ESU may rapidly decline to the low abundance seen in the mid-1990s. Some members of the BRT observed that the reduction in risks from hatchery and harvest are expected to help buffer the ESU when marine survival returns to a lower level, likely resulting in improved status compared to the situation in the mid-1990s. Others noted that potential declines in beaver, observed negative trends in some habitat features, and the potential for more severe declines in marine productivity could result in even lower abundance levels than during the last period of poor ocean conditions. On balance, the BRT was, as a whole, uncertain about whether the long-term downward trajectory of the ESU's status has been arrested and uncertain about the ESU's ability to survive another prolonged period of low ocean survivals.

Finally, the BRT was also concerned that global climate change will lead to a long-term downward trend in both freshwater and marine coho salmon habitat compared to current conditions. There was considerable uncertainty about the magnitude of most of the specific effects climate change will have on salmon habitat, but the BRT was concerned that most changes associated with climate change are expected to result in poorer and more variable habitat conditions for OC coho salmon than exist currently. Some members of the BRT noted that changes in freshwater flow patterns as a result of climate change may not be as severe in the Oregon coast as in other parts of the Pacific Northwest, while others were concerned by recent observations of extremely poor marine survival rates for several West Coast salmon populations. The distribution of overall risk scores reflects some of this uncertainty.

The BRT concluded that, when future conditions are taken into account, the OC coho salmon ESU as a whole is at moderate risk of extinction. The BRT therefore did not explicitly address whether the ESU was at risk in only a significant portion of its range.

Summary of Factors Affecting the OC Coho Salmon ESU

The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Our previous **Federal Register** Notices, proposed rule, previous BRT reports (Weitkamp *et al,* 1995; Good *et al.* 2005), as well as numerous other reports and assessments (ODFW, 1995; State of Oregon, 2005; State of Oregon 2007), have reviewed in detail the effects of historical and ongoing land management practices that have altered OC coho salmon habitat. The BRT reviewed the factors that have led to the current degraded condition of OC coho salmon habitat. We briefly summarize

this information here and direct readers to the comprehensive analysis of factors affecting OC coho salmon habitat in the BRT report (Stout *et al.,* 2011) for more detail.

Historical and ongoing timber harvest and road building have reduced stream shade, increased fine sediment levels, reduced levels of instream large wood, and altered watershed hydrology. Historical splash damming removed stream roughness elements such as boulders and large wood and in some cases scoured streams to bedrock. Fish passage has been blocked in many streams by improperly designed culverts. Fish passage has been restricted in most estuary areas by tide gates.

Urbanization has resulted in loss of streamside vegetation and added impervious surfaces, which alter normal hydraulic processes. Agricultural activities have removed stream-side vegetation. Building of dikes and levees has disconnected streams from their floodplains and resulted in loss of natural stream sinuosity. Stormwater and agricultural runoff reaching streams is often contaminated by hydrocarbons, fertilizers, pesticides, and other contaminants. In the Umpqua River basin, diversion of water for agriculture reduces base stream flow and may result in higher summer stream temperatures.

Conversion of forest and agricultural land to urban and suburban development is likely to result in an increase in these effects in the future (Burnett *et al.,* 2007). Loss of beavers from areas inhabited by the OC coho salmon has led to reduced stream habitat complexity and loss of freshwater wetlands. The BRT reports that the amount of tidal wetland habitat available to support coho salmon rearing has declined substantially relative to historical estimates across all of the biogeographic strata (Stout *et al.,* 2011). Instream and off-channel gravel mining has removed natural stream substrates and altered floodplain function.

Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Historical harvest rates of OC coho salmon ranged from 60 percent to 90 percent from the 1960s into the 1980s (Stout *et al.,* 2011). Modest harvest reductions were achieved in the late 1980s. By 1994, most directed coho salmon harvest was prohibited (Stout *et al.,* 2011). The Pacific Fishery Management Council adopted Amendment 13 to its Salmon Fishery Management Plan in 1998. This amendment was part of the Oregon Plan for Salmon and Watersheds and was designed to reduce harvest of OC coho salmon. Current harvest rates are based on predicted marine survival and range from 0.8 percent to 45 percent. Allowable harvest rates have not exceeded 20 percent (with actual harvest rates being considerably lower) in the past 10 years (PFMC, 2010).

A few small freshwater fisheries on OC coho salmon have been allowed in recent years based on the provision in Amendment 13 that terminal fisheries can be allowed on strong populations as long as the overall exploitation rate for the ESU does not exceed the Amendment 13 allowable rate, and that escapement is not reduced below full seeding of the best available habitat. We have approved these fisheries with the condition that the methodologies used by the ODFW to predict population abundances and estimate full seeding levels are presented to the Pacific Fishery Management Council for review and approval.

While historical harvest management may have contributed to OC coho declines, the BRT concluded that the decreases in harvest mortalities described above have reduced this threat to the ESU and that further harvest reductions would not further reduce the risk to ESU persistence.

Disease or Predation

The ODFW (2005), in its assessment of OC coho salmon, asserted that disease and parasitism is not an important consideration in the recovery of this ESU. However, as many of the streams coho salmon juveniles inhabit are already close to lethal temperatures during the summer months, and with the expectation of rising stream temperatures due to global climate change, increases in infection rates of juvenile coho by parasites may become an increasingly important stressor both for freshwater and marine survival (Stout *et al.,* 2011) and may become important risks for juvenile fish in the early ocean-entry stage of the lifecycle.

The BRT identified several bird species and marine mammals that prey on OC coho salmon, but concluded that avian and mammalian predation may not have been a significant factor for decline when compared with other factors, but more recent work shows that it may be important to recovery actions in certain populations and specific situations within the OC Coho Salmon ESU.

The BRT was more concerned about predation on OC coho salmon from introduced warm-water fishes such as smallmouth bass (*Micropterus dolomieu*) and largemouth bass (*Micropterus salmoides*). These predatory fish are especially abundant in the streams and lakes of the Lakes and the lower Umpqua River. The BRT concluded that predation and competition from exotic fishes, particularly in light of the warming water temperatures from global climate change, could seriously affect the lake and slow-water rearing life history of OC coho salmon by increasing predation.

The Inadequacy of Existing Regulatory Mechanisms

Existing regulations governing coho salmon harvest have dramatically improved the ESU's likelihood of persistence. These regulations are unlikely to be weakened in the future. Many hatchery practices that were detrimental to the long-term viability of this ESU have been discontinued. As the BRT notes in its report, some of the benefits of these management changes are being realized as improvements in ESU abundance. However, trends in freshwater habitat complexity throughout many areas of this ESU's range remain discernibly unchanged (Stout *et al.,* 2011). We remain concerned that regulation of some habitat altering actions is insufficient to provide habitat conditions that support a viable ESU. In the *Efforts Being Made to Protect the Species* section of this Notice, we present our analysis of the current efforts to protect OC coho salmon freshwater and estuarine habitat

Other Natural or Manmade Factors Affecting its Continued Existence

Ocean conditions in the Pacific Northwest exhibit patterns of recurring, decadal-scale variability (including the Pacific Decadal Oscillation and the El Niño Southern Oscillation), and correlations exist between these oceanic changes and salmon abundance in the Pacific Northwest (Stout *et al.,* 2011). It is also generally accepted that for at least 2 decades, beginning about 1977, marine productivity conditions were unfavorable for the majority of salmon and steelhead populations in the Pacific Northwest, but this pattern broke in 1998, after which marine productivity has been quite variable (Stout *et al.,* 2011). In considering these shifts in ocean conditions, the BRT was concerned about how prolonged periods of poor marine survival caused by unfavorable ocean conditions may affect the population viability parameters of abundance, productivity, spatial structure, and diversity. OC coho salmon have persisted through many favorable-unfavorable ocean/climate cycles in the past. However, in the past

much of their freshwater habitat was in good condition, buffering the effects of ocean/climate variability on population abundance and productivity. It is uncertain how these populations will fare in periods of poor ocean survival when their freshwater, estuary, and nearshore marine habitats are degraded (Stout *et al.,* 2011).

The potential effects of global climate change are also a concern for this species. The BRT noted that there is considerable uncertainty regarding the effects of climate change on OC coho salmon and their freshwater, marine, and estuarine habitat. The final BRT report (Stout *et al.,* 2011) relied on an analysis of climate effects on OC coho salmon developed by two of its members (Wainwright and Weitkamp, in review).

Recent climate change has had widespread ecological effects across the globe, including changes in phenology; changes in trophic interactions; range shifts (both in latitude and elevation and depth); extinctions; and genetic adaptations (Parmesan, 2006). These types of changes have observed in salmon populations (ISAB 2007; Crozier *et al.,* 2008a, and Mantua *et al.,* 2009). Although these changes have undoubtedly influenced the observed VSP attributes for OC coho salmon ESU, the BRT could not partition past climate effects from other factors influencing the status of the ESU. Continuing climate change poses a threat to aquatic ecosystems (Poff *et al.,* 2002) and more locally to Pacific salmon (Mote *et al.,* 2003). The coho salmon life cycle extends across three main habitat types: Freshwater rivers and lakes, estuaries, and marine environments. In addition, terrestrial forest habitats are also essential to coho salmon because they determine the quality of freshwater habitats by influencing the types of sediments in spawning habitats and the abundance and structure of pools in juvenile rearing habitats (Cedarholm and Reid, 1987). The BRT considered these four habitats, how physical climate change is expected to affect those habitats over the next 50 years, and how salmon may respond to those effects during specific life-history stages (Stout *et al.,* 2011; Wainwright and Weitkamp, in review). Climate conditions have effects on each of these habitats, thus affecting different portions of the life cycle through different pathways, leading to a very complex set of potential effects. The BRT recognized that, while we have quantitative estimates of likely trends for some of the physical climate changes, we do not have sufficient understanding of the biological response to these changes to reliably quantify the effects on salmon populations and extinction risk. For this reason, their analysis was qualitative, summarizing likely trends in climate, identifying the pathways by which those trends are likely to affect salmon, and assessing the likely direction and rough magnitude of coho salmon population response.

Throughout the life cycle of OC coho salmon, there are a numerous potential effects of climate change (Stout *et al.,* 2011; Wainwright and Weitkamp, in review). The main predicted effects in terrestrial and freshwater habitats include warmer, drier summers, reduced snowpack, lower summer flows, higher summer stream temperatures, and increased winter floods, which would affect coho salmon by reducing available summer rearing habitat, increasing potential scour and egg loss in spawning habitat, increasing thermal stress, and increasing predation risk. In estuarine habitats, the main physical effects are predicted to be rising sea level and increasing water temperatures, which would lead to a reduction in intertidal wetland habitats, increasing thermal stress, increasing predation risk, and unpredictable changes in biological community composition. In marine habitats, there are a number of physical changes that would likey affect coho salmon, including higher water temperature, intensified upwelling, delayed spring transition, intensified stratification, and increasing acidity in coastal waters. Of these, only intensified upwelling would be expected to benefit coastal-rearing salmon; all the other effects would likely be negative.

Despite the uncertainties involved in predicting the effects of global climate change on the OC coho salmon ESU, the available information indicates that most impacts are likely to be negative. While individual effects at a particular life-history stage may be small, the cumulative effect of many small effects multiplied across life-history stages and across generations can result in large changes in salmon population dynamics (Stout *et al.,* 2011). In its conclusion on the likely effects of climate change, the BRT expressed both positive and negative possible effects but stressed that when effects are considered collectively, their impact on ESU viability is likely to be negative despite the large uncertainties associated with individual effects.

Efforts Being Made To Protect the Species

Section 4(b)(1)(A) of the ESA requires the Secretary to take into account efforts being made to protect a species when evaluating a species' listing classification (50 CFR 424.11(f)). In our proposed rule for this action, we presented a comprehensive analysis of Federal, State, and local programs that provide protection to OC coho salmon and their habitat. We did not receive any specific comments regarding our analysis of protective efforts during the public comment period. We present a summary of that analysis below, and direct the reader to the proposed rule for greater detail.

Forestry

State Forest Practices Act

Management of riparian areas on private forest lands within the range of OC coho salmon is regulated by the Oregon Forest Practices Act and Forest Practice Rules (Oregon Department of Forestry, 2005b). These rules require the establishment of riparian management areas (RMA) on certain streams that are within or adjacent to forestry operations. The RMA widths vary from 10 feet (3.05 meters) to 100 feet (30.48 meters) depending on the stream classification, with fish-bearing streams having wider RMA than streams that are not fish-bearing.

Although the Oregon Forest Practices Act and the Forest Practice Rules generally have become more protective of riparian and aquatic habitats over time, significant concerns remain over their ability to adequately protect water quality and salmon habitat (Everest and Reeves, 2007; ODF, 2005b; IMST, 1999). In particular, disagreements continue over: (1) Whether the widths of RMAs are sufficient to fully protect riparian functions and stream habitats; (2) whether operations allowed within RMAs will degrade stream habitats; (3) operations on high-risk landslide sites; and (4) watershed-scale effects. Based on the available information, we were unable to conclude that the Oregon Forest Practices Act adequately protects OC coho habitat in all circumstances. On some streams, forestry operations conducted in compliance with this act are likely to reduce stream shade, slow the recruitment of large woody debris, and add fine sediments. Since there are no limitations on cumulative watershed effects, road density on private forest lands, which is high throughout the range of this ESU, is unlikely to decrease.

State Forest Programs

Approximately 567,000 acres (2,295 square kilometers) of forest land within the range of OC coho salmon are managed by the Oregon Board of Forestry (Oregon Department of

Forestry, 2005). The majority of these lands are managed under the Northwest Oregon Forest Management Plan and the Elliot Forest Management Plan. The plans are described in detail in our proposed rule and in Oregon Department of Forestry (2001 and 2006).

The Oregon Department of Forestry began an ESA section 10 habitat conservation plan for the Elliot State Forest Management Plan. On July 19, 2009, we notified Oregon Department of Forestry that ''we are unable to conclude the strategies would meet the conservation needs of our trust resources and provide for the survival and recovery of Oregon Coast (OC) coho salmon.'' (Letter from Kim Kratz, NMFS to Jim Young, Oregon Department of Forestry, dated July 19, 2009). We identified concerns over stream shade, woody debris recruitment, and certain other issues that needed to be resolved before the Habitat Conservation Plan can be approved. On July 27, 2009, the Oregon Department of Forestry responded, stating that the proposed protective measures ''will provide a high level of protection for Oregon's fish and wildlife species and a low level of risk'' (Letter from Jim Young, Oregon Department of Forestry, to Kim Kratz, NMFS, dated July 27, 2009). There is still significant disagreement over whether the proposed protective measures are sufficient to conserve OC coho salmon and their habitat. Since publication of our proposed rule, no additional progress has been made on this habitat conservation plan. We are as yet unable to conclude that the Elliot State and the Northwest Oregon Forest Management Plans provide for OC coho salmon habitat that is capable of supporting populations that are viable during both good and poor marine conditions.

Northwest Forest Plan

Since 1994, land management on Forest Service and Bureau of Land Management (BLM) lands in Western Oregon has been guided by the Federal Northwest Forest Plan (USDA and USDI, 1994). The aquatic conservation strategy contained in this plan includes elements such as designation of riparian management zones, activity-specific management standards, watershed assessment, watershed restoration, and identification of key watersheds (USDA and USDI, 1994).

Although much of the habitat with high intrinsic potential to support the recovery of OC coho salmon is on lower-elevation, private lands, Federal forest lands contain much of the current high-quality habitat for this species (Burnett *et al.,* 2007). Relative to forest practice rules and practices on many non-Federal lands, the Northwest Forest Plan has large riparian management zones (1 to 2 site-potential tree heights) and relatively protective, activity-specific management standards (USDA and USDI, 1994). As discussed in the proposed rule, we consider the Northwest Forest Plan, when fully implemented, to be sufficient to provide for the habitat needs of OC coho salmon habitat on Federal lands. Although maintaining this high-quality habitat on Federal lands is necessary for the recovery of OC coho salmon, the recovery of the species is unlikely unless habitat can be improved in streams with high-intrinsic-potential on non-Federal lands (Burnett *et al.,* 2007).

The proposed rule also noted that uncertainty exists about the future of the aquatic conservation strategy on Federal lands in the Pacific Northwest. The Forest Service and Bureau of Land Management have attempted to revise the aquatic conservation strategy of the Northwest Forest Plan several times over the last few years, but have encountered legal challenges each time, resulting in no change to the strategy. In addition, ESA section 7 consultations on the management of riparian forests on Federal lands throughout the range of the OC coho salmon ESU have become increasingly contentious over the last year. Recently, we initiated a dispute resolution process with the Forest Service, Bureau of Land Management, and U.S. Fish and Wildlife Service to help resolve scientific issues associated with the management of riparian forests and its effects on salmon habitat.

Agriculture

Across all populations, agricultural lands occupy approximately 0–20 percent of lands adjacent to OC coho salmon habitat (Burnett *et al.,* 2007). Much of this habitat is considered to have high intrinsic potential (low gradient stream reaches with historically high habitat complexity) but has been degraded by past management activities (Burnett *et al.,* 2007). In our proposed rule, we presented an analysis of the degree of protection afforded to OC coho salmon habitat by: (1) Agricultural water quality programs, (2) state water quality management plans for confined animal feeding operation, (3) state pesticide programs, (4) the Federal pesticide labeling program, and (5) irrigation and water availability regulations. We concluded that these state and Federal programs are partially effective at protecting OC coho salmon habitat. Many of the agricultural actions that have the greatest potential to degrade coho habitat, such as management of animal waste, application of toxic pesticides, and discharge of fill material, have some protective measures in place that limit their adverse effects on aquatic habitat. However, deficiencies in these programs limit their effectiveness at protecting OC coho salmon habitat. In particular, the riparian rules of the water quality management program are vague and enforcement of this program is sporadic. The lack of clear criteria for riparian condition will continue to make the requirements of this program difficult to enforce. Levees and dikes can be maintained and left devoid of riparian vegetation regardless of their proximity to a stream. The lack of streamside buffers in the state's pesticide program likely results in water quality impacts from the application of pesticides. Although new requirements from ESA section 7 consultations on Federal pesticide registration may afford more protection to OC coho salmon, these requirements will only apply if the OC coho salmon ESU remains listed. Although a water leasing program is available, there is much uncertainty about how this program will result in increased instream flow. The available information leads us to conclude that it is likely that the quality of OC coho salmon habitat on private agricultural lands may improve slowly over time or remain in a degraded state. It is unlikely that, under the current programs, OC coho salmon habitat will recover to the point that it can produce viable populations during both good and poor marine conditions.

Federal Clean Water Act Fill and Removal Permitting

Several sections of the Federal Clean Water Act, such as section 401 (water quality certification), section 402 (National Pollutant Discharge Elimination System), and section 404 (discharge of fill into waters of the United States), regulate activities that might degrade salmon habitat. Despite the existence and enforcement of this law, a significant percentage of stream reaches in the range of the Oregon Coast coho salmon do not meet current water quality standards. For instance, many of the populations of this ESU have degraded water quality identified as a secondary limiting factor (ODFW, 2007). Forty percent of the stream miles inhabited by OC salmon ESU are classified as temperature impaired (Stout *et al.,* 2011). Although programs carried out under the Clean Water Act are well funded and enforcement of this law occurs, it is unlikely that programs are sufficient to protect salmon habitat

in a condition that would provide for viable populations during good and poor marine conditions.

Gravel Mining

Gravel mining occurs in various areas throughout the freshwater range of OC coho salmon but is most common in the South Fork Umpqua, South Fork Coquille, Nehalem, Nestucca, Trask, Kilchis, Miami, and Wilson rivers. The U.S. Army Corps of Engineers issues permits under section 404 of the Clean Water Act and section 10 of the Rivers and Harbors Act for gravel mining in rivers in the southern extent of the OC coho salmon's range. Although gravel mining activities using similar methods occur within rivers at the northern extent of this ESU's range, such as the Nehalem River, the Corps of Engineers does not always issue permits for these activities. It is unclear why fewer permits are issued in the northern portion of this ESU's range. The Oregon Department of State Lands issues similar permits under both the Removal-Fill Law and the State Scenic Waterway Law.

In our proposed rule we described in detail the potential adverse effects of improperly managed gravel mining on OC coho salmon habitat. We noted that gravel mining can result in a deeper and less complex streambed with reduced refuge areas for juvenile coho salmon. Gravel mining can alter salmonid food webs and reduce the amount of prey available for juvenile salmonids. Removal of riverbed substrates may also alter the relationship between sediment load and shear stress forces and increase bank and channel erosion. This disrupts channel form, and can also disrupt the processes of channel formation and habitat development (Lagasse *et al.,* 1980; Waters, 1995). Operation of heavy equipment in the river channel or riparian areas can result in disturbance of vegetation, exposure of bare soil to erosive forces, and spills or releases of petroleum-based contaminants.

In our proposed rule, we noted that we have issued draft conference opinions under section 7 of the ESA that have concluded that issuance of permits for gravel mining in streams occupied by OC coho salmon would jeopardize the continued existence of this ESU and result in the destruction or adverse modification of their critical habitat (letter from Michael Crouse, NMFS to Larry Evans, Corps of Engineers dated May 29, 2007). Although gravel mining has ceased in some areas occupied by this ESU, gravel mining in the South Fork Coquille and other areas remains a concern.

Recent ESA and Magnuson-Stevens Fishery Conservation and Management Act consultations indicate that, in some cases, the measures governing sand and gravel mining are inadequate to provide for OC coho salmon habitat capable of producing viable populations during good and poor marine conditions.

Habitat Restoration Programs

The Oregon Watershed Enhancement Board funds and facilitates habitat restoration projects throughout the range of the OC coho salmon. Many of these projects occur on private land and are planned with local stakeholder groups known as watershed councils. Biologists and restoration specialists from state, Federal, and tribal agencies often assist in the planning and implementation of projects. Habitat restoration projects funded by the Oregon Watershed Enhancement Board include installation of fish screens, riparian planting, placement of large woody debris, road treatments to reduce sediment inputs to streams, wetland restoration, and removal of fish passage barriers (Oregon Watershed Enhancement Board, 2009). The web-based Oregon Watershed Restoration Inventory (*http://www.oregon.gov/OWEB/MONITOR/OWRI_data.shtml*) and the North Coast Explorer (*http://www.northcoastexplorer.info/*) systems provide detailed information on restoration projects implemented within the range of OC coho salmon. We also maintain the Pacific Northwest Salmon Habitat Project Database (*http://webapps.nwfsc.noaa.gov/pnshp*) to track salmon habitat restoration projects. Douglas County provided information on several habitat restoration projects completed within the Umpqua River Basin. In addition to state and private efforts, the Forest Service and Bureau of Land Management carry out restoration projects on Federal lands (USDA and USDI, 2005).

A number of restoration projects are occurring throughout the range of this ESU and we expect they will have benefits to ESU viability some time in the future. However, we do not have information available that would allow us to predict or quantify these future improvements to ESU viability. In the absence of this information, we must look at measures of ESU viability to determine if restoration efforts are lowering ESU extinction risk. In the case of OC coho salmon, there are some encouraging signs such as increased abundance over the last several years.

Beaver Management

Beavers were once widespread across Oregon. There is general agreement that beavers are a natural component of the aquatic ecosystem and beaver dams provide ideal habitat for overwintering coho salmon juveniles (ODFW, 1997). Currently, beavers in Oregon are classified as nuisance species, so there is no closed season or bag limit. They may be killed at any time they are encountered. Oregon also maintains a trapping season for beavers. The ODFW is currently investigating possible ways to protect beavers and their dams throughout the range of OC coho salmon. All current protective efforts are voluntary, and there is low certainty they will be fully implemented.

Final Listing Determination

Section 4(b)(1) of the ESA requires that a listing determination be based solely on the best scientific and commercial data available, after conducting a review of the status of the species and after taking into account those efforts, if any, being made by any state or foreign nation to protect and conserve the species. We have reviewed the preliminary and final reports of the BRT (Stout *et al.,* 2010, 2011), co-manager comments, peer review, public comments, and other available published and unpublished information. Based on this review, we conclude that there is no new information to indicate that the boundaries of this ESU should be revised or that the ESU membership of existing hatchery populations should be changed.

Ongoing efforts to protect OC coho salmon and their habitat, as described in the previous section, are likely to provide some benefit to this ESU. Considered collectively, however, these efforts do not comprehensively address the threats to the OC coho salmon ESU from past, ongoing, and future land management activities and global climate change.

Based on the best scientific and commercial information available, including the BRT report, we conclude that the OC coho salmon ESU is not presently in danger of extinction, but is likely to become so in the foreseeable future throughout all of its range. Factors supporting a conclusion that this ESU is not presently in danger of extinction include: (1) Abundance of naturally spawned returns has increased recently; (2) this ESU remains well distributed throughout its historical range from just south of the Columbia River to north of Cape Blanco, Oregon; (3) each one of the five major

geographical areas comprising this ESU contains at least one relatively healthy population; (4) threats posed by overharvest and hatchery practices have largely been addressed; and (5) spawning escapement levels have improved considerably in recent years.

Factors supporting a conclusion that the DPS is likely to become in danger of extinction in the foreseeable future include: (1) After considering the results of the DSS, other information about the ESU's viability, and threats, the BRT found the OC coho salmon ESU to be at least at a moderate risk of extinction; (2) abundance of naturally spawned returns is one tenth of historic levels of abundance; (3) the BRT's analysis of freshwater habitat trends for the Oregon coast found little evidence for an overall improving trend in freshwater habitat conditions since the mid-1990s, and evidence of negative trends in some strata; (4) current protective efforts are insufficient to provide for freshwater habitat conditions capable of producing a viable ESU; (5) there is ongoing uncertainty about the future management of OC coho salmon habitat, particularly forested habitat on state, Federal, and private lands; (6) global climate change is likely to result in further degradation of freshwater habitat conditions and poor marine survival; (7) there are still numerous primary threats to OC coho persistence, including legacy effects from past forest management, poor marine conditions, agricultural activities and urban development in high intrinsic potential habitat, global climate change, etc.; and (8) this ESU faces a long and growing list of secondary threats including invasions of exotic organisms, poor water quality, and land-use conversion. Therefore, we retain the threatened listing for the OC coho salmon ESU.

Prohibitions and Protective Measures

Section 9 of the ESA prohibits the take of endangered species. The term ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (16 U.S.C. 1532(19)). In the case of threatened species, ESA section 4(d) requires us to issue regulations we deem necessary and advisable for the conservation of the species. Such regulations may include extending section 9 take prohibitions. On February 11, 2008, we issued final protective regulations under section 4(d) of the ESA for the OC coho salmon ESU (73 FR 7816). The new information evaluated in this review of the status of the OC coho ESU does not alter our determinations regarding those portions of our February 11, 2008, rule establishing ESA section 4(d) protections for the species. Accordingly, those protective regulations remain in effect.

Other Protective ESA Provisions

Section 7(a)(4) of the ESA requires that Federal agencies confer with NMFS on any actions likely to jeopardize the continued existence of a species proposed for listing and on actions likely to result in the destruction or adverse modification of proposed critical habitat. For listed species, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or conduct are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a proposed Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with NMFS or the US Fish and Wildlife Service, as appropriate. Examples of Federal actions likely to affect salmon include authorized land management activities of the Forest Service and the BLM, as well as operation of hydroelectric and storage projects of the Bureau of Reclamation and the U.S. Army Corps of Engineers. Such activities include timber sales and harvest, permitting livestock grazing, hydroelectric power generation, and flood control. Federal actions, including the U.S. Army Corps of Engineers section 404 permitting activities under the Clean Water Act, permitting activities under the River and Harbors Act, Federal Energy Regulatory Commission licenses for non-Federal development and operation of hydropower, and Federal salmon hatcheries, may also require consultation. We have a long history of consultation with these agencies on the OC coho salmon ESU.

ESA sections 10(a)(1)(A) and 10(a)(1)(B) of the ESA provide NMFS with authority to grant exceptions to the ESA's ''take'' prohibitions. Section 10(a)(1)(A) scientific research and enhancement permits may be issued to entities (Federal and non-Federal) conducting research that involves a directed take of listed species. A directed take refers to the intentional take of listed species. We have issued section 10(a)(1)(A) research/enhancement permits for currently listed ESUs for a number of activities, including trapping and tagging, electroshocking to determine population presence and abundance, removal of fish from irrigation ditches, and collection of adult fish for artificial propagation programs. Section 10(a)(1)(B) incidental take permits may be issued to non-Federal entities performing activities that may incidentally take listed species. The types of activities potentially requiring a section 10(a)(1)(B) incidental take permit include the operation and release of artificially propagated fish by state or privately operated and funded hatcheries, state or academic research that may incidentally take listed species, the implementation of state fishing regulations, logging, road building, grazing, and diverting water into private lands. These ''Other Protective ESA Provisions'' of the February 11, 2008, rule remain in effect.

Effective Date of the Final Listing Determination

Since the OC coho salmon ESU is currently listed as threatened and this final rule is conformation of that finding, this rule is effective immediately.

Critical Habitat

Section 4(a)(3) of the ESA requires that, to the extent practicable and determinable, critical habitat be designated concurrently with the listing of a species. Designation of critical habitat must be based on the best scientific data available and must take into consideration the economic, national security, and other relevant impacts of specifying any particular area as critical habitat.

On February 11, 2008, we designated critical habitat for the OC coho salmon ESU (73 FR 7816). The new information we evaluated in this review of the status of the OC coho ESU does not alter our determinations regarding those portions of our February 11, 2008 rule designating critical habitat for the species. Accordingly, this critical habitat designation remains in effect.

Classification

National Environmental Policy Act (NEPA)

ESA listing decisions are exempt from the requirements to prepare an environmental assessment or environmental impact statement under the NEPA. See NOAA Administrative Order 216 6.03(e)(1) and *Pacific Legal Foundation* v. *Andrus 657 F2d 829 (6th Cir. 1981).* Thus, we have determined that this final listing determination for the OC coho salmon ESU is exempt from the requirements of the NEPA of 1969.

Executive Order (E.O.) 12866, Regulatory Flexibility Act and Paperwork Reduction Act

As noted in the Conference Report on the 1982 amendments to the ESA,

economic impacts cannot be considered when assessing the status of a species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act are not applicable to the listing process. In addition, this rule is exempt from review under E.O. 12866. This final rule does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act.

E.O. 13084—Consultation and Coordination With Indian Tribal Governments

E.O. 13084 requires that if NMFS issues a regulation that significantly or uniquely affects the communities of Indian tribal governments and imposes substantial direct compliance costs on those communities, NMFS must consult with those governments or the Federal Government must provide the funds necessary to pay the direct compliance costs incurred by the tribal governments. This final rule does not impose substantial direct compliance costs on the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this final rule. Nonetheless, we will continue to inform potentially affected tribal governments, solicit their input, and coordinate on future management actions.

E.O. 13132—Federalism

E.O. 13132 requires agencies to take into account any federalism impacts of regulations under development. It includes specific directives for consultation in situations where a regulation will preempt state law or impose substantial direct compliance costs on state and local governments (unless required by statute). Neither of those circumstances is applicable to this final rule. In keeping with the intent of the Administration and Congress to provide continuing and meaningful dialogue on issues of mutual state and Federal interest, the proposed rule was provided to Oregon State and the state was invited to comment. We have conferred with the State of Oregon in the course of assessing the status of the OC coho salmon ESU, and have considered and incorporated their comments and recommendations into this final determination where applicable.

References

A list of references cited in this notice is available upon request (see **ADDRESSES**) or via the Internet at *http://www.nwr.noaa.gov.* Additional information, including agency reports and written comments, is also available at this Internet address.

List of Subjects in 50 CFR Part 223

Endangered and threatened species, Exports, Imports, Transportation.

Dated: June 13, 2011.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 223 is amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531 1543; subpart B, § 223.201–202 also issued under 16 U.S.C. 1361 *et seq.;* 16 U.S.C. 5503(d) for § 223.206(d)(9) *et seq.*

■ 2. In § 223.102, in the table, revise paragraph (c)(24) to read as follows:

§ 223.102 Enumeration of threatened marine and anadromous species.

(c) * * *

Species [1]		Where listed	Citation(s) for listing determination(s)	Citation(s) for critical habitat designation(s)
Common name	Scientific name			
*	*	* *	* *	*
(24) Oregon Coast Coho salmon.	*Oncorhynchus kisutch*.	U.S.A., OR, all naturally spawned populations of coho salmon in Oregon coastal streams south of the Columbia River and north of Cape Blanco, including the Cow Creek (ODFW stock #37) coho hatchery program.	73 FR 7816; Feb 11, 2008; [*Insert FR citation; June 16, 2011*].	73 FR 7816; Feb 11, 2008.
*	*	* *	* *	*

[1] Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

[FR Doc. 2011–15080 Filed 6–17–11; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 680

[Docket No. 0910301387–1315–02]

RIN 0648–AY33

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Crab Rationalization Program

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement Amendment 34 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs. Amendment 34 amends the Bering Sea and Aleutian Islands Crab Rationalization Program to exempt additional recipients of crab quota share from Gulf of Alaska Pacific cod and pollock harvest limits, called sideboards, which apply to some vessels and license limitation program licenses that are used to participate in these fisheries. The North Pacific Fishery Management Council determined that these recipients demonstrated a sufficient level of historical participation in Gulf of Alaska Pacific cod or pollock fisheries and should be exempt from the Gulf of Alaska Pacific cod and pollock sideboards. This action is necessary to give these recipients an opportunity to participate in the Gulf of Alaska Pacific cod and pollock fisheries at historical levels. This final rule revises regulations governing exemptions from and calculations of sideboard harvest limits in the Gulf of Alaska Pacific cod and pollock fisheries and revises Tables 17 and 18 that establish the 2011–2012 Gulf of Alaska groundfish harvest sideboard limits. To fully implement Amendment 34 NMFS will reissue Federal fisheries permits and license limitation program licenses to all participants that are affected by the action. This final rule promotes the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act and the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs.

DATES: Effective July 20, 2011.

ADDRESSES: Electronic copies of Amendment 34, the Regulatory Impact Review (RIR), the Final Regulatory Flexibility Analysis (FRFA), and the Categorical Exclusion prepared for this proposed action may be obtained from *http://www.regulations.gov* or from the Alaska Region Web site at *http://alaskafisheries.noaa.gov.* The Environmental Impact Statement, RIR, FRFA, and Social Impact Assessment prepared for the Crab Rationalization Program are available from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Rachel Baker, 907–586–7425, or Forrest R. Bowers, 907–586–7240.

SUPPLEMENTARY INFORMATION:

Background

The King and Tanner crab fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands (BSAI) are managed under the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (Crab FMP). Groundfish fisheries in the Gulf of Alaska (GOA) are managed under the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP). The North Pacific Fishery Management Council (Council) prepared, and NMFS approved, the Crab FMP and the GOA FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Amendments 18 and 19 to the Crab FMP implemented the BSAI Crab Rationalization Program (CR Program). Regulations implementing the FMP, including the CR Program, are located at 50 CFR part 680. Regulations implementing the GOA FMP are at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The CR Program allocates BSAI crab resources among harvesters, processors, and coastal communities. The CR Program is a limited access privilege program (LAPP) for nine BSAI crab fisheries. Participants receive exclusive harvesting and processing privileges for a portion of the total allowable catch established for each crab fishery in the CR Program.

Sideboards are implemented within LAPPs to prevent participants who benefit from receiving exclusive harvesting privileges from shifting effort into fisheries that are not managed with a LAPP. In developing the CR Program, the Council anticipated that flexibility inherent in the CR program would allow crab fishermen to expand their fishing operations into other fisheries. Because the Bering Sea snow crab (*Chionoecetes opilio*) and many economically valuable GOA groundfish fisheries were conducted concurrently from January through March the Council was particularly concerned that increased flexibility for recipients of Bering Sea snow crab quota share (QS) could give them an incentive to increase effort in GOA groundfish fisheries.

The Council determined that the CR Program should include sideboards for most GOA groundfish fisheries to prevent Bering Sea snow crab QS recipients from increasing their participation in those fisheries. However, because some Bering Sea snow crab QS recipients had significant historical participation in the GOA Pacific cod fishery, the Council also developed criteria that would exempt from sideboards certain Bering Sea snow crab QS recipients with significant participation in, or dependence on, the GOA Pacific cod fishery. The CR Program did not establish sideboard limits for American Fisheries Act (AFA) vessels with historical participation in the Bering Sea snow crab fishery because these vessels are subject to GOA harvesting and processing restrictions under the AFA and the implementing regulations for the AFA (§ 679.64(b)). Vessels subject to the sideboards are referred to as ''non-AFA crab vessels''. Exemption criteria are based on snow crab and groundfish catch history during a set of qualifying years and are fully described in the preamble to the proposed rule for this action (76 FR 17088).

After the CR Program was implemented in 2005, some non-AFA crab vessel operators testified to the Council that the GOA Pacific cod and pollock sideboard limits were too restrictive. These operators indicated that with the sideboard limits they were unable to maintain historical groundfish catch levels in the GOA and should qualify for an exemption from those limits. Some operators testified that although their vessel's catch history exceeded the maximum allowable amount to qualify for the exemption from the Pacific cod sideboard limits, they had significant history in, and dependence on, GOA Pacific cod and pollock fisheries. Based on this public testimony and a review of the effects of the sideboard limits in the first 2 years of the CR Program (2005/2006 and 2006/2007 crab fishing years), the Council determined that the existing criteria for exemption from the sideboard limits in GOA Pacific cod and pollock fisheries should be examined to consider inclusion of additional vessels and LLP licenses with historical participation in and sufficient dependence on these fisheries. The Council initiated an analysis in December 2007 to examine alternatives that would expand the criteria for non-AFA crab vessels to

qualify for an exemption from the Pacific cod sideboard limits and that would extend a similar exemption to the pollock sideboard limits.

In October 2008, the Council recommended Amendment 34 to the Crab FMP to exempt additional vessels and groundfish LLP licenses from the GOA Pacific cod and pollock sideboard limits. The Council also clarified that it did not intend for Amendment 34 to disqualify any vessels or groundfish LLP licenses that are currently exempt from non-AFA crab vessel Pacific cod sideboard limits in the GOA.

This final rule implements two actions. The first action modifies the criteria exempting vessels and LLP licenses from the non-AFA crab vessel GOA Pacific cod sideboard limits. Under this action, non-AFA crab vessels are exempt from GOA Pacific cod sideboards if their catch history of Bering Sea snow crab from 1996 to 2000 was less than 750,000 lbs. (340.2 mt) and their catch history of Pacific cod during the same time period was greater than 680 metric tons. In developing these new sideboard exemption criteria, the Council first considered a person's dependence on the GOA Pacific cod fishery demonstrated through both sufficient volume of landings, represented by the 680 metric ton level, which is slightly more than twice the average 1996 to 2000 GOA Pacific cod landings of all non-AFA crab vessels, as well as a person's recent annual participation in the fishery represented by landings of GOA Pacific cod each year from 1998 to 2007. The Council determined, and NMFS agrees, that the Bering Sea snow crab threshold of less than 100,000 lbs. (45.4 mt) of landings between 1996 and 2000 is too restrictive and that increasing the threshold to less than 750,000 lbs. (340.2 mt) of landings between 1996 and 2000 was justified given demonstrated dependence on the GOA Pacific cod fishery by the three additional vessels and licenses that are estimated to qualify for exemption under this final rule. The Council concluded, and NMFS agrees, that the effects of three additional exempt vessels and LLP licenses on other participants in the GOA Pacific cod fishery would be minimal since these three vessels and LLP licenses represent approximately one percent of the number of participating vessels and their combined harvests of Pacific cod from 1995 through 2009 were less than 2 percent of the total catch of GOA Pacific cod during that period.

The second action implemented by this final rule adds an exemption to GOA pollock sideboard limits for non-AFA crab vessels. Under the CR Program, all non-AFA crab vessels are subject to sideboard limits in GOA pollock fisheries. Although some non-AFA crab vessels historically participated in GOA pollock fisheries, the aggregate catch history of GOA pollock by non-AFA crab vessels from 1996 to 2000 yielded sideboard limits that NMFS determined were of an insufficient amount to support directed fishing. Since 2006, NMFS has closed the GOA pollock sideboard fishery to directed fishing by non-AFA crab vessels. With the likelihood of no directed fishing for pollock sideboard limits for the foreseeable future, a GOA pollock-dependent non-AFA crab vessel could not maintain its historical level of participation in GOA pollock fisheries and the Council determined that they are negatively impacted under the status quo.

The Council determined and NMFS agrees that a non-AFA crab vessel that was used to land less than 0.22 percent of all Bering Sea snow crab landings from 1996 to 2000 (1,212,673 lbs. (550 mt)), and made 20 landings of pollock harvested from the GOA from 1996 to 2000, was minimally dependent on the Bering Sea snow crab fishery and sufficiently dependent on the GOA pollock fishery to qualify for an exemption from the pollock sideboard limits. In reaching this decision, the Council determined that the 20-landings minimum threshold for an exemption from the GOA pollock sideboard limit was the minimum level of participation by non-AFA crab vessels that would demonstrate significant participation in, and dependence on, the GOA pollock fishery.

A single vessel is estimated to qualify for an exemption under the criteria selected by the Council. Pollock comprised approximately 80 percent of the vessel's catch in the GOA in most years from 1995 through 2000. Additionally, this vessel was used to make at least twice as many landings of pollock (20) harvested from the GOA from 1996 through 2000 than the three other vessel operations that would qualify under lower landings thresholds considered by the Council. The Council determined and NMFS agrees that this catch information clearly demonstrated the operator's dependence on the GOA pollock fishery. NMFS also agrees with the Council that vessels meeting the proposed threshold for Bering Sea snow crab landings would demonstrate minimal participation in, and dependence on, this fishery because it represents a very low level of harvest relative to other participants in the Bering Sea snow crab fishery. NMFS estimates that the average landings of Bering Sea snow crab per vessel from 1996 through 2000 for all vessels with catch history that generated Bering Sea snow crab QS totaled approximately 2,366,000 lbs (1,073 mt) per vessel. The Council's recommended threshold of a maximum harvest of 1,212,673 lbs (550 mt) is approximately half of this average.

Under Action 2 the Council considered three levels of past participation in the pollock fishery upon which to base the sideboard exemption—5, 10, and 20 landings of GOA pollock from 1996 to 2000 as well as a Bering Sea snow crab landing volume cap of no more than 550 mt of snow crab during the same time period. Four vessels qualified for an exemption under the 5 and 10 landing levels and one qualified under the 20 landing level. In considering the effects of exempting vessels on participants in the GOA pollock fishery, the Council determined that the exemption of one vessel and one LLP license that clearly demonstrated past dependence on the pollock fishery would not negatively affect other participants in the fishery. However, the Council determined, and NMFS agrees, that the exemption of four vessels, three of which had questionable past dependence on the fishery, would negatively affect other GOA pollock fishery participants.

To implement Amendment 34, NMFS will revise non-AFA crab vessel sideboard limit ratios that are specified in the final 2011 and 2012 harvest specifications for the GOA. For Action 1, NMFS will remove from the inshore component GOA Pacific cod sideboard limits the amount of retained catch of Pacific cod harvested in the GOA from 1996 through 2000 by the non-AFA crab vessels that qualify for a sideboard limit exemption under Amendment 34. The ratio calculated after the removal of this catch history will be multiplied by the 2011 and 2012 GOA Pacific cod TACs and apportioned by area and season to determine new sideboard limits in metric tons. For Action 2, Amendment 34 does not modify the non-AFA crab vessel pollock sideboard limits from the ratios implemented in the final 2011 and 2012 GOA harvest specifications. The 2011 and 2012 non-AFA crab vessel Pacific cod and pollock sideboard limit ratio calculations already exclude the retained catch of these species harvested from the GOA from 1996 through 2000 by some of the newly exempt non-AFA crab vessels whose owners took advantage of an agency administrative appeals process to challenge implementation of the sideboard limits on their vessels in 2006 because NMFS removed this catch history during the

appeals process. Thus, the 1996 through 2000 catch history of some of the vessels that qualify for an exemption from GOA sideboard limits under Amendment 34 is not currently included in the sideboard limit calculations. As a result, the sideboard limit adjustments necessary to implement Amendment 34 are partially reflected in the 2011 and 2012 harvest specifications.

Table 17 and Table 18 present the final 2011 and 2012 non-AFA crab vessel sideboard limits for GOA groundfish harvest under Amendment 34 based on the Council's recommended harvest specifications for these species.

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Table 17. Final 2011 GOA Non-AFA Crab Vessel Groundfish Harvest Sideboard Limits Under Amendment 34 (Values are rounded to nearest metric ton).

Species	Season/gear	Area/component	Ratio of 1996-2000 non-AFA crab vessel catch to 1996-2000 total harvest	2011 TAC	2011 non-AFA crab vessel sideboard limit
Pollock	A Season January 20 - March 10	Shumagin (610)	0.0098	4,787	47
		Chirikof (620)	0.0031	11,896	37
		Kodiak (630)	0.0002	4,475	1
	B Season March 10 - May 31	Shumagin (610)	0.0098	4,787	47
		Chirikof (620)	0.0031	14,232	44
		Kodiak (630)	0.0002	2,139	0
	C Season August 25 - October 1	Shumagin (610)	0.0098	8,729	86
		Chirikof (620)	0.0031	5,618	17
		Kodiak (630)	0.0002	6,811	1
	D Season October 1 - November 1	Shumagin (610)	0.0098	8,729	86
		Chirikof (620)	0.0031	5,618	17
		Kodiak (630)	0.0002	6,811	1
	Annual	WYK (640)	0.0000	2,339	0
		SEO (650)	0.0000	9,245	0
Pacific cod	A Season[1] January 1 - June 10	W inshore	0.0852	12,303	1,048
		W offshore	0.3376	1,367	461
		C inshore	0.0475	21,795	1,035
		C offshore	0.2076	2,422	503
	B Season[2] September 1 - December 31	W inshore	0.0852	8,202	699
		W offshore	0.3376	911	308
		C inshore	0.0475	14,530	690
		C offshore	0.2076	1,614	335
	Annual	E inshore	0.0110	1,758	19
		E offshore	0.0000	195	0
Sablefish	Annual, trawl gear	W	0.0000	334	0
		C	0.0000	948	0
		E	0.0000	247	0
Flatfish, shallow-water	Annual	W	0.0059	4,500	27
		C	0.0001	13,000	1
		E	0.0000	1,228	0
Flatfish, deep-water	Annual	W	0.0035	529	2
		C	0.0000	2,919	0
		E	0.0000	2,083	0
Rex sole	Annual	W	0.0000	1,517	0
		C	0.0000	6,294	0
		E	0.0000	868	0

Arrowtooth flounder	Annual	W	0.0004	8,000	3
		C	0.0001	30,000	3
		E	0.0000	2,500	0
Flathead sole	Annual	W	0.0002	2,000	0
		C	0.0004	5,000	2
		E	0.0000	2,064	0
Pacific ocean perch	Annual	W	0.0000	2,798	0
		C	0.0000	10,379	0
		E	0.0000	1,937	0
Northern rockfish	Annual	W	0.0005	2,573	1
		C	0.0000	2,281	0
Shortraker rockfish	Annual	W	0.0013	134	0
		C	0.0012	325	0
		E	0.0009	455	0
Other rockfish	Annual	W	0.0035	212	1
		C	0.0033	507	2
		E	0.0000	276	0
Pelagic shelf rockfish	Annual	W	0.0017	611	1
		C	0.0000	3,052	0
		E	0.0000	407	0
Rougheye rockfish	Annual	W	0.0067	81	1
		C	0.0047	868	4
		E	0.0008	363	0
Demersal shelf rockfish	Annual	SEO	0.0000	300	0
Thornyhead rockfish	Annual	W	0.0047	425	2
		C	0.0066	637	4
		E	0.0045	708	3
Atka mackerel	Annual	Gulfwide	0.0000	2,000	0
Big skate	Annual	W	0.0392	598	23
		C	0.0159	2,049	33
		E	0.0000	681	0
Longnose skate	Annual	W	0.0392	81	3
		C	0.0159	2,009	32
		E	0.0000	762	0
Other skates	Annual	Gulfwide	0.0176	2,093	37
Squids	Annual	Gulfwide	0.0176	1,148	20
Sharks	Annual	Gulfwide	0.0176	6,197	109
Octopuses	Annual	Gulfwide	0.0176	954	17
Sculpins	Annual	Gulfwide	0.0176	5,496	97

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

[2] The Pacific cod B season for trawl gear closes November 1.

Table 18. Final 2012 GOA Non-AFA Crab Vessel Groundfish Harvest Sideboard Limits Under Amendment 34 (Values are rounded to nearest metric ton).

Species	Season/gear	Area/component	Ratio of 1996-2000 non-AFA crab vessel catch to 1996-2000 total harvest	2012 TAC	2012 non-AFA crab vessel sideboard limit
Pollock	A Season January 20 - March 10	Shumagin (610)	0.0098	6,186	61
		Chirikof (620)	0.0031	15,374	48
		Kodiak (630)	0.0002	5,783	1
	B Season March 10 - May 31	Shumagin (610)	0.0098	6,185	61
		Chirikof (620)	0.0031	18,393	57
		Kodiak (630)	0.0002	2,765	1
	C Season August 25 - October 1	Shumagin (610)	0.0098	11,280	111
		Chirikof (620)	0.0031	7,262	23
		Kodiak (630)	0.0002	8,803	2
	D Season October 1 - November 1	Shumagin (610)	0.0098	11,280	111
		Chirikof (620)	0.0031	7,262	23
		Kodiak (630)	0.0002	8,803	2
	Annual	WYK (640)	0.0000	3,024	0
		SEO (650)	0.0000	9,245	0
Pacific cod	A Season[1] January 1 - June 10	W inshore	0.0852	11,085	944
		W offshore	0.3376	1,232	416
		C inshore	0.0475	19,636	933
		C offshore	0.2076	2,182	453
	B Season[2] September 1 - December 31	W inshore	0.0852	7,390	630
		W offshore	0.3376	821	277
		C inshore	0.0475	13,091	622
		C offshore	0.2076	1,455	302
	Annual	E inshore	0.0110	1,583	17
		E offshore	0.0000	176	0
Sablefish	Annual, trawl gear	W	0.0000	297	0
		C	0.0000	869	0
		E	0.0000	226	0
Flatfish, shallow-water	Annual	W	0.0059	4,500	27
		C	0.0001	13,000	1
		E	0.0000	1,228	0
Flatfish, deep-water	Annual	W	0.0035	541	2
		C	0.0000	3,004	0
		E	0.0000	2,144	0
Rex sole	Annual	W	0.0000	1,490	0
		C	0.0000	6,184	0
		E	0.0000	853	0

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

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

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The vessel owners affected by this final rule hold unique Federal Fisheries Permits (FFP). Federal Fisheries Permits are required on all vessels participating in groundfish fisheries in Federal waters in Alaska and NMFS designates vessel sideboard limitations, or exemptions, on a vessel's FFP. This final rule also affect holders of a groundfish LLP license derived from catch history generated by a vessel that qualifies for a sideboard exemption under this final rule.

The process used by NMFS to determine which vessels and LLP licenses qualify for an exemption from the non-AFA crab vessel GOA Pacific cod and pollock sideboard limits is described as follows. First, a vessel must meet the catch threshold criteria described at § 680.22(a) to qualify for an exemption from non-AFA crab vessel Pacific cod or pollock sideboard limits. Once a vessel is determined to qualify for an exemption from sideboard limits, NMFS will determine whether the GOA groundfish LLP license that was generated by that exempt vessel's catch history would also qualify for the exemption. An LLP license is deemed to qualify for a GOA Pacific cod or pollock sideboard limit exemption if the vessel with catch history that generated the groundfish LLP license: (1) Qualifies for an exemption under § 680.22(a); and (2) is the only vessel that contributed GOA Pacific cod or pollock catch history to generate the LLP license. This approach prevents a groundfish LLP license that drew its catch history from multiple vessels from qualifying for the sideboard exemption under Amendment 34.

NMFS will create an official record with all relevant information necessary to assign landings to specific vessels and LLP licenses. The official record created by NMFS will contain vessel landings data and the LLP licenses to which those landings would be attributed. Evidence of the number and amount of landings will be based only on legally submitted NMFS weekly production reports for catcher/processors and State of Alaska fish tickets for catcher vessels. Historically, NMFS has used only these two data sources to determine the specific amount and location of landings and NMFS will continue to do so under this final rule. The official record will include the records of the specific LLP licenses assigned to vessels and other relevant information necessary to attribute landings to specific LLP licenses.

NMFS will presume the official record is correct and will notify each affected FFP and LLP license holder of the effect of Amendment 34 on their FFP or LLP license. NMFS will mail a notification to the address on record for each FFP and LLP license holder at the time the notification is sent. The notification will indicate which non-AFA crab vessel sideboard category applies to the FFP or LLP license based on the official record: (1) CR GOA Sideboarded for all groundfish species; (2) CR GOA Sideboarded for all groundfish species and no GOA Pacific cod fishing; (3) CR GOA Sideboarded for all groundfish species except Pacific cod; (4) CR GOA Sideboarded for all groundfish species except pollock; or (5) CR GOA Sideboarded for all groundfish species except Pacific cod and pollock. NMFS will include information concerning any changes to the non-AFA crab vessel sideboard restrictions applicable to the FFP or LLP license in the GOA and offer a single 30-day evidentiary period from the date that notification is sent for an FFP or LLP license holder to submit any supporting information, or evidence, to demonstrate that the information contained in the official record is inconsistent with his or her records.

An FFP or LLP license holder who submits claims that are inconsistent with information in the official record would have the burden of proving that the submitted claims are correct. NMFS will not accept inconsistent claims unless supported by clear written documentation. NMFS would evaluate additional information or evidence to support an FFP or LLP license holder's inconsistent claims submitted prior to or within the 30-day evidentiary period. If NMFS determines that the additional information or evidence proves that the FFP or LLP license holder's inconsistent claims were indeed correct, NMFS would act in accordance with that information or evidence. However, if after the 30-day evidentiary period, NMFS were to determine that the additional information or evidence did not show that the FFP or LLP license holder's inconsistent claims were correct, NMFS would deny the claim. NMFS would notify the applicant through an initial administrative determination (IAD) that the additional information or evidence did not meet the burden of proof to overcome the official record.

NMFS's IAD would indicate the deficiencies and discrepancies in the information or the evidence submitted in support of the claim. NMFS's IAD would indicate which claims could not be approved based on the available information or evidence, and include information on how an applicant could appeal the IAD. The appeals process is described in 50 CFR 679.43. A person who appeals an IAD would be eligible to use the disputed FFP or LLP license until final agency action by NMFS on the appeal. The non-AFA crab vessel sideboard limitation, or exemption, designated on an FFP or LLP license would continue to be effective unless modified by a successful appeal. NMFS would reissue any FFP or LLP licenses pending final action by NMFS as interim FFP or LLP licenses. Once final action has been taken, NMFS would reissue the FFP or LLP license as a non-interim license. Interim LLP licenses would be non-transferable to ensure that a person would not receive an LLP license by transfer and have the non-AFA crab vessel sideboard category changed through an appeals process that was initiated and conducted by the previous LLP license holder, a process that a transferee could not control, and which could substantially affect the value and utility of an LLP license.

If a person does not dispute the notification of changes to their FFP or LLP license, or upon the resolution of any inconsistent claims, a revised non-interim FFP or LLP license with the appropriate non-AFA crab vessel sideboard category would be reissued to the FFP or LLP license holder, unless the FFP or LLP license is interim for another reason.

Notice of Availability and Proposed Rule

NMFS published the notice of availability for Amendment 34 on March 14, 2011 (76 FR 13593), with a public comment period that closed on May 13, 2011. NMFS published the proposed rule to implement Amendment 34 on March 28, 2011 (76 FR 17088), and the public comment period closed on April 27, 2011. NMFS received two public comments during the public comment periods, but neither directly addressed Amendment 34 or the proposed rule, rather they were general comments related to the Federal government's management of marine resources. NMFS made no modifications from proposed to final rule.

Classification

Pursuant to sections 304(b) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that Amendment 34 and this final rule are consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

A Final Regulatory Flexibility Analysis (FRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act, which

describes the impact this final rule would have on small entities. Copies of the FRFA prepared for this final rule are available from NMFS (see **ADDRESSES**). The FRFA prepared for this final rule incorporates by reference an extensive RIR and FRFA prepared for the CR Program that detailed its impacts on small entities.

NMFS published the proposed rule to implement Amendment 34 on March 28, 2011 (76 FR 17088), and the public comment period closed on April 27, 2011. An IRFA was prepared and summarized in the ''Classification'' section of the preamble to the proposed rule. The description of this action, its purpose, and its legal basis are described in the preamble to the proposed rule and are not repeated here. NMFS received two letters of public comment on Amendment 34 and the proposed rule. Neither of these comments addressed the IRFA.

The principal objective of this final rule is to rectify an economic burden that was unintentionally imposed on a small group of non-AFA crab vessels by implementation of the sideboard limit provisions of the CR Program. Action 1 and Action 2 would relieve catch restrictions that apply to certain non-AFA crab vessels in GOA Pacific cod and pollock fisheries. NMFS expects the relief from sideboard limit restrictions will enable these vessels to increase participation in GOA Pacific cod and pollock fisheries as compared to their participation while subject to the sideboard restrictions.

The Council and NMFS determined that the existing sideboard limit restrictions do not contain exemption criteria that take into account all non-AFA crab vessels with demonstrated dependence on GOA Pacific cod and pollock fisheries. This outcome is inconsistent with the Council's intent in establishing the non-AFA crab vessel GOA sideboards, which was to enable non-AFA crab vessels with relatively small amounts of Bering Sea snow crab QS, but with relatively significant participation in GOA groundfish fisheries, to continue fishing in GOA groundfish fisheries without being subject to the sideboard limit restrictions. Compared with the existing sideboard limits, the actions implemented by this rule would most benefit non-AFA crab vessels that the Council deemed are dependent on GOA Pacific cod and pollock fisheries. This rule also would have a low likelihood of negatively impacting other participants in these GOA fisheries.

The entities directly regulated by this action are those non-AFA crab vessels that target GOA Pacific cod and pollock in the EEZ of the GOA. Earnings from all fisheries in and off Alaska for 2007 were matched with the non-AFA crab vessels that participated in the GOA Pacific cod and pollock fisheries for that year. Of the six vessels and associated LLP licenses that would be directly regulated by Action 1 to revise the criteria for exemption from the GOA Pacific cod sideboard, five catcher vessels had gross earnings less than $4 million, thus categorizing them as small entities. The remaining vessel, a catcher/processor, had gross earnings greater than $4 million, categorizing the vessel as a large entity. Of the four vessels and associated LLP licenses that would be directly regulated by Action 2 to establish criteria for exemption from the GOA pollock sideboard, all four vessels are estimated to be small entities. One small entity would qualify for exemptions from both the GOA Pacific cod and pollock sideboards under the final actions. All of the entities that would be directly regulated under this final rule would be expected to benefit from the actions relative to the status quo because the proposed actions would relieve restrictions that limit their ability to conduct directed fishing for GOA Pacific cod and pollock. This final rule would not be expected to have adverse impacts on any of the directly regulated small entities.

This final rule would not change existing reporting, recordkeeping, and other compliance requirements. The analysis revealed no Federal rules that would conflict with, overlap, or be duplicated by the alternatives under consideration.

This final rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act.

Small Entity Compliance Guide

NMFS has posted a small entity compliance guide on the NMFS Alaska Region Web site (*http://www.fakr.noaa.gov/sustainablefisheries/crab/rat/progfaq.htm*) to satisfy the Small Business Regulatory Enforcement Fairness Act of 1996, which requires a plain language guide to assist small entities in complying with this rule. Contact NMFS to request a hard copy of the guide (see **ADDRESSES**).

List of Subjects in 50 CFR Part 680

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: June 15, 2011.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 680 is amended as follows:

PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 680 continues to read as follows:

Authority: 16 U.S.C. 1862; Pub. L. 109–241; Pub. L. 109–479.

■ 2. In § 680.22:
■ a. Revise paragraph (a)(3);
■ b. Add paragraph (a)(4);
■ c. Revise the introductory text of paragraph (d);
■ d. Redesignate paragraph (d)(2) as (d)(3), and revise newly redesignated paragraph (d)(3); and
■ e. Add a new paragraph (d)(2).

The revisions and additions read as follows:

§ 680.22 Sideboard protections for GOA groundfish fisheries.

* * * * *

(a) * * *

(3) *Vessels and LLP licenses exempt from Pacific cod sideboard closures in the GOA.* Any vessel or LLP license that NMFS has determined meets either of the following criteria is exempt from sideboard directed fishing closures for Pacific cod in the GOA:

(i) Any vessel subject to GOA groundfish closures under paragraph (a)(1)(i) of this section that landed less than 750,000 lb (340.2 mt), in raw weight equivalents, of Bering Sea snow crab and more than 680 mt (1,499,143 lb), in round weight equivalents, of Pacific cod harvested from the GOA between January 1, 1996, and December 31, 2000; and

(ii) Any LLP license that:

(A) Was initially issued based on the catch history of a vessel meeting the criteria in paragraph (a)(3)(i) of this section; and

(B) Did not generate crab QS based on legal landings from any vessel other than the vessel meeting the criteria in paragraph (a)(3)(i) of this section.

(4) *Vessels and LLP licenses exempt from pollock sideboard closures in the GOA.* Any vessel or LLP license that NMFS has determined meets either of the following criteria is exempt from sideboard directed fishing closures for pollock in the GOA:

(i) Any vessel subject to GOA groundfish closures under paragraph

(a)(1)(i) of this section that landed less than 1,212,673 lb (550 mt), in raw weight equivalents, of Bering Sea snow crab, and had 20 or more legal landings of pollock harvested from the GOA between January 1, 1996, and December 31, 2000; and

(ii) Any LLP license that:

(A) Was initially issued based on the catch history of a vessel meeting the criteria in paragraph (a)(4)(i) of this section; and

(B) Did not generate crab QS based on legal landings from any vessel other than the vessel meeting the criteria in paragraph (a)(4)(i) of this section.

* * * * *

(d) *Determination of GOA groundfish sideboard ratios.* Except for fixed-gear sablefish, sideboard ratios for each GOA groundfish species, species group, season, and area for which annual specifications are made are established according to the following formulas:

* * * * *

(2) *Pollock.* The sideboard ratios for pollock are calculated by dividing the aggregate retained catch of pollock by vessels that are subject to sideboard directed fishing closures under paragraph (a)(1) of this section and that do not meet the criteria in paragraph (a)(4) of this section by the total retained catch of pollock by all groundfish vessels between 1996 and 2000.

(3) *Groundfish other than Pacific cod and pollock.* The sideboard ratios for groundfish species and species groups other than Pacific cod and pollock are calculated by dividing the aggregate landed catch by vessels subject to sideboard directed fishing closures under paragraph (a)(1) of this section by the total landed catch of that species by all groundfish vessels between 1996 and 2000.

* * * * *

[FR Doc. 2011–15284 Filed 6–17–11; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 680

[Docket No. 100723308–1315–02]

RIN 0648–BA11

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Crab Rationalization Program; Amendment 37

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement Amendment 37 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP). This action amends the Bering Sea/Aleutian Islands Crab Rationalization Program by establishing a process for eligible contract signatories to request that NMFS exempt holders of West-designated individual fishing quota (IFQ) and individual processor quota (IPQ) in the Western Aleutian Islands golden king crab fishery from the West regional delivery requirements. Federal regulations require West-designated golden king crab IFQ to be delivered to a processor in the West region of the Aleutian Islands with an exact amount of unused West-designated IPQ. However, sufficient processing capacity may not be available each season. This rule is necessary to prevent disruption to the Western Aleutian Islands golden king crab fishery, while providing for the sustained participation of municipalities in the region. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable law.

DATES: Effective July 20, 2011.

ADDRESSES: Electronic copies of Amendment 37 to the FMP, the Regulatory Impact Review (RIR), the Final Regulatory Flexibility Analysis (FRFA), the Small Entity Compliance Guide, and the Categorical Exclusion prepared for this final action may be obtained from *http://www.regulations.gov* or from the Alaska Region Web site at *http://alaskafisheries.noaa.gov.* The Environmental Impact Statement, RIR, FRFA, and Social Impact Assessment prepared for the Crab Rationalization Program are available from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov*. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS at the above address, e-mailed to *OIRA_Submission@omb.eop.gov,* or faxed to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Seanbob Kelly, 907–586–7228.

SUPPLEMENTARY INFORMATION: The king and Tanner crab fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands (BSAI) are managed under the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) as amended by the Consolidated Appropriations Act of 2004 (Pub. L. 108–199, section 801).

This final rule implements Amendment 37 to the FMP. In April 2010, the Council recommended Amendment 37 to the Secretary of Commerce. NMFS published a Notice of Availability of this amendment in the **Federal Register** on February 1, 2011 (76 FR 5556), with comments invited through April 4, 2011. NMFS published the proposed rule for this action on February 25, 2011 (76 FR 8700), with comments invited through April 1, 2011. NMFS approved Amendment 37 on April 25, 2011. NMFS received three unique comment letters during the public comment period for Amendment 37 and the proposed rule; however, these comments did not result in any modification to the proposed regulation text. These comments are discussed in greater detail below.

Background

Amendments 18 and 19 amended the FMP to include the Bering Sea/Aleutian Islands Crab Rationalization Program (Program). Regulations implementing the Program are located at 50 CFR part 680. NMFS established the Program as a catch share program for nine crab fisheries in the BSAI. The IFQ portion of the Program assigned quota share (QS) to persons based on their historic participation in one or more of these nine BSAI crab fisheries during a specific time period. Under the Program, NMFS issued four types of QS: Catcher vessel owner (CVO) QS was assigned to holders of License Limitation Program (LLP) licenses who delivered their catch onshore or to stationary floating crab processors; catcher/processor vessel owner QS was assigned to LLP holders that harvested and processed their catch at sea; captains and crew onboard catcher/processor vessels were issued catcher/processor crew QS; and captains and crew onboard catcher vessels were issued catcher vessel crew QS. Each year, a person who holds QS may receive IFQ, which represents an exclusive harvest privilege for a portion of the annual total allowable catch (TAC). Under the program, QS holders can form cooperatives to pool the harvest of the IFQ on fewer vessels to minimize operational costs.

NMFS also issued processor quota share (PQS) under the Program. Each year, PQS yields an exclusive privilege to receive for processing a portion of the

IFQ in each of the nine BSAI crab fisheries. This annual exclusive processing privilege is called IPQ. A portion of the QS issued yields IFQ that is required to be delivered to a processor with a like amount of unused IPQ. IFQ derived from CVO QS is subject to annual designation as either Class A IFQ or Class B IFQ. Ninety percent of the IFQ derived from CVO QS for a fishery and region is designated as Class A IFQ, and the remaining 10 percent of the IFQ is designated as Class B IFQ. Class A IFQ must be matched and delivered to a processor with IPQ. Class B IFQ is not required to be delivered to a processor with IPQ. Each year there is a one-to-one match of the total pounds of Class A IFQ with the total pounds of IPQ issued in each crab fishery and region.

In most of the crab fisheries established under the Program, NMFS implemented regional designations for QS and PQS to ensure that municipalities that were historically active as processing ports continue to receive socioeconomic benefits from crab deliveries or to encourage the development of processing capacity in specific isolated municipalities. To accomplish this, the Program imposes regional delivery requirements to specific geographic regions based on historic geographic delivery and processing patterns.

The Western Aleutian Islands golden king crab (*Lithodes aequispinus*) (WAG) fishery is managed under the Program. Existing regulations for the WAG fishery require that 50 percent of the catcher vessel Class A IFQ be delivered in the West region (west of 174° W. Long.). The remaining 50 percent of the Class A IFQ is not subject to a regional delivery requirement. The purpose of the delivery requirement is to support the development of processing facilities in Adak and Akta, two isolated municipalities in the West region. The only shore-based processing facility capable of processing WAG in this region is located in the City of Adak; however, processing capacity in the West region may not be available each season.

In response to a lack of processing capacity in the West region, the Council recommended, and NMFS implemented, an emergency action to exempt West-designated IFQ and West-designated IPQ for the WAG fishery from the West regional designation (February 18, 2010, 75 FR 7205). NMFS extended the emergency action on August 17, 2010 (75 FR 50716). The emergency rule extension expired on February 20, 2011.

At its April 2010 meeting, the Council adopted Amendment 37 to the FMP to address the lack of processing capacity in the West region. Amendment 37 establishes a process for QS holders, PQS holders, and the cities of Adak and Atka to request that NMFS exempt the WAG fishery from the West regional delivery requirements. The Council and NMFS recognize that the regional delivery requirements are untenable if processing capacity is not available in the region, potentially resulting in unutilized TAC. Amendment 37 establishes a means to enhance stability in the fishery, while continuing to promote the sustained participation of the municipalities intended to benefit from the West regional delivery requirements.

The RIR/FRFA prepared for this action describes the costs and benefits of Amendment 37 (see **ADDRESSES**). All of the directly regulated entities are expected to benefit from this action relative to the status quo because Amendment 37 provides an additional opportunity for landings of crab from the WAG fishery, in the event that parties are unable to reasonably access processing in the West region of the fishery.

Actions Implemented by This Rule

This rule modifies or adds regulations at 50 CFR 680.4(o), 680.7(a)(2), and 680.7(a)(4). These changes apply as described in the following sections of this preamble.

With this rule, NMFS implements Amendment 37 to the FMP. This rule establishes in regulations, at § 680.4(o), a process for eligible contract signatories in the WAG fishery to apply for an exemption to the West regional delivery requirements. If granted, an annual exemption will apply to all West-designated IFQ and IPQ holders. This rule allows eligible contract signatories to complete an application to NMFS requesting an annual exemption from the West regional delivery requirements. Eligible participants can submit an application to NMFS at any time during the crab fishing year. Upon approval of a completed application, NMFS will exempt all West-designated Class A IFQ and IPQ from the West regional delivery requirements for the remainder of the crab fishing year. This exemption allows all West-designated Class A IFQ and IPQ holders to deliver and receive WAG crab at processing facilities outside of the West region (§ 680.7(a)(2) and (a)(4)). This exemption is intended to promote the full utilization of the TAC.

NMFS will continue to annually issue WAG Class A IFQ and IPQ with a West regional delivery requirement but will exempt West-designated IFQ holders and IPQ holders from the West regional delivery requirements if the required parties apply for and are granted an annual exemption. This rule removes the delivery requirements only if eligible contract signatories, who are composed of QS holders, PQS holders, and the cities of Adak and Atka, agree to apply for an exemption.

In some years, it may not be possible for fishery participants to predict the availability of West region processing capacity. Therefore, this action provides the flexibility necessary for eligible contract signatories to request an exemption at any point during a crab fishing year. In order to fully utilize the TAC in a given year, it may be necessary for fishery participants to respond quickly to unforeseen disruptions in processing capacity. From the date an exemption is approved by NMFS, all West-designated WAG IFQ could be delivered east of 174° W. long. until the end of that crab fishing year.

The rationale and effects of this action are described in detail in the preamble to the proposed rule, sections 2 and 3 of the EA/RIR/FRFA prepared to support this rule (see **ADDRESSES**), and are briefly summarized in this preamble. For additional detail, please see the proposed rule preamble.

Eligible Contract Signatories

This rule establishes regulations that identify the eligible contract signatories as those QS holders, PQS holders, and municipalities who are eligible to apply for an exemption from the West regional delivery requirements: (1) Any person or company that holds in excess of 20 percent of the West-designated WAG QS; (2) any person or company that holds in excess of 20 percent of the West-designated WAG PQS; and (3) the cities of Adak and Atka. Participants in the WAG fishery that hold QS or PQS are able to verify their portion relative to other QS or PQS holders by accessing the Alaska Region Web site at *http://alaskafisheries.noaa.gov.* In addition, NMFS will post the QS and PQS holdings on its Web site following the end of the transfer application period (August 1) and prior to the start of the WAG fishery (August 15).

Participants holding 20 percent or less of either share type have no direct input into the contract negotiations or applications; however, once granted, an exemption applies to all West-designated IFQ and IPQ holders. Once granted, the exemption does not obligate an IFQ or IPQ holder who is not a contract signatory to deliver outside of the West region, but does provide that flexibility.

This action ensures that the municipalities intended to benefit from

the regional delivery requirements participate in any agreement to deliver West-designated WAG east of 174° W. Long. This action requires the unanimous consent of all eligible contract signatories, to ensure that the interest of the cities of Adak and Atka are protected. The inclusion of the cities of Adak and Atka as required signatories continues to promote the development of consistent processing capacity in the West region because these municipalities would likely withhold consent to an exemption to foster local deliveries. NMFS recognizes the importance of the West regional delivery requirements and requires the unanimous agreement of all eligible contract signatories on an annual basis to exempt the WAG Class A IFQ from the West regional delivery requirements.

Application

This rule adds regulations at § 680.4(o) to establish the process for eligible participants to request an exemption for all West-designated IFQ and IPQ from the West region delivery requirements. All eligible contract signatories must submit a completed application before NMFS will approve an exemption for all IFQ and IPQ holders from the West regional delivery requirements in the WAG fishery. This action requires that all applicants sign and date an affidavit affirming that all information provided on the application is true, correct, and complete to the best of his or her knowledge. Additional documents supporting eligibility may be attached to an application to facilitate approval, including documentation supporting the authority of a representative to sign the affidavit on behalf of the eligible contract signatory.

Approval of Exemption

To be approved, all parties meeting the eligibility requirements at the time the application is submitted must signify their agreement to the exemption on the application. NMFS will grant an exemption to the regional delivery requirements if all eligible contract signatories submit a completed application form, including an affidavit affirming that a master contract has been signed by all eligible contract signatories. NMFS approval of an annual exemption from the WAG West regional delivery requirements will be made publicly available at the NMFS Web site at *http://alaskafisheries.noaa.gov.*

The evaluation of an application for an annual exemption requires a decision-making process that is subject to administrative appeal. Applications not meeting the requirements will not be approved, and NMFS will issue an initial administrative determination (IAD) to indicate the deficiencies and discrepancies in the information (or the evidence submitted in support of the application) and provide information on how an applicant could appeal an IAD. The appeals process is described under § 679.43. However, if an application is denied, eligible contract signatories can reapply immediately or at any time during a crab fishing year. This program is designed to be flexible and includes no deadlines for submission or limits on the number of times applications could be submitted to NMFS.

Duration of Exemption

This rule retains regulations that require the West regional delivery requirements unless NMFS annually approves an application for an exemption. Regulations at § 680.4(o)(3) establish the effective date of the exemption as the date the completed application is approved by NMFS. Exemptions expire at the end of that crab fishing year (June 30) regardless of when they are approved.

Public Comment

NMFS received three unique letters during the public comment period for Amendment 37 and the proposed rule. One comment letter provided a general criticism of fishery management, and was not relevant to Amendment 37 or the proposed rule. The second comment letter noted that the Bureau of Land Management has no jurisdiction or authority as it pertains to Amendment 37. The third comment letter generally praised Amendment 37 and contained one substantive comment, responded to below. No modifications were made from proposed to final rule.

Comment 1: Regulations at § 680.4(o) would impose an unnecessary logistical burden on the applicants applying for an exemption from the West regional delivery requirements. As proposed, NMFS would require applicants to submit a single application signed by all parties. NMFS should revise the regulations to allow contract signatories to sign and submit multiple counterpart applications.

Response: Due to the logistic issues described by the commenter, NMFS Restricted Access Management Program (RAM) allows parties that submit applications for quota or license transfers to submit separate ''counterparty'' paperwork. Although NMFS permits the submission of multiple counterpart paperwork, this practice is not explicitly described in regulation. In response to the comment, NMFS clarifies that it will accept multiple counterpart applications for an exemption from the West regional delivery requirements. However, NMFS cannot act on any application until all required information, and an application(s) including signatures from all contract signatories, has been received by NMFS. It is the responsibility of the applicants to ensure that RAM receives a complete application package.

Public comment letters received by NMFS for this action may be obtained from *http://www.regulations.gov* (see **ADDRESSES**).

Classification

The Administrator, Alaska Region, NMFS, determined that Amendment 37 is necessary for the conservation and management of the WAG fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws. The Assistant Administrator for Fisheries, NOAA, has determined that this rule is consistent with Amendment 37 to the FMP, the Magnuson-Stevens Act, and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

A FRFA was prepared for this rule, as required by section 604 of the Regulatory Flexibility Act. Copies of the FRFA prepared for this final rule are available from NMFS (see **ADDRESSES**). The FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, NMFS responses to those comments, and a summary of the analyses completed to support the action. A summary of the FRFA follows.

The FRFA for this action explains the need for, and objectives of, the rule; notes that no public comments on the initial regulatory flexibility analysis were submitted; describes and estimates the number of small entities to which the rule will apply; describes projected reporting, recordkeeping, and other compliance requirements of the rule; and describes the steps the agency has taken to minimize the significant economic impact on small entities, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency that affect the impact on small entities was rejected. The need for and objectives of this action; a summary of the comments and responses; a description of the action, its purpose, and its legal basis; and a statement of the factual, policy, and legal reasons for selecting the alternative implemented by this action are

described elsewhere in this preamble and are not repeated here.

Number and Description of Affected Small Entities

The Council's preferred alternative for this action, as implemented by this final rule, will regulate certain QS holders, IFQ holders, PQS holders, IPQ holders, the communities of Adak and Atka, and possibly certain shore-based processors in those two communities. The fishery has 16 QS holders, of which 14 are estimated to be small entities. One of these entities is a community development quota (CDQ) group; one is a wholly owned subsidiary of a CDQ group; and the others do not exceed the $4.0 million threshold. In the 2009/2010 season, the fishery had three holders of West region IFQ, two of which are estimated to be small entities. One of these is a wholly owned subsidiary of a CDQ group, and the other is estimated to have annual receipts below the $4.0 million threshold.

The fishery had six holders of West region PQS, of which four are estimated to be small entities. One entity is a CDQ group; another is a wholly owned subsidiary of a CDQ group, and two have fewer than 500 employees. In the 2009/2010 season, the fishery had six holders of West region IPQ, three of which are estimated to be small entities. One entity is a CDQ group; another is a wholly owned subsidiary of a CDQ group, and the third has fewer than 500 employees. Both the communities of Adak and Atka qualify as small entities, as neither has more than 50,000 residents.

As noted above, all or most of the entities that are directly impacted by this regulation are small entities. This action likely will not have a significant adverse impact on some of these entities relative to the status quo alternative. The RIR/FRFA (see **ADDRESSES**) prepared for this action notes that these changes are not likely to have a significant economic impact on an LLP license holder.

Public Comments on Initial Regulatory Flexibility Analysis

The proposed rule for this action was published in the **Federal Register** on February 15, 2011 (76 FR 8700). An Initial Regulatory Flexibility Analysis (IRFA) was prepared for the proposed rule and described in the classification section of the preamble to the proposed rule. The public comment period ended on April 1, 2011. NMFS received three unique comment letters; however, no comments were received on the IRFA or on the economic impacts of the rule more generally. No changes were made in the final rule from the proposed rule.

Steps Taken To Minimize Economic Impact

During the development of this action, the Council considered and rejected alternatives that would have required the consent of holders of less than 20 percent of the pools of QS and PQS, and the consent of shore-based processors in Adak or Atka that processed over a threshold (*i.e.,* 5 percent, 10 percent, or 20 percent) of the West-designated shares in the year preceding the exemption. The Council elected not to select these options, as the large share holders could more efficiently process the exemption, and the small share holders would be adequately represented by the required parties to the exemption (including the communities of Adak and Atka). The inclusion of shareholders with less economic incentive to harvest or process West-designated WAG could impede effective negotiations by withholding participation in an exemption to extract more favorable terms from larger entities with greater economic incentive to fully harvest and process the IFQ and IPQ. IFQ and IPQ holders that are substantially invested in the fishery are more likely to act quickly to ensure that TAC is fully utilized. Similarly, holders of significant amounts of PQS are only likely to support an exemption in years when processing capacity is unavailable in the West region, thereby facilitating the processing needs of all IPQ holders.

The Council also considered a variety of other approaches to address the problem identified in the purpose and need statement. One approach considered was an exemption that would be available only after a factual finding of the absence of processing capacity. This provision could be administered either directly by NMFS or by an arbitrator selected by the interested parties. The Council elected not to advance this alternative, as factual findings of the absence of processing capacity may be administratively unworkable. With mobile processing platforms, capacity availability can change in a relatively short time period. Determinations of the availability of capacity may not be possible, given the potential for short-term changes in capacity. Small entities that are IFQ or IPQ holders would be disadvantaged by this alternative, since the exemption may be unavailable in circumstances when it might be appropriate.

The Council also considered a provision under the preferred alternative that would have prohibited any party required to consent to the exemption from unreasonably withholding consent to the exemption. The proposed provision would have been administered by an arbitrator jointly selected by the required parties. Although such a provision might be desirable, as it would prevent persons from barring the exemption without reason, the provision would also likely be unadministerable. Even with an arbitrator, NMFS would be required to provide the interested parties with the opportunity to appeal any arbitrator decision. Under the appeal, NMFS would be required to make a *de novo* finding (*i.e.,* an original finding without deference to the arbitrator's decision). As a result, the use of an arbitrator may delay the granting of the exemption. In addition, NMFS may be unable to expeditiously process any claim, if factual matters are disputed. To accommodate time constraints associated with contesting a party's withholding consent to an exemption, a timeline for application for the exemption would need to be developed. This timeline would limit flexibility and could prevent the exemption from achieving its intended purpose. Although IFQ holders and IPQ holders that are small entities may benefit from the exemption in some circumstances, it might be denied because of another party's unreasonable decision to withhold consent. Since the provision is generally unworkable, it is unlikely that this alternative would have provided any benefit to these small entities. In addition, the provision might lead small entities to pursue administrative proceedings to challenge another required party's withholding of consent, which could be costly to small entities.

The Council also elected not to advance an alternative to remove the West regional delivery requirements altogether. Since the West regional delivery requirements are intended to induce the development of processing in the region, when such development is feasible, removal of the exemption would be inappropriate. Although this alternative would have removed the burden of the West regional delivery requirements from small entities holding QS, PQS, IFQ, and IPQ, the alternative would have removed any regulatory inducement to process in the West region. The potential future benefit of those requirements would therefore be denied to the communities of Adak and Atka. Although the exemption created by the preferred alternative could reduce the potential for the development of processing capacity in

Adak and Atka, it will provide these two small entities with the ability to withhold consent, as a means of inducing PQS and IPQ holders to develop processing capacity in the West region.

Compared with the status quo, the preferred alternative, and the associated suite of options composing the preferred alternative, best minimizes adverse economic impacts on small entities, while providing the most benefits to the directly regulated small entities. The action provides greater economic benefits for participants in the WAG fishery by providing additional processing opportunities when processing capacity is not available in the West region. The Council chose to recommend the preferred alternative because this action best meets the goals of this action. This action minimizes the potential negative impacts to small entities directly, such as unharvested TAC, when compared to the other options, while promoting stability in a region that has traditionally benefited from the regional delivery requirements.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, the Small Entity Compliance Guide includes the preambles to the proposed and final rules, and is included in the BSAI Crab Rationalization frequently asked questions, which may be obtained from the Alaska Region Web site at *http://alaskafisheries.noaa.gov/sustainablefisheries/crab/rat/progfaq.htm.* Copies of the proposed rule, and final rule also are available upon request from the Alaska Regional Office (See **ADDRESSES**).

Collection-of-Information

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act and which has been approved by Office of Management and Budget (OMB) under Control Number 0648–0514. Public reporting burden per response is estimated to average 2 hours for the Application for Annual Exemption from the Western Aleutian Islands Golden King Crab West Regional Delivery Requirements, and 4 hours for the appeal letter if the application is denied, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**), by e-mail to *OIRA_Submission@omb.eop.gov,* or fax to 202–395–7285. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act, unless that collection-of-information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 680

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: June 15, 2011.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 680 is amended as follows:

PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 680 continues to read as follows:

Authority: 16 U.S.C. 1862; Pub. L. 109–241; Pub. L. 109–479.

■ 2. In § 680.4, add paragraph (o) to read as follows:

§ 680.4 Permits.

* * * * *

(o) *Exemption from Western Aleutian Islands golden king crab West regional delivery requirements*—(1) *Request for an Annual Exemption from Western Aleutian Islands golden king crab West regional delivery requirements.* The eligible contract signatories (see qualifications at § 680.4(o)(2)(i)) may submit an application to NMFS to request that NMFS exempt West designated IFQ and West designated IPQ for the Western Aleutian Islands golden king crab (WAG) fishery from the West regional delivery requirements at § 680.7(a)(2) and (a)(4). All eligible contract signatories must submit one completed copy of the application form. The application must be submitted to NMFS using one of the following methods:

(i) *Mail:* Regional Administrator, c/o Restricted Access Management Program, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; or

(ii) *Fax:* 907–586–7354; or

(iii) *Hand delivery or carrier:* NMFS, Room 713, 709 West 9th Street, Juneau, AK 99801.

(2) *Application form.* The application form is available on the NMFS Alaska region Web site (*http://alaskafisheries.noaa.gov*) or from NMFS at the address in paragraph (o)(1)(i) of this section. All information fields on the application form must be accurately completed, including—

(i) *Identification of eligible contract signatories.* Full name of each eligible contract signatory; NMFS person ID; and appropriate information that documents the signatories meet the requirements. If the application is completed by an individual who is the authorized representative, then documentation demonstrating the authorization must accompany the application. Eligible contract signatories are—

(A) *QS holders:* Any person that holds in excess of 20 percent of the West designated WAG QS at the time the contract was signed, or their authorized representative.

(B) *PQS holders:* Any person that holds in excess of 20 percent of the West designated WAG PQS at the time the contract was signed, or their authorized representative.

(C) *Municipalities:* designated officials from both the City of Adak and the City of Atka or an authorized representative.

(ii) *Affidavit affirming master contract has been signed.* Each eligible contract signatory, as described in paragraph (o)(2)(i) of this section, must sign and date an Affidavit affirming that a master contract has been signed to authorize the completion of the application to request that NMFS exempt West designated IFQ and West designated IPQ for the WAG fishery from the West regional delivery requirements. The eligible contract signatories must affirm on the Affidavit that all information is true, correct, and complete to the best of his or her knowledge and belief.

(3) *Effective date.* A completed application must be approved by NMFS before any person may use WAG IFQ or IPQ with a West regional designation outside of the West region during a crab fishing year. If approved, the effective date of the exemption is the date the application was approved by NMFS. Any delivery of WAG IFQ or IPQ with a West regional designation outside of the West region prior to the effective date of the exemption is prohibited under § 680.7(a)(2) and (a)(4).

(4) *Duration.* An exemption from West regional delivery requirements is only valid for the remainder of the crab fishing year during which the application was approved by NMFS. The exemption expires at the end of the crab fishing year (June 30).

(5) *Approval*—(i) NMFS will approve a completed application for the exemption from Western Aleutian Islands golden king crab West regional delivery requirements if all eligible contract signatories meet the requirements specified in paragraph (o)(2)(i) of this section.

(ii) The Regional Administrator will not consider an application to have been received if the applicant cannot provide objective written evidence that NMFS Alaska Region received it.

(iii) NMFS approval of an annual exemption from the Western Aleutian Islands golden king crab West regional delivery requirements will be made publicly available at the NMFS Web site at *http://alaskafisheries.noaa.gov.*

■ 2. In § 680.7, revise paragraphs (a)(2) and (a)(4) to read as follows:

§ 680.7 Prohibitions

* * * * *

(a) * * *

(2) Receive CR crab harvested under an IFQ permit in any region other than the region for which the IFQ permit is designated, unless deliveries of West designated WAG IFQ are received pursuant to a NMFS-approved exemption from the regional delivery requirements, as described under § 680.4(o).

* * * * *

(4) Use IPQ in any region other than the region for which the IPQ is designated, unless West designated WAG IPQ is used pursuant to a NMFS-approved exemption from the regional delivery requirements, as described under § 680.4(o).

* * * * *

[FR Doc. 2011–15324 Filed 6–17–11; 8:45 am]

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Proposed Rules

Federal Register
Vol. 76, No. 118
Monday, June 20, 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

Food and Nutrition Service

7 CFR Parts 271, 273, and 281

RIN 0584–AD97

Updated Trafficking Definition and Supplemental Nutrition Assistance Program (SNAP)-FDPIR Dual Participation

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food and Nutrition Service (FNS) is proposing changes to the Supplemental Nutrition Assistance Program (SNAP) regulations pertaining to SNAP client benefit use, participation of retail food stores and wholesale food concerns in SNAP, and SNAP client participation in the Food Distribution Program on Indian Reservations (FDPIR). These changes to SNAP regulations address mandatory provisions of the Food, Conservation, and Energy Act of 2008 (hereinafter referred to as ''the 2008 Farm Bill'') to allow for the disqualification of a SNAP client who purchases, with SNAP benefits, products that have container deposits for the purpose of subsequently discarding the product and returning the container(s) in exchange for cash refund of deposit(s) and/or resells or exchanges products purchased with SNAP benefits for purposes of obtaining cash or other non-eligible items.

DATES: To be assured of consideration, comments on this proposed rule must be received by the Food and Nutrition Service on or before August 19, 2011.

ADDRESSES: The Food and Nutrition Service (FNS), USDA, invites interested persons to submit comments on this proposed rule. Comments may be submitted by one of the following methods:

- *Federal e-Rulemaking Portal:* Go to *http://www.regulations.gov*. Preferred method; follow the online instructions for submitting comments on docket [insert docket number].
- *Mail:* Comments should be addressed to Ronald Ward, Acting Chief, Retailer Management and Issuance Branch, Benefit Redemption Division, Rm. 418, 3101 Park Center Drive, Alexandria, Virginia 22302.

All comments submitted in response to this 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*.

All submissions will be available for public inspection at the address above during regular business hours (8:30 a.m. to 5:30 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Address any questions regarding this rulemaking to Ronald Ward, Acting Chief, Retailer Management and Issuance Branch, Benefit Redemption Division at the Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302. Mr. Ward can also be reached by telephone at 703–305–2523 or by e-mail at *Ronald.Ward@fns.usda.gov* during regular business hours (8:30 a.m. to 5:30 p.m.) Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

Through existing authority under the Food and Nutrition Act of 2008, FNS is also proposing in this rulemaking to stipulate penalties for certain Program abuses committed by retailers. These abuses include stealing of SNAP benefits, by retailers, without client complicity, and other forms of trafficking through complicit arrangements between the retailer and the SNAP client. Examples of the latter would be the purchase, by retailers, of products originally purchased by clients with SNAP benefits and re-sold to stores in exchange for cash or other non-eligible items; or retailers taking possession of SNAP client cards and PINs, using the SNAP benefits to purchase stock for the store, and subsequently returning the card and PIN to the client with cash or other non-eligible items provided in exchange for having used the SNAP benefit.

FNS will also address the mandatory 2008 Farm Bill provisions requiring reciprocal disqualification in SNAP when an individual is disqualified from FDPIR, and under existing authority, will clarify the prohibition against dual participation in SNAP and FDPIR.

In this rule, FNS is proposing to revise SNAP regulations in accordance with Section 4131 (Eligibility Disqualification) of the 2008 Farm Bill to update the definition of trafficking to include certain Program abuses by clients. FNS is also taking this opportunity to address certain retailer abuses of the Program. These types of abuse are not specifically addressed in the current definition of trafficking.

This rule also addresses Section 4211 (Assessing the Nutritional Value of the Food Distribution Program on Indian Reservations (FDPIR) Food Package) of the 2008 Farm Bill which requires, among other things, reciprocal disqualification in SNAP when an individual is disqualified from FDPIR. Proposed regulatory changes will codify the mandatory statutory requirement to make reciprocal SNAP disqualification mandatory in instances of disqualification from FDPIR.

Dual participation in SNAP and FDPIR is prohibited under existing authority in the Food and Nutrition Act of 2008 and is codified in existing regulations. FNS is proposing only to make a technical correction to existing regulations regarding this mandatory prohibition.

The specific provisions are discussed below.

Updating the Definition of Trafficking

FNS has received reports from various stakeholders and the media describing Program abuses by SNAP retailers and recipients. These situations negatively impact Program integrity and divert benefits intended to meet the dietary needs of the nation's neediest citizens. Additionally, stakeholders have expressed frustration in not having options for recourse in specific instances of fraud.

Specifically, stakeholders have witnessed SNAP clients purchasing large quantities of products sold in containers that require deposits. The clients have then taken these products outside of the store location, discarded the contents, and subsequently returned to the store location to claim the container deposit amounts in cash.

Currently, bottle deposits are paid for with SNAP benefits when the item is purchased. Regulations do not require separating the container deposits from the eligible food items, as the container is not optional. While regulations prohibit exchanging cash for SNAP benefits, container deposits are difficult to track back to SNAP purchases. In many instances, containers are returned by persons other than the purchaser and in some instances returns are handled by bottle return machines. None-the-less, clients who intentionally purchased products in containers for purposes of disposing of the products and exchanging the containers for cash are, in effect, trafficking without a complicit retailer.

Furthermore, clients have sold food purchased with SNAP benefits in exchange for cash. This can occur in collusion with the owner (or employee) of a SNAP authorized store who requests that the client purchase specific items at an alternate location for subsequent purchase by the complicit retailer. SNAP clients have also purchased large amounts of products such as soft drinks and then resold them for cash to other individuals once outside of the store.

On the retailer side, SNAP authorized retailers have been found abusing the Program by stealing SNAP benefits from unwitting clients. While Electronic Benefit Transfer (EBT) has largely reduced SNAP fraud, it has introduced a new opportunity for retailers to steal benefits from clients, which did not exist when benefits were issued in the form of paper coupons. In this scenario, retailers and/or store employees steal client card numbers and personal identification numbers (PINs), and subsequently debit benefits from client accounts using manual key entry of the card and PIN number without client knowledge or consent. Retailers may use store cameras, or simply observe and capture EBT client card information, including PINs, in order to undertake these fraudulent transactions later.

Penalties for SNAP clients and/or retailers who abuse the Program through the exchange of benefits, *i.e.* trafficking, are already defined in regulation. The current definition of trafficking in SNAP benefits is as follows: ''Trafficking means the buying or selling of coupons, ATP cards or other benefit instruments for cash or consideration other than eligible food; or the exchange of firearms, ammunition, explosives, or controlled substances, as defined in section 802 of title 21, United States Code, for coupons.''

Because the definition of trafficking does not currently include the scenarios described above, FNS has had difficulty directly assessing penalties against clients and retailers who engage in these acts. At times, FNS has had to rely on State and Federal law enforcement agencies to pursue criminal charges against the violators.

As a result, FNS is proposing to update the definition of trafficking to incorporate stealing of SNAP benefits, re-selling products purchased with SNAP benefits for the express purpose of obtaining cash or other ineligible items, purchasing products purchased with SNAP benefits for the express purpose of providing cash or other ineligible items to SNAP clients, and discarding products purchased with SNAP benefits for the express purpose of obtaining cash for container deposits. Moreover, the definition is being updated, in general, to include other instances where the client and the retailer collude to exchange SNAP benefits for cash or something other than eligible food.

Appropriate penalties for SNAP clients and/or retailers who are found by a court or administrative agency to have trafficked based on the revised definition are already established in current regulations at 7 CFR 273.16 and 7 CFR parts 278 and 279.

Dual Participation in SNAP/FDPIR Correction

FDPIR provides commodity foods to low-income households, including the elderly, living on Indian reservations, and Native American families residing in designated areas near reservations and in the State of Oklahoma.

Dual participation in both SNAP and FDPIR was already prohibited by regulation and statute prior to the 2008 Farm Bill. However, a technical correction is necessary in § 281.1(c) to amend an incorrect regulatory reference. This proposed change will not impact current policy.

Comparable Disqualification From SNAP for Clients Disqualified From FDPIR

Currently only FDPIR has regulations prohibiting individuals disqualified from SNAP for intentional program violations from then participating in FDPIR during the period of disqualification. As a result, individuals who were disqualified from the FDPIR are still able to then apply for SNAP and receive benefits during the FDPIR disqualification period. Section 4211 of the 2008 Farm Bill mandates that reciprocal disqualification apply to both SNAP and FDPIR. Therefore, States can no longer allow an individual who is disqualified from FDPIR to then participate in SNAP during the disqualification period.

This proposed regulation will require reciprocal action in SNAP in instances of disqualification from FDPIR.

Regulatory Impact Analysis

Need for Action

The proposed rule is needed to codify nondiscretionary Supplemental Nutrition Assistance Program (SNAP) benefit issuance provisions of the Food, Conservation and Energy Act of 2008 (2008 Farm Bill) (Pub. L. 110–246) and to address retailer Program violations.

Benefits

This rulemaking will codify provisions in the Food and Nutrition Act of 2008 that improve Program integrity, enhance the Program's ability to serve those who are truly in need, and help to ensure that SNAP benefits are used as intended. While committed to providing vital nutrition assistance to our most vulnerable Americans, protecting taxpayer dollars and ensuring program integrity are equally important. Once final, these regulations will allow the Department to take appropriate action against retailers who are stealing SNAP benefits from clients or colluding with clients to traffic benefits, and will allow State agencies to take appropriate action against violating clients. The regulations will also ensure that clients who commit intentional program violations in FDPIR are not able to participate in SNAP while serving their FDPIR disqualification, and will ensure that no client is able to dually participate in SNAP and FDPIR.

Costs

This proposed rule will primarily codify mandatory provisions of the statute. FNS anticipates that the rule will have a nominal cost impact on States that pursue clients who are defrauding the Program in the ways described. As FNS has an existing process for managing retailer compliance, the cost of pursuing retailers who violate Program rules in the manner described is also nominal. The problems being addressed in the proposed rule are extremely unusual and FNS has no data on which to base an estimate of their frequency or the amount of benefits that might be involved. The proposed rule also updates the existing definition of trafficking, and as such there are no incremental cost or benefit repercussions.

State SNAP and FDPIR agencies will be required to perform checks for dual participation in their Programs and to

ensure that clients disqualified from either SNAP or FDPIR are not allowed to participate in the alternate Program. Cross-Program checks for duplicate participation in SNAP and FDPIR are already required and checks for ensuring that clients disqualified from SNAP or FDPIR are not participating in the alternate Program should follow a similar process; therefore the checks will not significantly impact administrative costs.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 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 Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). It has been certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. Departmental Field, Regional, and Area Offices, retailers and other firms participating or applying to participate in the Supplemental Nutrition Assistance Program, State agencies that distribute Supplemental Nutrition Assistance Program benefits and State agencies that administer Food Distribution of Indian Reservations, are the entities affected by this change.

Public Law 104–4

Unfunded Mandate Reform Act of 1995 (UMRA) Title II of UMRA 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 to State, local, or Tribal governments in the aggregate, or to 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 least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no 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. This rule is, therefore, not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

SNAP is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the Final Rule codified in 7 CFR part 3015, Subpart V and related Notice (48 FR 29115), 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 the Executive Order 13132. FNS has determined that this rule does not have Federalism implications. 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.

Executive Order 12988

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

Executive Order 13175

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. In late 2010 and early 2011, USDA engaged in a series of consultative sessions to obtain input by Tribal officials or their designees concerning the impact of this rule on the Tribe or Indian Tribal governments, or whether this rule may preempt Tribal law. Reports from these sessions for consultation will be made part of the USDA annual reporting on Tribal Consultation and Collaboration. Each session was fully transcribed and the comments received relative to this proposed regulation follow:

One commenter expressed general concern regarding the disparity in benefit value as a result of the increase in SNAP benefits following the American Recovery and Reinvestment and Act (ARRA); FDPIR benefits were not subject to an ARRA increase.

One commenter noted that County level SNAP office staff should have been in attendance at this consultation; if county level staff is not aware of the prohibition relative to dual participation, then they will not abide by that prohibition. This was reiterated by a second commenter who noted that County level SNAP staff should be in the communication loop and receive training. FNS noted that a process of notifying all stakeholders would occur once this regulation is finalized. A third commenter made a procedural recommendation requiring that SNAP certification staff contact the Indian Tribal Organization (ITO) to ensure that applicant clients are not dually participating in FDPIR.

One commenter expressed support for the reciprocal SNAP disqualification that would be based on an intentional program violation in FDPIR.

One commenter noted that direct access to County level SNAP staff would be beneficial; currently the ITO calls the County level office and is subject to an automated message when checking dual participation.

Several commenters noted that access to an automated system for checking dual participation and reciprocal disqualification is practically necessary to make the process work, and that the current process of checking paper printouts is not practical. FNS noted that some ITO's have successfully executed a Memorandum of Understanding (MOU) with the State SNAP agency or county SNAP offices that allow them view-only access to State certification systems for these kinds of checks. Some participating ITO's noted difficulties in getting such MOU's in place. FNS committed to assist ITO's with this process in Oklahoma, and more broadly, to seek examples of successfully executed MOU's and provide those to appropriate stakeholders.

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.

We are unaware of any current Tribal laws that could be in conflict with the proposed rule. We request that commenters address any concerns in this regard in their responses.

Civil Rights Impact Analysis

FNS has reviewed this rule in accordance with Departmental Regulations 4300–4, ''Civil Rights Impact Analysis'', and 1512–1, ''Regulatory Decision Making Requirements.'' After a careful review of the rule's intent and provisions, FNS has determined that this rule will not in any way limit or reduce the ability of protected classes of individuals to receive SNAP benefits on the basis of their race, color, national origin, sex, age, disability, religion or political belief nor will it have a differential impact on minority owned or operated business establishments, and women owned or operated business establishments that participate in SNAP.

The regulation affects or may potentially affect the retail food stores and wholesale food concerns that participate in (accept or redeem) SNAP. The only retail food stores and wholesale food concerns that will be directly affected, however, are those firms that violate SNAP rules and regulations. FNS does not collect data from retail food stores or wholesale food concerns regarding any of the protected classes under Title VI of the Civil Rights Act of 1964. As long as a retail food store or wholesale food concern meets the eligibility criteria stipulated in the Food and Nutrition Act of 2008 and SNAP regulations, they can participate in SNAP. Also, FNS specifically prohibits retailers and wholesalers that participate in SNAP to engage in actions that discriminate based on race, color, national origin, sex, age, disability, religion, or political belief. This rule will not change any requirements related to the eligibility or participation of protected classes or individuals, minority-owned or operated business establishments, or women-owned or operated business establishments in SNAP. As a result, this rule will have no differential impact on protected classes of individuals, minority-owned or operated business establishments, or women-owned or operated business establishments.

Further, FNS specifically prohibits the State and local government agencies that administer the Program from engaging in actions that discriminate based on race, color, national origin, gender, age, disability, marital or family status. Regulations at 7 CFR 272.6 specifically state that ''State agencies shall not discriminate against any applicant or participant in any aspect of program administration, including, but not limited to, the certification of households, the issuance of coupons, 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. Discrimination in any aspect of the program administration is prohibited by these regulations, according to the Act. * * * Enforcement may be brought under any applicable Federal law. Title VI complaints shall be processed in accord with 7 CFR part 15.'' Where State agencies have options, and they choose to implement a certain provision, they must implement it in such a way that it complies with the regulations at 7 CFR 272.6.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; see 5 CFR 1320) requires that the Office of Management and Budget (OMB) 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.

This proposed rule will not affect the reporting and recordkeeping burden and does not contain additional burden requirements subject to OMB approval other than those that have been previously approved in OMB# 0584–0064, expiration date 03/31/2013, by OMB under the Paperwork Reduction Act of 1995.

E-Government Act Compliance

FNS is committed to complying with the E-Government Act of 2002 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.

Lists of Subjects

7 CFR Part 271

Food stamps, Grant programs—Social programs, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Employment, Food stamps, Fraud, Government employees, Grant programs—Social programs, Income taxes, Reporting and recordkeeping requirements, Students, Supplemental Security Income, (SSI), wages.

7 CFR Part 281

Administrative practice and procedure, Food stamps, Grant programs—Social programs, Indians.

Accordingly, 7 CFR Parts 271, 273 and 281 are proposed to be amended as follows:

1. The authority citation for 7 CFR parts 271, 273 and 281 continue to read as follows:

Authority: 7 U.S.C. 2011–2036.

PART 271—GENERAL INFORMATION AND DEFINITIONS

2. In part 271:

a. Remove the words ''the Food Stamp Program'' or ''FSP'' wherever they appear and add, in their place, the word ''SNAP'';

b. Remove the words ''food stamps'' wherever they appear and add, in their place, the words ''SNAP benefits'';

c. Remove the words ''food stamp'' wherever they appear and add, in their place, the word ''SNAP'';

3. In § 271.2:

a. Remove the words ''Food Stamp Act of 1977'' and add in their place the words ''Food and Nutrition Act of 2008'' except in the definition ''Food Stamp Act'' wherever they appear;

b. Remove the words ''Food Stamp Act'' add in their place, the words ''Food and Nutrition Act of 2008''

except in the definition ''Food Stamp Act'' wherever they appear;

c. The definition of *Trafficking* is revised to read as follows:

§ 271.2. Definitions.

* * * * *

Trafficking means the buying, selling, stealing, or otherwise effecting an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone; the exchange of firearms, ammunition, explosives, or controlled substances, as defined in section 802 of title 21, United States Code, for SNAP benefits; the purchase with SNAP benefits of products that have container deposits for purposes of subsequently discarding the product and returning the container(s) in exchange for cash refund deposits; the re-sale of products purchased with SNAP benefits for purposes of obtaining cash or consideration other than eligible food; or the purchase of products originally purchased with SNAP benefits and re-sold in exchange for cash or consideration other than eligible food.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

3. In § 273.11:

a. Remove the words ''food stamps'' wherever they appear and add, in their place, the words ''SNAP benefits'';

b. Remove the words ''food stamp'' wherever they appear and add, in their place, the word ''SNAP'';

c. Add two new sentences at the end of paragraph (k) introductory text.

d. Add a new sentence to the end of paragraph (k)(6).

The additions read as follows:

§ 273.11 Action on households with special circumstances.

* * * * *

(k) * * * In the case of disqualification from the Food Distribution Program on Indian Reservations (FDPIR) for an intentional program violation as described under § 253.8, the State agency shall impose the same disqualification on the member of the household under SNAP. The State agency must, in cooperation with the appropriate FDPIR agency, develop a procedure that ensures that these household members are identified.

* * * * *

(6) * * * In instances where the disqualification is a reciprocal action based on disqualification from the Food Distribution Program on Indian Reservations, the length of disqualification shall mirror the period prescribed by the Food Distribution Program on Indian Reservations.

* * * * *

PART 281—ADMINISTRATION OF THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) ON INDIAN RESERVATIONS

4. Revise the heading of part 281 to read as set forth above

5. In part 281:

a. Remove the words ''the Food Stamp Program'' wherever they appear and add, in their place, the word ''SNAP'';

b. Remove the words ''Food Stamp Act of 1977'' wherever they appear and add, in their place, the words ''Food and Nutrition Act of 2008'';

c. Remove the words ''1977 Food Stamp Act'' wherever they appear and add, in their place, the words ''Food and Nutrition Act of 2008'';

6. In § 281.1 remove the regulatory reference ''§ 283.7(e)'' and add, in its place, the regulatory reference ''§ 253.7(e)''.

Dated: May 26, 2011.

Janey Thornton,

Acting Under Secretary, Food Nutrition and Consumer Services.

[FR Doc. 2011–14982 Filed 6–17–11; 8:45 am]

BILLING CODE 3410–30–P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1236

RIN 2590–AA13

Prudential Management and Operations Standards

AGENCY: Federal Housing Finance Agency.

ACTION: Proposed rule.

SUMMARY: Section 1108 of the Housing and Economic Recovery Act of 2008 (HERA) amended the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act) to require the Federal Housing Finance Agency (FHFA) to establish prudential standards relating to the management and operations of the Federal National Mortgage Association (Fannie Mae), Federal Home Loan Mortgage Corporation (Freddie Mac), and Federal Home Loan Banks (Banks) (collectively, regulated entities). FHFA is proposing to implement those HERA amendments by providing for the establishment of the prudential standards in the form of guidelines, which initially would be set out in an appendix to the rule. The proposal also would include other provisions relating to the possible consequences for a regulated entity that fails to operate in accordance with the prudential standards.

DATES: Written comments on the proposed rule must be received on or before August 19, 2011. For additional information, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: You may submit your comments on the proposed rule, identified by regulatory information number ''RIN 2590–AA13,'' by any of the following methods:

- *E-mail:* Comments to Alfred M. Pollard, General Counsel, may be sent by e-mail to *RegComments@FHFA.gov.* Please include ''RIN 2590–AA13'' in the subject line of the message.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by e-mail to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by the agency. Include the following information in the subject line of your submission: Comments/RIN 2590–AA13.
- *U.S. Mail, United Parcel Post, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel, *Attention:* Comments/RIN 2590–AA13, Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552.
- *Hand Delivered/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel; Attention: Comments/RIN 2590–AA13, Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The package should be logged at the Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Amy Bogdon, Associate Director, Division of Federal Home Loan Bank Regulation, Federal Housing Finance Agency, 1625 Eye Street, NW., Washington, DC 20006, *amy.bogdon@fhfa.gov,* (202) 408–2546; Carol Connelly, Principal Supervision Specialist, Division of Examination Programs and Support, *carol.connelly@fhfa.gov,* (202) 414–8910; or Neil R. Crowley, Deputy General Counsel, *neil.crowley@fhfa.gov,* (202) 343–1316, Federal Housing Finance Agency, 1700 G Street, NW., Washington, DC 20552 (not toll free numbers). The telephone number for the

Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA invites comments on all aspects of the proposed rule and will take all comments into consideration before issuing a final rule. Copies of all comments will be posted without change, including any personal information you provide, such as your name and address, on the FHFA Web site at *http://www.fhfa.gov.* In addition, copies of all comments will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., at the Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. To make an appointment to inspect comments, please call the Office of General Counsel at (202) 414–3751.

II. Background

Effective July 30, 2008, HERA, Public Law No. 110–289, 122 Stat. 2654 (2008), created FHFA as an independent agency of the Federal Government and transferred to it the supervisory and oversight responsibilities over the regulated entities formerly vested with the Office of Federal Housing Enterprise Oversight (OFHEO) and the Federal Housing Finance Board (FHFB). Section 1108 of HERA also added a new section 1313B to the Safety and Soundness Act, which requires the FHFA Director to establish standards that address 10 separate areas relating to the management and operation of the regulated entities, and authorizes the Director to establish the standards by regulation or by guideline. 12 U.S.C. 4513b. Those 10 areas relate to: Adequacy of internal controls and information systems; adequacy and independence of the internal audit systems; management of interest rate risk; management of market risk; adequacy of liquidity and reserves; management of growth in assets and in the investment portfolio; management of investments and acquisition of assets to ensure that they are consistent with the purposes of the Safety and Soundness Act and the regulated entities' authorizing statutes; [1] adequacy of overall risk management processes; adequacy of credit and counterparty risk management practices; and maintenance of records that allow an accurate assessment of the institution's financial condition. 12 U.S.C. 4513b(a)(1)–(10). Section 1313B(a) also specifically authorizes the Director to establish other appropriate management and operations standards. 12 U.S.C. 4513b(a)(11). The HERA amendments require that the prudential standards be established with respect to the regulated entities, which term does not include the Banks' Office of Finance (OF), although HERA would not necessarily preclude FHFA from extending the prudential standards (or comparable standards) to the OF. FHFA is not proposing to subject the OF to the prudential standards regime, in large part because several of the standards address matters that are not relevant to the OF, such as those relating to interest rate, market and credit risks, and investment portfolio growth. The same is true with respect to the statutory sanctions for noncompliance with the standards, which include limits on asset growth and increases in capital. FHFA welcomes any comments on this issue.

Section 1313B(b)(1) addresses the possible consequences for a regulated entity that fails to meet any of the prudential standards, and provides that the Director ''shall require'' the regulated entity to submit a corrective plan if the standards have been adopted by regulation and ''may require'' the regulated entity to submit a corrective plan if the standards have been adopted as guidelines. 12 U.S.C. 4513b(b)(1)(A). If a regulated entity is required to submit a corrective plan to FHFA, it must do so within thirty (30) days after the Director determines that it has failed to meet any standard. That plan must specify the actions that the regulated entity will take to conform its practices to the requirements of the prudential standards. 12 U.S.C. 4513b(b)(1). FHFA generally must act on such plans within thirty (30) days after receipt. 12 U.S.C. 4513b(b)(1)(C)(ii).

Section 1313B(b)(2) also addresses the possible consequences for a regulated entity that fails to submit an acceptable plan within the required time period or that fails in any material respect to implement a corrective plan that the Director has approved. In those cases, the Director must order the regulated entity to correct the deficiency. 12 U.S.C. 4513b(b)(2)(A). The Director also has the discretionary authority to order further sanctions, including limits on asset growth, increases in capital, or any other action the Director believes appropriate until the regulated entity comes into compliance with the prudential standard. 12 U.S.C. 4513b(b)(2)(B). Although the imposition of those additional sanctions generally is a matter of discretion for the Director, if a regulated entity that has failed to submit or implement a corrective plan also has experienced ''extraordinary growth'' within the preceding 18 months, the Director is then required to impose at least one of those additional sanctions. The concept of ''extraordinary growth'' comes into play only in those narrow circumstances and thus is not a statutory factor when the Director is considering whether a regulated entity has failed to comply with a prudential standard, whether the Director should require the submission of a corrective plan, or whether the Director should impose discretionary sanctions. All of the remedial powers that the Director may invoke under the prudential standards provisions are not exclusive, and section 1313B(c) expressly preserves the Director's right to exercise any other supervisory or enforcement authority under the Safety and Soundness Act. 12 U.S.C. 4513b(c).

Because Congress preserved all of the existing rules, regulations, orders, resolutions, and determinations of OFHEO and the FHFB,[2] any such existing provisions that pertain to the prudential management and operations of the regulated entities remain in full force and effect until FHFA has modified, cancelled, or repealed them. Unless any of the existing provisions are incorporated into the guidelines, a regulated entity's failure to comply with the existing provisions will not trigger the remedial provisions of section 1313B of the Safety and Soundness Act, although it would allow FHFA to pursue other supervisory remedies. After this rule is adopted, FHFA anticipates undertaking a systematic review of existing regulatory requirements that may overlap with these standards. Commenters are invited to identify areas of potential overlap or conflict between existing requirements or guidance and the proposed standards.

III. Analysis of the Proposed Rule

Purpose and Definitions: §§ 1236.1 and 1236.2

Proposed § 1236.1 explains that the purposes of the new part 1236 are to establish the prudential management and operations standards regulated entities must meet and the consequences if a regulated entity fails to meet the standards or fails to comply with this part. Proposed § 1236.2

[1] The authorizing statute for Fannie Mae is the Federal National Mortgage Association Charter Act (12 U.S.C. 1716–1723i), for Freddie Mac, the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451–1459), and for the Banks, the Federal Home Loan Bank Act (12 U.S.C. 1421–1449) (Bank Act). 12 U.S.C. 4502(3).

[2] Sections 1302 and 1312 of HERA (codified at 12 U.S.C. 4511 note) provide that all regulations, orders, determinations, and resolutions issued or prescribed by OFHEO and the FHFB remain in effect until modified, terminated, set aside, or superseded by FHFA.

defines certain key terms used in the prudential management and operations standards regulation. The only term unique to this part is ''extraordinary growth,'' which is defined differently for the Banks, by excluding advances growth, because rapid growth in advances does not present the same supervisory concerns that may result from rapid growth of other assets and because such growth may be central to the purpose of the Federal Home Loan Bank System as was seen in 2007 and 2008. Thus, for the Banks the proposed rule would define ''extraordinary growth'' to mean, for a given calendar quarter, quarterly non-annualized growth of non-advance assets in excess of 7.5 percent. With respect to the Enterprises, the proposed rule defines ''extraordinary growth'' to mean, for a given calendar quarter, quarterly non-annualized growth of assets in excess of 7.5 percent. With respect to both the Banks and the Enterprises, the extraordinary growth must have occurred within the 18-month period preceding the date on which FHFA notifies the entity that it has failed to meet a prudential standard and must therefore submit a corrective plan.

Defining ''extraordinary growth'' in this manner recognizes that the Banks' primary mission is providing secured credit to their members and that rapid growth in advances does not necessarily raise supervisory concerns. Advances differ from other assets in that they are self-capitalizing, *i.e.,* a member must buy and hold a certain amount of Bank stock in order to obtain an advance, and are fully secured, principally by first mortgage loans or securities representing interest in such loans. The credit risk associated with advances is minimal, as shown by the fact that the Banks have never sustained a credit loss on an advance to their members. Moreover, the public mission of the Banks is to provide secured credit, as needed by their members for both housing finance and liquidity purposes. The significant growth in advances balances during the recent financial crisis demonstrated the extent to which the Banks provided financial support to the banking industry and the importance of allowing the Banks to expand and contract their advances portfolios in response to the needs of their members. In contrast, rapid growth of non-advance assets by a Bank may present supervisory concerns, and for that reason the proposed rule would use the same standard—7.5 percent growth over any calendar quarter—for non-advance growth for the Banks as it uses for growth in total assets for an Enterprise. The proposed definition provides a straightforward standard that should be easy for the regulated entities to understand and to calculate. Moreover, basing the definition on the concept of quarterly asset growth is consistent with that aspect of the definition of extraordinary growth used by the federal banking agencies for implementing their own prudential standards statute. *See* 12 CFR § 30.4(d)(2). For purposes of calculating an increase in assets, FHFA proposes to exclude assets that a regulated entity acquires through merger or acquisition with another regulated entity that FHFA has approved.

As noted above, the concept of ''extraordinary growth'' becomes relevant only if a regulated entity has either failed to submit an acceptable corrective plan or has failed to implement an approved plan. The presence of ''extraordinary growth'' by itself does not trigger any of the supervisory sanctions under the prudential standards statute or this proposed rule, although FHFA may invoke its other supervisory authorities if necessary to address asset growth that it believes poses other safety and soundness concerns.

Prudential Management and Operations Standards: § 1236.3

Proposed § 1236.3 would implement section 1313B(a) of the Safety and Soundness Act (12 U.S.C. 4513b(a)), which requires the Director to establish prudential management and operations standards relating to the 10 categories described above. The HERA amendments authorize the Director to adopt the standards either as regulations or as guidelines, and the Director is proposing to adopt the standards as guidelines, which initially would be set forth in an Appendix to part 1236. Section 1236.3(b) of the proposed rule further provides that, because the standards set forth in the Appendix would be adopted as guidelines, the Director may modify, revoke or add to them at any time by order, rather than through a notice and comment rulemaking. This approach will allow FHFA to timely update the standards to conform them to changes in best practices, as well as to address particular supervisory concerns. It also maintains the flexibility to seek public comment on changes to the guidance, as appropriate. Section 1236.3(c) of the proposal further provides that a failure to meet any standard also may constitute an unsafe and unsound practice for purposes of 12 U.S.C. chapter 46, subchapter III, which would allow FHFA to initiate an administrative enforcement action, in addition to any sanctions that may be imposed under the prudential standards authorized by HERA.

Failure To Meet the Prudential Standards: § 1236.4

Proposed § 1236.4 implements section 1313B(b) of the Safety and Soundness Act, which provides specific remedies that FHFA may use if a regulated entity fails to meet a prudential management and operations standard. 12 U.S.C. 4513b(b)(1). Proposed § 1236.4(a) provides that FHFA has the discretion to determine if a regulated entity has failed to operate in accordance with one or more of the prudential management and operations standards set forth in the Appendix, and may base that determination on any information available to it, such as information obtained through the examination process or other supervisory processes. Proposed § 1236.4(b) further provides that if FHFA makes such a determination, it may require the regulated entity to submit a corrective plan to address those deficiencies. Because the prudential standards would be established as guidelines, FHFA is not mandated to require the submission of a corrective plan, as would be the case if the standards were to be established as regulations.

Proposed § 1236.4(c) addresses the contents and filing requirements relating to a corrective plan. Each corrective plan must specify the actions that the regulated entity will take to correct the deficiencies and the time within which each action will be taken. The corrective plan is due not later than thirty (30) calendar days after FHFA has notified the regulated entity that it has failed to meet one or more of the prudential standards, unless FHFA sets a different time period. With the permission of FHFA, a regulated entity that must file, or currently is operating under, a capital restoration plan submitted pursuant to 12 U.S.C. 4622, a cease-and-desist order entered into pursuant to 12 U.S.C. 4631 or 4632, a formal or informal agreement, or a response to a report of examination or report of inspection, may submit the corrective plan as part of that other plan, order, agreement or response.

Proposed § 1236.4(d) allows a regulated entity that is operating under an approved corrective plan to submit a written request to FHFA to amend the existing plan to reflect any changes in circumstance. Until such time as FHFA approves a proposed amendment, the regulated entity must implement and abide by the previously approved corrective plan.

Proposed § 1236.4(e) addresses the period of time within which FHFA must act in response to the submission of a corrective plan. Generally speaking, within thirty (30) calendar days of its receipt of a corrective plan, FHFA must notify the regulated entity of its decision on the plan (*i.e.,* approval or denial), or of its need for additional information, or of its decision to extend the review period beyond thirty (30) calendar days.

Failure To Submit or To Implement a Corrective Plan: § 1236.5

Proposed § 1236.5(a) sets forth the actions FHFA may take if a regulated entity has failed to timely submit an acceptable corrective plan or has failed to implement or otherwise comply with an approved corrective plan in any material respect. At a minimum, the Director must order the regulated entity to correct that deficiency, as is required by statute. The proposal further lists the other actions that the Director, in his discretion, may take with respect to the deficiency. Those discretionary actions are consistent with those listed in section 1313B(b)(2)(B) of the Safety and Soundness Act and include limits on asset growth and requirements to increase capital, which are described in the statute, as well as limits on dividends and stock redemptions or repurchases, and/or a minimum level of retained earnings. 12 U.S.C. 4513b(b)(2)(B). The latter set of limits are not explicitly mentioned in the statute, but FHFA has included them in the regulation under its authority to require a regulated entity to take any other actions it deems necessary to carry out these provisions of the statute. In addition, § 1236.5(b) provides that if a regulated entity that has failed to submit or implement a corrective plan also has experienced ''extraordinary growth'' the Director shall impose at least one of the sanctions listed above, which action also is required by statute.

Under proposed § 1236.5(c)(1), FHFA generally will notify a regulated entity that has failed to submit or implement a corrective plan of its intent to issue an order requiring the regulated entity to take corrective action. The notice will include: (1) A statement that the regulated entity has failed to submit a corrective plan under § 1236.4, or has not implemented or otherwise complied with an approved plan; (2) a description of any discretionary sanctions that FHFA proposes to impose and, if the regulated entity has experienced ''extraordinary growth,'' a description of any mandatory restrictions that FHFA intends to impose under 12 U.S.C. 4513b(b)(3); and (3) the proposed date when any restriction or prohibition would become effective or the proposed date for completion of any required action. Under proposed § 1236.5(c)(2), a regulated entity generally has fourteen (14) calendar days to respond to a notice unless otherwise specified by FHFA. The proposal identifies the minimum contents that a regulated entity's response should include, which are an explanation why the regulated entity believes that the action proposed by FHFA is not an appropriate exercise of discretion; recommend modifications, if any, to the proposed order; and any additional relevant information. FHFA will deem a failure to respond to constitute a waiver of the opportunity to respond and consent to issuance of the order.

If the circumstances so require, proposed § 1236.5(c)(4) provides that FHFA need not provide advance notice and may instead require a regulated entity immediately to take or refrain from taking actions to correct its failure to meet one or more of the prudential management and operations standards. Within fourteen (14) calendar days of the issuance of such an immediately effective order, unless otherwise specified by FHFA, a regulated entity may appeal the order in writing. FHFA will act on an appeal within sixty (60) days, during which time the order will remain in effect unless FHFA stays its effectiveness.

Under proposed § 1236.5(d), a regulated entity that is subject to an order may submit a written request to FHFA for an amendment to reflect a change in circumstances. Until such time as FHFA approves a proposed amendment, any such order would remain in effect.

Proposed § 1236.5(e) requires FHFA to act on a response to a notice or a request to amend a plan not later than thirty (30) days after a regulated entity submits the plan or amendment unless FHFA specifies a different time period in writing. After considering a regulated entity's response or amendment request, FHFA may: (1) Issue the order as proposed or in modified form; (2) determine not to issue the order and instead issue a different order; or (3) seek additional information or clarification of the response from the regulated entity, or any other relevant source.

When promulgating regulations that relate to the Banks under section 1313(f) of the Safety and Soundness Act (as amended by section 1201 of HERA), the Director must consider the differences between the Banks and the Enterprises with respect to the Banks' cooperative ownership structure; mission of providing liquidity to members; affordable housing and community development mission; capital structure; and joint and several liability. The Director also may consider any other differences deemed appropriate. 12 U.S.C. 4513(f). In preparing the proposed rule, the Director considered the differences between the Banks and the Enterprises as they relate to the above factors. The Director is requesting comments from the public about whether differences related to these factors should result in a revision of the proposed rule or the standards as they relate to the Banks.

IV. Paperwork Reduction Act

The proposed regulation does not contain any information collection requirement that requires the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

V. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to analyze a proposed regulation's impact on small entities if the final rule is expected to have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). FHFA has considered the impact of this regulation and determined that it is not likely to have a significant economic impact on a substantial number of small entities because it applies only to the Regulated Entities, which are not small entities for purposes of the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 1236

Administrative practice and procedure, Federal home loan banks, Government-sponsored enterprises, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, FHFA proposes to amend chapter XII of title 12 of the Code of Federal Regulations by adding part 1236 to subchapter B to read as follows:

PART 1236—PRUDENTIAL MANAGEMENT AND OPERATIONS STANDARDS

Sec.

1236.1 Purpose.
1236.2 Definitions.
1236.3 Prudential standards as guidelines.
1236.4 Failure to meet a standard; Corrective plans.
1236.5 Failure to submit a corrective plan; Noncompliance.
Appendix to Part 1236—Prudential Management and Operations Standards

Authority: 12 U.S.C. 4511, 4513(a) and (f), 4513b, and 4526.

§ 1236.1 Purpose.

This part establishes the prudential management and operations standards that are required by 12 U.S.C. 4513b, and specifies the possible consequences for any regulated entity that fails to operate in accordance with the standards or otherwise fails to comply with this part.

§ 1236.2 Definitions.

Unless otherwise indicated, terms used in this part have the meanings that they have in the Federal Housing Enterprises Financial Safety and Soundness Act, 12 U.S.C. 4501 *et seq.,* or the Federal Home Loan Bank Act, 12 U.S.C. 1421 *et seq.*

Extraordinary growth, for purposes of 12 U.S.C. 4513b(b)(3)(C), means, with respect to the Banks, for a given calendar quarter, quarterly non-annualized growth of non-advance assets in excess of 7.5 percent, and with respect to the Enterprises, for a given calendar quarter, quarterly non-annualized growth of assets in excess of 7.5 percent, in both cases with such growth occurring within the 18-month period preceding the issuance of a written notice requiring the entity to submit a corrective plan. For purposes of calculating an increase in assets, assets acquired through merger or acquisition approved by FHFA are not to be included.

FHFA means the Federal Housing Finance Agency.

Standard means any one or more of the prudential management and operations standards set out in the Appendix to this part, as modified from time to time pursuant to § 1236.3(b).

§ 1236.3 Prudential standards as guidelines.

(a) The Standards constitute the prudential management and operations standards required by 12 U.S.C. 4513b.

(b) The Standards are adopted as guidelines, as authorized by 12 U.S.C. 4513b(a), and the Director may modify, revoke or add to the Standards, or any one or more of them, at any time by order.

(c) Failure to meet any Standard may constitute an unsafe and unsound practice for purposes of the enforcement provisions of 12 U.S.C. chapter 46, subchapter III.

§ 1236.4 Failure to meet a standard; Corrective plans.

(a) *Determination.* FHFA may, based upon an examination, inspection or any other information, determine that a regulated entity has failed to meet one or more of the Standards.

(b) *Submission of corrective plan.* If a regulated entity has failed to meet any Standard, FHFA may, by written notice, require the regulated entity to submit a corrective plan.

(c) *Corrective plans.*—(1) *Contents of plan.* A corrective plan shall describe the actions the regulated entity will take to correct its failure to meet any one or more of the Standards, and the time within which each action will be taken.

(2) *Filing deadline.*—(i) *In general.* A regulated entity must file a written corrective plan with FHFA within thirty (30) calendar days of being notified of its failure to meet a Standard, unless FHFA notifies the regulated entity in writing that the plan must be filed within a different time period.

(ii) *Other plans.* If a regulated entity must file, or currently is operating under, a capital restoration plan submitted pursuant to 12 U.S.C. 4622, a cease-and-desist order entered into pursuant to 12 U.S.C. 4631 or 4632, a formal or informal agreement, or a response to a report of examination or report of inspection, it may, with the permission of FHFA, submit the corrective plan required under this section as part of that other plan, order, agreement or response, subject to the deadline in paragraph (c)(2)(i) of this section.

(d) *Amendment of corrective plan.* A regulated entity that is operating in accordance with an approved corrective plan may submit a written request to FHFA to amend the plan as necessary to reflect any changes in circumstance. Until such time that FHFA approves a proposed amendment, the regulated entity must continue to operate in accordance with the terms of the corrective plan as previously approved.

(e) *Review of corrective plans and amendments.* Within thirty (30) calendar days of receiving a corrective plan or proposed amendment to a plan, FHFA will notify the regulated entity in writing of its decision on the plan, will direct the regulated entity to submit additional information, or will notify the regulated entity that FHFA has established a different deadline.

§ 1236.5 Failure to submit a corrective plan; Noncompliance.

(a) *Remedies.* If a regulated entity fails to submit an acceptable corrective plan under § 1236.4(b), or fails to implement or otherwise comply with an approved corrective plan, FHFA shall order the regulated entity to correct that deficiency, and may:

(1) Prohibit the regulated entity from increasing its average total assets, as defined in 12 U.S.C. 4516(b)(4), for any calendar quarter over its average total assets for the preceding calendar quarter, or may otherwise restrict the rate at which the average total assets of the regulated entity may increase from one calendar quarter to another;

(2) Prohibit the regulated entity from paying dividends;

(3) Prohibit the regulated entity from redeeming or repurchasing capital stock;

(4) Require the regulated entity to maintain or increase its level of retained earnings;

(5) Require an Enterprise to increase its ratio of core capital to assets, or require a Bank to increase its ratio of total capital, as defined in 12 U.S.C. 1426(a)(5) to assets; or

(6) Require the regulated entity to take any other action that the Director determines will contribute to bringing the regulated entity into compliance with the Standards.

(b) *Extraordinary growth.* If a regulated entity that has failed to submit an acceptable corrective plan or has failed to implement or otherwise comply with an approved corrective plan, also has experienced extraordinary growth within the 18 months prior to being notified by FHFA that it has failed to meet any of the Standards, FHFA shall impose at least one of the sanctions listed in paragraph (a) of this section.

(c) *Orders.*—(1) *Notice.* Except as provided in paragraph (c)(4) of this section, FHFA will notify a regulated entity in writing of its intent to issue an order requiring the regulated entity to correct a deficiency under the Standards. Any such notice will include:

(i) A statement that the regulated entity has failed to submit a corrective plan under § 1236.4, or has not implemented or otherwise has not complied with an approved plan;

(ii) A description of any sanctions that FHFA intends to impose and, in the case of the mandatory sanctions required by 12 U.S.C. 4513b(b)(3), a statement that FHFA believes that the regulated entity has experienced extraordinary growth; and

(iii) The proposed date when any sanctions would become effective or the proposed date for completion of any required actions.

(2) *Response to notice.* A regulated entity may file a written response to a notice of intent to issue an order, which must be delivered to FHFA within fourteen (14) calendar days of the date of the notice, unless FHFA determines that a different time period is appropriate in light of the safety and soundness of the regulated entity or other relevant circumstances. The response should include:

(i) An explanation why the regulated entity believes that the action proposed

by FHFA is not an appropriate exercise of discretion;

(ii) Any recommended modification of the proposed order; and

(iii) Any other relevant information, mitigating circumstances, documentation or other evidence in support of the position of the regulated entity regarding the proposed order.

(3) *Failure to file response.* A regulated entity's failure to file a written response within the specified time period will constitute a waiver of the opportunity to respond and will constitute consent to issuance of the order.

(4) *Immediate issuance of final order.* FHFA may issue an order requiring a regulated entity immediately to take actions to correct a prudential management and operations standards deficiency or take or refrain from taking other actions pursuant to paragraph (a) of this section. Within fourteen (14) calendar days of the issuance of an order under this paragraph, or other time period specified by FHFA, a regulated entity may submit a written appeal of the order to FHFA. FHFA will respond in writing to a timely filed appeal within sixty (60) days after receiving the appeal. During this period, the order will remain in effect unless FHFA stays the effectiveness of the order.

(d) *Request for modification or rescission of order.* A regulated entity subject to an order under this part may submit a written request to FHFA for an amendment to the order to reflect a change in circumstance. Unless otherwise ordered by FHFA, the order shall continue in place while such a request is pending before FHFA.

(e) *Agency review and determination.* FHFA will respond in writing within thirty (30) days after receiving a response or amendment request, unless FHFA notifies the regulated entity in writing that it will respond within a different time period. After considering a regulated entity's response or amendment request, FHFA may:

(1) Issue the order as proposed or in modified form;

(2) Determine not to issue the order and instead issue a different order; or

(3) Seek additional information or clarification of the response from the regulated entity, or any other relevant source.

Appendix to Part 1236—Prudential Management and Operations Standards

Standard 1—Internal Controls and Information Systems

Responsibilities of the Board of Directors

1. The board of directors of each regulated entity is responsible for ensuring that an adequate and effective system of internal controls is established and maintained, and that management includes personnel who are appropriately trained and competent to oversee this function.

2. The board of directors should approve and periodically review the regulated entity's overall business strategies and significant policies.

3. The board of directors should approve the regulated entity's organizational structure.

4. The board of directors should ensure that senior management monitors the effectiveness of the regulated entity's internal controls and information systems.

Responsibilities of Senior Management

5. Senior management should implement strategies and policies approved by the board of directors, and should ensure that the regulated entity has personnel who are appropriately trained and competent to carry out this function.

6. Senior management should establish and maintain an organizational structure that clearly assigns responsibility, authority, and reporting relationships.

7. Senior management should ensure an appropriate segregation of duties.

8. Senior management should ensure that personnel are not assigned conflicting responsibilities.

9. Senior management should ensure that staff carries out delegated responsibilities.

10. Senior management should establish appropriate internal control policies.

11. Senior management should monitor the adequacy and effectiveness of the regulated entity's internal controls and information systems.

12. Senior management should ensure that the regulated entity's internal controls are monitored on an ongoing basis through a formal self-assessment process.

Responsibilities of the Board of Directors and Senior Management

13. The board of directors and senior management should promote high ethical standards.

14. The board of directors and senior management should establish a culture within the organization that emphasizes and demonstrates to personnel at all levels the importance of internal controls.

15. The board of directors and senior management should address promptly any violations, findings, weaknesses, deficiencies, and other issues in need of remediation.

Risk Recognition and Assessment

16. A regulated entity should have an effective risk assessment process.

17. A regulated entity's risk assessment process should ensure that management recognizes and continually assesses all material risks, including credit risk, market risk, interest rate risk, liquidity risk, and operational risk.

Control Activities and Segregation of Duties

18. A regulated entity should have an effective internal control system that defines control activities at every business level.

19. A regulated entity's control activities should include:

a. Board of directors and senior management reviews of progress toward goals and objectives;

b. Appropriate activity controls for each business unit;

c. Physical controls to protect property and other assets and limit access to property and systems;

d. Procedures for monitoring compliance with exposure limits and follow-up on non-compliance;

e. A system of approvals and authorizations for transactions over certain limits; and

f. A system for verification and reconciliation of transactions.

Information and Communication

20. A regulated entity should have information systems that provide relevant, accurate and timely information and data.

21. A regulated entity should have secure information systems that are supported by adequate contingency arrangements.

22. A regulated entity should have effective channels of communication to ensure that all personnel understand and adhere to policies and procedures affecting their duties and responsibilities.

Monitoring Activities and Correcting Deficiencies

23. A regulated entity should monitor the overall effectiveness of its internal controls and key risks on an ongoing basis and ensure that business units and internal and external audit conduct periodic evaluations.

24. Internal control deficiencies should be reported to senior management and the board of directors on a timely basis and addressed promptly.

Applicable Laws, Regulations, and Policies

25. A regulated entity should comply with all applicable laws, regulations, and supervisory guidance (*e.g.,* advisory bulletins) governing internal controls and information systems.

Standard 2—Independence and Adequacy of Internal Audit Systems

Responsibilities of the Board of Directors and Senior Management

1. A regulated entity's board of directors should have an audit committee that ensures the independence of the internal audit function, and ensures that the internal audit department includes personnel who are appropriately trained and competent to oversee the internal audit function.

2. The board of directors should review and approve the audit committee charter at least every three years.

3. The audit committee of the board of directors is responsible for monitoring and evaluating the effectiveness of the regulated entity's internal audit function.

4. Issues reported by the internal audit department to the audit committee should be promptly addressed and satisfactorily resolved.

Internal Audit Function

5. A regulated entity should have an internal audit system that provides for

adequate monitoring of the system of internal controls.

6. A regulated entity should have an independent and objective internal audit department that reports directly to the audit committee of the board of directors.

7. A regulated entity's internal audit department should be adequately staffed with properly trained and competent personnel.

8. The internal audit department should conduct risk-based audits.

9. The internal audit department should conduct adequate testing and review of internal control and information systems.

10. The internal audit department should ensure that violations, findings, weaknesses and other issues reported by regulators, external auditors, and others are promptly addressed and satisfactorily resolved.

Applicable Laws, Regulations, and Policies

11. A regulated entity should comply with applicable laws, regulations, and supervisory guidance (*e.g.,* advisory bulletins) governing the independence and adequacy of internal audit systems.

Standard 3—Management of Market Risk Exposure

Responsibilities of the Board of Directors

1. The board of directors has ultimate responsibility for understanding the nature and level of the regulated entity's market risk exposures and should understand the possible short- and long-term effects of those exposures on the financial health of the regulated entity, including the possible short- and long-term consequences to earnings, liquidity, and economic value.

2. The board of directors should approve all major strategies and policies relating to the management of market risk and should ensure that the regulated entity's market risk strategy is consistent with its overall business plan and that senior management includes personnel who are appropriately trained and competent to oversee the management of the regulated entity's market risk exposure.

3. The board of directors should establish the regulated entity's tolerance for market risk and provide management with clear guidance regarding the level of acceptable market risk.

4. The board of directors should review the regulated entity's entire market risk management framework, including policies and entity-wide risk limits at least annually, and more frequently in the event of significant changes in market or financial conditions. The review should also include an assessment of compliance with the risk limits.

5. The board of directors or a committee thereof should ensure that senior management has taken the steps necessary to identify, measure, manage, and control the regulated entity's market risk exposures.

6. The board of directors or a committee thereof should ensure that the regulated entity's market risk policies establish lines of authority and responsibility for managing market risk.

7. The board or a committee thereof should review the regulated entity's risk exposures on a periodic basis. The board of directors should ensure that management takes appropriate corrective measures when market risk limit violations or breaches occur.

Responsibilities of Senior Management

8. Senior management should ensure that market risk policies and procedures are clearly written, sufficiently detailed, and followed, and should ensure that the regulated entity has personnel who are appropriately trained and competent to implement the policies and procedures related to market risk exposure.

9. Senior management should ensure that the regulated entity has adequate systems and resources available to manage and control the regulated entity's market risk. Senior management should ensure that policies and procedures assign responsibility for managing the regulated entity's market risk limits.

10. Senior management should ensure that the lines of authority and responsibility for managing market risk and monitoring market risk limits are clearly identified.

11. Senior management should ensure that policies and procedures identify remedial actions to be taken when market risk limit violations occur.

12. Senior management should regularly review and discuss with the board of directors information regarding the regulated entity's market risk exposures that is sufficient in detail and timeliness to permit the board of directors to understand and assess the performance of management with respect to the management of market risk.

Market Risk Strategy

13. A regulated entity should have a clearly defined and well-documented strategy for managing market risk. The strategy should specify a target account, or target accounts, for managing market risk (*e.g.,* specify whether the objective is to control risk to earnings, net portfolio value, or some other target, or some combination of targets).

14. Management should ensure that the board of directors is made aware of the advantages and disadvantages of the regulated entity's chosen market risk management strategy as well as those of alternative strategies so that the board of directors can make an informed judgment about the relative efficacy of the different strategies.

15. A Bank's strategy for managing market risk should take into account the importance of maintaining the market value of equity of member stock commensurate with the par value of that stock so that the Bank is able to redeem and repurchase member stock at par value.

16. A regulated entity should comply with all applicable laws, regulations, and supervisory guidance, (*e.g.,* advisory bulletins) governing the independence and adequacy of the management of market risk exposure.

Standard 4—Management of Market Risk—Measurement Systems, Risk Limits, Stress Testing, and Monitoring and Reporting

Risk Measurement Systems

1. A regulated entity should have a risk measurement system (a model or models) that capture(s) all material sources of market risk and provide(s) meaningful and timely measures of the regulated entity's risk exposures, as well as personnel who are appropriately trained and competent to operate and oversee the risk measurement system.

2. The risk measurement system should be capable of estimating the effect of changes in interest rates and other key risk factors on the regulated entity's earnings and market value of equity over a range of scenarios.

3. The measurement system should be capable of valuing all financial assets and liabilities in the regulated entity's portfolio.

4. The measurement system should address all material sources of market risk including repricing risk, yield curve risk, basis risk, and options risk.

5. Management should ensure the integrity and timeliness of the data inputs used to measure the regulated entity's market risk exposures, and should ensure that assumptions and parameters are reasonable and properly documented.

6. The measurement system's methodologies, assumptions, and parameters should be thoroughly documented, understood by management, and reviewed on a regular basis.

7. A regulated entity's market risk model should be upgraded periodically to incorporate advances in risk modeling technology.

8. A regulated entity should have a documented approval process for model changes that requires model changes to be authorized by a party independent of the party making the change.

9. A regulated entity should ensure that its models are independently validated on a regular basis.

Risk Limits

10. Risk limits should be consistent with the regulated entity's strategy for managing interest rate risk and should take into account the financial condition of the regulated entity, including its capital position.

11. Risk limits should address the potential impact of changes in market interest rates on net interest income, net income, and the regulated entity's market value of equity.

Stress Testing

12. A regulated entity should conduct stress tests on a regular basis for a variety of institution-specific and market-wide stress scenarios to identify potential vulnerabilities and to ensure that exposures are consistent with the regulated entity's tolerance for risk.

13. A regulated entity should use stress test outcomes to adjust its market risk management strategies, policies, and positions and to develop effective contingency plans.

14. Special consideration should be given to ensuring that complex financial instruments, including instruments with complex option features, are properly valued under stress scenarios and that the risks associated with options exposures are properly understood.

15. Management should ensure that the regulated entity's board of directors or a

committee thereof considers the results of stress tests when establishing and reviewing its strategies, policies, and limits for managing and controlling interest rate risk.

16. The board of directors and senior management should review periodically the design of stress tests to ensure that they encompass the kinds of market conditions under which the regulated entity's positions and strategies would be most vulnerable.

Monitoring and Reporting

17. A regulated entity should have an adequate management information system for reporting market risk exposures.

18. The board of directors, senior management, and the appropriate line managers should be provided with regular, accurate, informative, and timely market risk reports.

Applicable Laws, Regulations, and Policies

19. A regulated entity should comply with all applicable laws, regulations, and supervisory guidance (*e.g.,* advisory bulletins) governing the management of market risk.

Standard 5—Adequacy and Maintenance of Liquidity and Reserves

Responsibilities of the Board of Directors

1. The board of directors should approve, at least annually, all major strategies and policies governing the adequacy, maintenance, and management of liquidity and reserves, and should ensure that senior management includes persons who are appropriately trained and competent to oversee the management of the regulated entity's liquidity and reserves.

2. The board of directors should ensure that the regulated entity's liquidity is managed in accordance with approved strategies, policies, and procedures.

Responsibilities of Senior Management

3. Senior management should develop strategies, policies, and practices to manage liquidity risk to ensure that the regulated entity maintains sufficient liquidity, and should ensure that the regulated entity has personnel who are appropriately trained and competent to oversee the management of the regulated entity's liquidity and reserves.

4. Senior management should provide the board of directors with periodic reports on the regulated entity's liquidity position.

Policies, Practices, and Procedures

5. A regulated entity should establish a liquidity management framework that ensures it maintains sufficient liquidity to withstand a range of stressful events.

6. A regulated entity should articulate a liquidity risk tolerance that is appropriate for its business strategy and its mission goals and objectives.

7. A regulated entity should have a sound process for identifying, measuring, monitoring, controlling, and reporting its liquidity position and its liquidity risk exposures.

8. A regulated entity should establish a funding strategy that provides effective diversification in the sources and tenor of funding.

9. A regulated entity should conduct stress tests on a regular basis for a variety of institution-specific and market-wide stress scenarios to identify sources of potential liquidity strain and to ensure that current exposures remain in accordance with each regulated entity's established liquidity risk tolerance.

10. A regulated entity should use stress test outcomes to adjust its liquidity management strategies, policies, and positions and to develop effective contingency plans.

11. A regulated entity should have a formal contingency funding plan that clearly sets out the strategies for addressing liquidity shortfalls in emergencies. Where practical, contingent funding sources should be tested or drawn on periodically to assess their reliability and operational soundness.

12. A regulated entity should maintain adequate reserves of liquid assets, including adequate reserves of unencumbered, marketable securities that can be liquidated to meet unexpected needs.

Applicable Laws, Regulations, and Policies

13. A regulated entity should comply with all applicable laws, regulations, and supervisory guidance (*e.g.,* advisory bulletins) governing the adequacy and maintenance of liquidity and reserves.

Standard 6—Management of Asset and Investment Portfolio Growth

Responsibilities of the Board of Directors and Senior Management

1. The board of directors is ultimately responsible for ensuring that each regulated entity manages its asset growth and investment portfolio growth in a prudent manner, and ensuring that senior management includes persons who are appropriately trained and competent to oversee the management of the regulated entity's growth in those areas.

2. The board of directors of each regulated entity should establish policies governing the regulated entity's assets and investment growth, including policies that establish prudential limits on the growth of mortgages and mortgage-backed securities. The board of directors should review such policies at least annually.

3. Senior management should adhere to board-approved policies governing asset growth and investment portfolio growth, and should ensure that the regulated entity includes personnel who are appropriately trained and competent to manage the growth of the assets and investment portfolio.

4. A regulated entity should manage asset growth and investment growth in a manner that is consistent with the regulated entity's business strategy, board-approved policies and risk tolerances, and safe and sound operations.

5. A regulated entity should manage asset growth and investment growth in a way that is compatible with mission goals and objectives.

Applicable Laws, Regulations, and Policies

6. A regulated entity should manage investments and acquisition of assets in a way that complies with all applicable laws, regulations, and supervisory guidance (*e.g.,* advisory bulletins).

Standard 7—Investments and Acquisitions of Assets

Responsibilities of the Board of Directors and Senior Management

1. The board of directors is ultimately responsible for ensuring that the regulated entity manages its investments and acquisitions in a prudent manner, and for ensuring that senior management includes persons who are appropriately trained and competent to oversee the regulated entity's investments and acquisitions.

2. The board of directors should approve and periodically review the regulated entity's policies governing investments and acquisitions of other assets.

3. A regulated entity should have an investment policy that establishes clear and explicit guidelines that are appropriate to the regulated entity's mission and objectives. The investment policy should establish the regulated entity's investment objectives, risk tolerances, investment constraints, and policies and procedures for selecting investments.

4. A regulated entity should have a board-approved policy governing acquisitions of other assets (*i.e.,* assets other than investments). The policy should establish clear and explicit guidelines for asset acquisitions that are appropriate to the regulated entity's mission and objectives.

5. A regulated entity should manage investments and acquisitions of assets in a manner that is consistent with mission goals and objectives.

6. The board of directors of each Bank should ensure that the Bank's investment policies and acquisition of assets take into account the importance of maintaining the market value of member stock commensurate with the par value of that stock so that the Bank is able to redeem and repurchase member stock at par value at all times.

Applicable Laws, Regulations, and Policies

7. A regulated entity should manage investments and acquisitions of assets in a way that complies with all applicable laws, regulations, and supervisory guidance (*e.g.,* advisory bulletins).

Standard 8—Overall Risk Management Processes

Responsibilities of the Board of Directors

1. The board of directors is ultimately responsible for the regulated entity's risk management processes, and for ensuring that senior management includes persons who are appropriately trained and competent to oversee the regulated entity's risk management process.

2. The board of directors, or a risk committee of the board, should ensure that the requisite processes are in place to identify, manage, monitor, and control the regulated entity's risk exposures on a business unit and an enterprise-wide basis.

3. The board of directors should approve all major risk limits of the regulated entity.

4. The board of directors should ensure incentive compensation measures for senior management capture a full range of risks to which the regulated entity is exposed, and compensation is not tied solely to operating

efficiency measures, such as profits, dividends, or costs in isolation.

Responsibilities of the Board and Senior Management

5. The board of directors and senior management should take an active role in establishing and sustaining an organizational awareness and culture that promotes effective enterprise risk management.

6. The board of directors and senior management should be provided with accurate, timely, and informative risk reports on a regular basis that provide an overview of the regulated entity's overall risk profile, including its exposures to market, credit, liquidity, and operational risks and any concentration of risk.

7. The board of directors and senior management should ensure that the regulated entity's overall risk profile is aligned with its mission objectives.

8. The board of directors and senior management should ensure that the regulated entity performs a comprehensive risk self-assessment, on an annual basis, to identify and evaluate all material risks.

Independent Risk Management Function

9. A regulated entity should have an independent risk management function, or unit, with responsibility for risk measurement and risk monitoring, including monitoring and enforcement of risk limits.

10. The chief risk officer should head the risk management function.

11. The chief risk officer should report directly to the chief executive officer or the risk committee of the board of directors. If the chief risk officer reports to the chief executive officer, he/she should also have a direct and independent reporting relationship with the risk committee of the board of directors.

12. The risk management function should have adequate resources, including a well-trained and capable staff.

Risk Measurement, Monitoring, and Control

13. A regulated entity should measure, monitor, and control its overall risk exposures, reviewing market, credit, liquidity, and operational risk exposures on both a business unit (or business segment) and enterprise-wide basis.

14. A regulated entity should have the risk management systems to generate, at an appropriate frequency, the information needed to manage risk. Such systems should include systems for market, credit, operational, and liquidity risk analysis, asset and liability management, regulatory reporting, and performance measurement.

15. A regulated entity should have a comprehensive set of risk limits and monitoring procedures to ensure that risk exposures remain within established risk limits, and a mechanism for reporting violations and breaches of risk limits to senior management and the board of directors.

16. A regulated entity should ensure that it has sufficient controls around risk measurement models to ensure the completeness, accuracy, and timeliness of risk information.

17. A regulated entity should have adequate and well-tested disaster recovery and business resumption plans for all major systems and have remote facilitates to limit the impact of disruptive events.

Applicable Laws, Regulations, and Policies

18. A regulated entity should comply with all applicable laws, regulations, and supervisory guidance (*e.g.,* advisory bulletins) governing the management of risk.

Standard 9—Management of Credit and Counterparty Risk

Responsibilities of the Board of Directors and Senior Management

1. The board of directors and senior management are responsible for ensuring that the regulated entity has credit risk management policies, procedures, and systems that are appropriate to its business model and that cover all aspects of credit administration including credit pricing, underwriting, credit limits, collateral standards, and collateral valuation procedures.

2. The board of directors and senior management should ensure that the regulated entity has appropriate policies and procedures governing derivatives and the use of clearinghouses and exchanges for derivatives trades.

3. The board of director and senior management should ensure that the regulated entity has personnel that are appropriately trained and competent to manage credit and counterparty risk, and that they have the necessary tools, procedures, and systems for assessing credit and counterparty risk.

4. Senior management should provide its board of directors with regular briefings and reports on the regulated entity's credit exposures, including information on concentrations of credit, the level and trends in delinquencies and problem credits, and management efforts to address problem credits. Such briefings and reports should include the results of scenario analysis and stress tests and their effects on delinquencies and other key financial ratios.

Policies, Procedures, Controls, and Systems

5. A regulated entity should have policies that limit concentrations of credit risk and systems to identify concentrations of credit risk.

6. A regulated entity should establish prudential limits to restrict exposures to a single counterparty that are appropriate to its business model.

7. A regulated entity should establish prudential limits to restrict exposures to groups of related counterparties that are appropriate to its business model.

8. A regulated entity should have policies, procedures, and systems for evaluating credit risk that will enable it to make informed credit decisions.

9. A regulated entity should have policies, procedures, and systems for evaluating credit risk that will enable it to ensure that claims are legally enforceable.

10. A regulated entity should have policies and procedures for addressing problem credits.

11. A regulated entity should have a system of independent, ongoing credit review, including stress testing and scenario analysis to identify possible unfavorable events.

Applicable Laws, Regulations, and Policies

12. A regulated entity should manage credit and counterparty risk in a way that complies with applicable laws, regulations, and supervisory guidance (*e.g.,* advisory bulletins).

Standard 10—Maintenance of Adequate Records

1. A regulated entity should maintain financial records in compliance with Generally Accepted Accounting Principles (GAAP), FHFA guidelines, and applicable laws and regulations.

2. A regulated entity should ensure that assets are safeguarded and financial and operational information is timely and reliable.

3. A regulated entity should have a records management plan consistent with laws and corporate policies, including accounting policies, as well as personnel that are appropriately trained and competent to oversee and implement the records management plan.

4. A regulated entity should conduct a review and approval of the records management plan and records retention schedule for all types of records by the board of directors at least once every two years.

5. A regulated entity should ensure that reporting errors or irregularities are detected and corrected in a timely manner.

Applicable Laws, Regulations, and Policies

6. A regulated entity should comply with all applicable laws, regulations, and supervisory guidance (e.g., advisory bulletins) governing the maintenance of adequate records.

Dated: June 14, 2011.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2011–15100 Filed 6–17–11; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0280; Airspace Docket No. 11–ASO–16]

Proposed Amendment of Class E Airspace; Shelby, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E Airspace at Shelby, NC, as new Standard Instrument Approach Procedures have been developed at Shelby-Cleveland County Regional

Airport. This action would enhance the safety and airspace management of Instrument Flight Rules (IFR) operations at the airport. This action also would recognize the airport name change to Shelby-Cleveland County Regional Airport.

DATES: Effective 0901 UTC, Comments must be received on or before August 4, 2011. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA, Order 7400.9 and publication of conforming amendments.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; *Telephone:* 1–800–647–5527; *Fax:* 202–493–2251. You must identify the Docket Number FAA–2011–0280; Airspace Docket No. 11–ASO–16, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2011–0280; Airspace Docket No. 11–ASO–16) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Annotators wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2011–0280; Airspace Docket No. 11–ASO–16.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class E airspace extending upward from 700 feet above the surface to support new standard instrument approach procedures developed at Shelby-Cleveland County Regional Airport, Shelby, NC. Airspace reconfiguration is necessary for continued safety and management of IFR operations at the airport. Also, the airport name would be changed from Shelby Municipal Airport to Shelby-Cleveland County Regional Airport.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9U, dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed 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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would amend Class E airspace at Shelby-Cleveland County Regional Airport, Shelby, NC.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9U,

Airspace Designations and Reporting Points, dated August 18, 2010, effective September 15, 2010, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO NC E5 Shelby, NC [AMENDED]

Shelby-Cleveland County Regional Airport, NC

(Lat. 35°15′21″ N., long. 81°36′02″ W.)

That airspace extending upward from 700 feet above the surface within a 7.8-mile radius of Shelby-Cleveland County Regional Airport.

Issued in College Park, Georgia, on June 1, 2011.

Mark D. Ward,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2011–15110 Filed 6–17–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 75 and 104

RIN 1219–AB75, 1219–AB73

Examinations of Work Areas in Underground Coal Mines and Pattern of Violations

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Proposed rule; notice of public hearing; notice of extension of comment period.

SUMMARY: The Mine Safety and Health Administration (MSHA) will hold additional public hearings on the Agency's proposed rules for Examinations of Work Areas in Underground Coal Mines (Examinations of Work Areas) and for Pattern of Violations.

DATES: The hearings will be held on July 12, 2011, at the location listed in the **ADDRESSES** section of this document.

Post-hearing comments must be received or postmarked by midnight Eastern Daylight Saving Time on August 1, 2011.

ADDRESSES: The public hearings will be held at The Forum at the Hal Rogers Center, 101 Bulldog Lane, Hazard, Kentucky.

Comments, requests to speak, and informational materials for the rulemaking record may be sent to MSHA by any of the following methods. Clearly identify all submissions with ''RIN 1219–AB75'' for Examinations of Work Areas in Underground Coal Mines' submissions, and with ''RIN 1219–AB73'' for Pattern of Violations' submissions.

- *Federal E–Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Electronic mail: http://zzMSHA-comments@dol.gov.* Include ''RIN 1219–AB75'' in the subject line of the message for Examinations of Work Areas in Underground Coal Mines and ''RIN 1219–AB73'' for Pattern of Violations.
- *Facsimile:* 202–693–9441.
- *Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, VA 22209–3939. For hand delivery, sign in at the receptionist's desk on the 21st floor.

FOR FURTHER INFORMATION CONTACT: Roslyn B. Fontaine, Acting Director, Office of Standards, Regulations, and Variances, MSHA, at *fontaine.roslyn@dol.gov* (e-mail); 202–693–9440 (voice); or 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Availability of Information

Federal Register Publications: The proposed rule for Examinations of Work Areas in Underground Coal Mines, published on December 27, 2010 (75 FR 81165), and the proposed rule for Pattern of Violations, published on February 2, 2011 (76 FR 5719), are available on http://www.regulations.gov and on MSHA's Web site at *http://www.msha.gov/REGSPROP.HTM.*

Public Comments: MSHA posts all comments without change, including any personal information provided. Access comments electronically on *http://www.regulations.gov* and on MSHA's Web site at *http://www.msha.gov/currentcomments.asp.* Review comments in person at the Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, VA. Sign in at the receptionist's desk on the 21st floor.

E-mail Notification: To subscribe to receive e-mail notification when MSHA publishes rulemaking documents in the **Federal Register**, go to *http://www.msha.gov/subscriptions/subscribe.aspx.*

II. Public Hearings

MSHA held four public hearings on its proposed rules for Examinations of Work Areas in Underground Coal Mines and for Pattern of Violations. In response to a request from the public, MSHA will hold one additional public hearing on its proposed rules for Examinations of Work Areas in Underground Coal Mines and for Pattern of Violations. Requests to speak at a hearing should be made prior to the hearing date. You do not have to make a written request to speak; however, persons and organizations wishing to speak are encouraged to notify MSHA in advance for scheduling purposes. MSHA requests that parties making presentations at the hearings submit their presentations to MSHA, including any documentation, no later than 5 days prior to the hearing.

The public hearing for the Examinations of Work Areas proposal will begin at 8:30 a.m. and the public hearing for the Pattern of Violations proposal will begin immediately following the conclusion of the public hearing on the Examinations of Work Areas proposal.

MSHA is holding the two hearings on Tuesday, July 12, 2011, at the following location:

Date	Location	Contact No.
Tuesday, July 12, 2011	The Forum at the Hal Rogers Center, 101 Bulldog Lane, Hazard, Kentucky 41701.	City Hall: 606–436–3171.

Each hearing will begin with an opening statement from MSHA, followed by an opportunity for members of the public to make oral presentations. The hearings will be conducted in an informal manner. Formal rules of evidence will not apply. The hearing panel may ask questions of speakers and speakers may ask questions of the hearing panel. Speakers and other attendees may present information to MSHA for inclusion in the rulemaking record. MSHA also will accept written comments and other appropriate information for the record from any interested party, including those not presenting oral statements, until the close of the comment period on August 1, 2011.

MSHA will have a verbatim transcript of the proceedings taken for each

hearing. Copies of the transcripts will be available to the public on *http://www.regulations.gov* and on MSHA's Web site at *http://www.msha.gov/tscripts.htm.*

III. Pattern of Violations: Clarification

Section 104.2(a) of the Pattern of Violations (POV) proposed rule would provide that the specific criteria used in the review to identify mines with a pattern of significant and substantial violations would be posted on MSHA's website. In the preamble, MSHA requested specific comments on how the Agency should obtain comment during the development of, and periodic revision to, the POV screening criteria. At this point in the rulemaking, MSHA plans to provide any change to the specific criteria to the public, via posting on the Agency's Web site, for comment before MSHA uses it to review a mine for a POV. MSHA plans to review and respond to comments, and revise, as appropriate, the specific criteria, and post its response to the comments and the revised specific criteria on the Agency's website. MSHA requests comments on this proposed approach to obtaining public input into revisions to the specific POV criteria.

Under § 104.2(a)(8) of the POV proposal, MSHA stated in the preamble that an operator may submit a written safety and health management program to the district manager for approval so that MSHA can determine whether the program's parameters would result in meaningful, measurable, and significant reductions in significant and substantial violations. MSHA would like to clarify that the Agency did not intend that these safety and health management programs be the same as those referenced in the Agency's rulemaking on comprehensive safety and health management programs (RIN 1219–AB71), which has not yet been published as a proposed rule. Rather, a safety and health management program that would be considered by MSHA as a mitigating circumstance in the POV proposal would be one that: (1) Includes measurable benchmarks for abating specific violations that could lead to a POV at a specific mine; and (2) addresses hazardous conditions at that mine.

IV. Request for Comments

MSHA solicits comments from the mining community on all aspects of the proposed rules and is particularly interested in comments that address alternatives to key provisions in the proposals. Commenters are requested to be specific in their comments and submit detailed rationale and supporting documentation for any comment or suggested alternative.

Dated: June 15, 2011.

Joseph A. Main,

Assistant Secretary of Labor for Mine Safety and Health.

[FR Doc. 2011–15250 Filed 6–17–11; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2011–0266]

RIN 1625–AA08

Special Local Regulations for Marine Events; Patuxent River, Solomons, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish special local regulations during the ''Chesapeake Challenge'' power boat races, a marine event to be held on the waters of the Patuxent River, near Solomons, MD on September 24 and 25, 2011. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to temporarily restrict vessel traffic in a portion of the Patuxent River during the event.

DATES: Comments and related material must be received by the Coast Guard on or before July 20, 2011. Requests for public meetings must be received by the Coast Guard on or before the end of the comment period.

ADDRESSES: You may submit comments identified by docket number USCG–2011–0266 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov*.

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Mr. Ronald Houck, U.S. Coast Guard Sector Baltimore, MD; telephone 410–576–2674, e-mail *Ronald.L.Houck@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2011–0266), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *http://www.regulations.gov*) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, click on the ''submit a comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop down menu select ''Proposed Rule'' and insert ''USCG–2011–0266'' in the ''Keyword'' box. Click ''Search'' then click on the balloon shape in the ''Actions'' column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to

know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2011–0266'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one on or before the end of the comment period, using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On September 24 and 25, 2011, the Chesapeake Bay Power Boat Association will sponsor power boat races on the Patuxent River near Solomons, MD. The event consists of offshore power boats racing in a counter-clockwise direction on an irregularly-shaped course located between the Governor Thomas Johnson Memorial (SR–4) Bridge and the U.S. Naval Air Station Patuxent River, MD. The start and finish lines will be located near the Solomon's Pier. A large spectator fleet is expected during the event. Due to the need for vessel control during the event, the Coast Guard will temporarily restrict vessel traffic in the event area to provide for the safety of participants, spectators and other transiting vessels.

Discussion of Proposed Rule

The Coast Guard proposes to establish temporary special local regulations on specified waters of the Patuxent River. The regulations will be in effect from 10 a.m. on September 24, 2011 to 6 p.m. on September 25, 2011. The regulated area, approximately 4,000 yards in length and 1,700 yards in width, includes all waters of the Patuxent River, within lines connecting the following positions: From latitude 38°19′45″ N, longitude 076°28′06″ W, thence to latitude 38°19′24″ N, longitude 076°28′30″ W, thence to latitude 38°18′32″ N, longitude 076°28′14″ W; and from latitude 38°17′38″ N, longitude 076°27′26″ W, thence to latitude 38°18′00″ N, longitude 076°26′41″ W, thence to latitude 38°18′59″ N, longitude 076°27′20″ W, located in Solomons, Maryland.

The effect of this proposed rule will be to restrict general navigation in the regulated area during the event. Spectator vessels will be allowed to view the event from a designated spectator area within the regulated area, which will be located within a line connecting the following positions: Latitude 38°19′00″ N, longitude 076°28′22″ W, thence to latitude 38°19′07″ N, longitude 076°28′12″ W, thence to latitude 38°18′53″ N, longitude 076°27′55″ W, thence to latitude 38°18′30″ N, longitude 076°27′45″ W, thence to latitude 38°18′00″ N, longitude 076°27′11″ W, thence to latitude 38°17′54″ N, longitude 076°27′20″ W, thence to the point of origin at latitude 38°19′00″ N, longitude 076°28′22″ W.

Spectator vessels viewing the event outside the regulated area may not block the navigable channel. Other vessels intending to transit the Patuxent River will be allowed to safely transit around the regulated area. These regulations are needed to control vessel traffic during the event to ensure the safety of participants, spectators and transiting vessels.

Regulatory Analyses

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

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under that those Orders. We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. Although this regulation will prevent traffic from transiting a portion of the Patuxent River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners and marine information broadcasts, so mariners can adjust their plans accordingly. Additionally, the regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety determined to be necessary. Vessel traffic will be able to transit safely through a portion regulated area, westward and southward of the spectator fleet area.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in the effected portions of the Patuxent River during the event.

Although this regulation prevents traffic from transiting a portion of the Patuxent River at Solomons, MD during the event, this proposed rule will not have a significant economic impact on a substantial number of small entities

for the following reasons. This proposed rule would be in effect for only a limited period. Though the regulated area extends across the entire width of the river, vessel traffic will be able to transit safely around the spectator fleet and race course areas within the regulated area. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Coast Guard Sector Baltimore, MD. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves implementation of regulations within 33 CFR part 100 applicable to organized marine events on the navigable waters of the United States that could negatively impact the safety of waterway users and shore side activities in the event area. The category of water activities includes but is not limited to sail boat regattas, boat parades, power boat racing, swimming events, crew racing, canoe and sail board racing. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

2. Add a temporary section, § 100.35–T05–0266 to read as follows:

§ 100.35–T05–0266 Special Local Regulations for Marine Events; Patuxent River, Solomons, MD.

(a) *Regulated area.* The following location is a regulated area: All waters of the Patuxent River, within lines connecting the following positions: from latitude 38°19′45″ N, longitude 076°28′06″ W, thence to latitude 38°19′24″ N, longitude 076°28′30″ W, thence to latitude 38°18′32″ N, longitude 076°28′14″ W; and from latitude 38°17′38″ N, longitude 076°27′26″ W, thence to latitude 38°18′00″ N, longitude 076°26′41″ W, thence to latitude 38°18′59″ N, longitude 076°27′20″ W, located at Solomons, Maryland. All coordinates reference Datum NAD 1983.

(b) *Definitions.* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* means all vessels participating in the Chesapeake Challenge under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Baltimore.

(4) *Spectator* means all persons and vessels not registered with the event sponsor as participants or official patrol.

(c) *Special local regulations.* (1) The Coast Guard Patrol Commander may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel in the regulated area shall immediately comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(2) The Coast Guard Patrol Commander may terminate the event, or the operation of any vessel participating in the event, at any time it is deemed necessary for the protection of life or property.

(3) All vessel traffic, not involved with the event, will be allowed to transit the regulated area and shall proceed in a northerly or southerly direction westward of the spectator area, taking action to avoid a close-quarters situation with spectators, until finally past and clear of the regulated area.

(4) All Coast Guard vessels enforcing this regulated area can be contacted on marine band radio VHF–FM channel 16 (156.8 MHz).

(5) Only participants and official patrol are allowed to enter the race course area.

(6) Spectators are allowed inside the regulated area only if they remain within the designated spectator area. Spectators will be permitted to anchor within the designated spectator area. No vessel may anchor within the regulated area outside the designated spectator area. Spectators may contact the Coast Guard Patrol Commander to request permission to pass through the regulated area. If permission is granted, spectators must pass directly through the regulated area outside the race course and spectator areas at a safe speed and without loitering.

(7) *Designated spectator fleet area.* The spectator fleet area is located within a line connecting the following positions: Latitude 38°19′00″ N, longitude 076°28′22″ W, thence to latitude 38°19′07″ N, longitude 076°28′12″ W, thence to latitude 38°18′53″ N, longitude 076°27′55″ W, thence to latitude 38°18′30″ N, longitude 076°27′45″ W, thence to latitude 38°18′00″ N, longitude 076°27′11″ W, thence to latitude 38°17′54″ N, longitude 076°27′20″ W, thence to the point of origin at latitude 38°19′00″ N, longitude 076°28′22″ W. All coordinates reference datum NAD 83.

(8) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue marine information broadcast on VHF–FM marine band radio announcing specific event date and times.

(d) *Enforcement periods.* This section will be enforced from 10 a.m. until 6 p.m. on September 24, 2011, and from 10 a.m. until 6 p.m. on September 25, 2011.

Dated: April 20, 2011.

Mark P. O'Malley,

Captain, U.S. Coast Guard, Captain of the Port Baltimore.

[FR Doc. 2011–15165 Filed 6–17–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 167

[USCG–2009–0576]

Port Access Route Study: The Approaches to San Francisco

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability of study results.

SUMMARY: The Coast Guard announces the availability of a Port Access Route Study (PARS) evaluating the continued applicability of and the potential need for modifications to the current vessel routing in the approaches to San Francisco. The study was completed in February, 2011. This notice summarizes the study recommendations which include enhancements to existing vessel routing measures.

SUPPLEMENTARY INFORMATION:

Viewing the comments and ''Port Access Route Study Approaches to San Francisco Bay'' February 2011. To view the comments and the PARS San Francisco go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2009–0576'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act: Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review a Privacy Act, system of records notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: If you have questions concerning this notice, contact Lieutenant Lucas Mancini, Eleventh Coast Guard District, telephone 510–437–3801, e-mail *Lucas.W.Mancini@uscg.mil.* If you have questions on viewing the docket contact, Renee V. Wright, Program Manager, Docket Operations, 202–366–9826.

Definitions: The following definitions should help the reader to understand terms used throughout this document:

Marine Environment, as defined by the Ports and Waterways Safety Act, means the navigable waters of the United States and the land resources therein and thereunder; the waters and fishery resources of any area over which the United States asserts exclusive fishery management authority; the seabed and subsoil of the Outer

Continental Shelf of the Unites States, the resources thereof and the waters superjacent thereto; and the recreational, economic, and scenic values of such waters and resources.

Precautionary area means a routing measure comprising an area within defined limits where vessels must navigate with particular caution and within which the direction of traffic flow may be recommended.

Traffic lane means an area within defined limits in which one-way traffic is established. Natural obstacles, including those forming separation zones, may constitute a boundary.

Traffic Separation Scheme or *TSS* means a routing measure aimed at the separation of opposing streams of traffic by appropriate means and by the establishment of traffic lanes.

Vessel routing system means any system of one or more routes or routing measures aimed at reducing the risk of casualties; it includes traffic separation schemes, two-way routes, recommended tracks, areas to be avoided, no anchoring areas, inshore traffic zones, roundabouts, precautionary areas, and deep-water routes.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The Coast Guard published a notice of study in the **Federal Register** on December 10, 2009 (74 FR 65543), entitled ''Port Access Route Study: Off San Francisco'' and completed the study in February, 2011.

The study area encompassed the traffic separation scheme off San Francisco and extended to the limit of the Coast Guard San Francisco Vessel Traffic Service (VTS) area of responsibility in order to analyze traffic patterns of vessels departing from or approaching the current traffic lanes. The VTS area covers the seaward approaches within a 38 nautical mile radius of Mount Tamalpais (37[deg] 55.8'N, 122[deg] 34.6'W). The coverage area is annotated on National Oceanic and Atmospheric Administration (NOAA) chart number 18645.

The primary purpose of the study was to reconcile the need for safe access routes with other reasonable waterway uses, to the extent practical. The goal of the study was to help reduce the risk of marine casualties and increase the efficiency of vessel traffic in the study area. When vessels follow predictable and charted routing measures, congestion may be reduced, and mariners may be better able to predict where vessel interactions may occur and act accordingly. The Coast Guard studied whether extending the traffic separation scheme would increase the predictability of vessel movements and what the impact might be on fishing vessels operating in the area. The study also assessed potential impacts on the Gulf of the Farallons and Cordell Bank National Marine Sanctuaries and the marine environment if the traffic lanes were extended or modified. The Coast Guard announced the notice of study in the **Federal Register** on December 10, 2009 (74 FR 65543), entitled ''Port Access Route Study: Off San Francisco.'' Due to the lack of a substantive number of comments in response to the original notice and our strong desire to engage the public in the study process, we announced a public meeting to be held October 20, 2010 at the Executive Inn and Suites in Oakland California. The Coast Guard also sent out a press release to local media and news outlets to help solicit public comment.

The recommendations of the PARS are based in large part on the comments received, public outreach, and consultation with other government agencies.

Study Recommendations

The PARS evaluated 5 separate concerns that resulted in 7 recommendations intended to improve the safety of vessel traffic in the study area, as well as adhere to governing regulations regarding the National Marine Sanctuaries. The actual PARS should be consulted for a detailed explanation of each recommendation. The PARS also contains a chartlet of the proposed changes to the TSS. It can be accessed as described in the Viewing the comments and ''Port Access Route Study Approaches to San Francisco Bay'' February 2011 section of this notice. The PARS recommendations include:

- Extend the northern TSS 17nm to the northern end of the VTS San Francisco area of responsibility.
- Add a dog leg turn in the northern TSS just below the 38th parallel to keep vessels on a predictable path in a prime area for fishing.
- Change the current flared configuration of the northern TSS to a 3 mile wide approach. The 3 mile wide TSS would consist of 1 nautical mile wide lanes, separated by a 1 nautical mile wide separation zone.
- Extend the western TSS 3nm seaward to the 200 fathom contour at the edge of the continental shelf.
- Shift the seaward end of the outbound lane closest to the Farallon Islands in the western TSS 3.7 nautical miles to the south. No shift in the inbound lane of the western TSS.
- Change the current flared configuration of the western TSS to a 3 mile wide approach. The 3 mile wide TSS would consist of 1 nautical mile wide lanes, separated by a 1 nautical mile wide separation zone.
- Extend the southern TSS 8.5NM to the southern end of the VTS San Francisco area of responsibility.

Conclusion

The PARS contains 7 recommendations, which would require the approval of the International Maritime Organization for implementation. The Coast Guard will follow the Federal rulemaking process for implementation of any of the proposed changes to the traffic separation schemes. This process will also include section 7 consultations with the National Marine Fisheries Service in accordance with the Endangered Species Act. This will provide ample opportunity for additional comments on proposed changes to the existing vessel routing system through a notice of proposed rulemaking (NPRM) published in the **Federal Register**.

Dated: May 20, 2011.

J.R. Castillo,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 2011–15167 Filed 6–17–11; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2005–0084; FRL–9320–7]

RIN 2060–AM37

Amendments to National Emission Standards for Hazardous Air Pollutants for Area Sources: Plating and Polishing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On June 12, 2008, EPA issued national emission standards for control of hazardous air pollutants (HAP) for the plating and polishing area source category under section 112 of the Clean Air Act (CAA). In today's action, EPA is proposing to amend the national emission standards for control of hazardous air pollutants (NESHAP) for the plating and polishing area source category published on June 12, 2008. The amendments to the area source standards for plating and polishing area sources would clarify that the emission control requirements of the plating and polishing area source NESHAP do not

apply to any bench-scale activities. Also, the amendments include several technical corrections and clarifications that do not make significant changes in the rule's requirements. In the ''Rules and Regulations'' section of this **Federal Register**, we are amending the area source standards for plating and polishing area sources as a direct final rule without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule.

DATES: Written comments must be received by July 20, 2011. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2005–0084, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* Comments may be sent by electronic mail (e-mail) to *a-and-r-docket@epa.gov,* Attention Docket ID No. EPA–HQ–OAR–2005–0084.
- *Fax:* Fax your comments to: (202) 566–9744, Attention Docket ID No. EPA–HQ–OAR–2005–0084.
- *Mail:* Send your comments to: Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–OAR–2005–0084. Please include a total of two copies.
- *Hand Delivery:* In person or by courier, deliver comments to: EPA Docket Center, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20004. Such deliveries are accepted only during the Docket's normal hours of operation and special arrangements should be made for deliveries of boxed information. Please include a total of two copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2005–0084. 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 www.regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the 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 EPA Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Dr. Donna Lee Jones, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (D243–02), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, *telephone number:* (919) 541–5251; *fax number:* (919) 541–3207; *e-mail address: Jones.DonnaLee@epa.gov.*

SUPPLEMENTARY INFORMATION: The information presented in this preamble is organized as follows:

I. Why is EPA issuing this proposed rule?
II. Does this action apply to me?
III. Where can I get a copy of this document?
IV. Why are we amending this rule?
V. What amendments are we making to this rule?
VI. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

I. Why is EPA issuing this proposed rule?

This document proposes to take action on amendments to the national emission standards for plating and polishing operations that are area sources (40 CFR part 63, subpart WWWWWW). We have published a direct final rule amending the area source standards for plating and polishing operations in the ''Rules and Regulations'' section of this **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment by July 20, 2011, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

II. Does this action apply to me?

The regulated categories and entities potentially affected by the proposed rule include:

Category	NAICS code[1]	Examples of regulated entities
Industry	332813	Area source facilities engaged in any one or more types of nonchromium electroplating; electropolishing; electroforming; electroless plating, including thermal metal spraying, chromate conversion coating, and coloring; or mechanical polishing of metals and formed products for the trade. Regulated sources do not include chromium electroplating and chromium anodizing sources, as those sources are subject to 40 CFR part 63, subpart N, ''Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.''
Manufacturing	32,33	Area source establishments engaged in one or more types of nonchromium electroplating; electropolishing; electroforming; electroless plating, including thermal metal spraying, chromate conversion coating, and coloring; or mechanical polishing of metals and formed products for the trade. Examples include: 33251, Hardware Manufacturing; 323111, Commercial Gravure Printing; 332116, Metal Stamping; 332722, Bolt, Nut, Screw, Rivet, and Washer Manufacturing; 332811, Metal Heat Treating; 332812, Metal Coating, Engraving (except Jewelry and Silverware), and Allied Services to Manufacturers; 332913, Plumbing Fixture Fitting and Trim Manufacturing; Other Metal Valve and Pipe Fitting Manufacturing; 332999, All Other Miscellaneous Fabricated Metal Product Manufacturing; 334412, Bare Printed Circuit Board Manufacturing; 336412, Aircraft Engine and Engine Parts Manufacturing; and 339911, Jewelry (except Costume) Manufacturing.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this proposed action. To determine whether your facility would be regulated by this proposed action, you should examine the applicability criteria in 40 CFR 63.11475 of subpart WWWWWW (NESHAP: Area Source Standards for Plating and Polishing Operations). If you have any questions regarding the applicability of this action to a particular entity, consult either the air permit authority for the entity or your EPA regional representative as listed in § 63.13 of the General Provisions to part 63 (40 CFR part 63, subpart A).

III. Where can I get a copy of this document?

In addition to being available in the docket, an electronic copy of this proposed action will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of this proposed action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: *http://www.epa.gov/ttn/oarpg/*. The TTN provides information and technology exchange in various areas of air pollution control.

IV. Why are we amending this rule?

On July 1, 2008 (73 FR 37741), we issued the NESHAP for Area Sources: Plating and Polishing (40 CFR part 63, subpart WWWWWW). The final rule establishes air emission control requirements for new and existing facilities that are area sources of hazardous air pollutants. The final standards establish emission standards in the form of management practices for new and existing tanks, thermal spraying equipment, and dry mechanical polishing equipment in certain plating and polishing processes. These final emission standards reflect EPA's determination regarding the generally achievable control technology (GACT) and management practices for the area source category.

In the time period since promulgation, it has come to our attention that certain aspects of the rule as promulgated have led to misinterpretations, inconsistencies, and confusion regarding the applicability of the rule. Therefore, we are amending and correcting parts of the rule to address these issues.

V. What are the changes to the area source NESHAP for plating and polishing operations?

We are amending this rule to clarify and correct inconsistencies and inadequacies of the rule language that have come to our attention since promulgation. For a detailed description of the proposed amendments, see the information provided in the direct final rule published in the Rules and Regulations section of this **Federal Register**.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13565: Improving Regulation and Regulatory Review

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose any new information collection burden. These proposed amendments clarify that the emission control requirements of the plating and polishing area source rule do not apply to bench-scale activities. Also, several technical corrections and clarifications that do not make material changes in the rule's requirements have been made to the rule text. No new burden is associated with these requirements because the burden was included in the approved information collection request (ICR) for the existing rule. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations (40 CFR part 63 subpart WWWWWW) under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* and has assigned OMB control number control number 2060–0623. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. Small entities include small businesses,

small not-for-profit enterprises, and small governmental jurisdictions.

For the purposes of assessing the impacts of this proposed rule on small entities, small entity is defined as: (1) A small business that meets the Small Business Administration size standards for small businesses at 13 CFR 121.201 (whose parent company has fewer than 500 employees for NAICS code 332813); (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. We have determined that the small entities in this area source category will not incur any adverse impacts because this action makes only technical corrections and clarifications that increase flexibility and does not create any new requirements or burdens. No costs are associated with these amendments to the NESHAP.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. The action imposes no enforceable duty on any State, local or tribal governments or the private sector. The term ''enforceable duty'' does not include duties and conditions in voluntary Federal contracts for goods and services. Thus, this action is not subject to the requirements of sections 202 or 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. The technical corrections and clarifications made through this action contain no requirements that apply to such governments, impose no obligations upon them, and will not result in any expenditures by them or any disproportionate impacts on them.

E. Executive Order 13132: Federalism

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The proposed rule makes certain technical corrections and clarifications to the NESHAP for plating and polishing area sources. These proposed corrections and clarifications do not impose requirements on State and local governments. Thus, Executive Order 13132 does not apply to the proposed rule.

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

This proposed action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 6, 2000). This proposed rule makes certain technical corrections and clarifications to the NESHAP for plating and polishing area sources. These proposed corrections and clarifications do not impose requirements on tribal governments. They also have no direct effects on tribal governments, 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. Thus, Executive Order 13175 does not apply to this action.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it makes technical corrections and clarifications to the area source NESHAP for plating and polishing area sources which is based solely on technology performance.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This proposed action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

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

This proposed rule does not involve technical standards. Therefore, EPA did not consider the use of any VCS.

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

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

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The technical corrections and clarifications in this proposed rule do not change the level of control required by the NESHAP.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 14, 2011.

Lisa P. Jackson,

Administrator.

[FR Doc. 2011–15273 Filed 6–17–11; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 11

[EB Docket No. 04–296; FCC 11–82]

Review of the Emergency Alert System

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on proposed changes to its rules governing the Emergency Alert System (EAS) to codify the obligation to process alert messages formatted in the Common Alerting Protocol (CAP) and to streamline and clarify these rules generally to enhance their effectiveness.

DATES: Comments are due on or before July 20, 2011 and reply comments are due on or before August 4, 2011.

ADDRESSES: You may submit comments, identified by EB Docket No. 04–296, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- *Mail:* Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- *People with Disabilities:* Contact the Commission to request reasonable accommodations (accessible format documents, sign language interpreters, CART, *etc.*) by *e-mail: FCC504@fcc.gov* or *phone:* 202–418–0530 or *TTY:* 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, at (202) 418–7452, or by e-mail at *Lisa.Fowlkes@fcc.gov.* For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Judy Boley Hermann at (202) 418–0214 or send an e-mail to *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Third Further Notice of Proposed Rulemaking (*Third FNPRM*) in EB Docket No. 04–296, FCC 11–82, adopted on May 25, 2011, and released on May 26, 2011. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.*

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities of the policies and rules proposed in the Third Further Notice of Proposed Rulemaking (*Third FNPRM*). The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Third FNPRM* provided in section IV of the item. The Commission will send a copy of the *Third FNPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *Third FNPRM* and IRFA (or summaries thereof) will be published in the **Federal Register.**

A. Need for, and Objectives of, the Proposed Rules

2. In 2007, as an initial step towards upgrading the Emergency Alert System (EAS) to incorporate the latest technologies and capabilities and to facilitate integration of public alerting at the national, state, and local levels, the Commission adopted the Second Report and Order (*Second Report and Order*) in EB Docket No. 04–296, 72 FR 62123, November 2, 2007, which incorporated certain Common Alerting Protocol (CAP)-related obligations into the Commission's Part 11 EAS rules. First, to ensure the efficient, rapid, and secure transmission of EAS alerts in a variety of formats (including text, audio, and video) and via different means (broadcast, cable, satellite, and other networks), the Commission required that EAS Participants be capable of receiving CAP-formatted alert messages no later than 180 days after the Federal Emergency Management Agency (FEMA) publicly publishes its adoption of the CAP standard. Second, the Commission required EAS Participants to adopt Next Generation EAS delivery systems no later than 180 days after FEMA publicly releases standards for those systems. Third, the Commission required EAS Participants to transmit state and local EAS alerts that are originated by governors or their designees no later than 180 days after FEMA publishes its adoption of the CAP standard, provided that the state has a Commission-approved State Area EAS Plan that provides for delivery of such alerts.

3. The *Third FNPRM* builds on that effort by seeking comment on a wide range of tentative conclusions and proposed revisions to the Part 11 rules that would codify the CAP-related mandates adopted in the *Second Report and Order,* and modernize and streamline the Part 11 rules by eliminating outdated technical and procedural requirements. Specifically, the *Third FNPRM* contains the following tentative conclusions and proposed rule changes, and seeks comment on each:

- Tentatively concludes that, for the time being, the existing legacy EAS, including utilization of the EAS Protocol, will be maintained.
- Proposes to amend § 11.56 of the Commission's rules to require EAS Participants to convert CAP-formatted EAS messages into SAME-compliant EAS messages in accordance with the EAS–CAP Industry Group's (ECIG) ECIG Implementation Guide.
- Tentatively concludes that § 11.52 of the Commission's rules should be amended to require that EAS Participants monitor the Really Simple Syndication 2.0 feed(s) utilized by: (i) FEMA's Integrated Public Alert and Warning System for federal CAP-formatted messages; and (ii) state alert systems as the source of governor-originated CAP messages (provided these are described in the State Area EAS Plan submitted to and approved by the Commission).
- Proposes that the language from the *Second Report and Order* regarding receipt of CAP-formatted messages from Next Generation EAS delivery systems was intended to put EAS Participants on notice that, should FEMA adopt technical standards covering delivery of CAP-formatted messages to EAS Participants over specific platforms, such as satellite systems, EAS Participants would ultimately need to configure their systems to be able to interface with such systems to meet their existing obligation to process CAP-formatted messages.

• Seeks comment on whether EAS Participants should be permitted to meet their CAP-related obligations by deploying intermediary devices that essentially would carry out the function of receiving and decoding a CAP-formatted message, and translating and encoding such message into a SAME-formatted message that could then be inputted into a legacy EAS device via its audio port (just as an over-the-air SAME-formatted message would be) for broadcast over the EAS Participant's transmission platform.

• Seeks comment on whether adding a requirement to § 11.32(a) of the Commission's rules that EAS encoders must be capable of encoding a CAP-formatted message (*i.e.,* originating or somehow transmitting a message in the CAP format as opposed to the SAME format) would be necessary or appropriate.

• Seeks comment on whether the input and output configuration requirements in §§ 11.32(a)(2) and (a)(3) of the Commission's rules should be modified to include a requirement for a single Ethernet port and eliminate the existing requirements for 1200 baud RS–232C interface.

• Seeks comment on whether the minimum requirements for decoders in § 11.33(a) of the Commission's rules should include the capability to decode CAP-formatted messages and convert them into SAME protocol-compliant messages, and whether this requirement can be met through the deployment of an intermediary device.

• Seeks comment on whether the input and output configuration requirements in §§ 11.33(a)(1) and (a)(7) of the Commission's rules should be modified to include a requirement for a single Ethernet port and eliminate the existing requirements for 1200 baud RS–232C interface.

• Seeks comment on whether § 11.33(a)(4) of the Commission's rules should be modified to require that if an alert message is derived from a CAP-formatted message, the contents of the text, assembled pursuant to ECIG Implementation Guide, should be added to the EAS device log.

• Tentatively concludes that there is no basis for revising § 11.33(a)(10) of the Commission's rules to require processing of CAP-formatted messages by default when duplicate messages are received in both the EAS Protocol and CAP formats, as recommended by the Communications Security, Reliability, and Interoperability Council (CSRIC), if EAS Participants are required to translate CAP-formatted messages into SAME-formatted messages in conformance with the ECIG Implementation Guide.

• Seeks comment on whether § 11.33(a)(11) of the Commission's rules should be updated to specify that a CAP-formatted message containing a header code with the EAN event code received through a non-audio input must override all other messages.

• Seeks comment on whether the text of § 11.11(a) of the Commission's rules should be amended to include as a minimum requirement compliance with the CAP-related requirements in § 11.56 of the Commission's rules, and whether the reference to ''analog television broadcast stations'' should be deleted.

• Seeks comment, with respect to the equipment deployment tables in § 11.11 of the Commission's rules, on whether: For CAP purposes, the tables should be revised by adding a footnote to the ''EAS decoder'' entries in the tables, indicating that EAS Participants may elect to meet their obligation to receive and translate CAP-formatted messages by deploying an intermediary device in addition to the EAS decoder used to decode messages transmitted in the EAS Protocol; the date references in the tables (as well as cross-references to these dates in other sections of Part 11, such as §§ 11.51(c) and (d) of the Commission's rules), along with the entry for two-tone encoders, should be deleted; the tables covering analog, wireless, and digital cable and wireline video systems can be combined into a single table, as well as any other revisions the Commission could make to § 11.11 of the Commission's rules to streamline it and make it easier to follow.

• Seeks comment on whether the monitoring requirements in § 11.52 of the Commission's rules or references thereto should be incorporated into § 11.11 of the Commission's rules.

• Seeks comment on whether the language of § 11.20 of the Commission's rules requires a specific reference to CAP alerts and/or CAP relay networks, and whether CAP monitoring requirements need to be incorporated into § 11.20 of the Commission's rules.

• Tentatively concludes that the language in § 11.21(a) of the Commission's rules should be revised to make clear that the State Area EAS Plans specify the monitoring assignments and the specific primary and backup path for SAME-formatted EANs and that the monitoring requirements for CAP-formatted EANs are set forth in § 11.52 of the Commission's rules.

• Tentatively concludes that the text of §§ 11.21(a) and 11.55(a) of the Commission's rules should be revised to make clear that they apply to CAP-formatted EAS messages.

• Seeks comment on whether the FCC Mapbook content requirements in § 11.21(c) of the Commission's rules should be revised to identify federal and state CAP message origination and distribution, and whether alert message distribution should be delineated in terms of how the EAN is distributed from the PEP/NP to the PN/NN stations in the state as opposed to generating a list of each individual station in the state.

• Seeks comment on whether, in light of the tentative conclusion to require conversion of CAP-formatted messages into the existing EAS Protocol, there would be any utility to changing the language in § 11.31(a) of the Commission's rules to better reflect CAP's capabilities.

• Tentatively concludes that it is unnecessary to include a CAP-receiving requirement in § 11.35(a) of the Commission's rules.

• Seeks comment on whether any revisions to § 11.45 of the Commission's rules are needed to accommodate CAP-formatted messages.

• Tentatively concludes that, assuming EAS Participants should only be required at this time to be capable of retrieving CAP-formatted Federal EAS alerts from RSS feeds and converting them into SAME-compliant messages for transmission to the public (and, as applicable and technically feasible, encoding them in SAME for rebroadcast), there would be no basis for revising § 11.51 of the Commission's rules to require EAS Participants to transmit (or ''render'') a CAP-compliant message, as recommended by CSRIC.

• Seeks comment on whether the SAME-based protocol codes should continue to be used as the baseline for deriving the visual EAS message requirements in §§ 11.51(d), (g)(3), (h)(3), and (j)(2) of the Commission's rules.

• Seeks comment on whether CSRIC's recommendation to mandate that CAP-formatted messages be broadcast only if the scope of the alert is ''Public'' should be adopted.

• Seeks comment on whether, to the extent that § 11.54(b)(1) of the Commission's rules is retained in the final rules that result from this proceeding, the language in § 11.54(b)(1) of the Commission's rules should be revised to reflect federal CAP monitoring obligations by adding a cross-reference to the monitoring requirements in § 11.52 of the Commission's rules or whether this section should be otherwise revised.

• Seeks comment on whether and how compliance with respect to CAP functionality should be incorporated into the Commission's existing certification scheme.

• Tentatively concludes that it would be inappropriate to incorporate conformance with the CAP v1.2 USA IPAWS Profile v1.0 into the Commission's certification process.

• Seeks comment on whether and how the Commission should certify equipment conformance with the ECIG Implementation Guide, including whether and how conformance testing for the ECIG Implementation Guide might be implemented.

• Seeks comment generally as to whether the current FCC certification process is sufficient or whether there are any revisions specific to EAS equipment that would make that process more effective and efficient.

• Seeks comment on whether intermediary devices should classified as stand-alone devices as opposed to modifications to existing equipment.

• Seeks comment on the certification requirements that should apply to modified EAS equipment.

• Seeks comment on whether the September 30, 2011, deadline for CAP-compliance set forth in the Waiver Order is sufficient or whether the Commission should extend or modify it to be triggered by some action other than FEMA's adoption of CAP.

• Tentatively concludes that the obligation to receive and transmit CAP-formatted messages initiated by state governors applies only to the extent that such CAP messages have been formatted using the CAP standard adopted by FEMA for federal CAP messages—specifically, OASIS CAP Standard v1.2 and CAP v1.2 USA IPAWS Profile v1.0.

• Tentatively concludes that the obligation to receive and transmit only CAP-formatted messages initiated by state governors necessitates that such CAP messages will be translated into SAME-compliant messages consistent with the CAP-to-SAME translation standard adopted for federal CAP messages—specifically, the ECIG Implementation Guide.

• Seeks comment as to whether a new origination and/or event code would be required to fully implement the obligation of EAS Participants to process CAP-formatted messages initiated by state governors and, if so, what those codes should be.

• Seeks comment on whether the current obligation to process CAP-formatted messages delivered by the governor of the state in which the EAS Participant is located should be revised to include governors of any adjacent states in which the EAS Participant provides service.

• Tentatively concludes that the geo-targeting requirement associated with mandatory state governor alerts shall be defined, at least for the time being, by the location provisions in the EAS Protocol.

• Invites comment on whether local, county, tribal, or other state governmental entities should be allowed to initiate mandatory state and local alerts and how the Commission should decide which public officials should be permitted to activate such alerts.

• Seeks comment on whether the obligation to process CAP-formatted messages initiated by state governors should apply to Non-Participating National stations.

• Seeks comment on whether § 11.33(a)(9) of the Commission's rules should be revised to accommodate gubernatorial CAP-formatted messages.

• Seeks comment on whether there is any practical need to provide, in § 11.44 of the Commission's rules or elsewhere, gubernatorial CAP-formatted messages with priority over local EAS messages and whether such a scheme is technically feasible.

• Seeks comment on whether and how § 11.51(m) of the Commission's rules should be amended to incorporate the obligation to process CAP-formatted messages initiated by state governors.

• Seeks comment generally regarding whether the procedures for processing EANs set forth in § 11.54 of the Commission's rules and related part 11 rule sections should be substantially simplified so that EAS Participants process EANs like any other EAS message, only on a mandatory and priority basis.

• Seeks comment on whether the option for EAS Participants to manually process EANs (but not state or local EAS messages) should be eliminated.

• Seeks comment on whether the EAT should be eliminated and replaced where necessary with the EOM in the part 11 rules.

• Seeks comment on whether §§ 11.54(b)(1), (b)(3), (b)(4), (b)(10), and 11.54(c) of the Commission's rules should be deleted.

• Seeks comment on whether § 11.42 of the Commission's rules should be deleted.

• Seeks comment on whether the EAS Operating Handbook should be deleted and, if so, whether EAS Participants should be required to maintain within their facilities a copy of the current, FCC-filed and approved versions of the State and Local Area EAS Plans.

• Seeks comment on whether §§ 11.54(a), (b)(2), and (b)(5) through (b)(8) of the Commission's rules should be deleted.

• Seeks comment on whether § 11.44 of the Commission's rules should be deleted.

• Seeks comment on whether, to the extent it should not be deleted, § 11.53 of the Commission's rules should be revised to incorporate CAP-formatted EAN messages.

• Seeks comment on whether, if streamlined EAN processing were adopted, § 11.11(a) of the Commission's rules should be revised to remove the references therein to ''participating broadcast networks, cable networks and program suppliers; and other entities and industries operating on an organized basis during emergencies at the National, State and local levels.''

• Seeks comment on whether §§ 11.16 and 11.54(b)(12) of the Commission's rules should be deleted.

• Seeks comment on whether the definition for LP–1 stations in § 11.2(b) of the Commission's rules should be revised to reflect that these stations can be a radio or TV station.

• Tentatively concludes that § 11.14 of the Commission's rules should be deleted.

• Seeks comment, with respect to the PEP system definition in § 11.2(a) of the Commission's rules, on whether the use of actual numbers to reflect the number of PEP stations should be eliminated, and whether the language in § 11.2(a) of the Commission's rules should be revised to clarify that the PEP stations distribute the EAN, EAS national test messages, and other EAS messages in accordance with the EAS Protocol requirements in § 11.31 of the Commission's rules.

• Seeks comment on whether § 11.13 of the Commission's rules should be deleted and whether the definition for the EAN currently in § 11.13 of the Commission's rules should be moved to § 11.2 of the Commission's rules.

• Tentatively concludes that the references to the Federal Information Processing Standard (FIPS) numbers (as described by the U.S. Department of Commerce in National Institute of Standards and Technology publication FIPS PUB 6–4.FIPS number codes) in §§ 11.31 and 11.34(d) of the Commission's rules should be replaced by references to the American National Standards Institute (ANSI) Codes INCITS 31.200x (Formerly FIPS 6–4), Codes for the Identification of Counties and Equivalent Entities of the United States, its Possessions, and Insular Areas standard that superseded it.

• Seeks comment on whether some or all of the current provisions relating to the Attention Signal in §§ 11.32(a)(9)

and 11.33(b) of the Commission's rules can be deleted in favor of relying upon the minimal standard currently set forth in the EAS Protocol (at § 11.31(a)(2) of the Commission's rules) and, if so, which of the equipment-related Attention Signal requirements in §§ 11.32(a)(9) and 11.33(b) of the Commission's rules should be incorporated into § 11.31(a)(2) of the Commission's rules.

• Seeks comment on whether the Attention Signal should be deleted from the part 11 rules altogether.

• Tentatively concludes that § 11.12 of the Commission's rules should be deleted.

• Seeks comment on whether § 11.39(a)(9) of the Commission's rules and/or other part 11 rule sections should be amended to make clear that an encoder should not transmit an EAS message that has been canceled via reset, or whether encoders should be permitted to air EAS messages that have been canceled via reset.

• Seeks comment on whether § 11.33(a)(3)(ii) of the Commission's rules should be revised by eliminating the requirement to delete messages upon expiration of their time periods, thus allowing EAS Participants to air alert messages after expiration of the effective time period set by the alert message originator.

• Tentatively concludes that the analog and digital broadcast station equipment deployment table in § 11.11(a) of the Commission's rules should be corrected so that ''LPFM'' and ''LPTV'' are identified with the columns listing the requirements for those categories, and that ''LPFM'' is included in §§ 11.61(a)(1)(i) and 11.61(a)(2)(ii) of the Commission's rules.

• Tentatively concludes that the Commission cannot provide training for state and local emergency managers.

• Seeks comment on whether CAP's expansive capacity for relaying information could be leveraged within the existing technical framework of the EAS to improve access to emergency information to the public generally, and in particular, to persons with disabilities.

B. Legal Basis

4. Authority for the actions proposed in the *Third FNPRM* may be found in sections 1, 4(i), 4(o), 303(r), 403, 624(g), and 706 of the Communications Act of 1934, as amended, (Act) 47 U.S.C. 151, 154(i), 154(j), 154(o), 303(r), 544(g), and 606.

C. Description and Estimate of the Number of Small Entities To Which Rules Will Apply

5. The RFA directs agencies to provide a description of and, where feasible, an estimate of, the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

6. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* The Commission's action may, over time, affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three comprehensive, statutory small entity size standards. First, nationwide, there are a total of approximately 27.5 million small businesses, according to the SBA. In addition, a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 2007, there were approximately 1,621,315 small organizations. Finally, the term ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' Census Bureau data for 2011 indicate that there were 89,476 local governmental jurisdictions in the United States. The Commission estimates that, of this total, as many as 88, 506 entities may qualify as ''small governmental jurisdictions.'' Thus, the Commission estimates that most governmental jurisdictions are small.

7. *Television Broadcasting.* The SBA defines a television broadcasting station as a small business if such station has no more than $14.0 million in annual receipts. Business concerns included in this industry are those ''primarily engaged in broadcasting images together with sound.'' The Commission has estimated the number of licensed commercial television stations to be 1,390. According to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) as of January 31, 2011, 1,006 (or about 78 percent) of an estimated 1,298 commercial television stations in the United States have revenues of $14 million or less and, thus, qualify as small entities under the SBA definition. The Commission has estimated the number of licensed noncommercial educational (NCE) television stations to be 391. The Commission notes, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. The Commission's estimate, therefore, likely overstates the number of small entities that might be affected by its action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. The Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

8. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and are therefore over-inclusive to that extent. Also, as noted, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and its estimates of small businesses to which they apply may be over-inclusive to this extent.

9. *Radio Stations.* The proposed rules and policies potentially will apply to all AM and commercial FM radio broadcasting licensees and potential licensees. The ''Radio Stations'' Economic Census category ''comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources.'' The SBA has established a small business size standard for this category, which is: Such firms having $7 million or less in annual receipts. According to BIA/Kelsey, MEDIA Access Pro Database on January 13, 2011, 10,820 (97%) of 11,127 commercial radio stations have revenue of $7 million or less. Therefore, the majority of such entities are small entities. The Commission notes,

however, that in assessing whether a business concern qualifies as small under the above size standard, business affiliations must be included. In addition, to be determined to be a ''small business,'' the entity may not be dominant in its field of operation. The Commission notes that it is difficult at times to assess these criteria in the context of media entities, and its estimate of small businesses may therefore be over-inclusive.

10. *Cable and Other Program Distribution.* Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.'' The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees. According to Census Bureau data for 2007, there were a total of 955 firms in this previous category that operated for the entire year. Of this total, 939 firms had employment of 999 or fewer employees, and 16 firms had employment of 1,000 employees or more. Thus, under this size standard, the majority of firms can be considered small entities.

11. *Cable System Operators (Rate Regulation Standard).* The Commission has developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers, nationwide. Industry data indicate that, of 1,076 cable operators nationwide, all but eleven are small under this size standard. In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Industry data indicate that, of 7,208 systems nationwide, 6,139 systems have under 10,000 subscribers, and an additional 379 systems have 10,000–19,999 subscribers. Thus, under this second size standard, most cable systems are small and may be affected by rules adopted pursuant to the *Third FNPRM.*

12. *Cable System Operators (Telecom Act Standard).* The Act also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Industry data indicate that, of 1,076 cable operators nationwide, all but ten are small under this size standard. The Commission notes that it neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, and therefore is unable to estimate more accurately the number of cable system operators that would qualify as small under this size standard.

13. *Open Video Services.* The open video system (OVS) framework was established in 1996, and is one of four statutorily recognized options for the provision of video programming services by local exchange carriers. The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services, OVS falls within the SBA small business size standard covering cable services, which is ''Wired Telecommunications Carriers.'' The SBA has developed a small business size standard for this category, which is: All such firms having 1,500 or fewer employees. According to Census Bureau data for 2007, there were a total of 3,188 firms in this previous category that operated for the entire year. Of this total, 3,144 firms had employment of 999 or fewer employees, and 44 firms had employment of 1,000 employees or more. Thus, under this size standard, most cable systems are small and may be affected by rules adopted pursuant to the *Third FNPRM.* In addition, the Commission notes that the Commission has certified some OVS operators, with some now providing service. Broadband service providers (BSPs) are currently the only significant holders of OVS certifications or local OVS franchises. The Commission does not have financial or employment information regarding the entities authorized to provide OVS, some of which may not yet be operational. Thus, again, at least some of the OVS operators may qualify as small entities.

14. *Wired Telecommunications Carriers.* The 2007 North American Industry Classification System (NAICS) defines ''Wired Telecommunications Carriers'' as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' The SBA has developed a small business size standard for wireline firms within the broad economic census category, ''Wired Telecommunications Carriers.'' Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees. Census data for 2007, which supersede data from the 2002 Census, show that 3,188 firms operated in 2007 as Wired Telecommunications Carriers. 3,144 had 1,000 or fewer employees, while 44 operated with more than 1,000 employees.

15. *Broadband Radio Service and Educational Broadband Service (FCC Auction Standard).* The established rules apply to Broadband Radio Service (BRS, formerly known as Multipoint Distribution Systems, or MDS) operated as part of a wireless cable system. The Commission has defined ''small entity'' for purposes of the auction of BRS frequencies as an entity that, together with its affiliates, has average gross annual revenues that are not more than $40 million for the preceding three calendar years. The SBA has approved this definition of small entity in the context of MDS auctions. The Commission completed its MDS auction in March 1996 for authorizations in 493 basic trading areas. Of 67 winning bidders, 61 qualified as small entities. At this time, the Commission estimates that of the 61 small business MDS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent BRS licensees that are considered small entities. After adding the number of small business auction licensees to the number of incumbent licensees not already counted, the Commission finds that there are currently approximately 440 BRS

licensees that are defined as small businesses under either the SBA or the Commission's rules. In 2009, the Commission conducted Auction 86, which offered 78 BRS licenses. Auction 86 concluded with ten bidders winning 61 licenses. Of the ten, two bidders claimed small business status and won 4 licenses; one bidder claimed very small business status and won three licenses; and two bidders claimed entrepreneur status and won six licenses.

16. The proposed rules would also apply to Educational Broadband Service (EBS, formerly known as Instructional Television Fixed Service, or ITFS) facilities operated as part of a wireless cable system. The SBA definition of small entities for pay television services, Cable and Other Subscription Programming, also appears to apply to EBS. There are presently 2,032 EBS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in the definition of a small business. However, the Commission does not collect annual revenue data for EBS licensees and is not able to ascertain how many of the 100 non-educational licensees would be categorized as small under the SBA definition. Thus, the Commission tentatively concludes that at least 1,932 are small businesses and may be affected by the proposed rules.

17. *Wireless Telecommunications Carriers (except Satellite).* Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category. Prior to that time, such firms were within the now-superseded categories of ''Paging'' and ''Cellular and Other Wireless Telecommunications.'' Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. For the category of Wireless Telecommunications Carriers (except Satellite), Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year. Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, the Commission estimates that the majority of wireless firms can be considered small.

18. *Incumbent Local Exchange Carriers (LECs).* The Commission has included small incumbent LECs in this IRFA analysis. As noted above, a ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees) and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. The Commission has therefore included small incumbent local exchange carriers in this RFA analysis, although it emphasizes that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts. Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,303 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,303 carriers, an estimated 1,020 have 1,500 or fewer employees, and 283 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the proposed rules.

19. *Competitive (LECs), Competitive Access Providers (CAPs), ''Shared-Tenant Service Providers,'' and ''Other Local Service Providers.''* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 769 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 769 carriers, an estimated 676 have 1,500 or fewer employees, and 93 have more than 1,500 employees. In addition, 12 carriers have reported that they are ''Shared-Tenant Service Providers,'' and all 12 are estimated to have 1,500 or fewer employees. In addition, 39 carriers have reported that they are ''Other Local Service Providers.'' Of the 39, an estimated 38 have 1,500 or fewer employees, and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, ''Shared-Tenant Service Providers,'' and ''Other Local Service Providers'' are small entities.

20. *Satellite Telecommunications Providers.* Two economic census categories address the satellite industry. The first category has a small business size standard of $15 million or less in average annual receipts, under SBA rules. The second has a size standard of $25 million or less in annual receipts.

21. The category of Satellite Telecommunications ''comprises establishments primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' Census Bureau data for 2007 show that 512 Satellite Telecommunications firms that operated for that entire year. Of this total, 464 firms had annual receipts of under $10 million, and 18 firms had receipts of $10 million to $24,999,999. Consequently, the majority of Satellite Telecommunications firms can be considered small entities.

22. The second category, *i.e.* ''All Other Telecommunications'' comprises ''establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.'' For this category, Census Bureau data for 2007 show that there were a total of 2,383 firms that operated for the entire year. Of this total, 2,347 firms had annual receipts of under $25 million and 12 firms had annual receipts of $25 million to $49,999,999. Consequently, the Commission estimates that the majority of All Other

Telecommunications firms are small entities that might be affected the proposed actions in the *Third FNPRM.*

23. *Direct Broadcast Satellite (DBS) Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic ''dish'' antenna at the subscriber's location. DBS, by exception, is now included in the SBA's broad economic census category, ''Wired Telecommunications Carriers,'' which was developed for small wireline firms. Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees. To gauge small business prevalence for the DBS service, the Commission relies on data currently available from the U.S. Census for the year 2007. According to that source, there were 3,188 firms that in 2007 were Wired Telecommunications Carriers. Of these, 3,144 operated with less than 1,000 employees, and 44 operated with more than 1,000 employees. However, as to the latter 44 there is no data available that shows how many operated with more than 1,500 employees. Based on this data, the majority of these firms can be considered small. Currently, only two entities provide DBS service, which requires a great investment of capital for operation: DIRECTV and EchoStar Communications Corporation (EchoStar) (marketed as the DISH Network). Each currently offers subscription services. DIRECTV and EchoStar each report annual revenues that are in excess of the threshold for a small business. Because DBS service requires significant capital, the Commission believes it is unlikely that a small entity as defined by the SBA would have the financial wherewithal to become a DBS service provider.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

24. There are possible revisions to current part 11 reporting or recordkeeping requirements proposed in this *Third FNPRM,* specifically as regards:

- Potential revisions modifying § 11.33(a)(4) of the Commission's rules to require that if an alert message is derived from a CAP-formatted message, the contents of the text, assembled pursuant to ECIG Implementation Guide, should be added to the EAS device log. This revision merely applies a current reporting requirement to a new technical protocol and the Commission does not expect it to alter the reporting burden to any appreciable degree.
- The Commission's tentative conclusion that the language in § 11.21(a) of the Commission's rules should be revised to make clear that the State EAS Plans specify the monitoring assignments and the specific primary and backup path for SAME-formatted EANs. This revision merely applies a current reporting requirement to a new technical protocol and thus is not expected to alter the reporting burden to any appreciable degree. The revision will ensure the accuracy of EAS operational documents and thus contribute to public safety. Accordingly, the Commission believes the revision to be necessary.

25. The proposals set forth in the *Third FNPRM* are intended to advance the Commission's public safety mission and enhance the performance of the EAS while reducing regulatory burdens wherever possible.

E. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

26. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

27. EAS Participants already are required to comply with the CAP-related obligations set forth in §§ 11.55 and 11.56 of the Commission's rules. The *Third FNPRM* seeks comment on dozens of potential revisions to part 11 of the Commission's rules that are necessary in order for EAS Participants to meet these existing obligations and, more generally, to streamline and make more efficient the operation of the EAS. The majority of the rule revisions under consideration are not designed to introduce new obligations that do not already exist, but rather, more clearly identify and effect within part 11 the CAP obligations adopted in the *Second Report and Order* in this proceeding. In this regard, these revisions are designed to minimally impact all EAS Participants, including small entities, to the extent feasible, while at the same time protecting the lives and property of all Americans, which confers a direct benefit on small entities. For example, the rule revisions under consideration would maintain the existing EAS architecture and potentially permit affected parties to meet their CAP-related obligations via intermediary devices, which potentially may alleviate the need to obtain new EAS equipment for many EAS Participants. Similarly, the proposed revisions to EAN processing would make the part 11 rules simpler both to understand and implement within equipment designs. Because the proposed revisions are required to implement existing obligations within part 11, no alternatives were considered. However, commenters are invited to suggest steps that the Commission may take to further minimize any significant economic impact on small entities. When considering proposals made by other parties, commenters are invited to propose alternatives that serve the goal of minimizing the impact on small entities.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

28. None.

Synopsis of the Third FNPRM

1. In the *Third FNPRM,* the Commission seeks comment on several proposed changes to its Part 11 Emergency Alert System (EAS) rules to more fully codify the Common Alerting Protocol (CAP)-related obligations adopted in the Second Report and Order (*Second Report and Order*) and to eliminate outdated rules to improve part 11's overall effectiveness.

I. Background

2. The present-day EAS is a hierarchical alert message distribution system that utilizes radio and television broadcasters, cable service providers, and other regulated entities (collectively known as EAS Participants) to transmit audio and/or visual emergency alert messages to the public. To initiate an EAS message, whether at the national, state, or local levels, the message originator must format a message in the EAS Protocol, which is identical to the Specific Area Message Encoding (SAME) digital protocol utilized by National Weather Service (NWS) (hereinafter, ''EAS Protocol'' and ''SAME'' are used interchangeably), and send the formatted alert to a designated entry point within the EAS network for delivery to specialized equipment maintained and operated by EAS Participants that can receive (and decode) the alert for transmission over

the EAS Participants' facilities to their end users.

3. In 2007, the Commission adopted the *Second Report and Order* in this docket, which revised the Commission's part 11 EAS rules to lay the foundation for a state-of-the-art, next-generation national EAS (Next Generation EAS). First, to ensure the efficient, rapid, and secure transmission of EAS alerts in a variety of formats (including text, audio, and video) and via different means (broadcast, cable, satellite, and other networks), the Commission required that EAS Participants be capable of receiving CAP-formatted alert messages no later than 180 days after the Federal Emergency Management Agency (FEMA) publicly publishes its adoption of the CAP standard. Second, the Commission required EAS Participants to adopt Next Generation EAS delivery systems no later than 180 days after FEMA publicly releases standards for those systems. Third, the Commission required EAS Participants to transmit state and local EAS alerts that are originated by governors or their designees no later than 180 days after FEMA publishes its adoption of the CAP standard, provided that the state has a Commission-approved State Area EAS Plan that provides for delivery of such alerts.

4. CAP is an open, interoperable XML-based standard, developed within the Organization for the Advancement of Structured Information Standards (OASIS) standards process, which permits links to voice, audio or data files, images, multilingual translations of alerts, and links providing further information.

5. On March 25, 2010, in anticipation of FEMA's adoption of CAP, the Commission's Public Safety and Homeland Security Bureau (Bureau) released a Public Notice (*part 11 Public Notice*) in EB Docket No. 04–296, DA 10–500, released on March 25, 2010, that sought informal comment regarding what, if any, Part 11 changes might be necessitated by the introduction of CAP.

6. On October 7, 2010, the Communications Security, Reliability, and Interoperability Council (CSRIC), which had been established by the Commission to, among other things, recommend revisions to the part 11 rules in light of FEMA's then-pending adoption of CAP, adopted a Final Report, which included a number of recommendations for revisions to the part 11 rules related to the obligation to accept CAP-formatted messages.

7. On September 30, 2010, FEMA announced its adoption of technical standards and requirements for CAP-formatted EAS alerts. Specifically, FEMA identified three documents as defining the FEMA Integrated Public Alert and Warning System (IPAWS) technical standards and requirements for CAP and its implementation: (1) The OASIS CAP Standard v1.2; (2) an IPAWS Specification to the CAP Standard (CAP v1.2 IPAWS USA Profile v1.0); and (3) the EAS–CAP Industry Group's (ECIG) Recommendations for a CAP–EAS Implementation Guide, Version 1.0 (May 17, 2010) (ECIG Implementation Guide). FEMA's announced adoption of CAP v1.2 triggered an initial deadline for EAS Participants to be able to receive CAP alerts by March 29, 2011.

8. On November 18, 2010, in response to the recommendations in CSRIC's Final Report, as well as to comments submitted in response to the *part 11 Public Notice,* the Commission adopted an order that extended the 180-day deadline for meeting the CAP-related obligations until September 30, 2011 (the *Waiver Order*).

II. Discussion

9. The *Third FNPRM* builds on the foregoing efforts by seeking comment on what changes the Commission should make to the part 11 rules to fully effectuate the CAP-related obligations adopted in the *Second Report and Order,* as well as other rule changes and clarifications intended to streamline part 11 and generally enhance the overall effectiveness of the EAS. The specific rule changes proposed for consideration in the *Third FNPRM* are included in the rules section.

10. The tentative conclusions, proposed rule changes and other proposals set forth in the *Third FNPRM* are summarized below. With respect to each, the Commission invites general comments as well as comments directed specifically at their technical and operational effectiveness. The Commission also seeks comment on whether these tentative conclusions, proposed rule changes and other proposals are sufficient to capture the overall goals of this proceeding; whether they are necessary; their potential costs and benefits; how any requirements under consideration might be tailored to impose the least amount of burden on those affected; and what explicit performance objectives, if any, should be specified to facilitate monitoring the success of any potential course of action.

A. Scope of CAP-Related Part 11 Revisions

11. The Commission's tentative view is that while the EAS Protocol is more limited regarding the information it can convey than CAP, the many benefits of maintaining the legacy EAS previously outlined by the Commission in the *Second Report and Order* continue to apply today. Moreover, FEMA has stated that the legacy EAS will continue to provide a nationwide alerting mechanism to operate as part of its IPAWS system. Further, even after IPAWS is deployed, it is not clear that state alerting authorities and personnel involved with initiating state alerts will be able to initiate anything other than SAME-formatted messages for some time, and we observe that NWS has yet to indicate a date by which it will be switching to a CAP-based alerting format. Thus, switching over to a fully CAP-centric EAS system—where EAS messages are inputted and outputted in CAP format rather than SAME format—at this time could be detrimental to the entities that utilize the EAS the most: states and NWS. Finally, FEMA has adopted the standards necessary for formatting alert messages into CAP and translating such CAP-formatted messages into SAME-compliant messages; thus, the groundwork for implementing CAP-formatted alert initiation within the existing EAS system is already in place.

12. Accordingly, the Commission tentatively concludes that, for the time being, it will continue the approach adopted in the *Second Report and Order* and maintain the existing legacy EAS, including utilization of the SAME protocol. To be clear, under this transitional approach, the CAP-related changes to Part 11 addressed in this item are designed to permit EAS Participants to process and transmit CAP-formatted messages over the existing EAS, but subject to the technical requirements and limitations of the existing EAS (*i.e.,* the CAP-formatted message will be converted into and broadcast—and to the extent feasible, encoded for rebroadcast—in the SAME format) until the Next Generation EAS has been fully deployed and is ready to replace (or operate in parallel with) the existing EAS. The Commission also tentatively concludes that it will defer to its planned Notice of Inquiry on Broadband Alerting consideration of what changes, if any, to the part 11 rules may be necessitated by the adoption of a CAP-based Next Generation EAS alerting system that might replace or operate in parallel with the current EAS. The Commission seeks comment on these tentative conclusions.

B. Obligation To Accept CAP Messages

13. *CAP-Formatted Message Translation to SAME.* To ensure greater

uniformity in the output of devices subject to Part 11, the Commission tentatively concludes that it should amend § 11.56 of the Commission's rules to require EAS Participants to convert CAP-formatted EAS messages into SAME-compliant EAS messages in accordance with the ECIG Implementation Guide. Adopting the ECIG Implementation Guide as the standard for translating CAP-formatted messages into SAME-compliant messages should harmonize CAP elements with the part 11 rules, thus ensuring that CAP-formatted EAS messages are converted into SAME-compliant messages in a consistent manner across devices and delivery platforms. The Commission seeks comment on this proposal.

14. *CAP-Related Monitoring Requirements.* As a preliminary matter, the Commission observes that the technical construction and distribution methodologies of CAP messages are different from SAME messages. For example, SAME-formatted messages are AFSK-modulated data messages that are received by monitoring the over-the-air broadcasts of designated broadcast stations. CAP messages are IP-based data packets that can be distributed using various distribution models. FEMA has indicated that the IPAWS system will employ Really Simple Syndication, version 2.0 (RSS), to distribute CAP-formatted alerts to EAS Participants. Under this alert distribution model, RSS-configured EAS equipment will poll FEMA's RSS source at periodic intervals (programmed into the EAS equipment by the EAS Participant), and any pending CAP messages will be sent via the RSS feed to the EAS equipment. The CAP message will be wholly contained within the RSS file's ''description'' field, and EAS equipment will extract the CAP data in accordance with the ECIG Implementation Guide to ensure an EAS Protocol-compliant output. Accordingly, the Commission tentatively concludes that it should amend § 11.52 of the Commission's rules to include a requirement that EAS Participants monitor FEMA's IPAWS RSS feed(s) for federal CAP-formatted messages. The Commission seeks comment on this tentative conclusion.

15. The Commission did not specify monitoring requirements for CAP-formatted messages initiated by state governors (or their designees) in the *Second Report and Order,* although it did require that the State Area EAS Plan submitted for FCC approval specify the methodology for aggregating and delivering such messages. The Commission proposes that EAS equipment should only be required to employ the same monitoring functionality for state CAP messages that are used for federal CAP messages (*i.e.,* RSS). Accordingly, the Commission tentatively concludes that it should amend § 11.52 of the Commission's rules to include a requirement that EAS Participants monitor the RSS feed(s) designated by a state as the source of governor-originated CAP messages (and identified in the state's EAS Plan submitted to and approved by the Commission). The Commission seeks comment on this proposal.

16. *Next Generation Distribution Systems.* In the *Second Report and Order,* the Commission stated that ''should FEMA announce technical standards for any Next Generation EAS alert delivery system, EAS Participants must configure their networks to receive CAP-formatted alerts delivered pursuant to such delivery system, whether wireline, Internet, satellite or other, within 180 days after the date that FEMA announces the technical standards for such Next Generation EAS alert delivery.'' The Commission incorporated this obligation into § 11.56 of the Commission's rules, which provides that ''all EAS Participants must be able to receive CAP-formatted EAS alerts * * * after FEMA publishes the technical standards and requirements for such FEMA transmissions.''

17. In the *Third FNPRM,* the Commission clarifies that the above-quoted language from the *Second Report and Order* was intended to put EAS Participants on notice that, should FEMA adopt technical standards covering delivery of CAP-formatted messages to EAS Participants over specific platforms, such as satellite systems, EAS Participants would ultimately need to configure their systems to be able to interface with such systems to meet their existing obligation to process CAP-formatted messages. The Commission further clarifies that the intent behind the language was not to permit FEMA to create or modify existing requirements via publication or adoption of a technical standard. Rather, the general intent was to revise the existing Part 11 rules to permit initiation and carriage of CAP-based alert messages over the existing EAS, subject to the technical requirements and limitations of the existing EAS, until such time as the Next Generation EAS has been fully deployed. The Commission further indicates that whatever obligations may arise with respect to the Next Generation EAS will be addressed in future proceedings. The Commission seeks comment on whether further clarification of the EAS Participants' obligation to receive and process CAP-formatted EAS messages delivered over Next Generation EAS distribution systems is necessary.

18. *Equipment Requirements.* The *Third FNPRM* seeks comment on several CAP-related proposals related to EAS equipment, as summarized below.

19. *Intermediary Devices.* The Commission seeks comment on whether EAS Participants should be permitted to meet their CAP-related obligations by deploying intermediary devices that would carry out the function of receiving and decoding the CAP-formatted messages, translating those messages into SAME format, and then feeding that SAME-formatted message into a legacy EAS device for transmission over the EAS Participant's transmission platform.

20. The Commission observes that these devices would appear to receive a CAP-based alert and encode it into a SAME-formatted message that is fed into the audio input of the EAS Participant's legacy EAS equipment, just as if that message had been received over-the-air from another station. Accordingly, in addition to comments generally on this topic, the Commission seeks comment on whether intermediary devices should be subject to some or all of the encoder requirements set forth in § 11.32 of the Commission's rules and the transmission requirements in § 11.51 of the Commission's rules and/or the decoder requirements set forth in § 11.33 of the Commission's rules and the monitoring requirements in § 11.52 of the Commission's rules.

21. *Section 11.32(a).* With respect to § 11.32(a) of the Commission's rules, the Commission seeks comment on whether adding a requirement that EAS encoders be required to be capable of encoding a CAP-formatted message (*i.e.,* originating or somehow transmitting a message in the CAP format as opposed to the SAME format) would be necessary or appropriate.

22. *Section 11.32(a)(2) and (a)(3).* The Commission seeks comment on whether it should modify the input and output configuration requirements in §§ 11.32(a)(2) and (a)(3) of the Commission's rules to include a requirement for a single Ethernet port and eliminate the existing requirements for 1200 baud RS–232C interface.

23. *Section 11.33(a).* The Commission seeks comment on whether the minimum requirements for decoders in § 11.33(a) of the Commission's rules should include the capability to decode CAP-formatted messages and convert them into SAME protocol-compliant

messages, and whether this requirement can be met through the deployment of an intermediary device.

24. *Section 11.33(a)(1) and (a)(7).* The Commission seeks comment on whether it should modify the input and output configuration requirements in §§ 11.33(a)(1) and (a)(7) of the Commission's rules to include a requirement for a single Ethernet port and eliminate the existing requirements for 1200 baud RS–232C interface.

25. *Section 11.33(a)(4).* The Commission seeks comment on whether it should amend § 11.33(a)(4) of the Commission's rules to require that if an alert message is derived from a CAP-formatted message, the contents of the text, assembled pursuant to ECIG Implementation Guide, should be added to the EAS device log.

26. *Section 11.33(a)(10).* With respect to CSRIC's recommendation to revise § 11.33(a)(10) of the Commission's rules such that when duplicate messages are received in both the EAS Protocol and CAP formats, the CAP message is processed by default, the Commission tentatively concludes that no such revision would be required if it were to require EAS Participants to translate CAP-formatted messages into SAME-formatted messages in conformance with the ECIG Implementation Guide. The Commission seeks comment on this tentative conclusion.

27. *Section 11.33(a)(11).* The Commission seeks comment as to whether it should update § 11.33(a)(11) of the Commission's rules to specify that a CAP-formatted message containing a header code with the EAN event code received through a non-audio input must override all other messages.

28. *Miscellaneous Rule Changes Related to Fully Implementing CAP.* The *Third FNPRM* seeks comment on several miscellaneous proposals related to more fully implementing CAP within Part 11, as summarized below.

29. *Section 11.1.* The Commission seeks comment on whether § 11.1 of the Commission's rules should be revised to include CAP alert originators, such as state governors, as entities for whom the EAS provides a means of emergency communication with the public in their state or local area, or whether the language currently in § 11.1 of the Commission's rules is broad enough to capture these entities.

30. *Section 11.11.* The Commission seeks comment on whether it should amend the text of § 11.11(a) of the Commission's rules to include as a minimum requirement compliance with the CAP-related requirements in § 11.56 of the Commission's rules, and whether it should delete the reference to ''analog television broadcast stations'' from § 11.11 of the Commission's rules entirely.

31. With respect to the equipment deployment tables in § 11.11 of the Commission's rules, the Commission seeks comment on whether, for CAP purposes, it should amend these by adding a footnote to the ''EAS decoder'' entries in the tables, indicating that EAS Participants may elect to meet their obligation to receive and translate CAP-formatted messages by deploying an intermediary device in addition to the EAS decoder used to decode messages transmitted in the EAS Protocol. The Commission further seeks comment on whether it should delete the date references in the equipment deployment tables (as well as cross-references to these dates in other sections of Part 11, such as §§ 11.51(c) and (d) of the Commission's rules), along with the entry for two-tone encoders. The Commission also seeks comment on whether the equipment deployment tables covering analog, wireless, and digital cable and wireline video systems can be combined into a single table, as well as any other revisions to § 11.11 of the Commission's rules to streamline it and make it easier to follow. Finally, the Commission seeks comment on whether it should incorporate the CAP monitoring requirements or references thereto into § 11.11 of the Commission's rules.

32. *Section 11.20.* The Commission seeks comment on whether the language of § 11.20 of the Commission's rules requires a specific reference to CAP alerts and/or CAP relay networks. The Commission also seeks comment on whether there is a need to incorporate CAP monitoring into § 11.20 of the Commission's rules.

33. *Section 11.21.* The Commission tentatively concludes that it should revise the language in § 11.21(a) of the Commission's rules to make clear that the State Area EAS Plans specify the monitoring assignments and the specific primary and backup path for SAME-formatted EANs, and that the monitoring requirements for CAP-formatted EANs are set forth in § 11.52 of the Commission's rules. The Commission seeks comment on this tentative conclusion.

34. With respect to the State Area EAS Plan requirements in § 11.21(a) of the Commission's rules, the Commission observes that this section does not specify that the obligation to process alert messages initiated by state governors only applies to CAP-formatted messages. The same omission also occurs in § 11.55(a) of the Commission's rules. Because these were inadvertent omissions, the Commission tentatively concludes that it should amend the text of both sections to make clear that they apply to CAP-formatted EAS messages. The Commission seeks comment on this tentative conclusion.

35. With respect to the FCC Mapbook content requirements in § 11.21(c) of the Commission's rules, the Commission seeks comment on whether and, if so, how it should revise these requirements to identify federal and state CAP message origination and distribution. Also with respect to § 11.21(c) of the Commission's rules, the Commission seeks comment on whether alert message distribution should be delineated in terms of how the EAN is distributed from the PEP/NP to the PN/NN stations in the state as opposed to generating a list of each individual station in the state.

36. *Section 11.31(a)(3).* In light of its tentative conclusion to require conversion of CAP-formatted messages into the existing EAS Protocol, the Commission seeks comment on whether there would be any utility to changing the language in § 11.31(a) of the Commission's rules to better reflect CAP's capabilities.

37. *Section 11.35(a).* The Commission tentatively concludes that it is unnecessary to include a CAP-receiving requirement in § 11.35(a) of the Commission's rules, and seeks comment on this tentative conclusion.

38. *Section 11.45.* The Commission seeks comment on whether it should make any revisions to § 11.45 of the Commission's rules to accommodate CAP-formatted messages.

39. *Section 11.51.* In light of its tentative conclusion that EAS Participants should only be required at this time to be capable of retrieving CAP-formatted Federal EAS alerts and converting them into SAME-compliant messages for transmission to the public, the Commission further tentatively concludes that there is no basis for adopting CSRIC's recommendation to revise the language in § 11.51 of the Commission's rules to state that equipment must be capable of transmitting (or ''rendering'') a CAP-compliant message to EAS. The Commission seeks comment on this tentative conclusion.

40. With respect to §§ 11.51(d), (g)(3), (h)(3), and (j)(2) of the Commission's rules, the Commission seeks comment on whether it should continue to use the SAME-based protocol codes as the baseline for deriving the visual EAS message requirements in § 11.51 of the Commission's rules.

41. *Section 11.54.* The Commission seeks comment on whether to adopt

CSRIC's recommendation to mandate that CAP-formatted messages be broadcast only if the scope of the alert is ''Public.'' To the extent that § 11.54(b)(1) of the Commission's rules is retained in the final rules that result from this proceeding, the Commission seeks comment regarding whether it should revise the language to reflect federal CAP monitoring obligations by adding a cross-reference to the monitoring requirements in § 11.52 of the Commission's rules or otherwise revise this section of the rules.

C. EAS Equipment Certification

42. The Commission seeks comment on whether and how it should incorporate compliance with respect to CAP functionality into the Commission's existing certification scheme. The Commission observes that there appears to be two CAP-related standards with which conformance could be certified: (i) CAP v1.2 USA IPAWS Profile v1.0; and (ii) the ECIG Implementation Guide. Because the primary users of the CAP v1.2 USA IPAWS Profile v1.0 standard are CAP-based alert message originators, as opposed to EAS Participants, and because under the Commission's tentative conclusion to maintain a SAME-only output for the EAS, the Part 11 rules would not cover CAP message originating equipment, the Commission tentatively concludes that it would be inappropriate to incorporate conformance with the CAP v1.2 USA IPAWS Profile v1.0 into the Commission's certification process. The Commission seeks comment on this tentative conclusion.

43. With respect to the ECIG Implementation Guide, the Commission asks whether it would be appropriate for it to certify conformance with this document, and if so, whether and how it should implement conformance testing to demonstrate compliance with the ECIG Implementation Guide. Regardless of whether compliance with the ECIG Implementation Guide is adopted as a component of FCC certification, the Commission seeks comment generally as to whether the current FCC certification process is sufficient or whether there are any revisions specific to EAS equipment that would make that process more effective and efficient.

44. The Commission also seeks comment on whether it should classify intermediary devices stand-alone devices, as opposed to modifications to existing equipment, which would make them subject to the same certification requirements that apply to stand-alone decoders and encoders (*i.e.,* equipment that carries out all the functions required for an EAS Participant to meet its EAS obligations, including compliance with any applicable portions of the part 11 and part 15 rules, including compliance with ECIG Implementation Guide, if required). Finally, the Commission seeks comment on the certification requirements that should apply to modified EAS equipment.

D. 180-Day CAP Reception Deadline

45. The Commission seeks comment on whether the current September 30, 2011, deadline for CAP-compliance adopted in the *Waiver Order* is sufficient or whether the Commission should extend or modify it so it is triggered by some action other than FEMA's adoption of CAP, such as implementation by the Commission of revised certification rules.

E. CAP Messages Originated by State Governors

46. *Basic Obligation to Receive and Transmit Gubernatorial CAP Messages.* As a threshold matter, the Commission observes that, while its rules require EAS Participants to process gubernatorial CAP-formatted EAS messages, some measure of uniformity appears warranted to ensure that EAS equipment does not need to be designed to accommodate multiple variations of state CAP systems that might be deployed now or in the future. The Commission observes that the intent behind its CAP-related obligations has never been to require that EAS Participants deploy multiple variations of EAS equipment to meet their basic CAP-related obligations. The Commission observes that its efforts instead have been directed primarily towards implementing rules that will enable and obligate the processing of federal CAP-formatted alert messages over the existing EAS. Against this backdrop, the Commission sought to provide an incentive for state governors to similarly obtain mandatory processing of their CAP-formatted messages when (and only when) they deploy systems that are fully compatible with federal CAP systems.

47. Accordingly, the Commission tentatively concludes that the obligation to receive and transmit CAP-formatted messages initiated by state governors applies only to the extent that such CAP messages have been formatted using the CAP standard adopted by FEMA for federal CAP messages—specifically, OASIS CAP Standard v1.2 and CAP v1.2 USA IPAWS Profile v1.0. The Commission also observes that EAS Participants, working with state alerting authorities, may voluntarily deploy a state CAP message receiving capability that differs from the basic requirement to receive CAP messages formatted pursuant to the standards adopted by FEMA. The Commission seeks comment on this tentative conclusion.

48. The Commission also tentatively concludes that the obligation to receive and transmit only CAP-formatted messages initiated by state governors necessitates that such CAP messages will be translated into SAME-compliant messages consistent with the CAP-to-SAME translation standard adopted for federal CAP messages—specifically, the ECIG Implementation Guide. The Commission observes that EAS Participants, working with state alerting authorities, may voluntarily implement a capability to translate CAP messages in a manner that differs from this basic requirement. The Commission also observes, however, a state must fully describe any state CAP system in a State Area EAS Plan submitted to the Commission for approval. The Commission seeks comment on this tentative conclusion.

49. *Gubernatorial CAP Message Originator and Event Codes.* The Commission seeks comment as to whether new origination and/or event codes are required to fully implement the obligation of EAS Participants to process CAP-formatted messages initiated by state governors and, if so, what those codes should be. The Commission also seeks comment on how adoption of new originator and/or event codes might impact the existing base of deployed EAS equipment.

50. *Geographic Application and Targeting of Gubernatorial CAP Messages.* The Commission seeks comment on whether it should revise the current obligation to process CAP-formatted messages delivered by the governor of the state in which the EAS Participant is located to include governors of any adjacent states in which the EAS Participant provides service.

51. With respect to geo-targeting, the Commission observes that under its tentative conclusion that, for the time being, CAP messages must be converted into SAME-compliant messages, the geo-targeting capabilities for state CAP-formatted messages will be defined by the geographic codes set forth in § 11.31(f) of the Commission's rules. Accordingly, the Commission tentatively concludes that the geo-targeting requirement associated with mandatory state governor alerts shall be defined, at least for the time being, by the location provisions in the EAS

Protocol. The Commission seeks comment on this tentative conclusion.

52. *Governor's ''Designee.''* The Commission observes that the obligation to process gubernatorial CAP messages currently only applies to CAP-formatted EAS messages initiated by a state governor (or the governor's designee), or by FEMA (or its designee) on behalf of a state. The Commission also observes that the question of whether local, county, tribal, or other state governmental entities should be allowed to serve as governor designees, thus initiating mandatory processing of gubernatorial CAP alerts, and how the Commission should decide which public officials should be permitted to activate such alerts, is still pending. The Commission indicated that pending a final resolution of this issue, local, county, tribal, or other state governmental entities will continue to be ineligible to serve as designees for purposes of initiating CAP-formatted messages on behalf of state governors. In the meantime, the Commission invites additional comment on this issue.

53. *Non-Participating National (NN) Sources.* The Commission seeks comment on whether the obligation to process CAP-formatted messages initiated by state governors should apply to NN stations. Alternatively, the Commission asks whether it should eliminate NN status altogether, in which case all EAS Participants would be required to transmit both the Presidential EAS messages and the CAP-formatted EAS messages initiated by state governors.

54. *Section 11.33(a)(9).* Although not raised by CSRIC or the parties responding to the *Part 11 Public Notice,* the Commission seeks comment as to whether it should revise § 11.33(a)(9) of the Commission's rules to accommodate gubernatorial CAP-formatted messages.

55. *Section 11.44.* Assuming that the Commission does not delete § 11.44 of the Commission's rules pursuant to its proposals aimed at streamlining the processing of EANs, it seeks comment on whether there is any practical need to revise § 11.44 of the Commission's rules to provide gubernatorial CAP-formatted messages with priority over local EAS messages and whether such a scheme is technically feasible.

56. *Section 11.51(m).* The Commission seeks comment on whether it should amend § 11.51(m) of the Commission's rules to incorporate the obligation to process CAP-formatted messages initiated by state governors. The Commission observes that this obligation does not apply unless and until a state specifies the methodology for delivering the gubernatorial CAP-formatted messages in the State Area EAS Plan that it submits to and is approved by the Commission. Accordingly, the Commission seeks comment as to how, assuming it were to adopt a new origination code for gubernatorial CAP-formatted messages, an EAS Participant's EAS equipment would know that the Commission had approved a state's State Area EAS Plan.

F. Revising the Procedures for Processing EANs

57. The part 11 rules specify that the EAT message is used to terminate an EAN. More specifically, as set out in § 11.13 of the Commission's rules, the EAN is the notice to EAS Participants that the EAS has been activated for a national emergency, while the EAT is the notice to EAS Participants that the EAN has terminated. This relationship is described in § 11.54 of the Commission's rules, which specifies the actions an EAS Participant must take upon receiving an EAN. Under these provisions, the EAN commences a ''National Level emergency'' condition, during which EAS Participants must discontinue regular programming, make certain announcements set forth in the EAS Operating Handbook, and broadcast a ''common emergency message,'' as prioritized under § 11.44 of the Commission's rules. EAS Participants are required to follow this process until receipt of the EAT.

58. The Commission seeks comment on whether the procedures set forth in § 11.54 of the Commission's rules for processing EATs and, more broadly, EANs, are problematic and technically impractical for automated operation. More specifically, the Commission seeks comment regarding whether it should substantially simplify the procedures for processing EANs set forth in § 11.54 of the Commission's rules and related Part 11 rule sections so that EAS Participants process EANs on a message-by-message basis, like any other EAS message, only on a mandatory and priority basis. Under this streamlined EAN processing approach, whether EAS Participants operate their EAS equipment in automated or manual mode, receipt of an EAN would effectively open an audio channel between the originating source and the EAS Participant's facilities until the EAS Participant receives an EOM. After the EAS Participant receives the EOM, the EAS equipment would return to regular programming until receipt of the next EAS message. If that message is another EAN, then the process would repeat; if that message is a state or local EAS message, including a gubernatorial CAP-formatted message, then that message would be aired in accordance with the specifications in the State and/or Local Area EAS Plan.

59. The Commission also invites comment on whether it should eliminate the option for EAS Participants to manually process EANs (but not state or local EAS messages).

60. Because the EAT would appear to serve no purpose when there is streamlined, message-by-message processing of EANs, the Commission also seeks comment on whether it should eliminate the EAT and replace it where necessary with the EOM in the Part 11 rules.

61. *Revising Section 11.54.* The Commission seeks comment on whether it should delete §§ 11.54(b)(1), (b)(3), (b)(4), (b)(10), and 11.54(c) of the Commission's rules.

62. *Deleting Section 11.42.* The Commission seeks comment on whether § 11.42 of the Commission's rules has become superfluous and should therefore be deleted.

63. *Elminating the EAS Operating Handbook.* The Commission observes that the EAS Operating Handbook may not serve any purpose with respect to the streamlined processing of EANs it now proposes. Accordingly, assuming that the Commission adopts message-by-message processing of EANs, it seeks comment on whether it should eliminate the EAS Operating Handbook and, if so, whether it should require EAS Participants to maintain within their facilities a copy of the current, FCC-filed and approved versions of the State and Local Area EAS Plans.

64. The Commission also seeks comment on whether, if it were to delete the EAS Operating Handbook, it should also delete §§ 11.54(a), (b)(2), and (b)(5) through (b)(8) of the Commission's rules.

65. *Deleting Section 11.44.* The Commission observes that if it were to revise § 11.54 of the Commission's rules to reflect a streamlined, message-by-message processing approach, § 11.44 of the Commission's rules would become superfluous. Accordingly, the Commission seeks comment on whether, if it were to adopt streamlined processing of EANs, it should delete § 11.44 of the Commission's rules.

66. *Revising Section 11.53.* The Commission seeks comment on whether § 11.53 of the Commission's rules has any relevance in the streamlined EAN processing model now being proposed. To the extent § 11.53 of the Commission's rules is relevant in its own right and should be retained, the Commission seeks comment on whether it should be revised to incorporate CAP-formatted EAN messages. The Commission observes that, unlike PEP-

originated SAME-formatted EAN messages distributed over the air, under the monitoring approach tentatively proposed in this item, EAS Participants will obtain CAP-formatted EAN messages from the RSS feed(s) utilized by the IPAWS system for EAS distribution. Accordingly, the Commission seeks comment as to whether, if § 11.53 of the Commission's rules is retained, it should be revised to include a cross-reference to § 11.52 of the Commission's rules to capture the federal CAP-formatted EAN origination process. The Commission also seeks comment on whether the existing language on state EAN origination would be sufficient to capture CAP-formatted EANs originated by state CAP systems.

67. *Revising Section 11.11(a).* The Commission seeks comment on whether, if it were to streamline EAN processing, it should revise § 11.11(a) of the Commission's rules to remove the references therein to ''participating broadcast networks, cable networks and program suppliers; and other entities and industries operating on an organized basis during emergencies at the National, State and local levels.

68. *Deleting Section 11.16.* The Commission seeks comment on whether it should delete § 11.16 and § 11.54(b)(12) of the Commission's rules.

G. Miscellaneous Part 11 Revisions Not Related to CAP

69. *Definitions.* The Commission seeks comment on whether it should revise the definition for LP–1 stations in § 11.2(b) of the Commission's rules to reflect that these stations can be a radio or TV station.

70. The Commission observes that because the PEP system definition in § 11.14 of the Commission's rules mirrors the definition in § 11.2(a) of the Commission's rules, it is superfluous. Accordingly, the Commission tentatively concludes that it should delete § 11.14 of the Commission's rules from the part 11 rules. The Commission seeks comment on this tentative conclusion. Also with respect to the PEP system definition in § 11.2(a) of the Commission's rules, the Commission seeks comment on whether it should revise the language in § 11.2(a) of the Commission's rules to delete numerical references reflecting the number of PEP stations and clarify that the PEP stations distribute the EAN, EAS national test messages, and other EAS messages in accordance with the EAS Protocol requirements in § 11.31 of the Commission's rules.

71. Although not raised by any commenter, the Commission seeks comment on whether it should delete § 11.13 of the Commission's rules and move the definition for the EAN currently in § 11.13 of the Commission's rules to § 11.2 of the Commission's rules.

72. *Geographic Codes.* The Commission tentatively concludes that it should change the references to the Federal Information Processing Standard (FIPS) numbers (as described by the U.S. Department of Commerce in National Institute of Standards and Technology publication FIPS PUB 6–4.FIPS number codes) in §§ 11.31 and 11.34(d) of the Commission's rules to reflect the American National Standards Institute (ANSI) Codes INCITS 31.200x (Formerly FIPS 6–4), Codes for the Identification of Counties and Equivalent Entities of the United States, its Possessions, and Insular Areas standard that superseded it. The Commission seeks comment on this tentative conclusion.

73. *Attention Signal.* Given the limited purpose of the Attention Signal in the EAS, the Commission seeks comment on whether it can delete most of the current provisions relating to the Attention Signal in §§ 11.32(a)(9) and 11.33(b) of the Commission's rules in favor of the minimal standard currently set forth in the EAS Protocol (at § 11.31(a)(2) of the Commission's rules). Under this approach, any Attention Signal provisions in §§ 11.32(a)(9) and 11.33(b) of the Commission's rules that remain relevant could be incorporated into § 11.31(a)(2) of the Commission's rules. Assuming it takes such action, the Commission seeks comment on which, if any, of the equipment-related Attention Signal requirements in §§ 11.32(a)(9) and 11.33(b) of the Commission's rules it should incorporate into § 11.31(a)(2) of the Commission's rules. The Commission also seeks comment on whether it should delete the Attention Signal from the part 11 rules altogether.

74. The Commission observes that, regardless of whether or how might proceed with modifying the Attention Signal requirements, § 11.12 of the Commission's rules is obsolete. Accordingly, the Commission tentatively concludes that it should delete § 11.12 of the Commission's rules from Part 11. The Commission seeks comment on this tentative conclusion.

75. *Section 11.33(a)(9).* Section 11.39(a)(9) of the Commission's rules allows EAS Participants to set their decoders to automatically reset to the monitoring state if the decoder does not receive an EOM for any given EAS message within a predetermined minimum time frame (not less than two minutes). This reset function does not apply to EANs. By definition, the reset activation in § 11.33(a)(9) of the Commission's rules applies only when the EOM for a given EAS message has not arrived within the specified time period. The Commission observes that transmitting an EOM is a minimum requirement for encoders, and that because there is no EOM associated with an EAS message that has been canceled via reset, there is no EOM for the encoder to transmit. Accordingly, the Commission observes that as the rules are currently constructed, the encoder should not transmit an EAS message that has been canceled via reset. The Commission seeks comment on whether it should amend the rules to make this clearer or whether it should allow encoders to air EAS messages that have been canceled via reset.

76. *Section 11.33(a)(3)(ii).* The Commission seeks comment on whether it should revise § 11.33(a)(3)(ii) of the Commission's rules by eliminating the requirement to delete messages upon expiration of their time periods, and thus allow EAS Participants to air alert messages after expiration of the effective time period set by the alert message originator.

77. *LPTV and LPFM.* The Commission observes that the analog and digital broadcast station equipment deployment table in § 11.11(a) of the Commission's rules incorrectly identifies ''LPFM'' in the column that is supposed to contain Class A TV and incorrectly identifies ''LPTV'' in the column that should contain ''LPFM.'' The Commission further observes that ''LPFM'' appears to have been inadvertently omitted from the test requirements in §§ 11.61(a)(1)(i) and 11.61(a)(2)(ii) of the Commission's rules during a prior proceeding. The Commission tentatively concludes that it should correct these clerical errors and seeks comment on this tentative conclusion.

78. *Training.* The Commission observes that it lacks the authority to raise or distribute funds for EAS-related purposes, and therefore tentatively concludes that it cannot provide training for state and local emergency managers. The Commission seeks comment on this tentative conclusion.

79. *Persons with Disabilities.* The Commission seeks comment on whether there is in CAP some functionality that would allow EAS Participants to broadcast the same information in the visual portion (*i.e.,* the text crawl) of an EAS alert as is contained within the audio portion (if any). The Commission also seeks comment on whether it is technically feasible for the existing EAS

system or EAS Participant facilities to broadcast anything in lieu of an audio message. The Commission further seeks comment on whether the equipment that EAS Participants will be employing to receive CAP-based EAS alerts can simultaneously accommodate both an audio and textual message that can be delivered over the EAS. The Commission also seeks comment on whether intermediary devices designed to translate CAP to SAME for current, pre-CAP EAS equipment will have the identical capability as ''all-in-one'' CAP EAS equipment in this regard. Finally, the Commission invites comment on the effectiveness of speech-to-text software and how EAS Participants might use it in a manner that neither delays nor inaccurately interprets an EAS alert message.

III. Procedural Matters

A. Ex Parte Presentations

80. This matter shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other requirements pertaining to oral and written presentations are set forth in § 1.1206(b) of the Commission's rules.

B. Comment Filing Procedures

81. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. All filings related to this Third Further Notice of Proposed Rulemaking should refer to EB Docket No. 04–296. Comments may be filed: (1) Using the Commission's Electronic Comment Filing System (ECFS), (2) through the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the *Federal eRulemaking Portal: http://www.regulations.gov.* Filers should follow the instructions provided on the Web site for submitting comments.
- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov* and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.
- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Effective December 28, 2009, all hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW–A325, Washington, DC 20554. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building. **PLEASE NOTE:** The Commission's former filing location at 236 Massachusetts Avenue, NE. is permanently closed.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

C. Accessible Formats

82. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

D. Regulatory Flexibility Analysis

83. As required by the Regulatory Flexibility Act of 1980, see 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in this document. The IRFA is set forth in the Supplementary Information section above. Written public comments are requested on the IRFA. These comments are subject to the same procedures and filing deadlines as comments filed in response to this Third Further Notice of Proposed Rulemaking as set forth above and must have a separate and distinct heading designating them as responses to the IRFA.

E. Paperwork Reduction Act Analysis

84. This document contains proposed or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

IV. Ordering Clauses

85. Accordingly, *It Is Ordered* that pursuant to sections 1, 2, 4(i), 4(o), 301, 303(r), 303(v), 307, 309, 335, 403, 624(g), 706, and 715 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i) and (o), 301, 303(r), 303(v), 307, 309, 335, 403, 544(g), 606, and 615, this Third Further Notice of Proposed Rulemaking IS *Adopted.*

86. *It Is Further Ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *Shall Send* a copy of this Third Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

87. *It Is Further Ordered* that pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on this Third Further Notice of Proposed Rulemaking on or before July 20, 2011, and

interested parties may file reply comments on or before August 4, 2011.

List of Subjects in 47 CFR Part 11

Emergency alerting, Radio, Television.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 11 to read as follows:

PART 11—EMERGENCY ALERT SYSTEM (EAS)

1. The authority citation for part 11 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i) and (o), 303(r), 544(g) and 606.

2. Revise § 11.2 to read as follows:

§ 11.2 Definitions.

The definitions of terms used in part 11 are:

(a) *Emergency Action Notification (EAN).* The Emergency Action Notification is the notice to all EAS Participants and to the general public that the EAS has been activated for a national emergency.

(b) *Primary Entry Point (PEP) System.* The PEP system is a nationwide network of broadcast stations and other entities connected with government activation points. It is used to distribute EAS messages that are formatted in the EAS Protocol (specified in § 11.31), including the EAN and EAS national test messages. FEMA has designated some of the nation's largest radio broadcast stations as PEPs. The PEPs are designated to receive the Presidential alert from FEMA and distribute it to local stations.

(c) *Local Primary One (LP–1).* The LP–1 is a radio or TV station that acts as a key EAS monitoring source. Each LP–1 station must monitor its regional PEP station and a back-up source for Presidential messages.

(d) *EAS Participants.* Entities required under the Commission's rules to comply with EAS rules, *e.g.,* analog radio and television stations, and wired and wireless cable television systems, DBS, DTV, SDARS, digital cable and DAB, and wireline video systems.

(e) *Wireline Video System.* The system of a wireline common carrier used to provide video programming service.

(f) *Participating National (PN).* PN stations are broadcast stations that transmit EAS National, state, or local EAS messages to the public.

(g) *National Primary (NP).* Stations that are the primary entry point for Presidential messages delivered by FEMA. These stations are responsible for broadcasting a Presidential alert to the public and to State Primary stations within their broadcast range.

(h) *State Primary (SP).* Stations that are the entry point for State messages, which can originate from the Governor or a designated representative.

(i) *Intermediary Device.* An intermediary device is stand-alone equipment that acquires and decodes EAS messages formatted in the Common Alerting Protocol (CAP) in accordance with § 11.56, converts such CAP-formatted message into an EAS message (or data stream) that complies with the EAS Protocol (set forth in § 11.31), and inputs such EAS Protocol-compliant message (or data stream) into a separate EAS decoder, EAS encoder, or unit combining such decoder and encoder functions, for further processing in accordance with the EAS message processing rules in this part.

3. Amend § 11.11 by revising paragraphs (a) and (d) to read as follows:

§ 11.11 The Emergency Alert System (EAS).

(a) The EAS is composed of analog radio broadcast stations including AM, FM, and Low-power FM (LPFM) stations; digital audio broadcasting (DAB) stations, including digital AM, FM, and Low-power FM stations; Class A television (CA) and Low-power TV (LPTV) stations; digital television (DTV) broadcast stations, including digital CA and digital LPTV stations; analog cable systems; digital cable systems which are defined for purposes of this part only as the portion of a cable system that delivers channels in digital format to subscribers at the input of a Unidirectional Digital Cable Product or other navigation device; wireline video systems; wireless cable systems which may consist of Broadband Radio Service (BRS), or Educational Broadband Service (EBS) stations; DBS services, as defined in § 25.701(a) of this chapter (including certain Ku-band Fixed-Satellite Service Direct to Home providers); SDARS, as defined in § 25.201 of this chapter; participating broadcast networks, cable networks and program suppliers; and other entities and industries operating on an organized basis during emergencies at the National, State and local levels. These entities are referred to collectively as EAS Participants in this part, and are subject to this part, except as otherwise provided herein. At a minimum EAS Participants must use a common EAS protocol, as defined in § 11.31, to send and receive emergency alerts, and comply with the requirements set forth in § 11.56, in accordance with the following tables:

(1) *Analog and digital broadcast station equipment deployment requirements.*

TABLE 1—ANALOG AND DIGITAL BROADCAST STATION EQUIPMENT DEPLOYMENT REQUIREMENTS

EAS equipment requirement	AM & FM	Digital AM & FM	Analog & digital FM class D	Analog & digital LPFM	DTV	Analog & digital class A TV	Analog & digital LPTV
EAS decoder [1]	Y	Y	Y	Y	Y	Y	Y
EAS encoder	Y	Y	N	N	Y	Y	N
Audio message	Y	Y	Y	Y	Y	Y	Y
Video message	N/A	N/A	N/A	N/A	Y	Y	Y

[1] EAS Participants may comply with the obligations set forth in § 11.56 to decode and convert CAP-formatted messages into EAS Protocol-compliant messages by deploying an Intermediary Device.

(2) *Analog cable systems.* Analog cable systems are subject to the requirements in Table 2 below. Analog cable systems serving fewer than 5,000 subscribers from a headend may either provide the National level EAS message on all programmed channels including the required testing, or comply with the requirements in Table 2.

TABLE 2—ANALOG CABLE SYSTEM EQUIPMENT DEPLOYMENT REQUIREMENTS

EAS equipment requirement	≥ 5,000 subscribers	< 5,000 subscribers
EAS decoder [1]	Y	Y
EAS encoder	Y	Y [2]
Audio and Video EAS Message on all channels	Y	N
Video interrupt and audio alert message on all channels; [3] Audio and Video EAS message on at least one channel	N	Y

[1] EAS Participants may comply with the obligations set forth in § 11.56 to decode and convert CAP-formatted messages into EAS Protocol-compliant messages by deploying an Intermediary Device.
[2] Analog cable systems serving <5,000 subscribers are permitted to operate without an EAS encoder if they install an FCC-certified decoder.
[3] The Video interrupt must cause all channels that carry programming to flash for the duration of the EAS emergency message. The audio alert must give the channel where the EAS messages are carried and be repeated for the duration of the EAS message. [NOTE: Programmed channels do not include channels used for the transmission of data such as interactive games.]

(3) *Wireless cable systems (BRS/EBS stations).* Wireless cable systems are subject to the requirements in Table 3 below. Wireless cable systems serving fewer than 5,000 subscribers from a single transmission site must either provide the National level EAS message on all programmed channels including the required testing, or comply with the requirements in Table 3.

TABLE 3—WIRELESS CABLE SYSTEM EQUIPMENT DEPLOYMENT REQUIREMENTS

EAS equipment requirement	≥ 5,000 subscribers	< 5,000 subscribers
EAS decoder [1]	Y	Y
EAS encoder	Y	Y [2]
Audio and Video EAS Message on all channels [3]	Y	N
Video interrupt and audio alert message on all channels; [4] Audio and Video EAS message on at least one channel	N	Y

[1] EAS Participants may comply with the obligations set forth in § 11.56 to decode and convert CAP-formatted messages into EAS Protocol-compliant messages by deploying an Intermediary Device.
[2] Wireless cable systems serving <5,000 subscribers are permitted to operate without an EAS encoder if they install an FCC-certified decoder.
[3] All wireless cable systems may comply with this requirement by providing a means to switch all programmed channels to a predesignated channel that carries the required audio and video EAS messages.
[4] The Video interrupt must cause all channels that carry programming to flash for the duration of the EAS emergency message. The audio alert must give the channel where the EAS messages are carried and be repeated for the duration of the EAS message. [NOTE: Programmed channels do not include channels used for the transmission of data services such as Internet.]

(4) *Digital cable systems and wireline video systems.* Digital cable systems and Wireline Video Systems must comply with the requirements in Table 4 below. Digital cable systems and Wireline Video Systems serving fewer than 5,000 subscribers from a headend must either provide the National level EAS message on all programmed channels including the required testing, or comply with the requirements in Table 4.

TABLE 4—DIGITAL CABLE SYSTEM AND WIRELINE VIDEO SYSTEM EQUIPMENT DEPLOYMENT REQUIREMENTS

EAS equipment requirement	≥ 5,000 subscribers	< 5,000 subscribers
EAS decoder [1]	Y	Y
EAS encoder	Y	Y [2]
Audio and Video EAS Message on all channels [3]	Y	N
Video interrupt and audio alert message on all channels; [4] Audio and Video EAS message on at least one channel	N	Y

[1] EAS Participants may comply with the obligations set forth in § 11.56 to decode and convert CAP-formatted messages into EAS Protocol-compliant messages by deploying an Intermediary Device.
[2] Digital cable systems and wireline video systems serving <5,000 subscribers are permitted to operate without an EAS encoder if they install an FCC-certified decoder.
[3] All digital cable systems and wireline video systems may comply with this requirement by providing a means to switch all programmed channels to a predesignated channel that carries the required audio and video EAS messages.
[4] The Video interrupt must cause all channels that carry programming to flash for the duration of the EAS emergency message. The audio alert must give the channel where the EAS messages are carried and be repeated for the duration of the EAS message. [NOTE: Programmed channels do not include channels used for the transmission of data services such as Internet.]

SDARS AND DBS

EAS equipment requirement	SDARS	DBS
EAS decoder [1]	Y	Y
EAS encoder	Y	Y
Audio message on all channels [2]	Y	Y

SDARS AND DBS—Continued

EAS equipment requirement	SDARS	DBS
Video message on all channels[2]	N/A	Y

[1] EAS Participants may comply with the obligations set forth in § 11.56 to decode and convert CAP-formatted messages into EAS Protocol-compliant messages by deploying an Intermediary Device.

[2] All SDARS and DBS providers may comply with this requirement by providing a means to switch all programmed channels to a predesignated channel that carries the required audio and video EAS messages or by any other method that ensures that viewers of all channels receive the EAS message.

* * * * *

(d) Local franchise authorities may use any EAS codes authorized by the FCC in any agreements.

* * * * *

§ 11.12 [Removed]

4. Remove § 11.12.

§ 11.13 [Removed]

5. Remove § 11.13.

§ 11.14 [Removed]

6. Remove § 11.14.

§ 11.15 [Removed]

7. Remove § 11.15.

§ 11.16 [Removed]

8. Remove § 11.16.

9. Amend § 11.21 by revising paragraphs (a) and (b) to read as follows:

§ 11.21 State and Local Area plans and FCC Mapbook.

* * * * *

(a) The State Area EAS Plan contains procedures for State emergency management and other State officials, the NWS, and EAS Participants' personnel to transmit emergency information to the public during a State emergency using the EAS. State Area EAS Plans should include a data table, in computer readable form, clearly showing monitoring assignments and the specific primary and backup path for the emergency action notification (''EAN'') from the PEP to each station in the plan. The State Area EAS Plan also must include specific and detailed information describing how statewide and geographically-targeted EAS messages formatted in the Common Alerting Protocol (CAP) that are aggregated and delivered by the Governor (or his/her designee, or by FEMA on behalf of such Governor), as specified in § 11.55(a), will be transmitted to all EAS Participants who provide services in the state, and must identify the Really Simple Syndication, version 2.0, feed(s) that will be utilized to distribute such CAP-formatted EAS messages for purposes of the monitoring obligations set forth in § 11.52(d)(2). EAS Participants must maintain within the facility wherein EAS equipment is located, and if remotely operated, the facility from which such equipment is remotely operated, a copy of the most recent FCC-approved State Area EAS Plan for the state in which such facility is located, such that it is immediately available to staff responsible for initiating actions.

(b) The Local Area EAS Plan contains procedures for local officials or the NWS to transmit emergency information to the public during a local emergency using the EAS. Local Area EAS Plans may be a part of the State Area EAS Plan. A Local Area is a geographical area of contiguous communities or counties that may include more than one state. EAS Participants must maintain within the facility wherein EAS equipment is located, and if remotely operated, the facility from which such equipment is remotely operated, a copy of the most recent FCC-approved Local Area EAS Plan for Local Areas in which such facility is located, unless such Local Area EAS Plan is part of a State Area EAS Plan already being maintained at such facility, such that it is immediately available to staff responsible for initiating actions.

* * * * *

10. Amend § 11.31 by revising paragraphs (c), (e) and (f) to read as follows:

§ 11.31 EAS protocol.

* * * * *

(c) The EAS protocol, including any codes, must not be amended, extended or abridged without FCC authorization. The EAS protocol and message format are specified in the following representation.

Examples are provided in FCC Public Notices.

[PREAMBLE]ZCZC–ORG–EEE–PSSCCC+TTTT–JJJHHMM–LLLLLLLL-(one second pause)

[PREAMBLE]ZCZC–ORG–EEE–PSSCCC+TTTT–JJJHHMM–LLLLLLLL-(one second pause)

[PREAMBLE]ZCZC–ORG–EEE–PSSCCC+TTTT–JJJHHMM–LLLLLLLL-(at least a one second pause)

(transmission of 8 to 25 seconds of Attention Signal)

(transmission of audio, video or text messages)

(at least a one second pause)

[PREAMBLE]NNNN (one second pause)

[PREAMBLE]NNNN (one second pause)

[PREAMBLE]NNNN (at least one second pause)

[PREAMBLE] This is a consecutive string of bits (sixteen bytes of AB hexadecimal [8 bit byte 10101011]) sent to clear the system, set AGC and set asynchronous decoder clocking cycles. The preamble must be transmitted before each header and End of Message code.

ZCZC—This is the identifier, sent as ASCII characters ZCZC to indicate the start of ASCII code.

ORG—This is the Originator code and indicates who originally initiated the activation of the EAS. These codes are specified in paragraph (d) of this section.

EEE—This is the Event code and indicates the nature of the EAS activation. The codes are specified in paragraph (e) of this section. The Event codes must be compatible with the codes used by the NWS Weather Radio Specific Area Message Encoder (WRSAME).

PSSCCC—This is the Location code and indicates the geographic area affected by the EAS alert. There may be 31 Location codes in an EAS alert. The Location code uses the codes described in the American National Standards Institute (ANSI) standard, ANSI INCITS 31–2009 (''Information technology—Codes for the Identification of Counties and Equivalent Areas of the United States, Puerto Rico, and the Insular Areas''). Each state is assigned an SS number as specified in paragraph (f) of this section. Each county and some cities are assigned a CCC number. A CCC number of 000 refers to an entire State or Territory. P defines county subdivisions as follows: 0 = all or an unspecified portion of a county, 1 = Northwest, 2 = North, 3 = Northeast, 4 = West, 5 = Central, 6 = East, 7 = Southwest, 8 = South, 9 = Southeast. Other numbers may be designated later for special applications. The use of county subdivisions will probably be rare and generally for oddly shaped or unusually large counties. Any subdivisions must be defined and

agreed to by the local officials prior to use.

+TTTT—This indicates the valid time period of a message in 15 minute segments up to one hour and then in 30 minute segments beyond one hour; *i.e.,* +0015, +0030, +0045, +0100, +0430 and +0600.

JJJHHMM—This is the day in Julian Calendar days (JJJ) of the year and the time in hours and minutes (HHMM) when the message was initially released by the originator using 24 hour Universal Coordinated Time (UTC).

LLLLLLLL—This is the identification of the EAS Participant, NWS office, *etc.,* transmitting or retransmitting the message. These codes will be automatically affixed to all outgoing messages by the EAS encoder.

NNNN—This is the End of Message (EOM) code sent as a string of four ASCII N characters.

* * * * *

(e) The following Event (EEE) codes are presently authorized:

Nature of activation	Event codes
National Codes (Required):	
Emergency Action Notification (National only).	EAN
National Information Center	NIC
National Periodic Test	NPT
Required Monthly Test	RMT
Required Weekly Test	RWT
State and Local Codes (Optional):	
Administrative Message	ADR
Avalanche Warning	AVW[1]
Avalanche Watch	AVA[1]
Blizzard Warning	BZW
Child Abduction Emergency	CAE[1]
Civil Danger Warning	CDW[1]
Civil Emergency Message	CEM
Coastal Flood Warning	CFW[1]
Coastal Flood Watch	CFA[1]
Dust Storm Warning	DSW[1]
Earthquake Warning	EQW[1]
Evacuation Immediate	EVI
Fire Warning	FRW[1]
Flash Flood Warning	FFW
Flash Flood Watch	FFA
Flash Flood Statement	FFS
Flood Warning	FLW
Flood Watch	FLA
Flood Statement	FLS
Hazardous Materials Warning	HMW[1]
High Wind Warning	HWW
High Wind Watch	HWA
Hurricane Warning	HUW
Hurricane Watch	HUA
Hurricane Statement	HLS
Law Enforcement Warning	LEW[1]
Local Area Emergency	LAE[1]
Network Message Notification	NMN[1]
911 Telephone Outage Emergency	TOE[1]
Nuclear Power Plant Warning	NUW[1]
Practice/Demo Warning	DMO
Radiological Hazard Warning	RHW[1]
Severe Thunderstorm Warning	SVR
Severe Thunderstorm Watch	SVA
Severe Weather Statement	SVS
Shelter in Place Warning	SPW[1]
Special Marine Warning	SMW[1]
Special Weather Statement	SPS
Tornado Warning	TOR
Tornado Watch	TOA
Tropical Storm Warning	TRW[1]
Tropical Storm Watch	TRA[1]
Tsunami Warning	TSW
Tsunami Watch	TSA
Volcano Warning	VOW[1]
Winter Storm Warning	WSW
Winter Storm Watch	WSA

[1] Effective May 16, 2002, analog radio and television broadcast stations, analog cable systems and wireless cable systems may upgrade their existing EAS equipment to add these event codes on a voluntary basis until the equipment is replaced. All models of EAS equipment manufactured after August 1, 2003 must be capable of receiving and transmitting these event codes. EAS Participants that install or replace their EAS equipment after February 1, 2004 must install equipment that is capable of receiving and transmitting these event codes.

(f) The State, Territory and Offshore (Marine Area) ANSI number codes (SS) are as follows. County ANSI numbers (CCC) are contained in the State EAS Mapbook.

	ANSI No.
State:	
AL	01
AK	02
AZ	04
AR	05
CA	06
CO	08
CT	09
DE	10
DC	11
FL	12
GA	13
HI	15
ID	16
IL	17
IN	18
IA	19
KS	20
KY	21
LA	22
ME	23
MD	24
MA	25
MI	26
MN	27
MS	28
MO	29
MT	30
NE	31
NV	32
NH	33
NJ	34
NM	35
NY	36
NC	37
ND	38

	ANSI No.
OH	39
OK	40
OR	41
PA	42
RI	44
SC	45
SD	46
TN	47
TX	48
UT	49
VT	50
VA	51
WA	53
WV	54
WI	55
WY	56
Terr.:	
AS	60
FM	64
GU	66
MH	68
MH	68
PR	72
PW	70
UM	74
	78
Offshore (Marine Areas) [1]:	
Eastern North Pacific Ocean, and along U.S. West Coast from Canadian border to Mexican border	57
North Pacific Ocean near Alaska, and along Alaska coastline, including the Bering Sea and the Gulf of Alaska	58
Central Pacific Ocean, including Hawaiian waters	59
South Central Pacific Ocean, including American Samoa waters	61
Western Pacific Ocean, including Mariana Island waters	65
Western North Atlantic Ocean, and along U.S. East Coast, from Canadian border south to Currituck Beach Light, N.C	73
Western North Atlantic Ocean, and along U.S. East Coast, south of Currituck Beach Light, N.C., following the coastline into Gulf of Mexico to Bonita Beach, FL., including the Caribbean	75
Gulf of Mexico, and along the U.S. Gulf Coast from the Mexican border to Bonita Beach, FL	77
Lake Superior	91
Lake Michigan	92
Lake Huron	93
Lake St. Clair	94
Lake Erie	96
Lake Ontario	97
St. Lawrence River above St. Regis	98

[1] Effective May 16, 2002, analog radio and television broadcast stations, analog cable systems and wireless cable systems may upgrade their existing EAS equipment to add these marine area location codes on a voluntary basis until the equipment is replaced. All models of EAS equipment manufactured after August 1, 2003 must be capable of receiving and transmitting these marine area location codes. EAS Participants that install or replace their EAS equipment after February 1, 2004, must install equipment that is capable of receiving and transmitting these location codes.

§ 11.32 [Amended]

11. In § 11.32, remove paragraph (a)(9).

12. Amend § 11.33 by revising paragraph (a) introductory text, removing paragraph (b), and redesignating paragraphs (c) and (d) as paragraphs (b) and (c), respectively, to read as follows:

§ 11.33 EAS Decoder.

(a) An EAS Decoder must at a minimum be capable of providing the EAS monitoring functions described in § 11.52, decoding EAS messages formatted in accordance with the EAS protocol described in § 11.31, and converting Common Alerting Protocol (CAP)-formatted EAS messages into EAS alert messages that comply with the EAS Protocol, in accordance with § 11.56(a)(2), with the exception that the CAP-related monitoring and conversion requirements set forth in §§ 11.52(d)(2) and 11.56(a)(2) can be satisfied via an Intermediary Device. An EAS Decoder also must be capable of the following minimum specifications:

* * * * *

13. Amend § 11.41 by revising paragraph (c) to read as follows:

§ 11.41 Participation in EAS.

* * * * *

(c) All EAS Participants, including NN sources, must maintain within their facilities a copy of the current, FCC-filed and approved versions of the State and Local Area EAS Plans (unless the Local Area EAS Plan is part of the State Area EAS Plan), as set forth in § 11.21(a) and (b).

§ 11.42 [Removed]

14. Remove § 11.42.

§ 11.44 [Removed]

15. Remove § 11.44.

16. Amend § 11.51 by revising paragraphs (a), (c), (d), (i) and (j), and paragraph (m) introductory text to read as follows:

§ 11.51 EAS code and Attention Signal Transmission requirements.

(a) Analog and digital broadcast stations must transmit, either automatically or manually, national level EAS messages and required tests by sending the EAS header codes, Attention Signal, emergency message and End of Message (EOM) codes using the EAS Protocol. The Attention Signal

must precede any emergency audio message.

* * * * *

(c) All analog and digital radio and television stations shall transmit EAS messages in the main audio channel. All DAB stations shall also transmit EAS messages on all audio streams. All DTV broadcast stations shall also transmit EAS messages on all program streams.

(d) Analog and digital television broadcast stations shall transmit a visual message containing the Originator, Event, Location and the valid time period of an EAS message. If the message is a video crawl, it shall be displayed at the top of the television screen or where it will not interfere with other visual messages.

* * * * *

(i) SDARS licensees shall transmit national audio EAS messages on all channels in the same order specified in paragraph (a) of this section.

(1) SDARS licensees must install, operate, and maintain equipment capable of generating the EAS codes.

(2) SDARS licensees may determine the distribution methods they will use to comply with this requirement.

(j) DBS providers shall transmit national audio and visual EAS messages on all channels in the same order specified in paragraph (a) of this section.

(1) DBS providers must install, operate, and maintain equipment capable of generating the EAS codes.

(2) The visual message shall contain the Originator, Event, Location and the valid time period of the EAS message. These are elements of the EAS header code and are described in § 11.31. If the visual message is a video crawl, it shall be displayed at the top of the subscriber's television screen or where it will not interfere with other visual messages.

(3) DBS providers may determine the distribution methods they will use to comply with this requirement. Such methods may include distributing the EAS message on all channels, using a means to automatically tune the subscriber's set-top box to a pre-designated channel which carries the required audio and video EAS messages, and/or passing through the EAS message provided by programmers and/or local channels (where applicable).

* * * * *

(m) EAS Participants are required to transmit all received EAS messages in which the header code contains the Event codes for Emergency Action Notification (EAN) and Required Monthly Test (RMT), and when the accompanying location codes include their State or State/county. These EAS messages shall be retransmitted unchanged except for the LLLLLLLL-code which identifies the EAS Participant retransmitting the message. See § 11.31(c). If an EAS source originates an EAS message with the Event codes in this paragraph, it must include the location codes for the State and counties in its service area. When transmitting the required weekly test, EAS Participants shall use the event code RWT. The location codes are the state and county for the broadcast station city of license or system community or city. Other location codes may be included upon approval of station or system management. EAS messages may be transmitted automatically or manually.

* * * * *

17. Amend § 11.52 by revising paragraphs (a), (d), (e) introductory text, and (e)(2) to read as follows:

§ 11.52 EAS code and Attention Signal Monitoring requirements.

(a) EAS Participants must be capable of receiving the Attention Signal required by § 11.31(a)(2) and emergency messages of other broadcast stations during their hours of operation. EAS Participants must install and operate during their hours of operation, equipment that is capable of receiving and decoding, either automatically or manually, the EAS header codes, emergency messages and EOM code, and which complies with the requirements in § 11.56.

* * * * *

(d) EAS Participants must comply with the following monitoring requirements:

(1) With respect to monitoring for EAS messages that are formatted in accordance with the EAS Protocol, EAS Participants must monitor two EAS sources. The monitoring assignments of each broadcast station and cable system and wireless cable system are specified in the State Area EAS Plan and FCC Mapbook. They are developed in accordance with FCC monitoring priorities.

(2) With respect to monitoring EAS messages formatted in accordance with the specifications set forth in § 11.56(a)(2), EAS Participants must monitor the Really Simple Syndication, version 2.0, feed(s):

(i) Utilized by the Federal Emergency Management Agency's (FEMA) Integrated Public Alert and Warning System for distribution of federal Common Alert Protocol (CAP)-formatted alert messages to the EAS; and

(ii) Identified in a State Area EAS Plan as the source for distributing governor-originated CAP-formatted alert messages to the EAS, provided that such State Area EAS Plan complies fully with § 11.21(a) and has been reviewed and approved by the Chief, Public Safety and Homeland Security Bureau, prior to implementation, as required by § 11.21.

(3) If the required EAS message sources cannot be received, alternate arrangements or a waiver may be obtained by written request to the Chief, Public Safety and Homeland Security Bureau. In an emergency, a waiver may be issued over the telephone with a follow up letter to confirm temporary or permanent reassignment.

(4) The management of EAS Participants shall determine which header codes will automatically interrupt their programming for State and Local Area emergency situations affecting their audiences.

(e) EAS Participants are required to interrupt normal programming either automatically or manually when they receive an EAS message in which the header code contains the Event codes for Emergency Action Notification (EAN) or the Required Monthly Test (RMT) for their State or State/county location.

* * * * *

(2) Manual interrupt of programming and transmission of EAS messages may be used. EAS messages with the EAN Event code must be transmitted immediately and Monthly EAS test messages within 60 minutes. All actions must be logged and recorded as specified in §§ 11.35(a) and 11.54(a)(3). Decoders must be programmed for the EAN Event header code and the RMT and RWT Event header codes (for required monthly and weekly tests), with the appropriate accompanying State and State/county location codes.

18. Revise § 11.54 to read as follows:

§ 11.54 EAS operation during a National Level emergency.

(a) Immediately upon receipt of an EAN message, EAS Participants must comply with the following requirements, as applicable:

(1) Analog and digital broadcast stations may transmit their call letters and analog cable systems, digital cable systems and wireless cable systems may transmit the names of the communities they serve during an EAS activation. State and Local Area identifications must be given as provided in State and Local Area EAS Plans.

(2) Analog and digital broadcast stations, except those holding an EAS Non-participating National Authorization letter, are exempt from complying with §§ 73.62 and 73.1560 of this chapter (operating power

maintenance) while operating under this part.

(3) The time of receipt of the EAN shall be entered by analog and digital broadcast stations in their logs (as specified in §§ 73.1820 and 73.1840 of this chapter), by analog and digital cable systems in their records (as specified in § 76.1711 of this chapter), by subject wireless cable systems in their records (as specified in § 21.304 of this chapter), and by all other EAS Participants in their records as specified in § 11.35(a).

(b) EAS Participants originating emergency communications under this section shall be considered to have conferred rebroadcast authority, as required by section 325(a) of the Communications Act of 1934, 47 U.S.C. 325(a), to other EAS Participants.

(c) During a national level EAS emergency, EAS Participants may transmit in lieu of the EAS audio feed an audio feed of the President's voice message from an alternative source, such as a broadcast network audio feed.

19. Amend § 11.55 by revising paragraph (a) introductory text, adding paragraphs (a)(3) through (5) and revising paragraph (c) introductory text and paragraph (c)(4) to read as follows:

§ 11.55 EAS operation during a State or Local Area emergency.

(a) Effective [December 30, 2011], all EAS Participants (excepting SDARs and DBS providers) must deploy equipment that is capable of:

* * * * *

(3) Acquiring, in accordance with the State EAS alert message monitoring requirements in § 11.52(d)(2), statewide and geographically-targeted (as defined by the Location code provisions in § 11.31) EAS alert messages that are formatted pursuant to the Organization for the Advancement of Structured Information Standards (OASIS) specifications OASIS Common Alerting Protocol Version 1.2 (July 1, 2010), and Common Alerting Protocol, v. 1.2 USA Integrated Public Alert and Warning System Profile Version 1.0 (Oct. 13, 2009), as aggregated and delivered by the Governor, or his/her designee, or by FEMA on behalf of such Governor, of a state in which the EAS Participant is located;

(4) Converting such EAS alert messages into EAS alert messages that comply with the EAS Protocol, such that the Preamble and EAS Header Codes, audio Attention Signal, audio message, and Preamble and EAS End of Message (EOM) Codes of such messages are rendered equivalent to the EAS Protocol (set forth in § 11.31), in accordance with the technical specifications governing such conversion process set forth in the ECIG Recommendations for a CAP EAS Implementation Guide, Version 1.0 (May 17, 2010), developed and published by the EAS–CAP Industry Group; and

(5) Processing such converted messages in accordance with the other sections of this part. This obligation does not apply unless and until a State Area EAS Plan detailing the delivery of such State Governor-initiated CAP-formatted messages has been submitted to and approved by the Chief, Public Safety and Homeland Security Bureau, in accordance with § 11.21. EAS Participants may but are not required to process CAP-formatted EAS messages aggregated and delivered by the Sate Governor (or his/her designee, or FEMA) that do not conform to the specifications identified herein for CAP messages and their translation into the EAS Protocol. Examples of natural emergencies which may warrant state EAS activation are: Tornadoes, floods, hurricanes, earthquakes, heavy snows, icing conditions, widespread fires, *etc.* Man-made emergencies warranting state EAS activation may include: toxic gas leaks or liquid spills, widespread power failures, industrial explosions, and civil disorders.

* * * * *

(c) Immediately upon receipt of a State or Local Area EAS message that has been formatted in the EAS Protocol, EAS Participants participating in the State or Local Area EAS must do the following:

* * * * *

(4) EAS Participants participating in the State or Local Area EAS must discontinue normal programming and follow the procedures in the State and Local Area Plans. Analog and digital television broadcast stations must transmit all EAS announcements visually and aurally as specified in § 11.51(a) through (e) and 73.1250(h) of this chapter, as applicable; analog cable systems, digital cable systems, and wireless cable systems must transmit all EAS announcements visually and aurally as specified in § 11.51(g) and (h); and DBS providers must transmit all EAS announcements visually and aurally as specified in § 11.51(j). EAS Participants providing foreign language programming should transmit all EAS announcements in the same language as the primary language of the EAS Participant.

* * * * *

20. Revise § 11.56 to read as follows:

§ 11.56 Obligation to Process CAP-Formatted EAS Messages.

(a) On or by [September 30, 2011], EAS Participants must have deployed operational equipment that is capable of the following:

(1) Acquiring EAS alert messages in accordance with the monitoring requirements in § 11.52(d)(2); and

(2) Converting EAS alert messages that have been formatted pursuant to the:

(i) Organization for the Advancement of Structured Information Standards (OASIS) Common Alerting Protocol Version 1.2 (July 1, 2010), and

(ii) Common Alerting Protocol, v. 1.2 USA Integrated Public Alert and Warning System Profile Version 1.0 (Oct. 13, 2009), into EAS alert messages that comply with the EAS Protocol, such that the Preamble and EAS Header Codes, audio Attention Signal, audio message, and Preamble and EAS End of Message (EOM) Codes of such messages are rendered equivalent to the EAS Protocol (set forth in § 11.31), in accordance with the technical specifications governing such conversion process set forth in the EAS–CAP Industry Group's (ECIG) Recommendations for a CAP EAS Implementation Guide, Version 1.0 (May 17, 2010); and

(3) Processing such converted messages in accordance with the other sections of this part.

(b) EAS Participants may comply with the requirements of this section by deploying an Intermediary Device that acquires the CAP-formatted message, converts it into an EAS Protocol-compliant message, and inputs such EAS Protocol-compliant message into a separate EAS decoder, EAS encoder, or unit combining such decoder and encoder functions, for further processing in accordance with the other sections of this part.

21. Amend § 11.61 by revising paragraphs (a) introductory text, (a)(1)(i), (a)(2)(ii) and (b) as follows:

§ 11.61 Tests of EAS procedures.

(a) EAS Participants shall conduct tests at regular intervals, as specified in paragraphs (a)(1) and (a)(2) of this section. Additional tests may be performed anytime. EAS activations and special tests may be performed in lieu of required tests as specified in paragraph (a)(4) of this section.

(1) * * *

(i) Tests in odd numbered months shall occur between 8:30 a.m. and local sunset. Tests in even numbered months shall occur between local sunset and 8:30 a.m. They will originate from Local or State Primary sources. The time and

script content will be developed by State Emergency Communications Committees in cooperation with affected EAS Participants. Script content may be in the primary language of the EAS Participant. These monthly tests must be transmitted within 60 minutes of receipt by EAS Participants in an EAS Local Area or State. Analog and digital class D non-commercial educational FM, analog and digital LPFM stations, and analog and digital LPTV stations are required to transmit only the test script.

* * * * *

(2) * * *

(ii) DBS providers, analog and digital class D non-commercial educational FM stations, analog and digital LPFM stations, and analog and digital LPTV stations are not required to transmit this test but must log receipt, as specified in § 11.35(a) and 11.54(a)(3).

* * * * *

(b) Entries shall be made in EAS Participant records, as specified in § 11.35(a) and 11.54(a)(3).

[FR Doc. 2011–15119 Filed 6–17–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 11–100, RM–11632; DA 11–1034]

Television Broadcasting Services; Eau Claire, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has before it a petition for rulemaking filed by Gray Television Licensee, LLC (''Gray''), the licensee of station WEAU–TV, channel 13, Eau Claire, Wisconsin, requesting the substitution of channel 38 for channel 13 at Eau Claire. The tower holding WEAU–TV's main antenna collapsed, destroying the station's transmission equipment, on March 22, 2011. Gray requests this channel substitution so that the station's reconstructed facility will resolve over-the air reception problems and improve the station's ability to provide service to viewers using hand-held and mobile devises in the future.

DATES: Comments must be filed on or before July 5, 2011, and reply comments on or before July 15, 2011.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Joan Stewart, Esq., Wiley Rein, LLP, 1776 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Joyce L. Bernstein, *joyce.bernstein@fcc.gov*, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 11–100, adopted June 9, 2011, and released June 10, 2011. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC, 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via e-mail *http://www.BCPIWEB.com.* To request this document in accessible formats (computer diskettes, large print, audio recording, and braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts (other than *ex parte* presentations exempt under 47 CFR 1.1204(a)) are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1208 for rules governing restricted proceedings.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334, 336, and 339.

§ 73.622(i) [Amended]

2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Wisconsin is amended by removing channel 13 and adding channel 38 at Eau Claire.

[FR Doc. 2011–15286 Filed 6–17–11; 8:45 am]

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Notices

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 14, 2011.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *oira_submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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

Office of the Assistant Secretary for Civil Rights

Title: USDA Program Discrimination Complaint Form.

OMB Control Number: 0508–0002.

Summary of Collection: Under 7 CFR 15.6 ''any person who believes himself or any specific class of individuals to be subjected to discrimination * * * may by himself or by an authorized representative file a written complaint based on the ground of such discrimination.'' The collection of this information is the avenue by which the individual or his representative may file such a complaint. The requested information is necessary in order for the Office of Civil Rights to address the alleged discriminatory action.

Need and Use of the Information: The requested information which can be submitted by filling out the Program Discrimination Form or by submitting a letter, is necessary in order for the USDA Office of the Assistant Secretary for Civil Rights (OASCR) to address the alleged discriminatory action. The respondent is asked to provide his/her name, mailing address, property address (if different from mailing address), telephone number, e-mail address (if any) and to provide a name and contact information for the respondent's representative (if any). A brief description of who was involved with the alleged discriminatory action, what occurred and when, is requested. The program discrimination complaint filing information, which is voluntarily provided by the respondent, will be used by the staff of USDA OASCR to intake, investigate, and adjudicate the respondent's complaint. The program discrimination complaint form will enable OASCR to better collect information from complainants in a timely manner, there reducing delays and errors in determining USDA jurisdiction.

Description of Respondents: Individuals or households; Business or other for-profit; and Not-for-profit institutions

Number of Respondents: 1,000.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 1,000.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2011–15156 Filed 6–17–11; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–868]

Folding Metal Tables and Chairs From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review, and Intent To Revoke Order in Part

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

SUMMARY: The Department of Commerce (''the Department'') is conducting an administrative review (''AR'') and a new shipper review (''NSR'') of the antidumping duty order on folding metal tables and chairs from the People's Republic of China (''PRC''). The period of review (''POR'') for both reviews is June 1, 2009, through May 31, 2010. The 2009–2010 administrative review covers Feili Group (Fujian) Co., Ltd. and Feili Furniture Development Limited Quanzhou City (collectively, ''Feili''), New-Tec Integration (Xiamen) Co., Ltd. (''New-Tec''), and Lifetime Hong Kong Ltd. (''Lifetime''). The NSR covers Xinjiamei Furniture (Zhangzhou) Co., Ltd. (''Xinjiamei Furniture''). We have preliminarily determined that Feili and New-Tec did not make sales in the United States at prices below normal value (''NV'') during the period of review (''POR'') but that Xinjiamei Furniture did. If these preliminary results are adopted in our final results of these reviews, we will instruct U.S. Customs and Border Protection (''CBP'') to liquidate entries of merchandise exported by Feili and New-Tec during the POR without regard to antidumping duties with respect to the AR, and we will instruct CBP to assess antidumping duties on entries of subject merchandise during the POR for which the importer-specific assessment rates are above *de minimis.*

We invite interested parties to comment on these preliminary results. We intend to issue the final results no

later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act'').

DATES: *Effective Date:* June 20, 2011.

FOR FURTHER INFORMATION CONTACT: Lilit Astvatsatrian or Trisha Tran, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–6412 and (202) 482–4852 and, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 27, 2002, the Department published the antidumping duty order on folding metal tables and chairs from the PRC. *See Antidumping Duty Order: Folding Metal Tables and Chairs From the People's Republic of China,* 67 FR 43277 (June 27, 2002). On June 1, 2010, the Department published a notice of opportunity to request an administrative review of this order for the period June 1, 2009, through May 31, 2010.[1]

Administrative Review Requests

In accordance with 19 CFR 351.213(b), interested parties made the following requests for an administrative review: (1) On June 22, 2010, Meco Corporation (''Meco''), a domestic producer of the like product, and Cosco Home & Office Products (''Cosco''), a U.S. importer of subject merchandise, requested that the Department conduct administrative reviews of Feili and New-Tec; (2) on June 28, 2010, Feili and Lifetime requested that the Department conduct administrative reviews of their respective sales; and (3) on June 30, 2010, New-Tec requested that the Department conduct an administrative review of its sales. On July 28, 2010, the Department initiated the 2009–2010 reviews for Feili, New-Tec, and Lifetime.[2] On August 4, 2010, New-Tec submitted its revised certification for revocation.

In the *Initiation Notice,* parties were notified that because of the administrative burden of reviewing each company, the Department might exercise its authority to limit the number of respondents selected for individual review in accordance with section 777A(c)(2) of the Tariff Act of 1930, as amended (''the Act''). Accordingly, the Department requested that all companies listed in the *Initiation Notice* wishing to qualify for separate rate status in this administrative review complete either a separate rate application (''SRA'') or certification, as appropriate.[3] The Department also stated in the *Initiation Notice* its intention to select respondents based on CBP data for U.S. imports during the POR. On September 21 and 22, 2010, Feili and New-Tec, respectively, submitted their separate-rate certification. On September 27, 2010, Lifetime submitted its separate-rate application. Thus, for this administrative review, based on CBP data for U.S. imports during the POR, the Department limited to New-Tec and Feili the respondents selected for individual review.[4] Although Lifetime was not selected as a mandatory respondent, it submitted sections A, C, and D questionnaire responses. *See* below for the discussion of the dates of submission.

The Department issued an antidumping duty questionnaire to Feili and New-Tec on November 15, 2010. On December 3, 6, and 13, 2010, Feili, Lifetime, and New-Tec, respectively, submitted a section A questionnaire response (''AQR''), and on December 21 and 22, 2010, and January 5, 2011, Feili, Lifetime, and New-Tec, respectively, submitted section C and D questionnaire responses (''CQR'' and ''DQR,'' respectively).

New Shipper Review Request

June 30, 2010, Xinjiamei Furniture requested that the Department conduct an NSR. On July 29, 2010, the Department initiated the NSR with respect to Xinjiamei Furniture.[5] On August 13, 2010, the Department issued an antidumping duty questionnaire to Xinjiamei Furniture. Between September 13 and October 4, 2010, Xinjiamei Furniture submitted its sections A, C, and D questionnaire responses.

On October 13, 2010, and January 19, 2011, the Department requested the Office of Policy to provide a list of surrogate countries for the administrative review and NSR, respectively.[6] On October 13, 2010, and January 31, 2011, the Office of Policy issued its list of surrogate countries for the administrative review and NSR, respectively.[7]

On January 5 and February 1, 2011, the Department requested interested parties to submit surrogate value information and to provide surrogate country selection comments for the administrative review and NSR, respectively. On January 26, 2011, Meco and New-Tec provided comments on publicly available information to value the factors of production (''FOP''). On March 8, 2011, Xinjiamei Furniture provided comments on publicly available information to value the FOP. On February 2 and March 18, 2011, Meco, Lifetime, and New-Tec submitted supplemental questionnaire responses. On February 14, March 14, and April 4, 2011, Feili submitted supplemental questionnaire responses. On March 3 and April 4, 2011, New-Tec submitted supplemental questionnaire responses. On February 23 and April 41, 2011, Xinjiamei Furniture submitted supplemental questionnaire responses.

On March 4, 2011, the Department published a notice in the **Federal Register** aligning the time limits of the administrative review and the NSR, and partially extending the time limit for the preliminary results of both reviews until no later than May 31, 2011.[8] From April

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 75 FR 30383 (June 1, 2010).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part,* 75 FR 44224 (July 28, 2010) (''*Initiation Notice*'').

[3] In order to demonstrate separate rate eligibility, the Department requires companies for which a review was requested that were assigned a separate rate in the previous segment of this proceeding to certify that they continue to meet the criteria for obtaining a separate rate. *See Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China: Final Results of 2005–2006 Administrative Review and Partial Rescission of Review,* 72 FR 56724 (October 4, 2007); upheld by *Peer Bearing Co.* v. *United States,* Slip Op. 08–134 (CIT 2008). For companies that have not previously been assigned a separate rate, the Department requires that they demonstrate eligibility for a separate rate by submitting a separate rate application.

[4] *See* the Department's Memorandum entitled, ''Administrative Review of the 2009–2010 Antidumping Duty Order on Folding Metal Tables and Chairs from the People's Republic of China: Respondent Selection,'' dated October 21, 2010.

[5] *See Folding Metal Tables and Chairs From the People's Republic of China: Initiation of New Shipper Review,*75 FR 44767 (July 29, 2010).

[6] *See* Memorandum to Carole Showers, Director, Office of Policy, entitled, ''2009–2010 Administrative Review of the Antidumping Duty Order on Folding Metal Tables and Chairs from the People's Republic of China: Request for Surrogate Country Selection,'' dated October 13, 2010 and Memorandum to Carole Showers, Director, Office of Policy, entitled, ''2009–2010 New Shipper Review on Folding Metal Tables and Chairs from the People's Republic of China: Request for Surrogate Country Selection,'' dated January 11, 2011.

[7] *See* Memorandum from Carole Showers, Director, Office of Policy, entitled, ''Request for a List of Surrogate Countries for an Administrative Review of Folding Metal Tables and Chairs (''FMTC'') from the People's Republic of China (PRC),'' dated October 22, 2010, and Memorandum from Carole Showers, Director, Office of Policy, entitled, ''Request for a List of Surrogate Countries for a New Shipper Review of the Antidumping Duty Order on Folding Metal Tables and Chairs (''FMTC'') from the People's Republic of China (PRC),'' dated January 31, 2011 (collectively, ''Surrogate Country Memoranda'').

[8] *See Folding Metal Tables and Chairs from the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results of the 2009–*

Continued

18, 2011, through April 22, 2011, the Department conducted a sales and FOP verification of Feili, and from April 25, 2011, through April 29, 2011, conducted a sales and FOP verification of New-Tec.[9] In accordance with 19 CFR 351.301(c)(3)(ii), for the final results in an antidumping administrative review or new shipper review, interested parties may submit publicly available information to value FOPs within 20 days after the date of publication of these preliminary results of review.

Periods of Review

The PORs are June 1, 2009, through May 31, 2010, covering both the administrative and new shipper reviews.

Scope of Order

The products covered by this order consist of assembled and unassembled folding tables and folding chairs made primarily or exclusively from steel or other metal, as described below:

(1) Assembled and unassembled folding tables made primarily or exclusively from steel or other metal (folding metal tables). Folding metal tables include square, round, rectangular, and any other shapes with legs affixed with rivets, welds, or any other type of fastener, and which are made most commonly, but not exclusively, with a hardboard top covered with vinyl or fabric. Folding metal tables have legs that mechanically fold independently of one another, and not as a set. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of the order regarding folding metal tables are the following:

Lawn furniture;
Trays commonly referred to as ''TV trays;''
Side tables;
Child-sized tables;
Portable counter sets consisting of rectangular tables 36'' high and matching stools; and, Banquet tables. A banquet table is a rectangular table with a plastic or laminated wood table top approximately 28″ to 36″ wide by 48″ to 96″ long and with a set of folding legs at each end of the table. One set of legs is composed of two individual legs that are affixed together by one or more cross-braces using welds or fastening hardware. In contrast, folding metal tables have legs that mechanically fold independently of one another, and not as a set.

(2) Assembled and unassembled folding chairs made primarily or exclusively from steel or other metal (folding metal chairs). Folding metal chairs include chairs with one or more cross-braces, regardless of shape or size, affixed to the front and/or rear legs with rivets, welds or any other type of fastener. Folding metal chairs include: Those that are made solely of steel or other metal; those that have a back pad, a seat pad, or both a back pad and a seat pad; and those that have seats or backs made of plastic or other materials. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of the order regarding folding metal chairs are the following:

Folding metal chairs with a wooden back or seat, or both;
Lawn furniture;
Stools;
Chairs with arms; and
Child-sized chairs.

The subject merchandise is currently classifiable under subheadings 9401.71.0010, 9401.71.0011, 9401.71.0030, 9401.71.0031, 9401.79.0045, 9401.79.0046, 9401.79.0050, 9403.20.0018, 9403.20.015, 9403.20.0030, 9403.60.8040, 9403.70.8015, 9403.70.8020, and 9403.70.8031 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise is dispositive.

Based on a request by RPA International Pty., Ltd. and RPS, LLC (collectively, ''RPA''), the Department ruled on January 13, 2003, that RPA's poly-fold metal folding chairs are within the scope of the order because they are identical in all material respects to the merchandise described in the petition, the initial investigation, and the determinations of the Secretary.

On May 5, 2003, in response to a request by Staples, the Office Superstore Inc. (''Staples''), the Department issued a scope ruling that the chair component of Staples' ''Complete Office-To-Go,'' a folding chair with a tubular steel frame and a seat and back of plastic, with measurements of: height: 32.5 inches; width: 18.5 inches; and depth: 21.5 inches, is covered by the scope of the order because it is identical in all material respects to the scope description in the order, but that the table component, with measurements of: width (table top): 43 inches; depth (table top): 27.375 inches; and height: 34.875 inches, has legs that fold as a unit and meets the requirements for an exemption from the scope of the order.

On September 7, 2004, the Department found that table styles 4600 and 4606 produced by Lifetime Plastic Products Ltd. are within the scope of the order because these products have all of the components that constitute a folding metal table as described in the scope.

On July 13, 2005, the Department issued a scope ruling determining that ''butterfly'' chairs are not within the scope of the antidumping duty order because they do not meet the physical description of merchandise covered by the scope of the order as they do not have cross braces affixed to the front and/or rear legs, and the seat and back is one piece of cloth that is not affixed to the frame with screws, rivets, welds, or any other type of fastener.

On July 13, 2005, the Department issued a scope ruling determining that folding metal chairs imported by Korhani of America Inc. are within the scope of the antidumping duty order because the imported chair has a wooden seat, which is padded with foam and covered with fabric or polyvinyl chloride, attached to the tubular steel seat frame with screws, and has cross braces affixed to its legs.

On May 1, 2006, the Department issued a scope ruling determining that ''moon chairs'' are not included within the scope of the antidumping duty order because moon chairs have different physical characteristics, different uses, and are advertised differently than chairs covered by the scope of the order.

On October 4, 2007, the Department issued a scope ruling determining that International E–Z Up Inc.'s (''E–Z Up'') Instant Work Bench is not included within the scope of the antidumping duty order because its legs and weight do not match the description of the folding metal tables in the scope of the order.

On April 18, 2008, the Department issued a scope ruling determining that the VIKA Twofold 2-in-1 Workbench/Scaffold (''Twofold Workbench/Scaffold'') imported by Ignite USA, LLC from the PRC is not included within the

2010 Antidumping Duty Administrative and New Shipper Reviews, 76 FR 12024 (March 4, 2011).

[9] *See* Memorandum to the File from Lilit Astvatsatrian and Trisha Tran, Case Analysts entitled, ''Verification of the Sales and Factors Response of Feili in the Antidumping Review of Folding Metal Tables and Chairs from the Peoples Republic of China,'' dated May 31, 2011; and Memorandum to the File from Lilit Astvatsatrian and Trisha Tran, Case Analysts entitled, ''Verification of the Sales and Factors Response of New-Tec Integration (Xiamen) Co., Ltd. in the Antidumping Review of Folding Metal Tables and Chairs from the Peoples Republic of China,'' dated May 31, 2011.

scope of the antidumping duty order because its rotating leg mechanism differs from the folding metal tables subject to the order, and its weight is twice as much as the expected maximum weight for folding metal tables within the scope of the order.

On May 6, 2009, the Department issued a final determination of circumvention, determining that imports from the PRC of folding metal tables with legs connected by crossbars, so that the legs fold in sets, and otherwise meeting the description of inscope merchandise, are circumventing the order and are properly considered to be within the class or kind of merchandise subject to the order on folding metal tables and chairs from the PRC.

On May 22, 2009, the Department issued a scope ruling determining that folding metal chairs that have legs that are not connected with cross-bars are within the scope of the antidumping duty order on folding metal tables and chairs from the PRC.

On October 27, 2009, the Department issued a scope ruling determining that Lifetime Products Inc.'s (''Lifetime Products'') fold-in-half adjustable height tables do not meet the description of merchandise within the scope of the antidumping duty order on folding metal tables and chairs from the PRC because Lifetime Products' tables essentially share the physical characteristics of banquet tables, which are expressly excluded from the scope of the order and, therefore, are outside the scope of the order.

On July 27, 2010, the Department issued a scope ruling determining that the bistro set imported by Academy Sports & Outdoors, consisting of two chairs and a table, are outside the scope of the antidumping duty order because they constitute lawn furniture, which is expressly excluded from the scope of the order.

On February 17, 2011, the Department issued two scope rulings determining that Lifetime Products' four-foot folding tables and six-foot and eight-foot fold-in-half tables do not meet the description of merchandise within the scope of the antidumping duty order on folding metal tables and chairs from the PRC because Lifetime Products' tables essentially share the physical characteristics of banquet tables, which are expressly excluded from the scope of the order and, therefore, are outside the scope of the order.

On May 2, 2011, the Department issued a scope ruling determining that Lifetime Products' 33-inch round table is outside the scope of the antidumping duty order on folding metal tables and chairs from the PRC because the legs of Lifetime Products' tables are connected at the top and at the bottom by cross-bars, and fold in pairs.

Non-Market Economy Country Status

No party contested the Department's treatment of the PRC as a non-market economy (''NME'') country, and the Department has treated the PRC as an NME country in all past antidumping duty investigations and administrative reviews.[10] No interested party in this case has argued that we should do otherwise. Designation as an NME country remains in effect until it is revoked by the Department. *See* section 771(18)(C)(i) of the Act. As such, we continue to treat the PRC as a NME in both segments of this proceeding.

Surrogate Country

Section 773(c)(1) of the Act directs the Department to base NV on the NME producer's FOPs, valued in a surrogate market economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall use, to the extent possible, the prices or costs of the FOPs in one or more market economy countries that are: (1) At a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the ''Normal Value'' section below as well as memorandum on the record of each segment.[11]

The Department determined that India, the Philippines, Indonesia, Thailand, Ukraine, and Peru are countries comparable to the PRC in terms of economic development.[12] Once we have identified the countries that are economically comparable to the PRC, we select an appropriate surrogate country by determining whether an economically comparable country is a significant producer of comparable merchandise and whether the data for valuing FOPs are both available and reliable.

While both India and Indonesia are significant producers of comparable merchandise, the Department has determined that India is the appropriate surrogate country for use in these reviews. The Department based its decision on the following facts: (1) India and Indonesia are at levels of economic development comparable to that of the PRC; (2) India and Indonesia are significant producers of comparable merchandise; and (3) India provides the best opportunity to use quality, publicly available data to value the FOPs.

On the records of these reviews, we have usable surrogate financial data from both India and Indonesia. We note that Meco submitted Indonesian data for valuing respondents' inputs in the AR and NSR. According to Meco, the financial statements of the Indonesian surrogate producer PT Lion Metal Works Tbk's (''Lion'') for the fiscal year 2009 represent the better data compared to the Indian producer Maximaa Systems, Ltd.'s (''Maximaa'') for the year ending March 31, 2010, who incurred negative profit. Meco, subsequently, argues that the Department should resort to using Indonesian surrogate values. New-Tec, Lifetime, and Xinjiamei Furniture, on the other hand, argue that the Department can choose between Maximaa's financial statements for the year ending March 31, 2009, or another set of Indian financial statements from Godrej & Boyce Manufacturing Co. Ltd. for the year ending March 31, 2010, which are contemporaneous with the POR.

After careful examination of the record evidence and parties' arguments, we have selected India as the surrogate country and Maximaa's financial statements for the year ending March 31, 2009.[13] We agree with Meco that a negative profit would preclude us from selecting such financial statements, *i.e.,* Maximaa's financial statements for the year ending March 31, 2009. Although Lion's financial statements indicate that it is also a producer of comparable merchandise, its annual report does not provide sufficient detail for the Department to discern the amount of comparable merchandise. Finally, the record contains more Indian data with which to value FOP than Indonesian data. For example, the Department has Indian surrogate values for truck freight

[10] *See, e.g., Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 73 FR 52645 (September 10, 2008); *see also Folding Metal Tables and Chairs from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 74 FR 3560 (January 21, 2009).

[11] *See* Memorandum to The File entitled, ''Preliminary Results of the 2009–2010 Administrative Review of Folding Metal Tables and Chairs from the People's Republic of China: Surrogate Value Memorandum,'' dated concurrently with this notice and Memorandum to The File entitled, ''Preliminary Results of the new Shipper Review of Folding Metal Tables and Chairs from the People's Republic of China: Surrogate Value Memorandum'', dated concurrently with this notice (collectively, ''Surrogate Value Memoranda'').

[12] *See* Surrogate Country Memoranda. The Department notes that these six countries are part of a non-exhaustive list of countries that are at a level of economic development comparable to the PRC.

[13] *See* 19 CFR 351.408(c)(2).

and natural gas, which are absent in Meco's submission of Indonesian surrogate values. Therefore, we find that India provides the best available data for valuing respondents' inputs on both reviews.

Notice of Intent To Revoke Order, in Part

As noted above, on August 4, 2010, New-Tec requested revocation of the antidumping duty order with respect to its sales of subject merchandise, pursuant to 19 CFR 351.222(e). This request was accompanied by certifications, pursuant to 19 CFR 351.222(e)(1) that: (1) New-Tec has sold the subject merchandise at not less than NV during the current POR and that it will not sell the merchandise at less than NV in the future; and (2) New-Tec sold subject merchandise to the United States in commercial quantities for a period of at least three consecutive years. New-Tec also agreed to immediate reinstatement of the antidumping duty order, as long as any exporter or producer is subject to the order, if the Department concludes that, subsequent to its revocation, it sold the subject merchandise at less than NV.

Pursuant to section 751(d) of the Act, the Department ''may revoke, in whole or in part'' an antidumping duty order upon completion of a review under section 751(a) of the Act. In determining whether to revoke an antidumping duty order in part, the Department considers: (1) Whether the company in question has sold subject merchandise at not less than NV for a period of at least three consecutive years; (2) whether during each of the three consecutive years for which the company sold the merchandise at not less than normal value, it sold the merchandise to the United States in commercial quantities; and (3) the company has agreed in writing to its immediate reinstatement in the order, as long as any exporter or producer is subject to the order, if the Department concludes that the company, subsequent to revocation, sold the subject merchandise at less than NV.[14] We have preliminarily determined that the request from New-Tec meets all of the criteria under 19 CFR 351.222(e)(1). Our preliminary margin calculation confirms that New-Tec sold folding metal tables and chairs at not less than NV during the current review period. *See* the ''Preliminary Results of the Review'' section below. In addition, we have confirmed that New-Tec sold folding metal tables and chairs at not less than NV in the two previous administrative reviews in which it was individually examined (*i.e.,* its dumping margins were *de minimis*).[15]

Based on our examination of the sales data submitted by New-Tec, we preliminarily determine that it sold the subject merchandise in the United States in commercial quantities in each of the consecutive years cited by New-Tec to support its request for revocation.[16] Thus, we preliminarily find that New-Tec had *de minimis* dumping margins for its last three administrative reviews and sold subject merchandise in commercial quantities in each of these years. Also, we preliminarily determine, pursuant to section 751(d) of the Act and 19 CFR 351.222(b)(2), that the application of the antidumping duty order with respect to New-Tec is no longer warranted for the following reasons: (1) The company had a zero or *de minimis* margin for a period of at least three consecutive years; (2) the company has agreed to immediate reinstatement of the order if the Department finds that it has resumed making sales at less than NV; and, (3) the continued application of the order is not otherwise necessary to offset dumping. Therefore, we preliminarily determine that subject merchandise produced and exported by New-Tec qualifies for revocation from the antidumping duty order on folding metal tables and chairs from the PRC and that the order with respect to such merchandise should be revoked. If these preliminary findings are affirmed in our final results, we will revoke this order, in part, with respect to folding metal tables and chairs produced and exported by New-Tec and, in accordance with 19 CFR 351.222(f)(3), terminate the suspension of liquidation for any of the merchandise in question that is entered, or withdrawn from warehouse, for consumption on or after June 1, 2010, and instruct CBP to release any cash deposits for such entries.

Affiliation

Section 771(33) of the Act states that the Department considers the following entities to be affiliated: (A) Members of a family, including brothers and sisters (whether by whole or half blood), spouse, ancestors, and lineal descendants; (B) Any officer or director of an organization and such organization; (C) Partners; (D) Employer and employee; (E) Any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization; (F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person; and (G) Any person who controls any other person and such other person.

For purposes of affiliation, section 771(33) of the Act states that a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person. In order to find affiliation between companies, the Department must find that at least one of the criteria listed above is applicable to the respondents.

To the extent that the affiliation provisions in section 771(33) of the Act do not conflict with the Department's application of separate rates and the statutory NME provisions in section 773(c) of the Act, the Department will determine that exporters and/or producers are affiliated if the facts of the case support such a finding.[17]

Based on our examination of the evidence presented in Xinjiamei Furniture's submissions, we preliminarily determine that Xinjiamei Furniture and Xinjiamei (Zhangzhou) Commodity Co., Ltd. (''Xinjiamei Commodity'') are affiliated parties within the meaning of section 771(33) of the Act because the owners of both companies are members of the same family and, thus, affiliated under 771(33)(A)(B) and (E) of the Act.

According to 19 CFR 351.401(f), affiliated producers of subject merchandise will be treated as a single entity where those producers share production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities, and where there is a significant potential for the manipulation of price or production. Based on record evidence, we find that Xinjiamei Commodity shares its facilities to produce similar merchandise with Xinjiamei Furniture. In addition, based on the record evidence, we find that there is a

[14] *See* 19 CFR 351.222(e)(1).

[15] *See Folding Metal Tables and Chairs from the People's Republic of China: Final Results of 2007–2008 Deferred Antidumping Duty Administrative Review and Final Results of 2008–2009 Antidumping Duty Administrative Review*, 76 FR 2883 (January 18, 2011) (''2007–2008 Final Results''); *see also Folding Metal Tables and Chairs from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 68568 (December 28, 2009).

[16] *See* Memorandum to the File entitled, ''Analysis of Commercial Quantities for New-Tec's Request for Revocation,'' dated May 31, 2011.

[17] *See Certain Preserved Mushrooms From the People's Republic of China: Preliminary Results of Sixth New Shipper Review and Preliminary Results and Partial Rescission of Fourth Antidumping Duty Administrative Review,* 69 FR 10410, 10413 (March 5, 2004) (unchanged in the final results).

significant potential for manipulation of price and production as: (1) Both producers share production facilities and management; and (2) the operations of both entities are closely intertwined. Therefore, we have treated Xinjiamei Furniture and Xinjiamei Commodity as a single entity for the purposes of these preliminary results.[18] For ease of reference, we refer to both Xinjimaei Furniture and Xinjiamei Commodity as the single entity, ''Xinjiamei'' throughout this notice.

Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assessed a single antidumping duty rate.[19] It is the Department's policy to assign all exporters of merchandise subject to review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.[20] Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* government control over export activities. The Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588, at Comment 1 (May 6, 1991) (''*Sparklers''*), as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585, 22587 (May 2, 1994) (''*Silicon Carbide''*). However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate-rate analysis is not necessary to determine whether it is independent from government control.[21]

Feili and Lifetime reported that they are wholly owned by market-economy entities. Therefore, consistent with the Department's practice, a separate-rates analysis is not necessary to determine whether Feili's and Lifetime's export activities are independent from government control, and we have preliminarily granted a separate rate to Feili and Lifetime.

New-Tec stated that it is a joint venture between Chinese and foreign companies. Xinjiamei stated that it is a wholly Chinese-owned company. Therefore, the Department must analyze whether New-Tec and Xinjiamei have demonstrated the absence of both *de jure* and *de facto* government control over export activities, and are therefore entitled to a separate rate.

A. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. *See Sparklers,* 56 FR at 20589.

New-Tec and Xinjiamei have placed documents on the records of these segments to demonstrate the absence of *de jure* control including their respective lists of shareholders, business licenses, and the Company Law of the PRC (''Company Law''). Other than limiting these companies to activities referenced in their business licenses, we found no restrictive stipulations associated with the licenses. In addition, in previous cases the Department has analyzed the Company Law and found that it establishes an absence of *de jure* control, lacking record evidence to the contrary.[22] We have no information in these segments of the proceeding that would cause us to reconsider this determination. Therefore, based on the foregoing, we have preliminarily found an absence of *de jure* control for New-Tec and Xinjiamei.

B. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.[23] The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control that would preclude the Department from assigning separate rates.[24]

With regard to *de facto* control, New-Tec and Xinjiamei reported that: (1) They independently set prices for sales to the United States through negotiations with customers and these prices are not subject to review by any government organization; (2) they did not coordinate with other exporters or producers to set the price or to determine to which market the companies will sell subject merchandise; (3) the PRC Chamber of Commerce did not coordinate the export activities of New-Tec or Xinjiamei; (4) their general managers have the authority to contractually bind them to sell subject merchandise; (5) their boards of directors appoint their general managers; (6) there are no restrictions on their use of export revenues; (7) their shareholders ultimately determine the disposition of their respective profits, and they have not had a loss in the last two years; and (8) none of New-Tec's and Xinjiamei's board members or managers is a government official. Furthermore, our analysis of New-Tec's and Xinjiamei's questionnaire responses reveals no information indicating government control of their export activities. Therefore, based on the information on the record, we preliminarily determine that there is an absence of *de facto* government control with respect to New-Tec's and Xinjiamei's export functions and that New-Tec and Xinjiamei have met the criteria for the application of a separate rate.

The evidence placed on the records of these reviews by New-Tec and Xinjiamei demonstrates an absence of *de jure* and *de facto* government control with respect to its exports of subject merchandise, in accordance with the criteria identified in *Sparklers,* 56 FR at 20589; and *Silicon Carbide,* 59 FR at

[18] *See* the Department's Memorandum entitled, ''New Shipper Review of Folding Metal Tables and Chairs from the People's Republic of China: Affiliation and Treatment of Xinjiamei Furniture (Zhangzhou) Co., Ltd. and Xinjiamei (Zhangzhou) Commodity Co., Ltd., as a Single Entity'' dated concurrently with this notice.

[19] *See, e.g., Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 75 FR 24892, 24899 (May 6, 2010).

[20] *Id.*

[21] *See, e.g., Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles From the People's Republic of China,* 72 FR 52355, 52356 (September 13, 2007).

[22] *See, e.g., Certain Non-Frozen Apple Juice Concentrate from the People's Republic of China: Final Results, Partial Rescission and Termination of a Partial Deferral of the 2002–2003 Administrative Review,* 69 FR 65148, 65150 (November 10, 2004).

[23] *See Silicon Carbide,* 59 FR at 22587.

[24] *See Silicon Carbide,* 59 FR at 22586–87; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China,* 60 FR 22544, 22545 (May 8, 1995).

22587. Accordingly, we have preliminarily granted a separate rate to the companies.

Date of Sale

According to 19 CFR 351.401(i), in identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale. *See also Allied Tube and Conduit Corp.* v. *United States,* 132 F. Supp. 2d 1087, 1090–1092 (CIT 2001) (upholding the Department's rebuttable presumption that invoice date is the appropriate date of sale). After examining the questionnaire responses and the sales documentation placed on the record by Feili, New-Tec, and Xinjiamei we preliminarily determine that invoice date is the most appropriate date of sale for Feili, New-Tec, and Xinjiamei. Nothing on the records of these segments rebuts the presumption that invoice date should be the date of sale.

Normal Value Comparisons

To determine whether sales of folding metal tables and chairs to the United States by Feili, New-Tec, and Xinjiamei were made at less than NV, we compared export price (''EP'') to NV, as described in the ''Export Price,'' and ''Normal Value'' sections of this notice, pursuant to section 771(35) of the Act.

Export Price

Because Feili, New-Tec, and Xinjiamei sold subject merchandise to unaffiliated purchasers in the United States prior to importation into the United States or to unaffiliated resellers outside the United States with knowledge that the merchandise was destined for the United States, and use of a constructed export price methodology is not otherwise indicated, we have used EP for Feili, New-Tec, and Xinjiamei in accordance with section 772(a) of the Act.

We calculated EP based on the free-on-board or delivered price to unaffiliated purchasers for Feili, New-Tec, and Xinjiamei. From this price, we deducted amounts for foreign inland freight and brokerage and handling, as applicable, pursuant to section 772(c)(2)(A) of the Act.[25]

The Department valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods in India. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in India that is in *Doing Business 2010: India,* published by the World Bank.[26]

Zero-Priced Transactions

In the final results of previous administrative reviews of folding metal tables and chairs, we included New-Tec's and Feili's zero-priced transactions in the margin calculation because the record demonstrated that respondents provided the same merchandise in significant quantities, indicating that these ''samples'' did not primarily serve for evaluation or testing of the merchandise.[27] Additionally, respondents provided ''samples'' to the same customers to whom they were selling the same products in commercial quantities.[28] As a result, we concluded that these transactions were not what we consider to be samples because respondents were providing these products to strengthen their customer relationships and to promote future sales.

The U.S. Court of Appeals for the Federal Circuit (''CAFC'') has not required the Department to exclude zero-priced or *de minimis* sales from its analysis but, rather, has defined a sale, as used in section 772 of the Act, as requiring ''both a transfer of ownership to an unrelated party and consideration.'' [29] The Court of International Trade (''CIT'') in *NSK Ltd.* v. *United States* stated that it saw ''little reason in supplying and re-supplying and yet re-supplying the same product to the same customer in order to solicit sales if the supplies are made in reasonably short periods of time,'' and that ''it would be even less logical to supply a sample to a client that has made a recent bulk purchase of the very item being sampled by the client.'' [30] Moreover, even where the Department does not ask a respondent for specific information to demonstrate that a transaction is a sample, the respondent has the burden of presenting the information in the first place to demonstrate that its transactions qualify for exclusion as a sample.[31]

An analysis of Feili's and New-Tec's section C computer sales listings reveals that in some cases they provided zero-priced merchandise to customers to whom they already are selling the same products in commercial quantities, indicating that Feili and New-Tec were not providing this zero-priced merchandise for a customer's evaluation and testing, with the hope of future sales. Consequently, based on the facts cited above, the guidance of past court decisions, and our previous decisions, we have not excluded these zero-priced transactions from the margin calculations for Feili and New-Tec for the preliminary results of this review. However, we found that, in some instances, both Feili and New-Tec shipped merchandise to customers for the first time in non-commercial quantities. Therefore, we have treated these sales as samples for the preliminary results.[32]

Billing Adjustments

We have not adjusted Feili's U.S. sales price with its reported billing adjustments for brokerage and handling charges incurred in China and reimbursed by its U.S. customers in U.S. dollars. After careful examination of this issue, we have preliminarily determined that these charges are not included within the Department's surrogate value for brokerage and handling and,

[25] *See* Memorandum to The File entitled, ''Analysis for the Preliminary Results of the 2009–2010 Administrative Review of Folding Metal Tables and Chairs from the People's Republic of China: New-Tec Integration (Xiamen) Co. Ltd. (''New-Tec''),'' dated May 31, 2011 (''New-Tec Preliminary Analysis Memorandum''); Memorandum to The File entitled, ''Analysis for the Preliminary Results of the 2009–2010 Administrative Review of Folding Metal Tables and Chairs from the People's Republic of China: Feili Group (Fujian) Co., Ltd. and Feili Furniture Development Limited Quanzhou City,'' dated May 31, 2011 (''Feili Preliminary Analysis Memorandum''); and Memorandum to The File entitled, ''Analysis for the Preliminary Results of the 2009–2010 New Shipper Review of Folding Metal Tables and Chairs from the People's Republic of China: Xinjiamei Furniture (Zhangzhou) Co., Ltd. and Xinjiamei Commodity (Zhangzhou) Co., Ltd.,'' dated May 31, 2011 (''Xinjiamei Preliminary Analysis Memorandum'') (collectively, ''Preliminary Analysis Memoranda).

[26] *See* Surrogate Value Memoranda and Preliminary Analysis Memoranda.

[27] *See Folding Metal Tables and Chairs from the People's Republic of China; Final Results of Antidumping Duty Administrative Review,* 71 FR 2905 (January 18, 2006), and accompanying Issues and Decision Memorandum at Comment 4; *Folding Metal Tables and Chairs from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 71 FR 71509 (December 11, 2006), and accompanying Issues and Decision Memorandum at Comment 4; and *Folding Metal Tables and Chairs from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 72 FR 71355 (December 17, 2007), and accompanying Issues and Decision Memorandum at Comments 10 and 11.

[28] *Id.*

[29] *See NSK Ltd.* v. *United States,* 115 F.3d 965, 975 (Fed. Cir. 1997).

[30] *See NSK Ltd.* v. *United States,* 217 F. Supp. 2d 1291, 1311–1312 (CIT 2002).

[31] *See NTN Bearing Corp. of America* v. *United States,* 997 F.2d 1453, 1458 (Fed. Cir. 1993).

[32] *See* Feili Preliminary Analysis Memorandum and New-Tec Preliminary Analysis Memorandum.

therefore, do not warrant an offset to the brokerage and handling expense.[33]

Normal Value

Section 773(c)(1) of the Act provides that, in the case of an NME, the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

The Department bases NV on FOPs because the presence of government controls on various aspects of NME economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. Therefore, in these preliminary results, we have calculated NV based on FOPs in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c). The FOPs include: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. In accordance with 19 CFR 351.408(c)(1), the Department normally uses publicly available information to value the FOPs. However, when a producer sources a meaningful amount of an input from a market-economy country and pays for it in market-economy currency, the Department may value the factor using the actual price paid for the input.[34]

In accordance with the *OTCA 1988* legislative history, the Department continues to apply its long-standing practice of disregarding surrogate values if it has a reason to believe or suspect the source data may be subsidized.[35] In this regard, the Department has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.[36] Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies.

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on the FOPs reported by Feili and New-Tec for the AR, and Xinjiamei for the NSR, during the respective PORs. To calculate NV, we multiplied the reported per-unit factor quantities by publicly available Indian surrogate values (except as noted below). In selecting the surrogate values, we considered the quality, specificity, public availability, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to render them delivered prices. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where appropriate (*i.e.,* where the sales terms for the market-economy inputs were not delivered to the factory). This adjustment is in accordance with the decision of the CAFC in *Sigma Corp.* v. *United States,* 117 F. 3d 1401, 1408 (Fed. Cir. 1997). For a detailed description of all surrogate values used for Feili, New-Tec and Xinjiamei, *see* the Surrogate Value Memoranda.

For the preliminary results, except where noted below, we used data from the Indian Import Statistics in the Global Trade Atlas (''GTA'') and other publicly available Indian sources in order to calculate SVs for Feili, New-Tec, and Xinjiamei's FOPs (*i.e.,* direct materials, energy, and packing materials) and certain movement expenses. As India is the primary surrogate country, we used Indian data. In selecting the best available information for valuing FOPs in accordance with section 773(c)(1) of the Act, the Department's practice is to select, to the extent practicable, SVs which are non-export average values, most contemporaneous with the POR, product-specific, and tax-exclusive.[37] The record shows that data in the Indian Import Statistics are contemporaneous with the POR, product-specific, and tax-exclusive.[38] In those instances where we could not obtain publicly available information contemporaneous to the POR with which to value factors, we adjusted the SVs using, where appropriate, the Indonesian Wholesale Price Index (''WPI'') as published in the IMF's *International Financial Statistics*.[39]

We further adjusted material input values to account for freight costs incurred between the supplier and respondent. We used the freight rates published by *http://www.infobanc.com,* ''The Great Indian Bazaar, Gateway to Overseas Markets.'' The logistics section of the Web site contains inland freight truck rates between many large Indian cities. The truck freight rates are for the period June 2008 through July 2009.

Feili and New-Tec each reported raw materials purchases sourced from market-economy suppliers and paid for in a market-economy currency during the POR. In accordance with our practice outlined in *Antidumping Methodologies: Market Economy Inputs,*[40] when at least 33 percent of an input is sourced from market-economy suppliers and purchased in a market-economy currency, the Department will use actual market-economy purchase prices to value these inputs.[41] Therefore, the Department has valued certain inputs using the market-economy purchase prices reported by Feili and New-Tec, where appropriate.

To value diesel, we used per-kilogram values obtained from Indian Oil

[33] *See* Feili Preliminary Analysis Memorandum.

[34] *See* 19 CFR 351.408(c)(1); *see also Lasko Metal Products* v. *United States,* 43 F.3d 1442, 1445–1446 (Fed. Cir. 1994) (affirming the Department's use of market-based prices to value certain FOPs).

[35] *See* Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) (''*OTCA 1988''*) at 590.

[36] *See, e.g., Expedited Sunset Review of the Countervailing Duty Order on Carbazole Violet Pigment 23 from India,* 75 FR 13257 (March 19, 2010) and accompanying Issues and Decision Memorandum at pages 4–5; *Expedited Sunset Review of the Countervailing Duty Order on Certain Cut-to-Length Carbon Quality Steel Plate from Indonesia,* 70 FR 45692 (August 8, 2005) and accompanying Issues and Decision Memorandum at page 4; *See also Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review,* 74 FR 2512 (January 15, 2009) and accompanying Issues and Decision Memorandum at pages 17, 19–20; *See also Certain Hot-Rolled Carbon Steel Flat Products from Thailand: Final Results of Countervailing Duty Determination,* 66 FR 50410 (October 3, 2001), and accompanying Issues and Decision Memorandum at page 23.

[37] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam,* 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam,* 69 FR 71005 (December 8, 2004).

[38] *See* Surrogate Value Memoranda.

[39] *See, e.g., Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 74 FR 9591, 9600 (March 5, 2009), unchanged in *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Determination of Sales at Less than Fair Value,* 74 FR 36656 (July 24, 2009).

[40] *See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments,* 71 FR 61716, 61717–19 (October 19, 2006) (''*Antidumping Methodologies: Market Economy Inputs''*).

[41] For a detailed description of all actual values used for market-economy inputs, *see* New-Tec Preliminary Analysis Memorandum and Feili Preliminary Analysis Memorandum.

Corporation Ltd., published June 6, 2007. We made adjustments to account for inflation.[42]

To value electricity, we used price data for small, medium, and large industries, as published by the Central Electricity Authority of the Government of India in its publication entitled ''Electricity Tariff & Duty and Average Rates of Electricity Supply in India,'' dated March 2008. These electricity rates represent actual country-wide, publicly-available information on tax-exclusive electricity rates charged to industries in India. We did not inflate this value because utility rates represent current rates, as indicated by the effective dates listed for each of the rates provided.[43]

To value water, we used the revised Maharashtra Industrial Development Corporation water rates available at *http://www.midcindia.com/water-supply,* which we did not adjust for inflation because the surrogate value is contemporaneous with the POR.[44]

To value natural gas, we used the surrogate value obtained from Gas Authority of India Ltd. We have inflated the surrogate value because they represent April through June 2002 values.[45]

On May 14, 2010, the CAFC in *Dorbest Ltd.* v. *United States,* 604 F.3d 1363, 1372 (Fed. Cir. 2010) (''*Dorbest IV*''), found that the regression-based method for calculating wage rates, as stipulated by 19 CFR 351.408(c)(3), uses data not permitted by the statutory requirements laid out in section 773 of the Act. The Department is continuing to evaluate options for determining labor values in light of the recent CAFC decision. *See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor; Request for Comment,* 76 FR 9544 (February 18, 2011). However, for these preliminary results, we have calculated an hourly wage rate to use in valuing respondents' reported labor input by averaging industry-specific earnings and/or wages in countries that are economically comparable to the PRC and that are significant producers of comparable merchandise.

For the preliminary results of this administrative and new shipper review, the Department is valuing labor using a simple average industry-specific wage rate using earnings or wage data reported under Chapter 5B by the International Labor Organization (''ILO''). To achieve an industry-specific labor value, we relied on industry-specific labor data from the countries we determined to be both economically comparable to the PRC, and significant producers of comparable merchandise. A full description of the industry-specific wage rate calculation methodology is provided in the *Surrogate Value Memoranda.* The Department calculated a simple average industry-specific wage rate of $1.19 for these preliminary results. Specifically, for these reviews, the Department has calculated the wage rate using a simple average of the data provided to the ILO under Sub-Classification 36 of the ISIC–Revision 3 standard by countries determined to be both economically comparable to the PRC and significant producers of comparable merchandise. The Department finds the two-digit description under ISIC–Revision 3 (''Manufacture of Furniture; Manufacturing NEC'') to be the best available wage rate surrogate value on the record because it is specific and derived from industries that produce merchandise comparable to the subject merchandise. Consequently, we averaged the ILO industry-specific wage rate data or earnings data available from the following countries found to be economically comparable to the PRC and are significant producers of comparable merchandise: Ecuador, Egypt, Arab Rep., Indonesia, Jordan, Peru, Philippines, Thailand, and Ukraine. For further information on the calculation of the wage rate, *see* Surrogate Value Memoranda.

During the verification of Feili and New-Tec, the Department discovered that both respondents have under-reported their indirect labor.[46] Therefore, we have increased Feili's and New-Tec's indirect labor by adding the labor hours from the unreported labor categories.[47]

For factory overhead, selling, general, and administrative expenses (''SG&A''), and profit values, Meco submitted financial statements of Lion on the record of both the AR and NSR, New-Tec submitted the financial statements of Maximaa and Godrej on the record of the AR, whereas Xinjiamei submitted the financial statements of Maximaa on the record of the NSR. The Department examined these financial statements in the 2008–2009 administrative review of this order and found that Maximaa produced a greater proportion of comparable merchandise than Godrej, and represented the surrogate financial ratio source from the primary surrogate country and, therefore, best met the Department's criteria for surrogate financial ratios.[48] With the exception of the issue of contemporaneity, we still find that Maximaa produced a greater proportion of comparable merchandise than other potential surrogate companies whose financial statements were placed on the respective records, and we find that Maximaa continues to be the best available information with which to determine factory overhead as a percentage of the total raw materials, labor and energy (''ML&E'') costs; SG&A as a percentage of ML&E plus overhead (*i.e.,* cost of manufacture); and the profit rate as a percentage of the cost of manufacture plus SG&A.

For packing materials, we used the per-kilogram values obtained from the GTA and made adjustments to account for freight costs incurred between the PRC supplier and New-Tec, Xinjinamei, and Feili's plants.[49]

Currency Conversion

We made currency conversions into U.S. dollars, where appropriate, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

Preliminary Results of Reviews

We preliminarily determine that the following weighted-average dumping margins exist:

Manufacturer/exporter	Margin (percent)
NEW–TEC INTEGRATION (XIAMEN) CO., LTD	0.00

[42] *See* Surrogate Value Memoranda for the administrative and new shipper reviews.

[43] *See id.*

[44] *See* Surrogate Value Memoranda for the administrative review.

[45] *See id.*

[46] *See* the Department's memorandum entitled, ''Verification of the Sales and Factors Response of Feili in the Antidumping Review of Folding Metal Tables and Chairs From the People's Republic of China,'' dated May 31, 2011, and the Department's memorandum entitled, ''Verification of the Sales and Factors Response of New-Tec in the Antidumping Review of Folding Metal Tables and Chairs from the Peoples Republic of China,'' dated May 31, 2011.

[47] *See* Feili Preliminary Analysis Memorandum and New-Tec Preliminary Analysis Memorandum.

[48] *See 2007–2008 Final Results* and accompanying Issues and Decision Memorandum at Comment 2.A, D, and E.

[49] *See* Surrogate Value Memoranda.

Manufacturer/exporter	Margin (percent)
FEILI GROUP (FUJIAN) CO., LTD., FEILI FURNITURE DEVELOPMENT LIMITED QUANZHOU CITY	0.03 (*de minimis*)
LIFETIME HONG KONG LTD	1.50
XINJIAMEI FURNITURE (ZHANGZHOU) CO., LTD., XINJIAMEI (ZHANGZHOU) COMMODITY CO., LTD	26.06

Rate for Lifetime

The statute and the Department's regulations do not address the establishment of a rate to be applied to individual companies not selected for examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, we have looked to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents we did not examine in an administrative review. For the exporters subject to a review that were determined to be eligible for separate rate status, but were not selected as mandatory respondents (*i.e.,* Lifetime), the Department generally weight-averages the rates calculated for the mandatory respondents, excluding any rates that are zero, *de minimis,* or based entirely on FA.[50] For this administrative review, the Department has not calculated a margin for mandatory respondents, Feili and New-Tec. Therefore, for these preliminary results, consistent with our practice, the Department has preliminarily established a margin for Lifetime based on the last above *de minimis* calculated margin for any respondent in this proceeding.[51]

Disclosure

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. *See* 19 CFR 351.224(b). Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments within 30 days of the date of publication of this notice. *See* 19 CFR 351.309(c). Interested parties may file rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, no later than five days after the date on which the case briefs are due. *See* 19 CFR 351.309(d). The Department requests that parties submitting written comments provide an executive summary and a table of authorities as well as an additional copy of those comments electronically.

Any interested party may request a hearing within 30 days of publication of this notice. *See* 19 CFR 351.310(c). If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. *See* 19 CFR 351.310(d). The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Deadline for Submission of Publicly Available Surrogate Value Information

In accordance with 19 CFR 351.301(c)(3)(ii), the deadline for submission of publicly available information to value FOPs under 19 CFR 351.408(c) is 20 days after the date of publication of the preliminary results. In accordance with 19 CFR 351.301(c)(1), if an interested party submits factual information less than ten days before, on, or after (if the Department has extended the deadline), the applicable deadline for submission of such factual information, an interested party has ten days to submit factual information to rebut, clarify, or correct the factual information no later than ten days after such factual information is served on the interested party. However, the Department generally will not accept in the rebuttal submission additional or alternative surrogate value information not previously on the record, if the deadline for submission of surrogate value information has passed.[52] Furthermore, the Department generally will not accept business proprietary information in either the surrogate value submissions or the rebuttals thereto, as the regulation regarding the submission of surrogate values allows only for the submission of publicly available information. *See* 19 CFR 351.301(c)(3).

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by these reviews. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of these reviews. In accordance with 19 CFR 351.212(b)(1), we calculated exporter/importer (or customer)-specific assessment rates for the merchandise subject to these reviews.

Where the respondent reports reliable entered values, we calculate importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer). *See* 19 CFR 351.212(b)(1). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis,* we will apply the assessment rate to the entered value of the importers'/customers' entries during the POR. *See* 19 CFR 351.212(b)(1). Where we do not have entered values for all U.S. sales, we calculate a per-unit assessment rate by aggregating the antidumping duties due for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer).

To determine whether the duty assessment rates are *de minimis,* in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer (or customer)-specific *ad valorem* ratios based on the estimated entered value. Where an importer (or customer)-specific *ad valorem* rate is zero or *de minimis,* we will instruct CBP to liquidate appropriate entries without regard to

[50] *See, e.g., Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Results of New Shipper Review and Partial Rescission of Administrative Review,* 73 FR 8273, 8279 (February 13, 2008) (unchanged in *Wooden Bedroom Furniture From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review,* 73 FR 49162 (August 20, 2008)).

[51] See *Folding Metal Tables and Chairs From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 72 FR 71355 (December 17, 2007).

[52] *See, e.g., Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part,* 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2.

antidumping duties. *See* 19 CFR 351.106(c)(2).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of these administrative reviews for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For New-Tec, Lifetime, Feili, and Xinjiamei the cash deposit rate will be the company-specific rate established in the final results of the 2009–2010 reviews (except, if the rate is zero or *de minimis,* no cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 70.71 percent; and (4) for all non-PRC exporters of subject merchandise that have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: May 31, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011–14046 Filed 6–17–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA502

Endangered Species; File No. 15685

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the NMFS Pacific Islands Fisheries Science Center (PIFSC; Samuel Pooley, PhD, Responsible Party), has applied in due form for a permit to take green (*Chelonia mydas*) and hawksbill (*Eretmochelys imbricata*) sea turtles for purposes of scientific research.

DATES: Written, telefaxed, or e-mail comments must be received on or before July 20, 2011.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 15685 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices:

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

Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI 96814–4700; phone (808) 944–2200; fax (808) 973–2941.

Written comments on this application should be submitted to the Chief, Permits, Conservation and Education Division

- By e-mail to *NMFS.Pr1Comments@noaa.gov* (include the File No. in the subject line of the e-mail),
- By facsimile to (301)713–0376, or
- At the address listed above.

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

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Colette Cairns, (301)713–2289.

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

The PIFSC requests a five-year research permit to continue long-term monitoring of the status of green and hawksbill sea turtles in the Hawaiian Islands from January 2012 through December 2016 to determine growth rates, health status, stock and population structure, foraging ecology, habitat use, and movements. Researchers would capture, measure, flipper and passive integrated transponder tag, weigh, biologically sample (tissue, blood, scute, lavage), and attach transmitters on 600 green and 25 hawksbill sea turtles annually before release.

Dated: June 14, 2011.

Tammy C. Adams,

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

[FR Doc. 2011–15315 Filed 6–17–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648 XA485

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of final determination and discussion of underlying biological analysis.

SUMMARY: NMFS has evaluated the joint resource management plan (RMP) for harvest of Puget Sound Chinook salmon provided by the Puget Sound Treaty Tribes and the Washington Department of Fish and Wildlife (WDFW) pursuant to the protective regulations promulgated for Puget Sound Chinook salmon under Limit 6 of the Endangered Species Act (ESA) for salmon and steelhead. The RMP specifies the future management of commercial, recreational, subsistence and Tribal salmon fisheries potentially affecting listed Puget Sound Chinook salmon from May 1, 2011, through April 30, 2014. This document serves to notify the public that NMFS, by delegated authority from the Secretary of Commerce, has determined pursuant to the Tribal rule and the government-to-

government processes therein that implementing and enforcing the RMP from May 1, 2011, through April 30, 2014, will not appreciably reduce the likelihood of survival and recovery of the Puget Sound Chinook salmon Evolutionarily Significant Unit (ESU).

DATES: The final determination on the RMP was made on May 27, 2011.

ADDRESSES: Requests for copies of the final determination and underlying biological analysis should be addressed to Susan Bishop, Salmon Management Division, National Marine Fisheries Service, 7600 Sand Point Way, NE., Seattle, Washington 98115–0070, or faxed to (206) 526–6736. The document is also available on the Internet at *http://www.nwr.noaa.gov/Salmon-Harvest-Hatcheries/-State-Tribal-Management/PS-Chinook-RMPs.cfm.*

FOR FURTHER INFORMATION CONTACT: Susan Bishop at phone number: 206–526–4587, Puget Sound Harvest Team Leader or e-mail: *susan.bishop@noaa.gov* regarding the RMP.

SUPPLEMENTARY INFORMATION: This notice is relevant to the Puget Sound Chinook salmon (*Oncorhynchus tshawytscha*) Evolutionarily Significant Unit (ESU).

Electronic Access

The full texts of NMFS' determination and the final Evaluation are available on the Internet at the NMFS, Northwest Regional Office Web site at: *http://www.nwr.noaa.gov/Salmon-Harvest-Hatcheries/State-Tribal-Management/PS-Chinook-RMPs.cfm.*

Background

In April, 2010, the Puget Sound Treaty Tribes and the WDFW (co-managers) provided a jointly developed RMP that encompasses Strait of Juan de Fuca and Puget Sound salmon fisheries affecting the Puget Sound Chinook salmon ESU. The RMP encompasses salmon and steelhead fisheries within the area defined by the Puget Sound Chinook salmon ESU, as well as the western Strait of Juan de Fuca, which is not within the ESU. The RMP is effective from May 1, 2011, through April 30, 2014. Harvest objectives specified in the RMP account for fisheries-related mortality of Puget Sound Chinook throughout its migratory range, from Oregon and Washington to southeast Alaska. The RMP also includes implementation, monitoring and evaluation procedures designed to ensure fisheries are consistent with these objectives.

As required by § 223.203(b)(6) of the ESA 4(d) Rule, NMFS must determine pursuant to 50 CFR 223.209 (redesignated as 50 CFR 223.204) and pursuant to the government-to-government processes therein whether the RMP for Puget Sound Chinook would appreciably reduce the likelihood of survival and recovery of the Puget Sound Chinook ESU. NMFS must take comments on how the RMP addresses the criteria in § 223.203(b)(4) in making that determination.

Discussion of the Biological Analysis Underlying the Determination

The RMP provides a framework for fisheries management measures affecting 23 Chinook salmon populations. Twenty-two populations are within the Puget Sound Chinook Salmon ESU, and one population (the Hoko River) is located in the western portion of Strait of Juan de Fuca. The populations within the ESU and on which the RMP bases its management objectives are consistent with those defined by the Puget Sound Technical Recovery Team (TRT). For harvest management purposes, the RMP distributes the 23 populations among the 15 management units. These management units represent the entire range of life history types and geographic distribution that comprise the Puget Sound Chinook salmon ESU.

The RMP proposes the implementation of limits to the cumulative directed and incidental fishery-related mortality to each Puget Sound Chinook salmon population or management unit. The RMP's limits to the cumulative fishery-related mortality are expressed as: (1) An exploitation rate ceiling; (2) an upper management threshold; (3) a low abundance threshold; and (4) a critical exploitation rate ceiling. The RMP also contains a comprehensive monitoring and evaluation plan, which will maintain and improve population assessment methodologies and allow for the assessment of: Fishing-related impacts on hatchery and naturally spawning Chinook salmon populations; the abundance of hatchery and naturally spawning fish for each of the identified management units; the effectiveness of the fishing regimes and general approach; and the regulatory compliance. This information will be used to assess whether impacts on listed fish are as predicted pre-season and as anticipated in our evaluation. In addition, information from the monitoring programs will eventually be used to develop exploitation rate objectives for those management units where data are currently limited. The RMP also includes provisions for an annual report. This report will assess compliance with the RMP objectives and help validate parameters used in development of the RMP and the effectiveness of the RMP.

A more detailed discussion of NMFS' evaluation is on the NMFS Northwest Regional Office Web site (see Electronic Access, under the heading, **SUPPLEMENTARY INFORMATION**).

Summary of Comments Received in Response to the Proposed Evaluation and Pending Determination

NMFS published a notice in the **Federal Register** announcing the availability of its Proposed Evaluation and Pending Determination (PEPD) on the RMP for public review and comment on December 29, 2011 (75 FR 82213) for 30 days. NMFS reopened the comment period on February 4, 2011, to provide additional opportunity for public comment (76 FR 6401). Public comment closed February 22, 2011. Eleven commenters provided comments to NMFS on the PEPD during this public comment period. NMFS has reviewed the comments received and discussed the substantive issues with the co-managers. Several of the comments were addressed and reflected in NMFS' final Evaluation and Recommended Determination (ERD). The co-managers made no modifications to the RMP based on public comments received on NMFS' PEPD. NMFS appreciates the time and effort of the persons and organizations who submitted comments on our PEPD and seeks to respond with clarity to those comments. We have grouped comments that are similar and responded to the reviewer's comments through our responses below. Comments received in response to the NMFS announcement of the PEPD for review are summarized as follows:

Comment 1—Several commenters expressed diverging opinions on the use of the Population Recovery Approach (PRA) in NMFS' evaluation of the Puget Sound Chinook RMP. Two commenters recommended that NMFS not use the PRA in its evaluation of the RMP pending further review of its technical basis and discussion with the broader community involved with recovery planning. One of these comments noted that the PRA appears to be inconsistent with the terms of the NMFS recovery plan for Puget Sound Chinook. Two other commenters expressed support for its use as a framework to provide common guidance for NMFS in its regulatory assessment of proposed habitat, harvest and hatchery actions under the ESA across the Puget Sound Chinook Evolutionarily Significant Unit (ESU); to clarify priorities for recovery actions; and, because they view it as

consistent with a holistic ''All-H'' approach to recovery.

Response: First, NMFS emphasizes the fundamental scientific and technical function served by articulating the structure of a healthy Puget Sound Chinook ''family tree'' for rebuilding its long-term resiliency and achieving the delisting objectives of the ESA. Puget Sound Chinook consists of a large number of independent populations distributed across Puget Sound. The NMFS Puget Sound Technical Recovery Team described 22 populations within the Puget Sound Chinook Salmon ESU (Ruckelshaus *et al.,* 2006). In evaluating proposed actions such as those under the RMP, NMFS considers the impacts on each affected population, how those impacts affect the overall viability of each population and ultimately how the distribution of risks across populations affect the survival and recovery of the entire ESU. This is because the ESU, not the individual populations within the ESU, is listed under the ESA. As a scientific matter, not all of the 22 Puget Sound Chinook salmon populations or their watersheds will serve the same role in recovery of the ESU under the ESA (NMFS 2006a). Different populations will be able to tolerate different levels of risk while still contributing to the overall healthy ''family tree'' that comprises the ESU. This assessment of different risks to individual populations within their context to the ESU is explicit in several of the ESA 4(d) criteria used to evaluate the RMP under the ESA and envisions the use of a PRA-like structure. In fact, in its Supplement to the Puget Sound Salmon Recovery Plan, NMFS called for a systematic approach to identify those Chinook salmon populations that should receive the highest priority for recovery activities, with the overarching goal of meeting ESU delisting criteria. Key considerations identified in the Supplement were the uniqueness, status, and physical location of the population, the present condition of the population's freshwater, estuarine and adjacent nearshore habitats, and the likelihood for preserving and restoring those habitats given present and likely future condition.

NMFS did not suggest that any populations or watersheds should be neglected. Although a ''preserve and restore the best'' strategy is sensible, all populations and watersheds will still need to be sufficiently protected to enable the production of sustainable anadromous salmon populations. NMFS has followed through on this commitment by developing the PRA, basing the framework on the key considerations identified in the Supplement.

In characterizing the numerous populations which currently comprise the Puget Sound Chinook ESU, the Puget Sound Technical Recovery Team also noted the loss of a significant number of populations in the Sound—sixteen in fact—and stressed the importance of preserving all of the remaining populations in order to retain the resiliency of the ESU as a whole in the face of changing and highly variable conditions. The PRA does not detract from this objective for any populations, as suggested by some commenters, even for Tier 3 populations.

In light of the twin objectives of meeting the ESA 4(d) criteria and maintaining all existing populations, NMFS responds to related comments by emphasizing the function of the PRA: It is to use the best available information on the relative structure, condition and distribution of individual populations ''to develop a biologically sound process for identifying which populations, watersheds and associated nearshore areas most need immediate protection and restoration investments'' (NMFS, 2006a), while at the same time emphasizing the need to preserve all of the historical legacy of the wild Chinook possible.

In a closely related matter, NMFS acknowledges that the recovery plan for Puget Sound Chinook that was developed by the Shared Strategy in Puget Sound and ultimately was adopted by NMFS did not distinguish among the roles of various Chinook populations. This approach, which essentially assumes all populations would be recovered to equal and low risk of extinction, certainly meets ESA recovery criteria—in fact, it exceeds it in the sense that more risk to certain populations within the ESU is acceptable for ESA recovery than the recovery plan envisions. NMFS has deferred to Puget Sound recovery planners in taking this approach because it also encompasses other public policies beyond those articulated in the ESA, not the least of which supports treaty Indian fishing rights, the rebuilding of the ecological productivity of the individual watersheds across Puget Sound, and the broader water quality and ecological goals of Puget Sound recovery.

NMFS is currently reviewing public comments received on the PRA and will continue to refine and update the PRA as new information becomes available. However, the PRA currently represents the best available information against which to assess the distribution of identified risks across populations to the survival and recovery of the ESU for the purposes of evaluating the RMP under the ESA 4(d) criteria. If subsequent revision to the PRA substantially changes NMFS' conclusions regarding the risk to the ESU, NMFS can ask the co-managers to make the necessary adjustments to the RMP or invoke the process leading to the withdrawal the ESA 4(d) Rule determination.

We emphasize that the concepts underlying the PRA apply most directly when we exercise certain specific authorities under the ESA as a general matter, and in particular as relating to those ESU population-specific activities such as managing the near-term effects of harvests and hatchery production. In other contexts, including the long-term rebuilding of productive riverine and estuarine habitats, we will continue to emphasize the importance of achieving broad sense recovery of all populations in Puget Sound and Washington's coast, to support Tribal treaty rights and recreational and commercial fishing goals, and to contribute to the broader habitat-related goals for rebuilding the health and productivity of Puget Sound. NMFS acknowledges that consultations among Tribal, state and local governments and others interested in the PRA will be ongoing.

Comment 2—Four commenters stated that NMFS did not adequately follow, apply, and is inconsistent with the recommendations and goals of the Hatchery Scientific Review Group (HSRG) in its consideration of hatchery-origin Chinook salmon effects and protective management actions needed in the PEPD document. The HSRG itself commented that the NMFS proposed analysis failed to adequately address the negative impacts of hatchery-origin spawners on these spawning grounds.

Response: The proposed action triggering the PEPD is the harvest management plan proposed by the co-managers that is designed to meet the criteria in the ESA 4(d) Rule. The RMP is being evaluated under Limit 6 of the 4(d) Rule that applies to jointly-developed state and Tribal harvest management plans. In addressing the requirements of Limit 6, the RMP must adequately address 11 criteria under section (b)(4)(i) in Limit 4 of the Endangered Species Act of 1973 (ESA) section 4(d) Rule for listed Puget Sound Chinook salmon (Table 1 in PEPD). Although these criteria are specific to harvest management plans rather than hatchery production programs, they require NMFS to assess the effects of the RMP on VSP criteria of natural populations within the Puget Sound Chinook salmon ESU including

diversity. Therefore, NMFS evaluated the effects on genetic diversity of hatchery fish that might escape fisheries implemented under the RMP and interbreed with fish from natural populations.

That harvest plan does not include specific harvest measures—such as fisheries that selectively harvest hatchery fish and release natural-origin fish—to address directly the effects of hatchery origin fish on natural origin spawners. Salmon abundance is highly variable from year to year, both among Chinook populations and other salmon species, requiring managers to formulate fisheries (*i.e.,* location, duration, timing, gear type) to respond to the population abundance conditions particular to that year. Rather, the RMP provides the framework and objectives against which the co-managers must develop annual action-specific fishing regimes to protect Puget Sound Chinook salmon and meet other management objectives. It should be noted, however, that the plan does not preclude such measures either. The prior harvest management plan also did not include such measures, yet mark-selective recreational Chinook fisheries are implemented extensively throughout Puget Sound.

If the effects of hatchery production on wild stocks are not addressed in the RMP, then where are they addressed? The structure of the entire ESA 4(d) Rule is key to understanding the answer to this question. Limit 5 speaks to the effects of hatchery programs on listed salmon, including the effects of hatchery-origin fish on natural spawning grounds, in the development and approval of Hatchery Genetic Management Plans (HGMPs). Among other things, Limit 5 states that:

''(E) The HGMP * * * account for the * * * program's genetic and ecological effects on natural populations, including disease transfer, competition, predation, and genetic introgression caused by the straying of hatchery fish.''

''(F) The HGMP describes interrelationships and interdependencies with fisheries management'' (Emphasis added).

NMFS's expectation, which it believes is shared by the co-managers, is that the suite of issues associated with the (direct and indirect) effects of hatchery stocks on the productivity of natural origin spawners will be addressed in the HGMPs now under development for all Chinook hatchery programs in Puget Sound. NMFS furthermore fully encourages the integration of those hatchery strategies with the other relevant ''Hs'', undertaken on a watershed-by-watershed basis, and thereby allowing for a tight integration of hatchery strategies, harvest strategies, including local strategies for managing stray rates, and habitat protection and restoration strategies on a place-based basis.

The Hatchery Scientific Review Group (HSRG) was originally formed to provide recommendations for consideration and potential application by the Puget Sound Treaty Tribes and WDFW (the co-managers) in their implementation, as the *U.S.* v. *Washington* fish resource management agencies, of salmon and steelhead hatchery programs within the Puget Sound and Washington Coastal regions. In fulfilling that role, the HSRG provided recommendations to the co-managers regarding potential hatchery management and operational methods that could reduce the risk of adverse effects on natural-origin salmonid populations, while meeting the co-managers' specific hatchery production objectives for the programs. These recommendations were to be applied at the discretion of the co-managers, with the acknowledgement that there may be other measures, beyond those developed by the HSRG, which also could be implemented to meet the objectives of the hatchery programs. The Puget Sound co-managers have implemented the HSRG's recommendations in many of their hatchery programs (Washington Recreation and Conservation Office 2011), and are in the process of implementing more as funding allows, and as agreed by WDFW and Tribal managers for each watershed.

NMFS strongly supports the work of the HSRG that focuses on adverse effects of interbreeding hatchery-origin and natural-origin fish. We anticipate that its work will figure prominently in HGMPs that are being developed under Limit 5 of the ESA 4(d) Rule. Even though most HGMPs in Puget Sound are in development, hatcheries producing most of the Chinook subject to harvest under the RMP already have been adjusted and are continuing to be adjusted, following HSRG and other best-science-related findings and recommendations.

NMFS considers the HSRG's findings and recommendations important to the advancement and implementation of measures needed to reduce the risk of adverse hatchery-related risks to natural-origin salmon populations. These recommendations are not formal ESA standards nor will they constitute the sole source of information considered by NMFS to render ESA determinations regarding harvest and hatchery actions. However, NMFS considers the HSRG's contributions to hatchery-risk related science regarding hatchery-origin fish spawning proportions to be valuable to our review work. As such, the HSRG's recommendations will be fully considered with other best-science-directed information in NMFS' ESA 4(d) Rule evaluation and determination documents addressing Puget Sound hatchery programs operated by the co-managers that affect listed Puget Sound Chinook salmon, Puget Sound steelhead, and Hood Canal summer-run chum salmon. As mentioned, because of the way Limit 5 of the 4(d) Rule has been structured, the ESA hatchery effects review process is the appropriate venue for addressing the hatchery effects-related issues under the ESA.

The HSRG stated the group's belief that Puget Sound Chinook salmon populations will continue to exhibit low productivity unless ''the proportion of hatchery-origin fish is taken into account, regardless of the rate of recovery of habitat'' and that failing to control hatchery-origin fish spawning will ''retard productivity improvement and progress toward rebuilding natural Chinook populations no matter what the current or future condition of habitat''. Two other commenters reiterated an assertion attributed to the HSRG that ''by reforming hatchery broodstock practices and limiting the proportion of hatchery fish reaching the spawning grounds, the science indicates that wild salmon production in many river and streams could actually double''.

The weight of available scientific information suggests that any artificial breeding and rearing is likely to result in genetic change and fitness reduction in hatchery fish and in the progeny of naturally spawning hatchery fish relative to desired levels of diversity and productivity for natural populations. There remain uncertainties associated with the degree or extent of that change. Nevertheless, those risks should be reduced where possible. Although NMFS believes further research is necessary to quantify the effects of interbreeding, circumstances may exist where the commenters' assertion of a ''doubling'' of productivity could result.

However, NMFS cautions against the utility of broad generalizations at this time and believes, at a minimum, that the effects must be analyzed on a watershed-specific basis. The extent and duration of genetic change and fitness loss and the short and long-term implications and consequences differ among species, life-history types, and for species subjected to different hatchery practices and protocols. NMFS believes that actions taken to address the risks of interbreeding must be

considered within the context of these and other factors affecting survival and recovery of a population. Extensive habitat loss and degradation, and the on-going deterioration of natural habitat supporting the survival and productivity of salmon and steelhead in the Puget Sound region has deeply degraded the productivity of most watersheds. Too often, this habitat degradation presents its own, substantial risk that likely dominates in specific basins the factors affecting productivity. Productivity may be so low that even ''doubling,'' while certainly positive, would not substantially improve productivity in absolute terms, nor improve the population's viability as much as one might assume from the generalized notion of ''doubling.'' Often the problems with the population are compounded by demographic risk (*i.e.,* the sheer fact that there are too few fish) which may lead to the conclusion that artificial production in the near-term is appropriate as a near-term method to ''recolonize'' available habitat. Therefore, relative improvements in productivity resulting from changes in the proportion of hatchery fish spawning naturally will depend on site specific circumstances and must include consideration of the existing demographic risk to the population.

NMFS believes its position has been clear throughout its listing determinations, adopted recovery plans and status reviews. Improvement in both habitat condition and hatchery practices is important to rebuilding all VSP parameters for wild Chinook populations, including productivity. We cannot recover Puget Sound Chinook by only reducing the adverse effects of hatchery production, or conversely by ignoring these adverse effects and arguing it is just about habitat. For many populations where habitat is severely degraded, circumstances are such that hatchery reforms will do little to improve overall productivity until other critically limiting factors are addressed. However, debating the relative magnitude of improvements in productivity that might occur from a given set of hatchery reforms is a distraction that can impede progress when it is already agreed that such reforms should be implemented where possible. Better science will provide better information on key questions in the future. In the mean time, recovery efforts should focus on site-specific considerations of both habitat conditions and hatchery practices and a deliberate strategy to improve the overall productivity of the population and the habitats upon which it depends.

Comment 3—Several commenters stated that the ''Genetic Effects'' section of the harvest PEPD document (Section 6.4.2), and the document in general, do not reflect the best available science regarding the effects of hatchery-origin Chinook salmon on the viability (in particular, the productivity) of listed natural-origin Chinook salmon populations in Puget Sound. They also indicate that the section does not effectively reflect NMFS's position regarding the issue of fitness and genetic diversity loss effects associated with natural spawning by hatchery-origin fish. Suggestions for revising the text in the section were provided.

Response: NMFS has responded to these comments by revising and clarifying the description of its understanding of the genetic effects associated with hatchery-origin spawners on the natural origin stocks. One major facet of rebuilding the long-term productivity and resiliency of listed salmon stocks under the ESA is addressing effectively adverse effects of hatchery production on naturally spawning populations. Studies are showing that interbreeding between hatchery-origin and natural-origin fish of various species and hatchery production types pass fitness reductions to naturally produced fish, thereby decreasing the overall productivity and rate of local adaptation of the naturally spawning population over time.

NMFS assembled the PEPD Section 6.4.2 to address genetic diversity and fitness loss issues to the extent that they pertain to harvest management actions evaluated in the PEPD. Our intent is to summarize the state of the science regarding hatchery fish-related fitness loss risks to natural-origin salmonids, with a focus on Chinook salmon produced in the Puget Sound region. We believe that inclusion of this section is appropriate, as the discussion is relevant to our assessment of the 2010 Puget Sound Chinook RMP to address concerns regarding hatchery fish that are not caught in the proposed co-manager fisheries designed to capture the fish, and that then bypass hatchery release sites and escape into natural spawning areas. The initial version of section 6.4.2 was modified shortly after it was released for public review. NMFS made available the modified, expanded version of the section in response to concern expressed by certain reviewers that the original section was not adequately detailed regarding the state of the science, or reflective of NMFS's position regarding fitness loss risks. Comments directed at both versions of section 6.4.2 were subsequently received through the public review process.

As indicated in the modified (second version) genetic diversity section of the PEPD, NMFS is addressing hatchery-related fitness loss concerns by seeking, in broad terms, to reduce adverse impacts associated with the interbreeding of hatchery-origin and natural-origin fish. NMFS's mechanism for evaluating and seeking measures to reduce identified effects of hatchery programs in the Puget Sound region on the viability of natural Chinook salmon populations, including fitness effects resulting from hatchery fish spawning, is a separate ESA evaluation and determination process specific for Puget Sound region hatcheries under Limit 5 of the 4(d) Rule (See response to *Comment 2*). Through that process, responses to fitness loss, reduced rates of local adaptation, and other genetic and environmental effects of hatchery stocks will be considered on a watershed-specific basis, taking into account the demographic strength and genetic diversity of the affected natural-origin population, the existing and projected productivity of habitat in the watershed, the effect of adjustments in hatchery production on the implementation of treaty Indian fishing rights, and other issues relevant to the viability of the natural-origin populations.

In response to public comments received about this issue, NMFS has further modified PEPD section 6.4.2. The new, revised genetic diversity section is included in the final Evaluation and Recommended Determination (ERD) document for the 2010 Puget Sound Chinook RMP. Our objectives for modifying the section were to: (1) Provide an improved explanation regarding why inclusion of a discussion about hatchery fish genetic diversity effects in the harvest evaluation document is appropriate and describe the issues of concern; (2) provide updated, expanded information regarding our view of the state of the science pertaining to hatchery fish fitness effects in general, and specific to Puget Sound Chinook salmon, relying on more detailed coverage of report findings cited in our original version of the section (*e.g.,* RIST 2009) and data gleaned from newly available and additional studies; and, (3) more clearly state NMFS NWR's general position regarding hatchery Chinook salmon management and research actions required to appropriately address fitness loss risks over the near term, consistent with ESA and other mandates. The discussion in the revised section is

broader than necessary to evaluate the proposed RMP under the Limit 6 criteria, but NMFS feels the additional information is important given the broader questions raised in the public comments and to put in better context the varied sources of hatchery effects compared to those related to implementation of the RMP.

Comment 4—Two commenters stated that the section addressing genetic diversity effects of hatchery-origin Chinook salmon in the Puget Sound action area (Section 6.4.2 of the PEPD) is not relevant to the NMFS evaluation of harvest plan effects and should be deleted. They indicated that there is no information presented in the co-managers' RMP regarding hatchery production levels, fisheries targeting hatchery fish, and other hatchery management issues that could be used by NMFS to allow for the review presented in Section 6.4.2. Risks to the genetic diversity should instead be addressed within the NMFS ESA consultation process specifically directed at Puget Sound region salmon and steelhead hatchery actions, and considering hatchery-specific information presented in the co-manager Puget Sound hatchery RMPs and HGMPs proposed for authorization.

Response: As stated above (See Response to *Comment 3*), NMFS believes that the subject genetic diversity section in the harvest plan evaluation document is appropriate because the discussion was relevant to our assessment of the 2010 Puget Sound Chinook RMP. The discussion addresses general concerns about the effects of hatchery fish that are not caught in the co-manager fisheries under review. These hatchery-origin fish will escape at varying levels and with varying effects into natural spawning areas where genetic diversity and fitness effects will be important to assess. We have included a modified version of the section 6.4.2 in the PEPD document with an improved explanation regarding the need for the discussion in the harvest plan effect evaluation document and to provide additional context for the varied sources of hatchery effects compared to those related to implementation of the RMP.

We agree with the commenters that the appropriate venue for addressing the full range of genetic diversity effects, including productivity and fitness loss risks, and other effects that may be associated with Chinook salmon hatchery programs, is the NMFS ESA consultation process under Limit 5 of the 4(d) Rule where co-manager Puget Sound hatchery RMPs and HGMPs will be reviewed (See Response to *Comment 2*). Included in the evaluation will be consideration of the effects of regional hatchery programs on natural-origin Puget Sound Chinook salmon population abundance, genetic diversity, fitness, and productivity.

Comment 5—Several commenters indicated that there is uncertainty regarding the degree of hatchery-related genetic diversity and fitness reduction risks, in general agreement with conclusions presented in the versions of PEPD Section 6.4.2 provided. Other commenters strongly believe that NMFS over-stated the uncertainty of current scientific findings regarding fitness loss effects associated with hatchery-origin fish straying in both versions of the section.

Response: NMFS has modified section 6.4.2 included in the final PEPD document for the co-manager harvest plan to more clearly articulate our perspective regarding the state of the science and the level of certainty pertaining to hatchery fish productivity and fitness loss effects and risks to Pacific Northwest anadromous salmonid populations in general, and Puget Sound Chinook salmon populations in particular.

Comment 6—Two commenters stated that NMFS should emphasize the essential function of hatchery production to enable the exercise of treaty-reserved fishing rights.

Response: Treaty fishing rights stewardship is an important mandate for NMFS. The importance of meeting U.S. Federal obligations in this regard is highlighted in NMFS's ESA effects evaluation documents for Puget Sound harvest and hatchery actions. Extensive loss and degradation, and the on-going deterioration of natural habitat supporting the survival and productivity of salmon and steelhead in the Puget Sound region has deeply degraded the productivity of the system and been a major factor in the listing of Puget Sound Chinook populations under the ESA (Good *et al.,* 2005, Myers *et al.,* 1998, NMFS, 2005a; 2006b; 2007; Shared Strategy, 2007). NMFS acknowledges that with the existing state of salmon habitat in Puget Sound, hatchery production is essential for providing surplus fish for harvest within treaty-reserved fisheries in many watersheds. Hatchery production will continue to be needed until productivity of the natural populations increase sufficiently to support salmon and steelhead abundances necessary for sustainable fisheries. Habitat improvements and decreases in genetic, ecological, and physical effects from hatchery facility operations are important requirements to increase productivity. While hatchery production will be required for the foreseeable future, we must simultaneously take appropriate steps to reduce its adverse effects on natural-origin fish. The tension between the implementation of treaty Indian fishing rights and ESA-required conservation measures for listed ESUs of salmon was recognized in 1997 with the issuance of an order by the secretaries of the U.S. departments of Commerce and Interior (Secretarial Order 3206). Generally in this context, the Secretarial Order directs NMFS to ''harmonize'' the requirements of the ESA with those of treaty reserved fishing rights and outlines procedures to do so.

Comment 7—One commenter stated that certain data regarding hatchery-origin Chinook salmon mark rates and stray rates presented in the document are inaccurate (re ''pages 175–176, Table 1'').

Response: The commenter appears to be addressing a table and statements included in the RMP and not the NMFS PEPD provided for public review and comment. From pages 161 and 162 of the co-manager harvest RMP (PSIT and WDFW 2010).

''Estimates of hatchery and natural contribution for Issaquah Creek are derived from sampling at the hatchery rack. An assumption that the hatchery contribution at the rack is the same as the contribution in Issaquah Creek was confirmed in 2007 by extensive carcass sampling in the creek. These estimates are conservative since juvenile hatchery Chinook mark rates are less than 100%. The estimates for mark rate in Bear Creek assume that the natural production from Issaquah Creek contributes unmarked spawners to Bear Creek in the same proportion as that in Issaquah Creek.''

We have notified the co-managers regarding these potential discrepancies in the RMP. These estimates were not integral to the evaluation in the PEPD.

Comment 8—One commenter emphasized the need for NMFS' consideration of critical habitat loss and degradation effects on natural-origin Chinook salmon ESU productivity in its evaluation, holding that those effects are much greater than possible negative genetic interactions with hatchery fish. The commenter stated that NMFS needs to consider all ''H'' integration in its ESA consultation processes to appropriately address all factors affecting recovery, and not just hatchery and harvest actions.

Response: NMFS concurs that habitat loss and degradation are limiting factors for the survival and productivity of Puget Sound Chinook salmon

populations. We have acknowledged the important role of these factors in depressing salmon population viability in our species status review (*e.g.,* Myers *et al.,* 1998) and annual PCSRF Report to Congress documents (NMFS, 2005a; 2006b; 2007), and within the baseline environmental condition sections of our biological opinions addressing regional habitat, harvest, and hatchery actions (*e.g.,* NMFS's recent FEMA floodplain effect biological opinion (NMFS 2008)). ''State of Salmon Watersheds'' documents produced by the Washington Governor's Salmon Recovery Office (*e.g.,* Washington Recreation and Conservation Office 2011) are among the resources used by NMFS and available to the public indicating the poor condition of regional habitat for salmon, and habitat protection and restoration measures needed to benefit natural-origin salmon population recovery. We consider this information about baseline habitat conditions in forming our determinations in the Puget Sound region. In reviewing the effects of hatchery-origin Chinook salmon on natural-origin populations and determining appropriate protective measures under Limit 5 of the ESA 4(d) Rule, our intention is to take into account the existing and projected productivity of habitat in the watersheds where the hatchery-origin fish return. Appropriate integration of hatchery management with the present condition of habitat, and plans for its restoration, will be a key objective of the ESA consultation process for Puget Sound hatchery programs (See Response to *Comment 2*).

Comment 9—Two commenters agreed with some, or most, of the statements in Section 6.4.2 of the PEPD. They supported the need to implement studies designed to collect empirical data regarding the effects of Puget Sound sub-yearling hatchery program-origin Chinook salmon on natural populations, including gene flow levels and fitness reduction effects. They indicated that study results would show actual, likely effects, rather than relying on studies of other species with different hatchery life histories to inform needed harvest and hatchery risk mitigation measures.

Response: NMFS concurs that there is a need for additional studies to obtain gene flow and fitness loss risk data relevant for appropriately guiding risk management strategies for hatchery Chinook salmon production for the Puget Sound. A coordinated, programmatic approach, spanning regional Chinook salmon population viability and habitat conditions, will help guide development of appropriate and effective genetic diversity risk management measures for co-manager hatcheries. We have recently begun a research, monitoring and evaluation initiative in the Puget Sound region (the Puget Sound VSP (Viable Salmonid Population) Monitoring Initiative) directed at evaluation needs for hatchery programs. Studies implemented to address key data gaps may provide better information in support of managing genetic diversity risks associated with the production and escapement to natural spawning areas of Puget Sound sub-yearling hatchery-origin fish. However, NMFS believes the data and body of science is currently sufficient to warrant appropriate actions to reduce adverse effects of interbreeding when and where they can be implemented.

Comment 10—One commenter indicated that the conclusions presented in NMFS's PEPD document represent a major departure from the agency's findings in its 2005 Hatchery Listing Policy (NMFS 2005b) and the recent Mitchell Act Hatchery Draft EIS regarding the role of hatchery-origin fish in wild salmon recovery efforts. Another commenter stated that the ESA requires that hatchery-origin fish are not part of the solution for recovering natural-origin salmon populations, and alleges that NMFS is proposing to treat hatchery-origin strays to natural spawning areas at a status equivalent to natural-origin fish.

Response: NMFS disagrees with these comments and seeks through these revisions and responses to clarify its approach. NMFS's 2005 Hatchery Listing Policy identifies the role hatchery-origin fish populations may play in contributing to the viability of listed natural-origin salmon and steelhead populations (70 FR 37204, June 28, 2005). The policy clearly states that self-sustaining natural-origin fish populations are the central focus of population viability restoration efforts and recovery of listed fish species under the ESA. The policy also acknowledged that there are certain circumstances where hatchery populations that were no more than moderately diverged from donor stock natural-origin populations could contribute in certain cases positively to the abundance, diversity, spatial structure and productivity of the listed natural-origin populations. Through the hatchery population review and Hatchery Policy implementation processes, NMFS evaluated the status of all hatchery-origin Chinook salmon populations in Puget Sound, determining that fish produced in 26 hatchery programs were part of the listed ESU and protected with natural-origin fish (70 FR 37160, June 28, 2005). NMFS further evaluated the effects of the listed hatchery-origin populations on viability parameters for the natural-origin populations from which they were derived, determining that most contributed positively to the abundance of associated natural-origin populations, and many also contributed to population diversity and spatial structure (*http://www.nwr.noaa.gov/Publications/upload/SHIEER.pdf*). These determinations are entirely consistent with the NMFS's determinations pertaining to the adverse genetic and environmental effects of certain hatchery practices, as described above. The NMFS PEPD document incorporates these previous determinations regarding the potential contribution of certain hatchery populations to natural Chinook salmon population viability. However, NMFS's clear intent is to assess effects on the natural-origin Chinook salmon populations as the paramount concern regarding population and ESU recovery. It is precisely for this reason that the recovery exploitation rates used in NMFS's harvest evaluation are therefore focused upon and derived from natural-origin production.

Regarding the issue of consistency between conclusions presented in the PEPD document and the NMFS's Draft EIS for Mitchell Act Hatchery programs, we emphasize that the former document addresses Puget Sound harvest programs, the Chinook populations affected by them, and is in response to a RMP structured to meet the requirements of the ESA 4(d) Rule. The Draft EIS is structured to meet the requirements of the National Environmental Policy Act (NEPA) and pertains to Columbia River hatchery programs and their effects on salmon and steelhead populations in the Columbia River Basin. The two documents have different purposes, and evaluate the effects of separate actions on different ESUs and DPSs, in distinct habitat settings, and under different resource management frameworks. The draft findings presented in NMFS's PEPD document reflect evaluations specific for discrete Tribal and state-managed harvest effects on Puget Sound regional Chinook salmon populations based on the criteria of Limit 6 in the salmon and steelhead 4(d) Rule, considering their status, and the condition of habitat and hatchery production types as context. The draft EIS exposes for review effects on the human environment of a broad range of alternative hatchery production and management practices in the Columbia

River. Like hatchery programs in the Puget Sound region, hatchery fish considered in the Mitchell Act hatchery Draft EIS were evaluated by NMFS in 2005 under the Hatchery Listing Policy for inclusion with natural-origin populations as part of listed ESUs and DPSs, and many were determined through the commensurate Salmon Hatchery Inventory and Effects Evaluation Report (SHIEER) process as contributing to the abundance, diversity, and spatial structure of natural populations. The methods evaluated by NMFS for assessing the effects of harvest on Puget Sound Chinook salmon populations (*i.e.,* RERs) are consistent with those applied to assessing the effects of harvest to Chinook salmon populations in the lower Columbia region that are affected by the hatchery programs evaluated in the Draft EIS. For these reasons, and considering the contents of the version of Section 6.4.2 provided for public review, we do not agree that the two documents are inconsistent in their treatment of the role of hatchery-origin salmon in population recovery efforts.

Comment 11—Several commenters raised concerns that harvest actions like those within the RMP are evaluated independently of hatchery, habitat, and recovery plan actions. They expressed the view that all management actions (hatcheries, harvest and habitat) should be assessed together. One commenter suggested that existing and planned management actions should be reviewed and revised based upon their ability to meet necessary conservation and harvest goals for each Puget Sound Chinook stock over several time frames: short (potential), mid-term (delisting), and long-term (*i.e.,* recovery).

Response: NMFS understands the sentiment underlying these comments and the desirability of linking explicitly strategies for managing habitats, hatchery practices and harvest practices in an integrated fashion. NMFS furthermore anticipates that the HGMPs will serve as an important vehicle by which to undertake such integration on a watershed-by-watershed basis, and at a level of specificity that far exceeds that which is pertinent to the evaluation of this harvest RMP. NMFS must evaluate the RMP that is provided by the co-managers against the criteria under Limit 6 in the ESA 4(d) Rule. In its PEPD, NMFS evaluated the co-managers plan using the best available information regarding the expectation of conditions over the proposed duration of the plan, and evaluated the anticipated outcome against NMFS' standards for listed Puget Sound Chinook salmon. Under Limit 6 of the 4(d) Rule, NMFS focuses its inquiry on whether the RMP meets the criteria of Limit 6 and will not appreciably reduce the likelihood of survival and recovery.

NMFS' proposed evaluation of the RMP discusses a subset of hatchery related effects in Section 6.4.2 Genetic Diversity of the PEPD and takes into account the effect of habitat and environmental conditions in determining stock status and in deriving the standards it uses to assess the RMP (see Appendix 1 in the PEPD). As required by the ESA, the biological opinion associated with NMFS' determination under the ESA 4(d) Rule considers the effects of the proposed RMP in the context of other past, present and future habitat, harvest and hatchery actions that affect the status and environmental baseline of the listed species.

The commenters describe an integrated approach in the context of long-term recovery planning. NMFS agrees with the commenters that survival and recovery of the Puget Sound Chinook Salmon ESU will depend, over the long term, on necessary actions in all H sectors. The Puget Sound Salmon Recovery Plan describes the types of actions in each sector for each Puget Sound watershed that must occur to achieve a positive trajectory toward recovery for the ESU and emphasizes the need for an integrated approach. If implemented, these actions will have a positive effect on Puget Sound Chinook. In order for this to happen, the entities with regulatory authority and jurisdiction to implement the actions in the various H sectors must work together. The watershed planning efforts currently on-going under the aegis of the Puget Sound Partnership, state, Tribal and local governments are striving to bring together the necessary regulatory authorities to develop integrated approaches to recovery planning. NMFS supports these efforts as the best opportunity to succeed with integrating habitat, hatchery and harvest actions.

In the meantime, NMFS has taken a precautionary approach to its evaluation of the RMP. Unlike harvest actions that are implemented, effective and assessed in a matter of days to several years, certain habitat and hatchery actions may take much longer to implement and generally decades to assess. This timeframe is well outside the duration of the 2010 Puget Sound Chinook RMP. Their pace of implementation is highly uncertain. Incorporating assumed benefits in the near-term for the purposes of evaluating the RMP under Limit 6 of the ESA 4(d) Rule given such uncertainty could result in overly risky projections of future production. Therefore, in its evaluation NMFS assessed the performance of populations in the ESU under recent productivity conditions, *i.e.*, assuming that the impacts of hatchery and habitat management actions remain consistent with current practices.

Finally, the previous RMP was adopted as the harvest component of the Puget Sound Salmon Recovery Plan (NMFS, 2006a) and so is integral to the overall approach to recover Puget Sound Chinook. If determined to be consistent with the requirements of the ESA salmon and steelhead 4(d) Rule, the 2010 Puget Sound Chinook RMP will replace the previous RMP as the harvest component of the Puget Sound Salmon Recovery Plan.

Comment 12—Several commenters expressed the view that the processes for development of the RMP and NMFS' evaluation of it were not transparent. One commenter requested peer review of the RMP and NMFS' analysis in the evaluation.

Response: As noted above, NMFS recognizes the complexities of these analyses and has sought through this notice and comment period to provide a meaningful opportunity for the public to review and comment on our draft analysis. NMFS is evaluating the RMP that is provided by the co-managers against the criteria under Limit 6 in the ESA 4(d) Rule. As required under Limit 6 of the 4(d) Rule, NMFS published its proposed determination on the RMP along '' * * * with a discussion of the biological analysis underlying that determination,'' *i.e.,* its proposed evaluation, for 30 days in the **Federal Register**. Based on requests from the public for additional time to review and comment on the proposed evaluation, NMFS extended public review by an additional 25 days. NMFS requested public comment on its PEPD in order to (1) seek input from the public on its proposed decision; (2) provide transparency in explaining the basis of its proposed decision; and, (3) provide the opportunity for review of its data, analysis and conclusions from the science community, local, state, Tribal governments, non-governmental organizations as well as the general public. Although no detailed technical comments were received in this case, we have received substantive technical comments as a result of public review on previous evaluations of RMPs and through similar processes for other listed species. We acknowledge that both the proposed action and the information used to analyze the potential effects of its implementation are extremely complex and

understandably difficult for the average lay-person to understand. Where internal or external review has highlighted areas needing clarification we have attempted to provide further explanation. Aside from the results, analysis and conclusions presented in the PEPD, Appendices 1 and 2 provide additional technical information and methodology descriptions to help the reviewer understand in more depth the rationale underlying our approach and the derivations of the standards NMFS used in the PEPD. In Section 2 and throughout the PEPD (*e.g.,* pages 47 and 136–141), we describe further the our key assumptions used in the analysis, uncertainties or limitations in aspects of the data and modeling tools and how we take them into account in our evaluation.

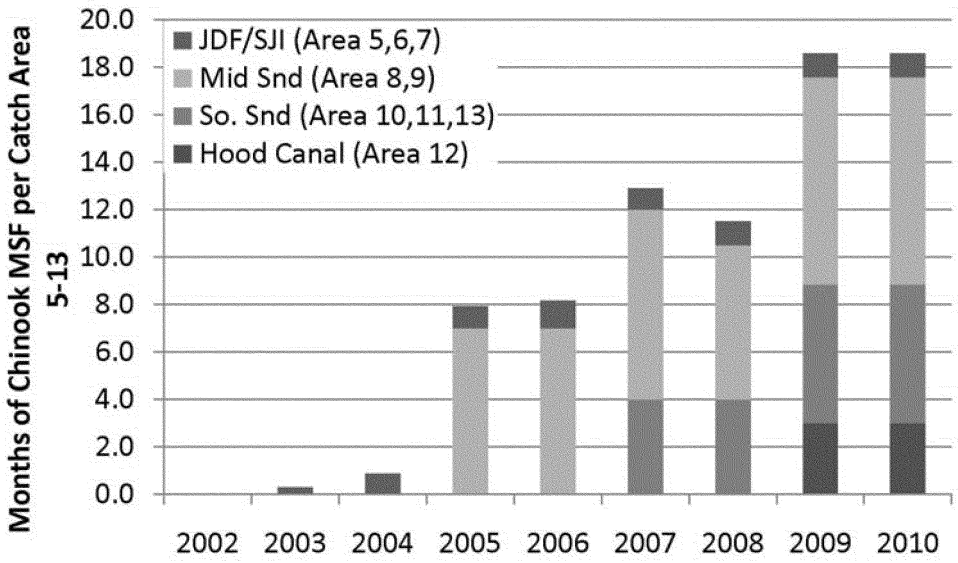
NMFS' relationship to the RMP is to assess the effects of the RMP against the specific criteria of the ESA 4(d) Rule as requested by the co-managers when they submitted it to NMFS for evaluation under Limit 6 of the 4(d) Rule. The RMP framework and objectives consider a broader range of resource use objectives, legal obligations and other provisions than is within the scope of NMFS' assessment of the criteria under the 4(d) Rule. The co-managers may seek a broader peer review of the RMP if they choose, but it is not NMFS' responsibility to do so as part of its evaluation under the 4(d) Rule. Peer review of the PEPD, while it could further validate the science, is not required under the 4(d) Rule and could not be accomplished without delaying the determination beyond the 2011 fishing season. NMFS relied on peer reviewed sources in its scientific analysis such as Puget Sound TRT documents, the Viable Salmonid Populations document (McElhaney, *et al.*, 2000), scientific literature cited in the PEPD and collaboration with Northwest Fisheries Science Center staff in the development of RERs and escapement thresholds.

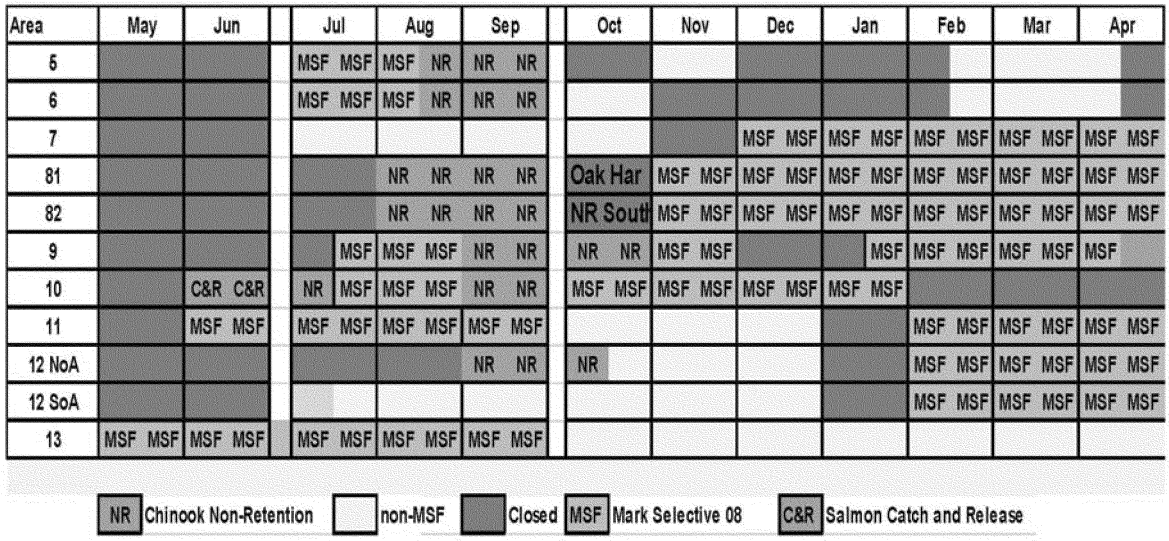
Comment 13: Several commenters suggested the increased use of mark-selective fisheries as a tool for reducing the level of hatchery fish on the spawning grounds and avoiding by-catch of other species.

Response: As discussed in response to *Comment 2* above, the RMP does not preclude mark-selective fisheries (many are currently in use), but does not require them. Nor do the criteria in the ESA 4(d) Rule require their inclusion. The PEPD evaluated the effects of implementing the RMP's management thresholds and exploitation rates—from whatever harvest regime—on natural-origin populations, to the extent information was available. The anticipated results of implementing the RMP were compared against the criteria outlined under Limit 6 of the ESA 4(d) Rule. Through its evaluation of the RMP, NMFS concluded that the RMP adequately addressed all the criteria outlined in the ESA 4(d) Rule, including implementing and enforcing the RMP, and would not appreciably reduce the likelihood of survival and recovery of the Puget Sound Chinook Salmon ESU.

The RMP does not include specific details of an annual fishing regime, for example where and when fisheries occur; what gear will be used; or how harvest is allocated among gears, areas, or fishermen. Salmon abundance is highly variable from year to year, both among Chinook populations and other salmon species, requiring managers to formulate fisheries (*i.e.,* location, duration, timing, gear type) to respond to the population abundance conditions particular to that year. Rather, the RMP provides the framework and objectives against which the co-managers must develop annual action-specific fishing regimes to protect Puget Sound Chinook salmon and meet other management objectives. Alternative fishing techniques such as mark-selective fisheries are not specifically addressed in the RMP since the use of the appropriate management measure is dependent on the annual circumstances. Even though not addressed in the RMP, many gear-related measures, including mark-selective fisheries, have been and would be implemented in Puget Sound fisheries that extend fishing opportunity, reduce mortality on released animals (including Chinook salmon), or reduce such encounters (as with seabirds).

Even under the prior RMP (which also does not mention mark-selective fisheries), the use of mark-selective regulations in recreational fisheries has increased both in time and areas in Puget Sound (Figures 1 and 2). However, releasing fish after being caught using nearly any gear type, including those designed for selective fishing has some associated mortality associated with it, even if it is very low (Columbia River Compact 2004; Ruggerone and June, 1996; Vander Haegen, 2002a; Vander Haegen, 2002b; Vander Haegen, 2001; Vander Haegen, 2003; also see Appendix B of the Proposed Action in DEIS Appendix A (NMFS 2004)). Because of the associated mortality on released fish, new areas opened to mark-selective fishing usually require a commensurate closure somewhere else in order to maintain acceptable or ''level'' impacts to wild stocks in order to meet conservation objectives. In most of Puget Sound, these impacts of concern occur to populations in critical status (*e.g.,* Nooksack, Stillaguamish, Mid-Hood Canal, Dungeness) that have very low allowable exploitation rates. In South Puget Sound and Hood Canal, hatchery fish currently dominate the catch in areas where fisheries are open. However, the catch rates and exploitation rates in Puget Sound recreational fisheries are relatively low even when significant mark-selective fisheries are implemented. The figure below shows how use of mark selective fisheries has grown over time. The second figure shows the specific months and areas that were open to mark selective fishing in 2010. But the annual average Chinook catch per angler in Puget Sound marine sport fisheries ranges from 0.04 to 0.3 depending on the area (pers. comm. S. Theisfeld, WDFW). Although mark-selective recreational fisheries can reduce to some degree the number of hatchery fish that stray to spawning areas, to achieve significant fishery-based reductions in hatchery strays will likely require development and implementation of alternative gears that can capture large numbers of fish and provide minimal mortality to fish released. The development and progression of these alternative gears along with further expansion of mark selective recreational fisheries is part of the annual co-manager discussions during the preseason process.





NMFS supports the use of mark-selective fisheries where appropriate to extend recreational fishing opportunity. However, the use of mark-selective fisheries, like any other management tools, depends on the specific circumstances and is shaped by the over-riding need to achieve conservation objectives. As the commenter points out, other methods may better achieve reductions in hatchery contribution, and the potential risks of hatchery spawners must be weighed against the specific resource use, conservation objectives and watershed characteristics in each management area.

Comment 14: One commenter suggested using confidence intervals or some other method to explain how risks are being managed in the face of uncertainty.

Response: In Section 2 and throughout the PEPD (*e.g.*, pages 47 and 136–141), we describe our key assumptions in the analysis, uncertainties or limitations in aspects of the data and modeling tools and how we take them into account in our evaluation. The Fishery Regulation and Assessment Model (FRAM) that NMFS used to model the exploitation rates and escapements anticipated to result from implementation of the RMP is a static model and does not provide estimates of uncertainty. Therefore, we modeled a range of abundances and fishery scenarios as another way to capture the uncertainty in what might occur over the foreseeable future under implementation of the RMP. The Rebuilding Exploitation Rates (RERs) that NMFS uses in part to assess the effects of the RMP directly incorporate estimates of variability in the spawner-recruit parameters, environmental covariates and management error (Appendix 2 of the PEPD and NMFS, 2000) and makes conservative assumptions about future conditions. For example, we assume marine survival will continue to remain low for Puget Sound Chinook populations. NMFS will continue to work to improve ways to illustrate the uncertainty in the analyses on which it bases its decisions.

NMFS recognized that in this modeling exercise, conservative assumptions were made and that there was always the possibility that in any individual year the results could be different than the range of possibilities considered. As another way to manage uncertainty, NMFS and the co-managers regularly evaluate the performance of the RMP and build in provisions to make adjustments as new information becomes available or problems are detected. In recent years, post-season assessment of the previous RMP which is similar to the 2010 Puget Sound Chinook RMP generally showed that estimated exploitation rates were lower than pre-season projections (NMFS 2009). Generally, the 2011 pre-season modeled escapement results are within or greater than the range of predicted escapements in the PEPD. This can be, in part, attributed to the use of risk-averse modeling assumptions in modeling impacts and the resultant escapement under the RMP. The RMP contains provisions to evaluate the fishery performance under the RMP for bias and make necessary adjustments if bias is detected (Chapter 7 of the RMP).

Finally, although approval of the RMP under the ESA 4(d) Rule would authorize take consistent with the management objectives in the RMP, that approval is based on the patterns of escapement and exploitation rates resulting from NMFS' analysis, anticipated levels of abundance over the duration of the RMP and the key assumptions described in the PEPD. Based on post-season information, should actual circumstances deviate from those considered in the analysis such that the RMP is not effective in conserving listed Puget Sound Chinook, NMFS expects that the co-managers will take actions under the RMP to provide the necessary protections as per its adaptive management provisions, or NMFS may withdraw its approval as per the provisions of the 4(d) Rule (50 CFR 223.203(b)(6)(v)).

Comment 15: One commenter requested a shorter time frame of one year for the RMP rather than the five years originally proposed to reflect more recent information and broader involvement in its development.

Response: The duration of the RMP was shortened by the co-managers from an original term through April 2015 to a new term through April 2014 in response to concerns related to prey available to listed Southern Resident killer whales and the need to develop a comprehensive review of West Coast fisheries impacts on Southern Residents. However, it should be noted that this change in duration was an action taken not by NMFS, but by the co-managers following a NMFS request. It is the co-managers who decide what the duration of the proposed RMP should be, and NMFS then evaluates that RMP for a positive or negative determination under Limit 6 of the 4(d) ESA Rule. As noted in the introduction to these responses, NMFS has discussed with the co-managers comments received about the process by which the RMP was developed.

Comment 16: The commenter requested that NMFS recognize the Sammamish as important to recovery of the ESU and that all natural-origin Chinook from the WRIA 8 watershed warrant protection under the ESA.

Response: NMFS evaluated the anticipated effects of implementing the RMP on all 22 Puget Sound Chinook populations, including the Sammamish, in assessing the risk to the Puget Sound Chinook ESU. In its evaluation, NMFS determined that the Sammamish and Cedar River populations were at low risk from implementation of the RMP. The average exploitation rates under the RMP are anticipated to be below their surrogate RERs for both populations. The surrogate RER for these populations is described in Section 2.3 of the PEPD. Average escapements are expected to increase by a small amount under implementation of the RMP.

The listed Puget Sound Chinook ESU includes all runs of Chinook salmon from rivers and streams flowing into Puget Sound, including the Straits of Juan de Fuca from the Elwha River eastward, and rivers and streams flowing into Hood Canal, South Sound, North Sound, and the Strait of Georgia in Washington. Also included in the ESU are 26 artificial propagation programs. All Chinook from these areas warrant protection under the ESA. In evaluating proposed actions such as the RMP, NMFS considers the impacts on each affected population; how those impacts affect the overall viability of each population and ultimately how the distribution of risks across populations affect the survival and recovery of the entire ESU. This is because the ESU, not the individual populations within the ESU, is the listed entity under the ESA and not all of the 22 Puget Sound Chinook salmon populations or their watersheds have the same role in contributing to the recovery under the ESA of the ESU (NMFS, 2006a). This assessment of risks to individual populations within their context to the ESU is explicit in several of the 4(d) criteria used to evaluate the RMP under the ESA.

See also response to *Comment 1.*

Comment 17: The commenter requested that NMFS not approve the proposed change in provisions for Lake Washington Chinook. NMFS should keep the exploitation rate ceiling at a 15% rate as it was in the previous RMP for Washington fisheries that occur prior to these fish entering the Lake Washington watershed (known as ''pre-terminal southern U.S. rate'') and allowing no directed fisheries on Lake Washington Chinook. (Pre-terminal southern U.S. fisheries are those that occur south of the Canadian border and before the terminal area, in this case, Lake Washington.)

Response: There is no change from the prior RMP to the anticipated total exploitation rate in southern U.S. fisheries for Chinook returning to the Lake Washington basin, although the structure of the exploitation rates is adjusted from the prior plan. NMFS' proposed evaluation indicates the management objectives proposed in the RMP would be adequately protective of Cedar River Chinook. Although the provisions are different, the 2010 RMP constrains the overall southern U.S exploitation rate to the same level as anticipated under the previous RMP. In addition, the escapement goal for the Cedar River is higher under the 2010 RMP and the allowable southern U.S. exploitation rate at very low abundances is lower. The harvest management

objectives for the Cedar and Sammamish populations in the previous 2004 Puget Sound Chinook RMP were a 15 percent pre-terminal (*i.e.,* areas outside of Lake Washington) southern U.S. exploitation rate ceiling with a 1,550 escapement goal (1,200 to Cedar River and 350 to Northern Lake Washington tributaries). Under the previous RMP, no directed Chinook fisheries would occur in Lake Washington. Anticipating that productivity and abundance would remain low during the term of the 2004 RMP, the co-managers committed to continuing to implement management actions in Lake Washington terminal fisheries which constrained impacts on Lake Washington natural Chinook to very low incidental levels, *i.e.,* as if the populations were at critical levels (PSIT and WDFW, 2004). The total southern U.S. exploitation rate on Lake Washington Chinook was not anticipated to exceed 20 percent (Frank and Koenings 2004) accounting for incidental impacts in Lake Washington terminal fisheries directed at other species. At lower abundance levels, pre-terminal southern U.S. fisheries were limited to a 12 percent exploitation rate. Actual total southern U.S. exploitation rates under implementation of the 2004 RMP averaged 17 percent (2004–2008) (NMFS unpublished data).

The 2010 Puget Sound Chinook RMP also constrains the overall southern U.S. exploitation rate to no greater than 20 percent except where the Cedar River is expected to exceed its upper management threshold of 1,680 Chinook spawners. The Cedar River escapement goal was increased from the goal in the 2004 RMP to account for additional capacity downstream of the Landsberg Dam. At Cedar River escapements less than 1,680, directed Chinook fisheries will not occur in Lake Washington and impacts will be limited to fisheries targeted at other species and/or Tribal ceremonial and subsistence fisheries (PSIT and WDFW 2010). Under very low abundances, pre-terminal southern U.S. fisheries would be constrained more than under the 2004 RMP, *i.e.,* 10% under the 2010 RMP compared with 12% under the 2004 RMP. If Cedar River escapements are projected to be above the 1,680 escapement goal, the RMP allows for directed Chinook fisheries in Lake Washington but only under conservative conditions. The RMP states that ''Directed fisheries targeting harvestable surplus for any management unit will be implemented cautiously. Consistent forecasts of high abundance, substantially above the upper management threshold, and preferably corroborated by post-season or in-season assessment, would be necessary to initiate such fisheries. Alternatively, a terminal area inseason update with consistent performance may be used to identify abundance above the upper management threshold. In practice, a substantial harvestable surplus must be available, so that the directed fishery is of practical magnitude (*i.e.*, there is substantial harvest opportunity and the fishery can be managed with certainty not to exceed the harvest target). The decision to implement a directed fishery will also consider the uncertainty in forecasts and fisheries mortality projections. A directed fishery would not be planned to remove a very small surplus above the UMT [Upper Management Threshold—1,680 in the case of the Cedar River]. Implementing a new directed fishery, in an area where one has not recently occurred, will require reasonable assurance that abundance has increased to the level that will support a fishery. In practice this implies that increased abundance has occurred for a period of prior years, and that forecasts are reliable, before implementing a new directed fishery.'' (Page 36 of the 2010 RMP.) In addition, for the Cedar River, any Chinook-directed fisheries in Lake Washington must also be designed to result in spawning escapements above 1,680 and increase as abundance increases. Based on these conditions and past patterns in escapement, a directed Chinook fishery in Lake Washington is unlikely to occur under the 2010 RMP. Escapement has exceeded the escapement threshold of 1,680 only once since 1999. Pre-season forecasts for 2011 estimate Cedar River escapement will be lower than the escapement goal (FRAM model runs 0411 and 0611). Finally, the co-managers have not yet developed the inseason update required as a precursor to implementing Chinook-directed Lake Washington fisheries.

NMFS' proposed evaluation indicates the management objectives proposed in the 2010 RMP would be adequately protective of Cedar River Chinook. The escapement trend is increasing and growth rates are stable (Table 9 of PEPD), average exploitation rates are not anticipated to increase from those observed and anticipated average exploitation rates are below the surrogate RER even under extremely low abundance conditions (Tables 29 and 30 of PEPD). NMFS' evaluation of the Cedar River included southern U.S. exploitation rates approaching the 20 percent ceiling, *i.e.,* 18–19%. If directed fisheries were to occur, based on the RMP requirements, resulting escapements should seed the existing habitat based on the limited information available and probe the available capacity and productivity at higher abundances. NMFS' analysis also assumed that impacts on the Sammamish population were the same as that for the Cedar River in southern U.S. fisheries, *i.e.,* the co-managers will not target the Sammamish population in Lake Washington in isolation of management for the Cedar River Chinook population (page 46 of the PEPD). Directed Chinook fisheries within Lake Washington during the duration of the RMP will be driven by the status of the Cedar population. Given the conservative requirements in the 2010 RMP to implementing directed fisheries and the results of its evaluation, NMFS concludes the proposed management regime would not represent an undue risk to the Lake Washington populations.

See also response to *Comment 18.*

Comment 18: The commenter requested that the low abundance threshold and upper management thresholds in the RMP be increased for the Cedar River to better incorporate watershed-specific information reflecting improved conditions and increased capacity in the Cedar River and to be more conservative while stocks recover.

Response: NMFS concurs with the general implication of the comment that deriving abundance thresholds based upon the most recent watershed-specific data would be preferable. However, in the absence of such data, NMFS believes that the escapement thresholds are properly conservative for several reasons. Since a sufficient time series of data does not exist for the Cedar River that measures the proportion of natural-origin spawners in escapements to determine the population specific thresholds that reflects the productivity and capacity of the watershed, NMFS uses generic escapement thresholds based on guidance in the Viable Salmonid Populations (VSP) document (McElhaney *et al.,* 2000) to evaluate the potential effect of proposed harvest actions on the Cedar River. However, this threshold is similar to or greater than rebuilding escapement thresholds that NMFS has derived from population-specific data for river systems similar to the Cedar River. Additionally, the co-managers escapement goal of 1,680 is higher than the generic rebuilding threshold of 1,250 used by NMFS. NMFS agrees that a population-specific Cedar threshold should be derived as sufficient data become available; particularly given the

additional capacity in the upper watershed. NMFS will evaluate the feasibility of deriving a population-specific escapement threshold for the Cedar River prior to development of the next Puget Sound Chinook harvest plan.

Average productivity for the Cedar River is currently estimated as 1.7 recruits/spawner (Table 8 of PEPD) well below the recovery planning high productivity target of 3.1. The commenter asserts that more spawners are needed to achieve the recovery targets if the productivity is lower than the 3.1 target, but this assumes that the spawner-recruit curve for recovery has been achieved. It is likely that the current spawner-recruit curve is well below that which describes recovery given the actions that have been identified for the Cedar River watershed in the Puget Sound Salmon Recovery Plan (Shared Strategy, 2006). In that case, the situation would be similar to that illustrated for the North Fork Stillaguamish in Figure 6, page 69 of the PEPD and the spawner capacity would be much lower. Without sufficient data, the actual spawner level is unknown. In the meantime, NMFS' assessment based on the available information indicates the proposed management objectives would be adequately protective of Cedar River Chinook. The escapement trend is increasing and growth rates are stable (Table 9 of PEPD), average exploitation rates are not anticipated to increase from those observed and anticipated average exploitation rates are below the surrogate RER even under extremely low abundance conditions (Tables 29 and 30 of PEPD). If subsequent information substantially changes NMFS' conclusions regarding the risk to the ESU, NMFS can ask the co-managers to make the necessary adjustments to the RMP or invoke the process leading to the withdrawal the ESA 4(d) Rule determination.

Comment 19: One commenter stated that NMFS' consideration of hatchery fish in spawning escapements implied that recovery levels for the stocks of concern have already been reached or can easily be reached by adding more hatchery fish.

Response: We respectfully disagree with the commenter (see NMFS's 2005 Hatchery Listing Policy at *http://www.nwr.noaa.gov/Publications/FR-Notices/2005/upload/70FR37204.pdf*). None of the documents, analysis or conclusions used in NMFS' evaluation implies that recovery levels can be reached solely on the basis of hatchery fish. The escapement thresholds that NMFS used in part to assess the effects of the Puget Sound Chinook RMP on Puget Sound Chinook represent natural-origin spawners. The RERs that NMFS uses are calculated to meet or exceed the levels of natural-origin spawners defined by the critical and rebuilding thresholds (Appendix 1: VRAP and page 47 of the PEPD). NMFS states on page 39 of the PEPD that '' * * * viable thresholds in the context of this evaluation are a level of spawning escapement associated with rebuilding to recovery, consistent with current environmental and habitat conditions. For most populations, the upper management thresholds are well below the escapement levels associated with recovery * * * but achieving these goals under current environmental and habitat conditions is a necessary step to eventual recovery when habitat and other conditions are more favorable.'' Tables 8 and 9 of the PEPD compare the current estimates of total natural and natural-origin escapements against the recovery planning targets in the Puget Sound Salmon Recovery Plan; demonstrating current levels are well below recovery targets for most populations.

Comment 20: One commenter stated that the lower exploitation rates proposed in the RMP for some management units are the result of insufficient escapement under the prior plan for some watersheds and, secondly, that if escapements had decreased under the prior RMP then the harvest plans must be impeding recovery.

Response: The commenter did not specify which management units were of concern, but only two exploitation rate ceilings, those for the Nisqually and Skokomish Management Units, are lower in this RMP than under the 2004 Puget Sound Chinook RMP. However, the exploitation rates were not reduced based on insufficient escapement under the prior plan. Escapements under the previous RMP exceeded escapement goals in five of six years for the Nisqually and four of six years for the Skokomish. Average escapements for these two populations since 1999 are 50 percent and 127 percent higher than average escapements prior to listing. Escapement trends are stable or increasing for both populations (Table 9 of the PEPD). Escapement growth rates are higher than growth rates for overall abundance (Table 9 of the PEPD), indicating some stabilizing influence from harvest management constraints. Declining growth rates in natural-origin abundance for both populations indicate limitations in a broader range of factors than harvest. The proposed exploitation rates for the Nisqually management unit in the 2010 RMP were reduced to reflect new information on watershed conditions and resource use objectives (page 196 of the RMP). Management of the Skokomish Chinook population was changed from a fixed escapement goal to an exploitation rate approach, an approach which is generally considered more robust to management uncertainty (Feiberg 2004, NMFS 2004). NMFS sees these changes as responsible responses and consistent with an adaptive approach to harvest management.

In its evaluation, NMFS identified some increased risk for these two populations under the exploitation rates proposed in the RMP. NMFS considered the history of habitat degradation and hatchery production in the watersheds, and the extirpation of the native Chinook runs and assessed the potential risks identified for both extant, hatchery dominated populations. We concluded that, for these populations, which are essential to recovery of the Puget Sound Chinook ESU, the focus of recovery is on improving watershed conditions, re-introduction of a locally-adapted broodstock and transition to a self-sustaining natural-origin population as the existing Green River lineage broodstock adapts to each of the Skokomish and Nisqually watersheds, and as habitat conditions improve to support natural production. The timing and magnitude of changes in harvest that occur in these watersheds will be coordinated with the pace of habitat recovery and with the implementation of hatchery actions that reduce the adverse influence of the hatchery population on the natural-origin fish. The escapement and exploitation rates anticipated to result from the likely implementation of the RMP for these populations are consistent with such a transitional strategy and would not appreciably reduce the survival and recovery of the ESU.

Comment 21: Several commenters expressed opinions that harvest management approaches negatively affect the abundance and productivity of populations; that harvest rates proposed in the RMP were too high or that reductions in harvest did not mitigate the effects of high proportions of hatchery fish spawning naturally. The commenters did not provide alternative data or analysis to support their views.

Response: NMFS has intended through this analysis to examine specifically the effects of harvest on escapements of natural-origin spawners and other factors, and seeks to explain more precisely its approach to the analysis in order to respond to this comment. Generally, the PEPD considers the RMP in light of 11 criteria under section (b)(4)(i) in Limit 4 of the Endangered Species Act of 1973 (ESA) section 4(d) Rule for listed Puget Sound

Chinook salmon (referred hereafter as the ESA 4(d) Rule). The criteria under Limit 4 section (b)(4)(i) are summarized in Table 1, page 3 of the PEPD. Of note, requirement ''C'' states, in part, that ''[M]anagement of fisheries where artificially propagated fish predominate must not compromise the management objectives for commingled naturally spawned populations.'' Anticipated effects on the abundance and productivity of natural origin spawners are described in Sections 6.1 and 6.2 of the PEPD, to the extent data are available. The anticipated effects of implementing the exploitation rate ceiling in the RMP are described in Sections 6.1, 6.2 and 7 of the PEPD.

The RMP proposes implementation of restrictions to the fishery-related mortality of each Puget Sound Chinook salmon population or management unit. The RMP's restrictions to the cumulative fishery-related mortality are expressed as: (1) An exploitation rate; (2) an upper management threshold; (3) a low abundance threshold; and (4) a critical exploitation rate ceiling (Table 4 of the PEPD). For select management units, Appendix A: Management Unit Status Profiles of the RMP describes how these thresholds or exploitation rate limits were derived. In the PEPD, NMFS compared the proposed RMP's mortality limits, regardless of their basis, to the NMFS-derived critical and rebuilding escapement threshold standards and Rebuilding Exploitation Rates which have as their basis NMFS' ESA standards relating to the natural population. In the PEPD, NMFS modeled and evaluated the anticipated impacts of implementing the proposed RMP's exploitation rate ceilings consistent with the criteria of the 4(d) Rule.

The modeling used risk-averse assumptions in determining potential impacts and the resultant escapement as described in Appendix 1 of the PEPD. The modeling assumed a range of intercepting fisheries to include the highest Canadian harvest allowed under the 2008 Pacific Salmon Treaty Agreement, as well as those most likely to occur. The modeled range of Puget Sound Chinook salmon abundance included abundances observed over the last 15 years and a 40 percent reduction from that level for all populations. The anticipated results of implementing the RMP were compared against the criteria outlined under Limit 6 of the ESA 4(d) Rule. Through its proposed evaluation of the RMP, NMFS concluded that the RMP adequately addressed all the criteria outlined in the ESA 4(d) Rule, including implementing and enforcing the RMP, and would not appreciably reduce the likelihood of survival and recovery of the Puget Sound Chinook Salmon ESU. Information provided in the PEPD, along with the information included and available by reference, provides the reviewer the information necessary to evaluate NMFS' risk criteria used to reach this conclusion.

See also responses to *Comments 2–10* related to specific concerns about hatchery fish spawning naturally.

Comment 22: One commenter stated that Chinook management activities and uses in shoreline jurisdictions must be consistent with the Shoreline Management Act and the local Shoreline Master Programs. The commenter did not provide any specific comments on aspects of the RMP that were or were not consistent with the Shoreline Management Act and the local Shoreline Master Programs.

Response: The Final EIS (NMFS, 2004) addresses all plans and policies that are related to the proposed RMP implementation in Section 1.10, Relationship to Other Plans and Appendix F, Applicable Laws, Treaties, Licenses and Permits. The Shoreline Management Act is discussed in Appendix F, along with the state Growth Management Act and Puget Sound Regional Council VISION 2020 Strategy. Additionally, discussions about related Federal legislation are found in Appendix F, including the Clean Water Act, Coastal Zone Management Act, and National Marine Sanctuaries Act. Since Shoreline Master Programs can only be implemented if they are consistent with the state Shoreline Management Act, Growth Management Act, and other applicable laws, policies, and programs, the EIS did not address each individual program in the action area, assuming instead that the broader legislations would suffice for analysis, and that each local program is in compliance with ''parent'' legislation.

The Council on Environmental Quality (CEQ) regulations require that an EIS identify ''possible conflicts between the proposed action and objectives of Federal, regional, state, and local land use plans, policies, and controls for the area concerned'' (40 CFR 1502.16(c)). The requirement to demonstrate inconsistencies is repeated at 40 CFR 1506.2(d) and in CEQ's 40 Most Asked Questions at numbers 23a and 23b. NMFS's review of the related Federal, state, and regional land use plans, policies, and ''controls'' within the action area did not reveal any inconsistencies between the proposed action to implement the RMP and the objectives of each of these laws, policies, or plans. If any inconsistencies were uncovered, this would have been discussed in the EIS in either Section 1.10, Relationship to Other Plans or Appendix F, Applicable Laws, Treaties, Licenses and Permits.

The Shoreline Management Act and local Shoreline Master Programs guide development of shoreline lands in a manner that will promote and enhance the public interest. The RMP does not include specific details of an annual fishing regime, for example where and when fisheries occur; what gear will be used; or how harvest is allocated among gears, areas, or fishermen, and as such does not identify specific shoreline areas that could be impacted. Salmon abundance is highly variable from year to year, both among Chinook populations and other salmon species, requiring managers to formulate fisheries (*i.e.,* location, duration, timing, gear type) to respond to the population abundance conditions particular to that year. Rather, the RMP provides the framework and objectives against which the co-managers must develop annual action-specific fishing regimes to protect Puget Sound Chinook salmon and meet other management objectives. NMFS expects that the Washington Department of Fish and Wildlife and Puget Sound treaty Tribes will implement these annual fishing regimes consistent with any relevant provisions of the Shoreline Management Act or Shoreline Master Programs. Additionally, NMFS previously analyzed the possible environmental and socioeconomic impacts in the Final EIS (NMFS 2004), and also assumed for analysis purposes that this RMP would be in compliance with all state and other Federal laws, such as the state Shoreline Management Act.

References

A complete list of all references cited herein is available upon request (see **ADDRESSES**), or through the documents available on the NMFS Northwest Regional Office Web site (see Electronic Access, under the heading, **SUPPLEMENTARY INFORMATION**).

Authority

Under section 4(d) of the ESA, 16 U.S.C. 1533(d), NMFS, by delegated authority from the Secretary of Commerce, is required to adopt such regulations as it deems necessary and advisable for the conservation of the species listed as threatened. The ESA salmon and steelhead 4(d) Rule (65 FR 42422, July 10, 2000, as amended) specifies categories of activities that contribute to the conservation of listed salmonids or are governed by a program that adequately limits impacts on listed

salmonids, and sets out the criteria for such activities. The Rule further provides that the prohibitions of paragraph (a) of the Rule do not apply to actions undertaken in compliance with a RMP developed jointly within the continuing jurisdiction of *United States* v. *Washington* by the State of Washington and the Tribes and determined by NMFS to be in accordance with the provisions of 50 CFR 223.203(b)(6) (*i.e.,* Limit 6 of the salmon and steelhead 4(d) Rule (65 FR 42422, July 10, 2000)). In 2005, as part of the final listing determinations for sixteen Evolutionarily Significant Units of West Coast salmon, NMFS amended and streamlined the previously promulgated 4(d) protective regulations for threatened salmon and steelhead (70 FR 37160, June 28, 2005). Under these regulations, the same set of fourteen limits was applied to all threatened Pacific salmon and steelhead ESU's or DPS's.

Dated: June 13, 2011.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–15137 Filed 6–17–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA489

Incidental Taking of Marine Mammals; Taking of Marine Mammals Incidental to the Explosive Removal of Offshore Structures in the Gulf of Mexico

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

ACTION: Notice; issuance of letters of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) and implementing regulations, notification is hereby given that NMFS has issued a one-year Letter of Authorization (LOA) to take marine mammals incidental to the explosive removal of offshore oil and gas structures (EROS) in the Gulf of Mexico.

DATES: The authorization is effective from July 1, 2011 through June 30, 2012.

ADDRESSES: The application and LOA are available for review by writing to P. Michael Payne, Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3235 or by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**), or online at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Jolie Harrison, Office of Protected Resources, NMFS, 301–713–2289.

SUPPLEMENTARY INFORMATION: Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce (who has delegated the authority to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, if certain findings are made and regulations are issued. Under the MMPA, the term ''take'' means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture, or kill any marine mammal.

Authorization for incidental taking, in the form of annual LOAs, may be granted by NMFS for periods up to five years if NMFS finds, after notice and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals, and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). In addition, NMFS must prescribe regulations that include permissible methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat (*i.e.,* mitigation), and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating rounds, and areas of similar significance. The regulations also must include requirements pertaining to the monitoring and reporting of such taking.

Regulations governing the taking of marine mammals incidental to EROS were published on June 19, 2008 (73 FR 34875), and remain in effect through July 19, 2013. For detailed information on this action, please refer to that **Federal Register** notice. The species that applicants may take in small numbers during EROS activities are bottlenose dolphins (*Tursiops truncatus*), Atlantic spotted dolphins (*Stenella frontalis*), pantropical spotted dolphins (*Stenella attenuata*), Clymene dolphins (*Stenella clymene*), striped dolphins (*Stenella coeruleoalba*), spinner dolphins (*Stenella longirostris*), rough-toothed dolphins (*Steno bredanensis*), Risso's dolphins (*Grampus griseus*), melon-headed whales (*Peponocephala electra*), short-finned pilot whales (*Globicephala macrorhynchus*), and sperm whales (*Physeter macrocephalus*). NMFS received a request for an LOA from ExxonMobil Production Company (ExxonMobil) for activities covered by EROS regulations.

Reporting

ExxonMobil has not conducted any operations during 2010 to 2011.

Pursuant to these regulations, NMFS has issued an LOA to ExxonMobil. Issuance of the LOAs is based on a finding made in the preamble to the final rule that the total taking by these activities (with monitoring, mitigation, and reporting measures) will result in no more than a negligible impact on the affected species or stock(s) of marine mammals and will not have an unmitigable adverse impact on subsistence uses. NMFS will review reports to ensure that the applicants are in compliance with meeting the requirements contained in the implementing regulations and LOA, including monitoring, mitigation, and reporting requirements.

Dated: June 13, 2011.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–15309 Filed 6–17–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA478

Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 25 South Atlantic assessment process webinars for black sea bass (Centropristis striata) and golden tilefish (Lopholatilus chamaeleonticeps).

SUMMARY: The SEDAR 25 assessments of the South Atlantic black sea bass and golden tilefish will consist of a series of workshops and webinars: this notice is for webinars associated with the Assessment portion of the SEDAR

process. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 25 webinars will be held between July 12th and August 22nd, 2011. Please see **SUPPLEMENTARY INFORMATION** for a list of exact dates and times. The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from, or completed prior to the times established by this notice.

ADDRESSES: The meetings will be held via webinar. The webinar is open to the public. Those interested in participating should contact Kari Fenske at SEDAR (See **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information.

FOR FURTHER INFORMATION CONTACT: Kari Fenske, SEDAR Coordinator, 4055 Faber Place, Suite 201, North Charleston, SC 29405; *telephone:* (843) 571–4366; *e-mail: kari.fenske@safmc.net.*

SUPPLEMENTARY INFORMATION:

Webinar	Date	Day	Time (Eastern)
1	July 12, 2011	Tuesday	1 p.m.–4 p.m.
2	July 14, 2011	Thursday	1 p.m.–4 p.m.
3	July 25, 2011	Monday	9 a.m.–12 p.m.
4	July 27, 2011	Wednesday	9 a.m.–12 p.m.
5	August 19, 2011	Friday	9 a.m.–12 p.m.
6	August 22, 2011	Monday	9 a.m.–12 p.m.

The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop, (2) Assessment Process utilizing webinars and workshops, and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting Panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Panelists for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

SEDAR 25 Assessment Process Webinar Series

Using datasets recommended from the Data Workshop, Panelists will employ assessment models to evaluate stock status, estimate population benchmarks and management criteria, and project future conditions. Panelists will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 10 business days prior to the meeting.

Dated: June 14, 2011.

William D. Chappell,

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

[FR Doc. 2011–15108 Filed 6–17–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

0648–XA499

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Caribbean Fishery Management Council's Advisory Panel (AP) will hold a meeting.

DATES: The AP meeting will be held on July 13, 2011, from 9:30 a.m. until 5 p.m.

ADDRESSES: The meeting will be held at the Buccaneer Hotel, 5007 Estate Shoys, Lot 7, Christiansted, St. Croix, U.S.V.I.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–1920; *telephone:* (787) 766–5926.

SUPPLEMENTARY INFORMATION: The AP will meet to discuss the items contained in the following agenda:

1. Call to order.
2. Annual Catch Limits (ACLs)/ Accountability Measures (AMs) Discussion for Species not-Overfished nor Suffering Overfishing.
3. Other Business.

The meeting is open to the public, and will be conducted in English. Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

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 Fishery Conservation and Management 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. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolon, Executive Director, Caribbean Fishery

Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico, 00918–1920, telephone (787) 766–5926, at least 5 days prior to the meeting date.

Dated: June 14, 2011.

William D. Chappell,

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

[FR Doc. 2011–15109 Filed 6–17–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Wage Committee; Notice of Closed Meetings

AGENCY: Department of Defense, Office of the Secretary.

ACTION: Notice of closed meetings.

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that closed meeting of the Department of Defense Wage Committee will be held on Tuesday, July 12, 2011, at 10 a.m. at 1400 Key Boulevard, Level A, Room A101, Rosslyn, Virginia 22209.

Under the provisions of section 10(d) of Public Law 92–463, the Department of Defense has determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

Dated: June 15, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–15239 Filed 6–17–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Wage Committee; Notice of Closed Meetings

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Notice of closed meetings.

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that closed meeting of the Department of Defense Wage Committee will be held on Tuesday, July 26, 2011, at 10 a.m. at 1400 Key Boulevard, Level A, Room A101, Rosslyn, Virginia 22209.

Under the provisions of section 10(d) of Public Law 92–463, the Department of Defense has determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

Dated: June 15, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–15240 Filed 6–17–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Global Positioning System Directorate (GPSD); Notice of Meeting

ACTION: Notice of Meeting—Public Interface Control Working Group (ICWG) for Signals-in-Space (SiS) Documents (IS–GPS–200E, IS–GPS–705A, IS–GPS–800A).

SUMMARY: The United States Air Force published a meeting notice on the Public Interface Control Group (ICWG) on June 2, 2011 Vol. 76, No. 106. Due to scheduling conflicts, the meeting has been rescheduled to September 13–15, 2011. This amended notice informs the public that the Global Positioning Systems Directorate (GPSD) will be hosting a Public Interface Control Working Group (ICWG) meeting for the NAVSTAR GPS public signals in space (SiS) documents; IS–GPS–200 (Navigation User Interfaces), IS–GPS–705 (User Segment L5 Interfaces), and IS–GPS–800 (User Segment L1C Interface). The purpose of this meeting will be twofold: (1) to resolve the comments against the public signals in space (SiS) documents with respect to the seven issues outlined below, and (2) to collect issues/comments outside the scope of the issues outlined below for analysis and possible integration into the following release.

The ICWG is open to the general public. For those who would like to attend and participate in this ICWG meeting, we request that you register no later than 11 Jul 2011. Please send the registration to *mark.marquez.ctr@losangeles.af.mil* and provide your name, organization, telephone number, address, and country of citizenship.

Please note that the Directorate's primary focus will be the disposition of the comments against the following GPS related topics:

- Public Document Management (GPS III terminology and SSV group delay).
- Pseudorandom Noise (PRN) Expansion.
- User Range Accuracy (URA) Definition.
- Almanac Intervals.
- Pseudorange Parameters.
- Technical Note 36.
- Civil Navigation (CNAV) Durations.

All comments must be submitted in Comments Resolution Matrix (CRM) form. These forms along with the Was/Is Matrix, current versions of the documents, and the official meeting notice will be posted at: *http://www.gps.gov/technical/ICWG/.* Comments outside the scope of the above issues will be collected, catalogued, and discussed during the public ICWG as potential inclusions to the version following this release. If accepted, these changes will be processed through the formal Directorate change process for IS–GPS–200, IS–GPS–705, and IS–GPS–800.

Please provide them in the CRM form and submit to Tony Marquez by 11 Jul 2011.

DATES/TIME: 13–15 Sep 2011/0800–1700 (Pacific Standard Time P.S.T).

Dial-In Information and Location:

Phone Number: 1–800–366–7242.

Code: 1528652.

ADDRESSES: SAIC Facility,* 300 N. Sepulveda Blvd., 2nd Floor, CR–2060, El Segundo, CA 90245.

*Identification will be required at the entrance of the SAIC facility (Passport, state ID or Federal ID).

SAIC facility phone number: 1–310–416–8300.

FOR FURTHER INFORMATION CONTACT:

Tony Marquez,
Mark.marquez.ctr@losangeles.af.mil, (310) 416–8476.
Captain Neil Petersen,
neil.petersen@losangeles.af.mil, (310) 653–3499.
Lieutenant Albert Yu,
albert.yu@losangeles.af.mil, (310) 653–3207.

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. 2011–15185 Filed 6–17–11; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2011–0014]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: Department of the Army is altering a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on July 20, 2011 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and/ Regulatory Information Number (RIN) and title, by any of the following methods:

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

• *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Leroy Jones, Department of the Army, Privacy Office, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905 or by phone at (703) 428–6185.

SUPPLEMENTARY INFORMATION: Department of the Army notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on June 10, 2011 to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' February 20, 1996, 61 FR 6427.

Dated: June 13, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0056–9 TRADOC

SYSTEM NAME:

Marine Qualification Records (July 25, 2008, 73 FR 43419).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with ''Maritime Qualification Records.''

SYSTEM LOCATION:

Delete entry and replace with ''Director, Office of the Chief Transportation, Maritime Qualification Division, 461 Kerr Road, Fort Eustis, VA 23604–5498.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Military and civilians employed by Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Name, Social Security Number (SSN), grade, primary military occupational specialty, unit, skill level, individual's request for examination, test results, character and suitability statements, physical qualification reports, experience qualifications and evaluations, commander's recommendation, Marine Qualification Board recommendation and final action thereon, U.S. Army Marine Licenses.

* * * * *

SAFEGUARDS:

Delete entry and replace with ''Electronically and optically stored records are maintained in 'fail-safe' system software with password-protected access. Records are accessible only to authorized persons with a need-to-know. Electronic records are stored on the server. Use of Common Access Card (CAC) is used to authenticate and lock out unauthorized access. Paper records are maintained in locked file cabinets in a secure building and are accessible only to authorized personnel.''

RETENTION AND DISPOSAL:

Delete entry and replace with ''Records are maintained for 40 years then destroyed by electronically deleting and shredding paper copies. Registers are destroyed by electronic deletion 40 years after the date of the last entry in the register. Records are electronically deleted from the system and paper copies are shredded. Paper records are maintained in locked file cabinets in a secure building and are accessible only to authorized personnel.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Director, Office of the Chief Transportation, Maritime Qualification Division, 461 Kerr Road, Fort Eustis, VA 23604–5498.''

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, Office of the Chief Transportation, Maritime Qualification Division, 461 Kerr Road, Fort Eustis, VA 23604–5498.

Individual should furnish name, SSN, address and any additional details that will facilitate locating the information. Request must be signed.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)''.

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify,

verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)''.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Director, Office of the Chief Transportation, Maritime Qualification Division, 461 Kerr Road, Fort Eustis, VA 23604–5498.

Individuals should furnish name, SSN, address and any additional details that will facilitate locating the information. Request must be signed.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

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If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)''.

* * * * *

A0056–9 TRADOC

SYSTEM NAME:

Maritime Qualification Records.

SYSTEM LOCATION:

Director, Office of the Chief of Transportation, Maritime Qualification Division, 461 Kerr Road, Fort Eustis, VA 23604–5498.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilians employed by Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number (SSN), grade, primary military occupational specialty, unit, skill level, individual's request for examination, test results, character and suitability statements, physical qualification reports, experience qualifications and evaluations, commander's recommendation, Marine Qualification Board recommendation and final action thereon, U.S. Army Marine Licenses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; Army Regulation 56–9, Watercraft; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

To evaluate and recommend appropriate action concerning the issuance, denial, suspension, or revocation of U.S. Army Marine Licenses; to award certification to individuals passing the marine qualification examination; to monitor test content and procedures to ensure that tests are valid and current; to award Special Qualification Identifiers to appointed Marine Qualification Field Examiners; to review marine casualty reports, incident reports, and investigations to re-evaluate qualifications of persons involved; and to maintain Marine Service Records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The U.S. Coast Guard, Department of Transportation may be furnished information concerning certification and licensing of individuals.

The DoD ''Blanket Routine Uses'' set forth at the beginning of the Army's compilation of system of record notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

By individual's surname and Social Security Number (SSN).

SAFEGUARDS:

Electronically and optically stored records are maintained in 'fail-safe' system software with password-protected access. Records are accessible only to authorized persons with a need-to-know. Electronic records are stored on the server. Use of Common Access Card (CAC) is used to authenticate and lock out unauthorized access. Paper records are maintained in locked file cabinets in a secure building and are accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Records are maintained for 40 years then destroyed by electronically deleting and shredding paper copies. Registers are destroyed by electronic deletion 40 years after the date of the last entry in the register. Records are electronically deleted from the system and paper copies are shredded. Paper records are maintained in locked file cabinets in a secure building and are accessible only to authorized personnel.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of the Chief Transportation, Maritime Qualification Division, 461 Kerr Road, Fort Eustis, VA 23604–5498.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, Office of the Chief Transportation, Maritime Qualification Division, 461 Kerr Road, Fort Eustis, VA 23604–5498.

Individual should furnish name, SSN, address and any additional details that will facilitate locating the information. Request must be signed.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Director, Office of the Chief Transportation, Maritime Qualification Division, 461 Kerr Road, Fort Eustis, VA 23604–5498.

Individual should furnish name, SSN, address and any additional details that will facilitate locating the information. Request must be signed.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

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If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)''.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, military and civilian personnel records and reports, civilian maritime records, U.S. Coast Guard, commanders and vessel masters, and other appropriate sources able to furnish relevant information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2011–15272 Filed 6–17–11; 8:45 am]

BILLING CODE 5001–06–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

[Recommendation 2011–1]

Safety Culture at the Waste Treatment and Immobilization Plant

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice, recommendation.

SUMMARY: Pursuant to 42 U.S.C. 2286a(a)(5), the Defense Nuclear Facilities Safety Board has made a recommendation to the Secretary of Energy concerning the safety culture at the Waste Treatment and Immobilization Plant located at the Hanford site in the state of Washington.

DATES: Comments, data, views, or arguments concerning the recommendation are due on or before July 20, 2011.

ADDRESSES: Send comments, data, views, or arguments concerning this recommendation to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004–2901.

FOR FURTHER INFORMATION CONTACT: Brian Grosner or Andrew L. Thibadeau at the address above or telephone number (202) 694–7000.

Dated: June 14, 2011.

Peter S. Winokur,

Chairman.

RECOMMENDATION 2011–1 TO THE SECRETARY OF ENERGY

Safety Culture at the Waste Treatment and Immobilization Plant

Pursuant to 42 U.S.C. § 2286a(a)(5)

Atomic Energy Act of 1954, As Amended

Dated: June 09, 2011

Introduction

Secretary of Energy Notice SEN–35–91, *Nuclear Safety Policy,* issued on September 9, 1991, and superseding policy statement #2 of DOE Policy 420.1, *Department of Energy Nuclear Safety Policy,* issued on February 8, 2011, state that the Department of Energy (DOE) is committed to establishing and maintaining a strong safety culture at its nuclear facilities. The Defense Nuclear Facilities Safety Board (Board) has determined that the prevailing safety culture at the Waste Treatment and Immobilization Plant (WTP) is flawed and effectively defeats this Secretarial mandate. The Board's investigative record demonstrates that both DOE and contractor project management behaviors reinforce a subculture at WTP that deters the timely reporting, acknowledgement, and ultimate resolution of technical safety concerns.

Background

In a letter to the Secretary of Energy dated July 27, 2010, the Board stated that it would investigate the health and safety concerns at the WTP at Hanford raised in a letter to the Board dated July 16, 2010, from Dr. Walter Tamosaitis.

The Board's investigation focused on allegations raised by Dr. Tamosaitis, a contractor employee removed from his position at WTP, a construction project in Washington State funded by DOE and managed by Bechtel National, Incorporated (BNI). The Board's inquiry did not attempt to assess the validity of Dr. Tamosaitis's retaliation claim, but rather, as required by the Board's statute, examined whether his allegations of a failed safety culture at WTP, if proven true, might reveal events or practices adversely affecting safety in the design, construction, and operation of this defense nuclear facility.

The Board is required by statute to investigate any event or practice at a defense nuclear facility which it determines may adversely affect public health and safety. The Board conducted this investigation pursuant to its investigative power under 42 U.S.C. § 2286a(a)(2). During the course of the Board's inquiry, 45 witnesses were interviewed and more than 30,000 pages of documents were examined. The Principal Investigator was Joel R. Schapira, Deputy General Counsel, assisted by John G. Batherson, Associate General Counsel, and Richard E. Tontodonato, Deputy Technical Director. The record of the investigation is non-public and will be preserved in the Office of the General Counsel's files.

During the period of the investigation, the Board held a public hearing regarding safety issues at WTP. During that hearing the Board received additional information related to the kind of safety culture concerns raised by Dr. Tamosaitis. Consequently, the investigation was expanded to review these new concerns.

Secretary of Energy Notice SEN–35–91, *Nuclear Safety Policy,* issued on September 9, 1991, and superseding policy statement #2 of DOE Policy 420.1, *Department of Energy Nuclear Safety Policy,* issued on February 8, 2011, state that DOE is committed to establishing and maintaining a strong safety culture at its nuclear facilities. The investigation's principal conclusion is that the prevailing safety culture at this project effectively defeats this Secretarial mandate. The investigative record demonstrates that both DOE and contractor project management behaviors reinforce a subculture at WTP that deters the timely reporting, acknowledgement, and ultimate resolution of technical safety concerns.

A key attribute of a healthy safety culture as identified by DOE's Energy Facility Contractors Group and endorsed by Deputy Secretary of Energy memorandum dated January 16, 2009, and in the Nuclear Regulatory Commission's proposed policy statement on safety culture (NRC–2010–0282, dated January 5, 2011), is that leaders demonstrate clear expectations and a commitment to safety in their decisions and behaviors. The Board's investigation found significant failures by both DOE and contractor management to implement their roles as advocates for a strong safety culture.

The record shows that the tension at the WTP project between organizations charged with technical issue resolution and development of safety basis scope, and those organizations charged with completing design and advancing construction, is unusually high. This unhealthy tension has rendered the WTP project's formal processes to resolve safety issues largely ineffective. DOE reviews and investigations have failed to recognize the significance of this fact. Consequently, neither DOE nor contractor management has taken effective remedial action to advance the Secretary's mandate to establish and maintain a strong safety culture at WTP.

Taken as a whole, the investigative record convinces the Board that the safety culture at WTP is in need of prompt, major improvement and that corrective actions will only be successful and enduring if championed by the Secretary of Energy. The successful completion of WTP's mission

to remove and stabilize high-level waste from the tank farms is essential to protect the health and safety of the public and workers at Hanford. However, the flawed safety culture currently embedded in the project has a substantial probability of jeopardizing that mission.

Findings

Finding One: A Chilled Atmosphere Adverse to Safety Exists

In a letter to the Defense Nuclear Facilities Safety Board (Board) dated July 16, 2010, Dr. Walter Tamosaitis, a former engineering manager at the Waste Treatment and Immobilization Plant (WTP), alleged that he was removed from the project because he identified certain technical issues that in his view could affect safety. Dr. Tamosaitis also alleged that there was a failed safety culture at WTP. With full understanding that the formal claims of retaliation raised by Dr. Tamosaitis would be looked into by others, the Board decided that his assertions raised serious questions about safety culture and safety management at WTP. From late July 2010 to May 2011, the Board reviewed a large number of documents and interviewed a substantial number of persons, including Dr. Tamosaitis, to assess whether or not his allegations of safety issues and of a faulty safety culture were borne out. The Board's investigation later expanded in scope to address matters related to the Board's October 2010 public hearing at Hanford on safety issues at WTP. This phase of the investigation consisted of closed hearings at which sworn testimony was elicited from DOE and contractor personnel.

The Board finds that the specific technical issues identified by Dr. Tamosaitis in his July 16, 2010, letter were known and tracked by the WTP project. In a WTP project managers' meeting on July 1, 2010, Dr. Tamosaitis raised safety concerns related to the adequacy of vessel mixing, technical justifications for closing mixing issues, and other open technical issues. The next day he was abruptly removed from the project. This sent a strong message to other WTP project employees that individuals who question current practices or provide alternative points of view are not considered team players and will be dealt with harshly.

The Board finds that expressions of technical dissent affecting safety at WTP, especially those affecting schedule or budget, were discouraged, if not opposed or rejected without review. Project management subtly, consistently, and effectively communicated to employees that differing professional opinions counter to decisions reached by management were not welcome and would not be dealt with on their merits. There is a firm belief among WTP project personnel that persisting in a dissenting argument can lead, as in the case of Dr. Tamosaitis, to the employee being removed from the project or reassigned to other duties. As of the writing of this finding, Dr. Tamosaitis sits in a basement cubicle in Richland with no meaningful work. His isolated physical placement by contractor management and the lack of meaningful work is seen by many as a constant reminder of what management will do to an employee who raises issues that might impact budget or schedule.

Other examples of a failed safety culture include:

- The Board heard testimony from several witnesses that raising safety issues that can add to project cost or delay schedule will hurt one's career and reduce one's participation on project teams.
- A high ranking safety expert on the project testified that the expert felt next in line for removal after Dr. Tamosaitis because of the expert's refusal to yield to technically unsound positions on matters affecting safety advanced by DOE and contractor managers responsible for design and construction at the WTP. This safety expert's concern was validated by a senior DOE official in separate sworn testimony.
- A report prepared by a subcontractor on the WTP project, ''URS Report of Involvement in WTP Investigation,'' discusses the ''tension between organizations charged with technical issue resolution and development of safety basis related scope and those organizations charged with completing design and advancing construction. Some level of such tension is normal and healthy in projects of such scope and complexity; but at WTP, this tension is higher than what might be expected or desired. Some individuals whose personalities tend toward avoidance of conflict could view the organizational environment as not conducive to raising issues or perhaps even potentially suppressing some issues that might deter progress or that might add cost.''
- The investigative record shows that the DOE Office of River Protection Employee Concerns program is not effective. One safety expert explicitly testified that employees would not and did not use the program, and believed that individuals running the program would ''bury issues'' brought to them. The record shows that in the removal of Dr. Tamosaitis, Human Resources (HR) for URS was interested only in implementing management's demand that the employee be removed immediately. The record shows HR did not assert any consideration or concern regarding the effect the process and manner of his removal would have on the remaining workforce and the effectiveness of the contractor employee protection program required under 10 CFR Part 708.
- An independent review of the WTP safety culture performed by DOE's Office of Health, Safety and Security (HSS) found that ''a number of individuals have lost confidence in management support for safety, believe there is a chilled environment that discourages reporting of safety concerns, and/or are concerned about retaliation for reporting safety concerns. These concerns are not isolated and warrant timely management attention, including additional efforts to determine the extent of the concerns.'' Although the HSS report stated that most WTP personnel did not share these opinions, the Board notes that personnel interviewed by HSS were escorted to their interviews by management. The Board's record shows that involving management with the interviews clearly can inhibit the willingness of employees to express concerns. In its own way, DOE's decision to allow management to be involved in the HSS investigation raises concerns about safety culture.

This environment at WTP does not meet key attributes established by DOE's Energy Facility Contractors Group, and endorsed by the Deputy Secretary of Energy, that describe a strong safety culture: DOE and contractor leadership must have a clear understanding of their commitment to safety; they are the leading advocates of safety and the public trust demands that they demonstrate their commitment in both word and action. The Board's investigation concludes that the WTP project is not maintaining a safety conscious work environment where personnel feel free to raise safety concerns without fear of retaliation, intimidation, harassment, or discrimination.

Finding Two: DOE and Contractor Management Suppress Technical Dissent

The HSS review of the safety culture on the WTP project ''indicates that BNI has established and implemented generally effective, formal processes for identifying, documenting, and resolving nuclear safety, quality, and technical concerns and issues raised by employees and for managing complex

technical issues.'' However, the Board finds that these processes are infrequently used, not universally trusted by the WTP project staff, vulnerable to pressures caused by budget or schedule, and are therefore not effective. Previous independent reviews, contractor surveys, investigations, and other efforts by DOE and contractors demonstrate repeated, continuing identification of the same safety culture deficiencies without effective resolution.

Suppression of technical dissent is contrary to the principles that guide a high-reliability organization. It is essential that workers feel empowered to speak candidly without fear of retribution or criticism. In extreme cases, refusal to consider a different view of a safety issue can lead to catastrophic consequences. WTP is a complex and difficult project that is essential to the nation's nuclear waste remediation program. Therefore, federal and contractor managers must make a special effort to foster a free and open atmosphere in which all competent opinions are judged on their technical merit, to sustain or improve worker and public safety first and foremost, and then evaluate potential impacts on cost and schedule.

One of the primary examples of suppressing technical information is a study that was performed by BNI in July 2009 on deposition velocity, a parameter used in modeling the offsite transport of radioactive particles for nuclear facility safety analyses. The study found that the correct value of the dry deposition velocity for Hanford fell in the range of 0.1 to 0.3 cm/sec. The Board's investigation includes testimony by the former manager of DOE's Office of River Protection and the DOE Chief of Nuclear Safety in Washington, DC, that the results of this study were not shared with them. Consequently, DOE continued to follow its policy requiring the WTP project to use a less conservative default value of 1.0 cm/sec for dry deposition velocity. In the fall of 2010, the Chief of Nuclear Safety hired an independent consultant to investigate the issue. This consultant also found that deposition velocity fell in the range of 0.1 to 0.3 cm/sec, information that was already available to the project in the summer of 2009. Suppression of the 2009 study delayed the identification of properly conservative values for dry deposition velocity to use in the safety analyses that determine the need for safety-related controls for WTP facilities. Once this information was made available to DOE's Office of Health, Safety and Security, a technical study ensued that determined the need for a more conservative value of deposition velocity to serve as a default value.

This problem also manifested itself when one of the expert witnesses, a nuclear safety professional, specifically asked by the Board to testify at the Board's October 2010 public hearing on WTP safety issues, failed to support the DOE policy on the appropriate value for dry deposition velocity. This witness testified that using DOE's prescribed default value for the dry deposition velocity in safety basis calculations could not be justified if it were known to be non-conservative for the Hanford Site. At the time of the hearing, the witness understood the correct value of deposition velocity was not being used in calculations of potential dose consequences to the public receptor and was unwilling to simply state the DOE position that a default value could be used or justified. The expert witness later testified for the record that DOE was fully aware of the July 2009 study on dry deposition velocity at the time of the public hearing. The expert witness' testimony during the public hearing clashed with the position taken by senior management in the DOE Office of River Protection and by the DOE Chief of Nuclear Safety.

The testimony of several witnesses confirms that the expert witness was verbally admonished by the highest level of DOE line management at DOE's debriefing meeting following this session of the hearing. Although testimony varies on the exact details of the verbal interchange, it is clear that strong hostility was expressed toward the expert witness whose testimony strayed from DOE management's policy while that individual was attempting to adhere to accepted professional standards. Testimony by a senior DOE official confirmed the validity of the expert witness' concerns. In addition, the expert witness testified that they felt pressure to change their testimony, but refused to do so.

Management behavior of this kind creates an atmosphere in which workers are reluctant to speak candidly for fear of retribution or criticism. Whether or not this behavior possibly violates federal law is not for the Board to determine; however, the Board does assert that fear of retribution visited on a competent professional for offering an honest opinion in a public hearing is incompatible with the objective of designing and building a safe and operationally sound nuclear facility and sustaining a healthy safety culture.

Another example of failure to act on technical information in a timely manner concerns a report related to the occurrence of a potential criticality event at WTP. In April 2010, the WTP project issued a plan of action to address recommendations of the WTP Criticality Safety Support Group, specifically, to review historical information on plutonium dioxide (PuO_2) wastes discharged by the Plutonium Finishing Plant to the tank farms. The report of the review was completed and submitted to the WTP project in August 2010. A key finding of the report was that the maximum PuO_2 particle size of 10 microns assumed in WTP criticality safety analyses was not conservative. Instead of receiving immediate attention, the report languished without action until February 2011.

Once the report was finally reviewed, the WTP project reached the initial conclusion that it may no longer be possible to assume that criticality in WTP is an incredible occurrence. (Based on this information, the Hanford Tank Farms operating contractor halted activities involving the affected tanks.) If criticality is confirmed to be credible, changes in the WTP criticality strategy will be required. This will result in changes to the existing safety basis and require an assessment of the existing WTP design to determine if design changes are required. Depending upon the magnitude of the criticality hazard, significant changes in the WTP design may be necessary. DOE was not informed of this important finding in a timely manner, and actions to better characterize the PuO_2 problem were delayed by approximately 6 months because the WTP project delayed evaluation of the report.

Recommendation

Taken as a whole, the investigative record convinces the Board that the safety culture at WTP is in need of prompt, major improvement and that corrective actions will only be successful and enduring if championed by the Secretary of Energy. The Board recommends that the Secretary of Energy:

1. Assert federal control at the highest level and direct, track, and validate the specific corrective actions to be taken to establish a strong safety culture within the WTP project consistent with DOE Policy 420.1 in both the contractor and federal workforces,

2. Conduct an Extent of Condition Review to determine whether these safety culture weaknesses are limited to the WTP Project, and

3. Conduct a non-adversarial review of Dr. Tamosaitis' removal and his current treatment by both DOE and

contractor management and how that is affecting the safety culture at WTP.

The Board urges the Secretary to avail himself of the authority under the Atomic Energy Act (42 U.S.C. § 2286d(e)) to ''implement any such recommendation (or part of any such recommendation) before, on, or after the date on which the Secretary transmits the implementation plan to the Board under this subsection.''

Peter S. Winokur, Ph.D.,

Chairman.

[FR Doc. 2011–15146 Filed 6–17–11; 8:45 am]

BILLING CODE 3670–01–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 July 20, 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: June 15, 2011.

Darrin A. King,

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

Institute of Education Sciences

Type of Review: Revision

Title of Collection: National Assessment of Educational Progress (NAEP) 2012 Wave II (Grade 4/8/12 Pilots, Grade 12 Economics, SD, ELL, and Special Studies)

OMB Control Number: 1850–0790

Agency Form Number(s): N/A

Frequency of Responses: Once

Affected Public: Individuals or household

Total Estimated Number of Annual Responses: 35,955

Total Estimated Annual Burden Hours: 14,603

Abstract: The National Assessment of Educational Progress (NAEP) is a federally authorized survey of student achievement at grades 4, 8, and 12 in various subject areas, such as mathematics, reading, writing, science, U.S. history, civics, geography, economics, and the arts. NAEP consists of two assessment programs: the NAEP Long-Term Trend (LTT) assessment and the main NAEP assessment. In 2012, both types of assessments will be delivered. The approved Wave 1 clearance package contained materials related to the LTT assessment. The Wave 2 submittal seeks approval for the following components of the 2012 assessments (specifically related to the noncognitive, background questions):

—Economics (national only at grade 12)
—Writing pilot (national only at grade 4; computer delivered)
—Reading pilot (national at grade 12)
—Mathematics pilot (national at grade 12)
—Student Core Background pilot (at grades 4 and 12, and at age 13)
—Teacher Core Background pilot (at grade 4, age 13)
—School Core Background pilot (at grades 4 and 12,and at age 13)
—SD and ELL worksheets—completed by teachers or administrators of students identified as SD and/or as ELL (both main NAEP and LTT)
—Special Pilot Study to evaluate the new SD and ELL Decision Tree, based on the new SD and ELL policy established by the Governing Board (at ages 9 and 13 LTT)
—Special Study to evaluate use of MP–3 players for administering read-aloud accommodations (will include Background Questions from 2011 Mathematics assessment).

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 4643. 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. 2011–15291 Filed 6–17–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA 84.235M]

Proposed Priority; Special Demonstration Programs—National Technical Assistance Projects To Improve Employment Outcomes for Individuals With Disabilities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of proposed priority.

SUMMARY: The Assistant Secretary for the Office of Special Education and Rehabilitative Services proposes a priority under the Special Demonstration Programs authorized under 303(b) of the Rehabilitation Act of 1973, as amended (the Rehabilitation Act). The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2011 and later years. We take this action to focus technical assistance (TA) on areas of national need identified by the Rehabilitation Services Administration (RSA) through analyses of information obtained during monitoring and oversight of its grant

programs. We also intend the priority to increase the transfer, utilization, and dissemination of information on promising practices and knowledge from research on topics in the field of rehabilitation that have national significance and improve the performance of State vocational rehabilitation (VR) agencies.

DATES: We must receive your comments on or before July 20, 2011.

ADDRESSES: Address all comments about this notice to Thomas Finch, U.S. Department of Education, 400 Maryland Avenue, SW., room 5147, Potomac Center Plaza (PCP), Washington, DC 20202–2800.

If you prefer to send your comments by e-mail, use the following address: *tom.finch@ed.gov.* You must include the term ''National Technical Assistance'' in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Thomas Finch. Telephone: (202) 245–7343 or by e-mail: *tom.finch@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this notice.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice in room 5147, PCP, 550 12th Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: The purpose of this program is to expand and improve the provision of rehabilitation and other services authorized under the Rehabilitation Act, or to support activities that increase the provision, extent, availability, scope, and quality of rehabilitation services provided under the Rehabilitation Act.

Program Authority: 29 U.S.C. 773(b).

Proposed Priority

National Technical Assistance

Background

Recent program monitoring and assessments by RSA have demonstrated that State VR agencies and their partners, need national TA opportunities to improve program management and to keep informed about current effective and promising practices and research in the field of VR and the employment of individuals with disabilities, including information on the implementation and replication of such practices. Examples of areas of need that RSA has identified through its program monitoring activities include, but are not limited to: Fiscal compliance; State agency management and planning; quality assurance; and strategies for effective service delivery to underserved populations, such as individuals who are deaf or hard of hearing or who are transition-aged youths.

Other areas that have been identified for TA include, but are not limited to: Effective practices that may affect the employment of individuals with disabilities and implementation and administration of programs operated under the Randolph-Sheppard Act.

The Department currently supports ten regional Technical Assistance and Continuing Education (TACE) centers that provide TA and continuing education to State VR agencies and other entities that partner with State VR agencies. The purpose of the TACE centers is to contribute to the following outcomes: Improved quality of VR services; increased effectiveness and efficiency of State VR agencies in delivering VR services; upgrading the skills of existing VR personnel; and, improved quantity and quality of VR employment outcomes for individuals with disabilities.

Through this priority, the Department seeks to supplement the TA provided by the TACE centers by supporting cost-effective and efficient mechanisms for delivering TA at the national level, where appropriate. In addition to national conferences, the use of alternative delivery methods such as webinars are encouraged in providing TA on discrete topics that can be addressed adequately in a one- to two-hour period. RSA frequently conducts webinars to meet the TA needs of State VR agencies, their partners, and other RSA grantees and has received positive evaluations by participants.

This priority would also support the sharing of useful TA products and materials developed for a broad, national audience that can facilitate knowledge transfer, utilization, and dissemination of promising practices and knowledge in VR and the employment of individuals with disabilities. These TA products and materials would be made readily available to State VR agencies and other RSA grantees, including the TACE centers, and to RSA staff. RSA and the TACE centers would use these products and materials as they work with State VR agencies, VR agency partners, and other RSA grantees.

Proposed Priority

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority to support a grant under the Special Demonstration Programs to fund a project to provide national technical assistance (TA) to State VR agencies and other entities that carry out VR-related programs administered by RSA to increase the transfer, utilization, and dissemination of current promising practices and knowledge in VR and the employment of individuals with disabilities. The Department intends to award this grant as a cooperative agreement to ensure that there is substantial involvement (*i.e.,* significant communication and collaboration) between RSA and the grantee in carrying out the activities of the grant. (34 CFR 75.200(b)(4)).

In coordination with the Department, the grantee must—

(a) Consult with RSA staff and staff from the TACE centers to identify issues that may affect State VR agency service delivery, as well as TA needs that are most appropriately addressed on a national basis;

(b) Develop a proposed two-year plan for delivering national TA to VR professionals through conferences, webinars, or other mechanisms, based on the activities conducted under paragraph (a) of this priority. The proposed two-year plan must be developed and approved by RSA within the first three months of the project period and include a schedule for delivering high priority TA activities, recommended methods of delivery, and the estimated costs of providing such TA;

(c) Organize and provide national TA in accordance with the two-year plan approved by RSA, including overseeing all activities related to preparing for and conducting national TA. These activities include, but are not limited to, the following: Determining the target audience for the TA; organizing conferences, webinars, and other national TA; identifying presenters; arranging for reasonable accommodations for individuals with disabilities; making logistical arrangements for the national TA; providing travel reimbursement and stipends, where appropriate, to State VR personnel; provide for continuing education credits; and conducting evaluations of the national TA that has been provided;

(d) Organize and archive all TA products and materials for use by RSA, the TACE centers, and other TA providers, as needed; and

(e) Develop and maintain a Web site to make available the products and materials that are developed and/or used in providing TA conducted under this priority so that they can be accessed and used by RSA, the TACE centers, and other RSA grantees. The Web site must be capable of supporting other features including, but not limited to, conference and webinar registration, a calendar of events, and links to other related Web sites and resources; and

(f) Collaborate with other RSA-funded TA providers, including, but not limited to, the TACE Centers, the American Indian Vocational Rehabilitation Technical Assistance Center, and the Independent Living Training and Technical Assistance Center, in the provision and support of TA activities.

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priority

We will announce the final priority in a notice in the **Federal Register.** We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does **not** solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register.**

Executive Order 12866: This notice has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this proposed regulatory action.

The potential costs associated with this proposed regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this proposed regulatory action, we have determined that the benefits of the proposed priority justify the costs.

Discussion of Costs and Benefits

The benefits of the provision of TA are well-established. TA targeted to the specific needs of grantees helps them to improve their performance and to achieve their objectives. Specifically, the provision of cost effective TA to State VR agencies in areas of national need should result in higher quality employment outcomes for the individuals with disabilities whom these agencies serve.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR Part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *http://www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *http://www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: June 15, 2011.

Alexa Posny,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2011–15293 Filed 6–17–11; 8:45 am]

BILLING CODE 4000–01–P

U.S. ELECTION ASSISTANCE COMMISSION

Sunshine Act Meeting Notice

AGENCY: U.S. Election Assistance Commission.

ACTION: Public Meeting of the Technical Guidelines Development Committee.

SUMMARY: The Technical Guidelines Development Committee (TGDC) will meet in open session on Tuesday, July 26, 2011 and Wednesday, July 27, 2011 at the National Institute of Standards and Technology (NIST) in Gaithersburg, Maryland.

DATES: The meeting will be held on Tuesday, July 26, 2011, from 8:30 a.m. until 4:30 p.m., Eastern time, and Wednesday, July 27, 2011 from 8:30 a.m. to 4:30 p.m., Eastern time.

ADDRESSES: The meeting will take place at the National Institute of Standards and Technology (NIST), 100 Bureau Drive, Building 101, Gaithersburg, Maryland 20899–8900. Members of the public wishing to attend the meeting must notify Mary Lou Norris or Angela

Ellis by c.o.b. Tuesday, July 19, 2011, per instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Nelson Hastings, NIST Voting Program, Information Technology Laboratory, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8930, Gaithersburg, MD 20899–8930, *telephone:* (301) 975–5237.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the TGDC will meet Tuesday, July 26, 2011 from 8:30 a.m. to 4:30 p.m., Eastern time, and Wednesday, July 27, 2011 from 8:30 a.m. to 4:30 p.m., Eastern time. Topics that will be discussed at the meeting include UOCAVA (Uniformed and Overseas Citizens Absentee Voting Act), Common Data Format, and Usability and Accessibility issues. The full meeting agenda will be posted in advance at *http://vote.nist.gov.* All sessions of this meeting will be open to the public. A live webcast of this meeting will be available at *http://vote.nist.gov.*

The TGDC was established pursuant to 42 U.S.C. 15361, to act in the public interest to assist the Executive Director of the Election Assistance Commission (EAC) in the development of voluntary voting system guidelines. Details regarding the TGDC's activities are available at *http://vote.nist.gov.*

All visitors to the National Institute of Standards and Technology site will have to pre-register to be admitted. Anyone wishing to attend this meeting must register by c.o.b. Tuesday, July 19, 2011, in order to attend. Please submit your name, time of arrival, email address and phone number to Mary Lou Norris or Angela Ellis, and they will provide you with instructions for admittance. Non-U.S. citizens must also submit their country of citizenship, title, employer/sponsor, and address. Mary Lou Norris' e-mail address is *marylou.norris@nist.gov,* and her phone number is (301) 975–2002. Angela Ellis' e-mail address is *angela.ellis@nist.gov,* and her phone number is (301) 975–3881. If you are in need of a disability accommodation, such as the need for Sign Language Interpretation, please contact Nelson Hastings by c.o.b. Tuesday, July 12, 2011.

Members of the public who wish to speak at this meeting may send a request to participate to Nelson Hastings by c.o.b. Tuesday, July 19, 2011. Individuals and representatives of organizations who would like to offer comments and suggestions related to the Committee's affairs are invited to request a place on the agenda. On July 26, 2011, approximately 30 minutes will be reserved for public comments at the end of the open session. Speaking times will be assigned on a first-come, first-served basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be no more than 3 to 5 minutes each. Participants who are chosen will receive confirmation from the contact listed above that they were selected by 12 p.m. Eastern time on Friday, July 22, 2011.

The general public, including those who are not selected to speak, may submit written comments, which will be distributed to TGDC members so long as they are received no later than 12 p.m. Eastern time on Friday, July 22, 2011. All comments will also be posted on *http://vote.nist.gov.*

Donetta Davidson,

Commissioner, U.S. Election Assistance Commission.

[FR Doc. 2011–15326 Filed 6–16–11; 11:15 am]

BILLING CODE 6820–KF–P

DEPARTMENT OF ENERGY

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Office of Electricity Delivery and Energy Reliability (OE), U.S. Department of Energy (DOE).

ACTION: Agency information collection activities: proposed collection; comment request.

SUMMARY: The Office of Electricity Delivery and Energy Reliability is soliciting comments on the proposed revisions and three-year extension to the OE–417 ''Electric Emergency Incident and Disturbance Report.''

DATES: Comments must be filed August 19, 2011. If you anticipate difficulty in submitting comments within that period, contact the person listed in Addresses as soon as possible.

ADDRESSES: Send comments to Brian Copeland. To ensure receipt of the comments by the due date submission by e-mail: *Brian.Copeland@hq.doe.gov* or by Fax 202–586–2623 is recommended. The mailing address is Office of Electricity Delivery and Energy Reliability (*Attn:* Comments on OE–417 Electric Emergency Incident and Disturbance Report), OE–30, Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Alternatively, Brian Copeland may be contacted by telephone at 202–586–1178.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Brian Copeland using the contact information listed above.

SUPPLEMENTARY INFORMATION: This information collection request contains:

I. Background
II. Current Actions
III. Request for Comments

I. Background

The Federal Energy Administration Act of 1974 (Pub. L. 93–275, 15 U.S.C. 761 *et seq.*) and the DOE Organization Act (Pub. L. 95–91, 42 U.S.C. 7101 *et seq.*) require the DOE to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer term domestic demands.

The Office of Electricity Delivery and Energy Reliability (OE), as part of its effort to comply with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35), provides the general public and other Federal agencies with opportunities to comment on collections of energy information conducted by OE. Any comments received help the DOE to prepare data requests that maximize the utility of the information collected, and to assess the impact of collection requirements on the public. Also, the DOE will later seek approval of this collection of information by the Office of Management and Budget (OMB) under section 3507(a) of the Paperwork Reduction Act of 1995.

The DOE collects information on the generation, distribution, and transmission of electric energy. The DOE collects information on emergency situations in electric energy supply systems so that appropriate Federal emergency response measures can be implemented in a timely and effective manner.

The purpose of this notice is to seek public comment on the revised Form OE–417, ''Emergency Incident and Disturbance Report,'' used to report electric emergency incidents and disturbances to the DOE. The Form OE–417 reports will enable the DOE to monitor electric emergency incidents and disturbances in the United States (including all 50 States, the District of Columbia, Puerto Rico, U.S. Virgin Islands, and the U.S. Trust Territories)

so that the Government may help prevent the physical or virtual disruption of the operation of any critical infrastructure.

Currently, OE uses Form OE–417 to monitor major system incidents on electric power systems and to conduct after-action investigations on significant interruptions of electric power. The information is used to meet DOE national security responsibilities and requirements as set forth in the U.S. Department of Homeland Security's National Response Framework. The information may also be used in developing legislative recommendations/reports to Congress and coordinating Federal efforts regarding activities such as incidents/disturbances in critical infrastructure protection, continuity of electric industry operations, and continuity of operations. The information submitted may also be used by OE to analyze significant interruptions of electric power.

II. Current Actions

OE is considering changing the wording for criteria #1, 2, 9, & 10 to better capture the type of physical and cyber events that would need to be reported. The updated language would be:

Criterion #1—Physical attack that causes major interruptions or impacts to critical infrastructure facilities or to operations;

Criterion #2—Cyber event that causes interruptions of electrical system operations;

Criterion #9—Physical attack that could potentially impact electric power system adequacy or reliability; or vandalism which targets components of any security systems;

Criterion #10—Cyber event that could potentially impact electric power system adequacy or reliability.

The Final Reporting deadline is proposed to be extended from 48 hours to 72 hours. In Lines 5 and 6, ''Date/Time Incident Began'' and ''Date/Time Incident Ended'' the inclusion of Time Zone check boxes is being considered. OE is also considering deleting Line 10 ''Internal Organizational Tracking Number.''

In the renumbered Lines 10, 11, and 12 (the numbering has changed due to the deletion of the old Line 10) the ''Type of Emergency,'' ''Causes of Incident,'' and ''Actions Taken'' a comments box to provide additional information for each of those lines is being considered for inclusion. This line would be entitled ''Additional Information/Comments'' and would be an open space in which respondents can give further explanation for each of the categories specified in Lines 10, 11, and 12. The information included in the ''Additional Information/Comments'' boxes would be in Schedule 1 and therefore be public information and be different from the information included in the ''Narrative'' in Schedule 2 which is Protected. In Line 11, ''Cause of Incident'', the check box labeled ''Actual or Suspected Attack'' would be changed to ''Actual or Suspected Attack/Event'' and underneath it ''Cyber/Computer/Telecom'' would be changed to ''Cyber''. In Line 12 ''Actions Taken,'' an additional checkbox entitled ''Mitigation(s) Implemented'' would be added as well.

OE has instituted an online filing option where respondents can file the form on OE's Web site. While the online form is now considered the preferred method of notification, respondents can still submit forms through e-mail, fax and telephone to the DOE Emergency Operations Center (EOC). The EOC operates 24 hours daily, 7 days a week.

OE is considering improving its online filing capabilities to allow respondents to sign-on to a secure Web site in order to submit their forms. This secure Web site would allow respondents to review, download, and update past submissions. The Web site would also allow respondents to e-mail the submitted forms to entities such as the North American Electric Reliability Corporation (NERC).

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of comments.

General Issues

A. Is the proposed collection of information necessary for the proper performance of the functions of the agency and does the information have practical utility? Practical utility is defined as the actual usefulness of information, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can be made to the quality, utility, and clarity of the information to be collected and disseminated?

As a Potential Respondent to the Request for Information

A. What actions could be taken to help ensure and maximize the quality, objectivity, utility, and integrity of the information to be collected?

B. Are the instructions and definitions clear and sufficient? If not, which instructions need clarification?

C. Can the information be submitted by the due date?

D. Public reporting burden for this collection is estimated to average 10 minutes for the Emergency Incident Report (Schedule 1, Part A) that is to be filed within 1 hour; the overall public reporting burden for the form is estimated at 2 hours to cover any detailed reporting in the Normal/Update Report (Schedule 1, Part B and Schedule 2) which is filed later (up to 72 hours), if required. The estimated burden includes the total time necessary to provide the requested information. In your opinion, how accurate is this estimate?

E. The agency estimates that the only cost to a respondent is for the time it will take to complete the collection. Will a respondent incur any start-up costs for reporting, or any recurring annual costs for operation, maintenance, and purchase of services associated with the information collection?

F. What additional actions could be taken to minimize the burden of this collection of information? Such actions may involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

G. Does any other Federal, State, or local agency collect similar information? If so, specify the agency, the data element(s), and the methods of collection.

As a Potential User of the Information To Be Collected

A. What actions could be taken to help ensure and maximize the quality, objectivity, utility, and integrity of the information disseminated?

B. Is the information useful at the levels of detail to be collected?

C. For what purpose(s) would the information be used? Be specific.

D. Are there alternate sources for the information and are they useful? If so, what are their weaknesses and/or strengths?

Please refer to *http://www.oe.netl.doe.gov/oe417.aspx* for copies of the the proposed forms as well as mock-ups of the proposed Web site for online submissions. Refer to the proposed Instructions, also available on this site, about the purpose, who must report, when to report, where to submit, the elements to be reported, detailed instructions, provisions for confidentiality, and uses (including possible nonstatistical uses) of the information. For instructions on

obtaining materials, see the **FOR FURTHER INFORMATION CONTACT** section.

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

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) *OMB No.* 1901–0288; (2) *Information Collection Request Title:* Electric Emergency Incident and Disturbance Report; (3) *Type of Review:* Renewal; (4) *Purpose:* Form OE–417 collects information on electric emergency incidents and disturbances for DOE's use in fulfilling its overall national security and other energy management responsibilities. The information will also be used by DOE for analytical purposes; (5) *Annual Estimated Number of Respondents:* 3,269; (6) Annual Estimated Number of Total Responses: 300; (7) Annual Estimated Number of Burden Hours: 3,919; and (8) Annual Estimated Reporting and Recordkeeping Cost Burden: 0.

Statutory Authority: Section 13 of the Federal Energy Administration Act of 1974, codified at 15 U.S.C. 772.

Issued in Washington, DC on June 3, 2011.

Patricia A. Hoffman,

Assistant Secretary of Energy, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2011–15279 Filed 6–17–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

International Energy Agency meetings

AGENCY: Department of Energy, DOE.

ACTION: Notice of meetings.

SUMMARY: The Industry Advisory Board (IAB) to the International Energy Agency (IEA) will meet on June 28, 2011, at the headquarters of the IEA in Paris, France, in connection with a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the IEA's Standing Group on the Oil Market (SOM) on June 28; and on June 29 in connection with a meeting of the SEQ on June 29.

DATES: June 28–29, 2011.

ADDRESSES: 9, rue de la Fédération, Paris, France.

FOR FURTHER INFORMATION CONTACT: Diana D. Clark, Assistant General for International and National Security Programs, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, 202–586–3417.

SUPPLEMENTARY INFORMATION: In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)) (EPCA), the following notice of meeting is provided:

Meetings of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held at the headquarters of the IEA, 9, rue de la Fédération, Paris, France, on June 28, 2011, beginning at 9 a.m.; and on June 29 commencing at 9:30 a.m. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the IEA's Standing Group on the Oil Market (SOM) on June 28, which is scheduled to be held at the headquarters of the IEA commencing at 9 a.m.; and at a meeting of the SEQ on June 29, commencing at 9:30 a.m.. The IAB will also hold a preparatory meeting among company representatives at the same location at 8:30 a.m. on June 29. The agenda for this preparatory meeting is to review the agenda for the SEQ meeting, to be held on June 29.

The agenda of the joint SEQ/SOM meeting on June 28 is under the control of the SEQ and the SOM. It is expected that the SEQ and the SOM will adopt the following agenda:

1. Adoption of the Agenda.
2. Approval of the Summary Record of the March 2011 Joint Session.
3. Medium-Term Goals for Global Engagement.
4. Medium-Term Oil and Gas Markets 2010: Part 1—Oil.
   —Introduction;
   —Oil Pricing;
   —Oil Demand.
   —Q&A.
   —Oil Supply.
   —Oil Refining & Products Markets.
   —Market Outlook to 2016.
   —Q&A.
5. Medium-Term Oil and Gas Markets 2010: Part 2—Gas.
6. Other Business.
   —Tentative Schedule of Next Meetings:
   —November 16, 2011.
   —March 27–29, 2012.
   —June 26–28, 2012.
   —November 27–29, 2012.
7. Workshop: Economic Impacts of Oil Supply Disruptions.

The agenda of the SEQ meeting on June 29 is under the control of the SEQ. It is expected that the SEQ will adopt the following agenda:

1. Adoption of the Agenda.
2. Approval of the Summary Record of the 132nd Meeting.
3. Status of Compliance with IEP Stockholding Commitments.
   —Update on IEA/EC Work Related to New EU Oil Stockholding Directive.
4. Emergency Response Review Program.
   —Schedule of Emergency Response Reviews.
   —Emergency Response Review of Australia.
   —Questionnaire Response of Hungary.
5. Emergency Policy for Natural Gas.
   —Report on Gas Security for Ministerial.
6. Emergency Response Exercises.
   —Report on Workshop Following ERE5.
7. Cooperation with Non-Member Countries During Oil Supply Disruptions.
   —Report on Recent Discussions with India and Thailand.
8. Emergency Response Measures.
   —Authorization of Budget for Emergency Response Actions.
   —Report on the Fuel Switching Questionnaire.
9. Energy Security Model MOSES.
   —Presentation of Draft Model.
10. Policy and Other Developments in Member Countries.
   —Sweden (exercise).
   —United States.
   —Japan.
11. Report from the Industry Advisory Board.
12. Activities with International Organizations and Non-Member Countries.
   —APEC/ASEAN Emergency Response Exercise.
   —China.
   —Chile.
   —Indonesia.
13. Documents for Information.
   —Emergency Reserve Situation of IEA Member Countries on April 1, 2011.
   —Base Period Final Consumption: 2Q 2010–1Q 2011.
   —Updated Emergency Contacts List.
14. Other Business.
   —Tentative Schedule of Next Meetings:
   —November 16–17, 2011.
   —March 27–29, 2012.
   —June 26–28, 2012.
   —November 27–29, 2012 .

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), the meetings of the IAB are open to representatives of members of the IAB and their counsel; representatives of members of the IEA's Standing Group on Emergency Questions and the IEA's Standing Group on the Oil Markets; representatives of the Departments of Energy, Justice, and State, the Federal

Trade Commission, the General Accounting Office, Committees of Congress, the IEA, and the European Commission; and invitees of the IAB, the SEQ, the SOM, or the IEA.

Issued in Washington, DC, June 15, 2011.

Diana D. Clark,

Assistant General Counsel for International and National Security Programs.

[FR Doc. 2011–15282 Filed 6–17–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC11–523–000]

Commission Information Collection Activities (FERC–523); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed information collections and request for comments.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, 44 USC 3506(c)(2)(A) (2006), (Pub. L. 104–13), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the proposed information collection activities described below.

DATES: Comments in consideration of the collection of information are due August 19, 2011.

ADDRESSES: Comments may be filed either electronically (eFiled) or in paper format, and should refer to Docket No. IC11–523–000. Documents must be prepared in an acceptable filing format and in compliance with Commission submission guidelines at *http://www.ferc.gov/help/submission-guide.asp.* eFiling instructions are available at: *http://www.ferc.gov/docs-filing/efiling.asp.* First time users must follow eRegister instructions at: *http://www.ferc.gov/docs-filing/eregistration.asp*, to establish a user name and password before eFiling. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of eFiled comments. Commenters making an eFiling should not make a paper filing. Commenters that are not able to file electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

Users interested in receiving automatic notification of activity in this docket may do so through eSubscription at *http://www.ferc.gov/docs-filing/esubscription.asp.* (If docket number contains an alpha at the end then the following sentence should be used instead of the previous one: Due to a system issue, eFiling and eSubscription are not available for this docket.) All comments and FERC issuances may be viewed, printed or downloaded remotely through FERC's eLibrary at *http://www.ferc.gov/docs-filing/elibrary.asp*, by searching on Docket No. IC11–523. For user assistance, contact FERC Online Support by e-mail at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by e-mail at *DataClearance@FERC.gov*, telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION: The information collection is under the requirements of FERC–523, ''Applications for Authorization for Issuance of Securities or the Assumption of Liabilities'', OMB Control No. 1902–0043.

Under Federal Power Act (FPA) section 204, 16 U.S.C. 824c, no public utility or licensee shall issue any security, or assume any obligation or liability as guarantor, endorser, surety, or otherwise in respect of any security of another person, until the public utility applies for and receives Commission approval by order authorizing the issue or assumption of the liability. The Commission issues an order if it finds that such issue or assumption (a) is for lawful object, within the corporate purposes of the applicant and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the applicant as a public utility and which will not impair its ability to perform that service, and (b) is reasonably necessary or appropriate for such purposes.

The Commission uses the information contained in filings to determine its acceptance and/or rejection of applications for authorization to either issue securities or to assume an obligation or liability by the public utilities and their licensees who make these applications.

The Commission implements this statute through its regulations, which are found at 18 CFR Part 34; and 18 CFR sections 131.43 and 131.50. Part 131 prescribes the required filing format. The information is filed electronically.

Action: The Commission is requesting a three-year extension of the current expiration date with no changes to the current reporting requirements.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of responses annually	Number of responses per respondent	Average burden hours per response	Total annual burden hours
(1)	(2)	(3)	(1) × (2) × (3)
78	1.7	88	11,669

The estimated total cost to respondents is $798,721 [11,669 hours/2,080 hours [1] per year, times $142,372 [2] equals $798,721]. The cost per respondent annually is $10,240. This is an increase from 60 to currently 78 utilities filing annually. An increase from 1 to 1.7 filings per utility annually was also seen. The Commission considers this a normal fluctuation due to market activities and filing times chosen. Utilities files periodically, therefore the number of filings are expected to continue to fluctuate from year-to-year.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, using technology and systems for the purposes of collecting, validating, verifying, processing, maintaining,

[1] Number of hours an employee works each year.

[2] Average annual salary per employee (including overhead).

disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable filing instructions and requirements; (4) training personnel to respond to this collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The cost estimate for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) 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) 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology e.g. permitting electronic submission of responses.

Dated: June 14, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–15193 Filed 6–17–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC11–519–000]

Commission Information Collection Activities (FERC–519); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A) (2006), (Pub. L. 104–13), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the proposed information collection activities described below.

DATES: Comments in consideration of the collection of information are due August 19, 2011.

ADDRESSES: Comments may be filed either electronically (eFiled) or in paper format, and should refer to Docket No. IC11–519–000. Documents must be prepared in an acceptable filing format and in compliance with Commission submission guidelines at *http://www.ferc.gov/help/submission-guide.asp.* eFiling instructions are available at *http://www.ferc.gov/docs-filing/efiling.asp.* First time users must follow eRegister instructions at *http://www.ferc.gov/docs-filing/eregistration.asp*, to establish a user name and password before eFiling. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of eFiled comments. Commenters making an eFiling should not make a paper filing. Commenters that are not able to file electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

Users interested in receiving automatic notification of activity in this docket may do so through eSubscription at *http://www.ferc.gov/docs-filing/esubscription.asp.* All comments and FERC issuances may be viewed, printed or downloaded remotely through FERC's eLibrary at *http://www.ferc.gov/docs-filing/elibrary.asp*, by searching on Docket No. IC11–519. For user assistance, contact FERC Online Support by e-mail at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by e-mail at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Description

The FERC–519, ''Application under Federal Power Act section 203,'' OMB Control No. 1902–0082, is necessary to enable the Commission to carry out its responsibilities in implementing the statutory provisions of section 203 of the Federal Power Act (FPA), 16 U.S.C. 824b. Section 203 authorizes the Commission to grant approval of transactions in which a public utility disposes of jurisdictional facilities, merges such facilities with the facilities owned by another person or acquires the securities of another public utility. Under this statute, the Commission must find that the proposed transaction will be consistent with the public interest.

Under section 203 of the FPA, FERC must review proposed mergers, acquisitions and dispositions of jurisdictional facilities by public utilities, if the value of the facilities exceeds $10 million, and must approve these transactions if they are consistent with the public interest. One of FERC's overarching goals is to promote competition in wholesale power markets, having determined that effective competition, as opposed to traditional forms of price regulation, can best protect the interests of ratepayers. Market power, however, can be exercised to the detriment of effective competition and customers, making it necessary for FERC to review and approve or disapprove all jurisdictional mergers, dispositions and acquisitions. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR part 33.

Action: The Commission is requesting a three-year extension of the current expiration date with no changes to the current reporting requirements.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of responses annually	Number of responses per respondent	Average burden hours per response	Total annual burden hours
(1)	(2)	(3)	(1) × (2) × (3)
112	1	395	44,240

The estimated total cost to respondents is $3,028,143 [44,240 hours/2,080 hours [1] per year, times $142,372 [2] equals $3,028,143]. The cost per respondent annually is $27,037. This is a decrease from 134 to currently an average of 112 filings annually. The Commission considers this a normal fluctuation due to market activities and filing times chosen. Utilities file periodically; therefore the number of filings is expected to continue to fluctuate from year-to-year.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, using technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable filing instructions and requirements; (4) training personnel to respond to this collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The cost estimate for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) 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) 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology *e.g.* permitting electronic submission of responses.

Dated: June 14, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–15255 Filed 6–17–11; 8:45 am]

BILLING CODE 6717–01–P

[1] Number of hours an employee works each year.

[2] Average annual salary per employee (including overhead).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC11–603–001]

Commission Information Collection Activities (Ferc–603); Comment Request; Submitted for OMB Review

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, the Federal Energy Regulatory Commission (Commission or FERC) has submitted the information collection described below to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission issued a Notice in the **Federal Register** (76 FR 18743, 4/5/2011) requesting public comments. FERC received no comments on the FERC–603 and has made this notation in its submission to OMB.

DATES: Comments on the collection of information are due by July 20, 2011.

ADDRESSES: Address comments on the collection of information to the Office of Management and Budget, Office of Information and Regulatory Affairs, *Attention:* Federal Energy Regulatory Commission Desk Officer. Comments to Created by OMB should be filed electronically, c/o *oira__submission@omb.eop.gov* and include OMB Control Number 1902–0197 for reference. The Desk Officer may be reached by telephone at 202–395–4638.

A copy of the comments should also be sent to the Federal Energy Regulatory Commission and should refer to Docket No. IC11–603–001. Comments may be filed either electronically or in paper format. Those persons filing electronically do not need to make a paper filing. Documents filed electronically via the Internet must be prepared in an acceptable filing format and in compliance with the Federal Energy Regulatory Commission submission guidelines. Complete filing instructions and acceptable filing formats are available at *http://www.ferc.gov/help/submission-guide.asp.* To file the document electronically, access the Commission's Web site and click on Documents & Filing, E-Filing (*http://www.ferc.gov/docs-filing/efiling.asp*), and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

For paper filings, the comments should be submitted to the Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426, and should refer to Docket No. IC11–603–001.

Users interested in receiving automatic notification of activity in FERC Docket Number IC11–603 may do so through eSubscription at *http://www.ferc.gov/docs-filing/esubscription.asp.* All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the ''eLibrary'' link. For user assistance, contact *ferconlinesupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by e-mail at *DataClearance@FERC.gov*, by telephone at (202) 502–8663, and by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION: The information collected under the

requirements of FERC–603 ''Critical Energy Infrastructure Information'' (OMB No. 1902–0197) is used by the Commission to implement procedures for gaining access to critical energy infrastructure information (CEII) that would not otherwise be available under the Freedom of Information Act (5 U.S.C. 552). On February 21, 2003, the Commission issued Order No. 630 (66 FR 52917) to address the appropriate treatment of CEII in the aftermath of the September 11, 2001 terrorist attacks and to restrict unrestrained general access due to the ongoing terrorism threat. These steps enable the Commission to keep sensitive infrastructure information out of the public domain, decreasing the likelihood that such information could be used to plan or execute terrorist attacks. The process adopted in Order No. 630 is a more efficient alternative for handling requests for previously public documents than FOIA. The Commission has defined CEII to include information about ''existing or proposed critical infrastructure that (i) Relates to the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person planning an attack on critical infrastructure; (iii) is exempt from mandatory disclosure under the Freedom of Information Act, and (iv) does not simply give the location of the critical infrastructure. Critical infrastructure means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters. A person seeking access to CEII may file a request for that information by providing information about their identity and reason as to the need for the information. Through this process, the Commission is able to review the requester's need for the information against the sensitivity of the information. The compliance with these requirements is mandatory.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Data collection	Number of respondents annually [1] (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours
	(1)	(2)	(3)	(1) × (2) × (3)
FERC–603	200	1	.3	60

[1] The number of respondents corresponds to the number of requests received annually while recognizing that some CEII requests are filed by multiple parties.

The estimated total cost to respondents is $4,080. The cost per respondent = $20.40. (60 hours @ $68 hourly rate). The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

Dated: June 9, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–14900 Filed 6–17–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Project No. 13226–003]

Blue Heron Hydro LLC; Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Major License.

b. *Project No.:* 13226–003.

c. *Date filed:* November 1, 2010.

d. *Applicant:* Blue Heron Hydro LLC.

e. *Name of Project:* Ball Mountain Dam Hydroelectric Project.

f. *Location:* At the U.S. Army Corps of Engineers Ball Mountain Dam on the West River near the Town of Jamaica, Windham County, Vermont.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Lori Barg, Blue Heron Hydro LLC, 113 Bartlett Road, Plainfield, Vermont 05667. (802) 454–1874.

i. *FERC Contact:* Dr. Nicholas Palso, (202) 502–8854 or *nicholas.palso@ferc.gov.*

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted and is now ready for environmental analysis.

l. Project Description: The Ball Mountain Dam Hydroelectric Project would utilize the U.S. Army Corps of Engineers' existing Ball Mountain Dam and reservoir and would consist of: (1) Two turbine generator modules located within the existing intake tower, each containing 6 horizontal mixed flow turbines directly connected to 6 submersible generator units for a total installed capacity of 2,200 kilowatts; (2) a new 12.47-kilovolt, 1,320-foot-long transmission line; and (3) appurtenant facilities. The project would have an estimated average annual generation of approximately 6,000 megawatt-hours.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

All filings must (1) Bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

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. Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

Dated: June 13, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–15172 Filed 6–17–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2277–023]

Union Electric Company (dba Ameren Missouri); Notice of Application Accepted for Filing and Soliciting 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. *Type of Application:* New Major License.

b. *Project No.:* 2277–023.

c. *Date filed:* June 24, 2008.

d. *Applicant:* Union Electric Company (dba Ameren Missouri).

e. *Name of Project:* Taum Sauk Pumped Storage Project.

f. *Location:* On the East Fork of the Black River, in Reynolds County, Missouri. The project occupies no federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Michael O. Lobbig, P.E., Managing Supervisor, Hydro Licensing, Ameren Missouri, 3700 S. Lindbergh Blvd, St. Louis, MO 63127; telephone 314–957–3427; e-mail at *mlobbig@ameren.com*.

i. *FERC Contact:* Janet Hutzel, telephone (202) 502–8675, or by e-mail at *janet.hutzel@ferc.gov*.

j. *Deadline for filing motions to intervene and protests:* August 15, 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 *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project.

Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted, but is not ready for environmental analysis at this time.

l. The existing Taum Sauk Pumped Storage Project consists of: (1) A lower reservoir impounded by a concrete gravity dam downstream of the confluence of the East Fork Black River and Taum Sauk Creek; (2) an upper reservoir on the top of Proffit Mountain impounded by a rebuilt roller-compacted concrete dam; (3) vertical shaft, rock and concrete-lined tunnel sections, and a penstock conduit; (4) a pump-generating plant with two reversible pump units and two motor generators with a total installed capacity of 408 megawatts; (5) an excavated tailrace and open channel to the lower reservoir; (6) a 138-kilovolt switchyard/substation; (7) a gravel and sedimentation trap (bin wall) on the East Fork of the Black River; and (8) associated ancillary equipment.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (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. 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.

Dated: June 14, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–15260 Filed 6–17–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13368–002]

Blue Heron Hydro LLC; Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Minor License.

b. *Project No.:* 13368–002.

c. *Date filed:* November 1, 2010.

d. *Applicant:* Blue Heron Hydro LLC.

e. *Name of Project:* Townshend Dam Hydroelectric Project.

f. *Location:* At the U.S. Army Corps of Engineers Townshend Dam on the West River near the Town of Townshend, Windham County, Vermont.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Lori Barg, Blue Heron Hydro LLC, 113 Bartlett Road, Plainfield, Vermont 05667. (802) 454–1874.

i. *FERC Contact:* Dr. Nicholas Palso, (202) 502–8854 or *nicholas.palso@ferc.gov.*

j. Deadline for filing comments, recommendations, terms and conditions, and prescriptions: 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted and is now ready for environmental analysis.

l. Project Description: The Townshend Dam Hydroelectric Project would utilize the U.S. Army Corps of Engineers' existing Townshend Dam and reservoir and would consist of: (1) Two turbine generator modules located within the existing intake tower, each containing 6 horizontal mixed flow turbines directly connected to 6 submersible generator units for a total installed capacity of 925 kilowatts; (2) a new 12.47-kilovolt, 430-foot-long transmission line; and (3) appurtenant facilities. The project would have an estimated average annual generation of approximately 2,000 megawatt-hours.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish

the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

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. Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

Dated: June 13, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–15170 Filed 6–17–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER97–3359–018.

Applicants: Florida Power & Light Company.

Description: Florida Power & Light Company's Errata to the Notice in Change in Status.

Filed Date: 06/13/2011.

Accession Number: 20110613–5131.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 05, 2011.

Docket Numbers: ER11–2700–004.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35: 06–13–11 CMMPA Compliance Filing to be effective 3/21/2011.

Filed Date: 06/13/2011.

Accession Number: 20110613–5113.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 05, 2011.

Docket Numbers: ER11–2815–001.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35: Compliance filing per Order in ER11–2815–000 to correct Attachment J to be effective 6/1/2011.

Filed Date: 06/13/2011.

Accession Number: 20110613–5066.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 05, 2011.

Docket Numbers: ER11–3787–000.

Applicants: Exelon Generation Company, LLC.

Description: Exelon Generation Company, LLC submits tariff filing per 35: Electric Rate Schedule FERC No. 20 to be effective 6/1/2011.

Filed Date: 06/13/2011.

Accession Number: 20110613–5077.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 05, 2011.

Docket Numbers: ER11–3788–000.

Applicants: New York Independent System Operator, Inc., Niagara Mohawk Power Corporation.

Description: New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: SGIA Among NYISO, National Grid and Chautauqua County to be effective 6/1/2011.

Filed Date: 06/13/2011.

Accession Number: 20110613–5093.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 05, 2011.

Docket Numbers: ER11–3789–000.

Applicants: Consolidated Edison Company of New York, Inc.

Description: Consolidated Edison Company of New York, Inc. submits tariff filing per 35.13(a)(1): Amendment to PASNY and EDDS for Targeted DSM Program June 2011 to be effective 6/14/2011 under ER11–3789 Filing Type: 320.

Filed Date: 06/13/2011.

Accession Number: 20110613–5099.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 05, 2011.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES11–37–000.

Applicants: Duquesne Light Company.

Description: Application of Duquesne Light Company Pursuant to Section 204 of the Federal Power Act for an Order Authorizing the Issuance of Short-Term Indebtedness.

Filed Date: 06/13/2011.

Accession Number: 20110613–5133.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 05, 2011.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR11–5–000.

Applicants: North American Electric Reliability Corp.

Description: Petition of the North American Electric Reliability Corp. for Approval of Appendices 3B and 3D to NERC Rules of Procedure Regarding the Election Procedure for Members of NERC Standards Committee and Registered Ballot Body Criteria.

Filed Date: 06/13/2011.

Accession Number: 20110613–5163.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 5, 2011.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the

FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 14, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–15191 Filed 6–17–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #3

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–3499–001.

Applicants: Florida Power Corporation.

Description: Florida Power Corporation submits tariff filing per 35.17(b): Revised Rate Schedule No. 139 of Florida Power Corp. in Docket ER11–3499 to be effective 5/1/2011.

Filed Date: 06/10/2011.

Accession Number: 20110610–5189.

Comment Date: 5 p.m. Eastern Time on Friday, June 24, 2011.

Docket Numbers: ER11–3614–001.

Applicants: Glacial Energy Holdings.

Description: Glacial Energy Holdings submits tariff filing per 35: Substitute Market-based Tariff of Glacial Energy Holdings to be effective 5/23/2011.

Filed Date: 06/10/2011.

Accession Number: 20110610–5196.

Comment Date: 5 p.m. Eastern Time on Friday, July 01, 2011.

Docket Numbers: ER11–3782–000.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corporation submits tariff filing per 35.13(a)(2)(iii: 2011–06–10 CAISO Revised IBAAO with WALC DSR to be effective 6/15/2011.

Filed Date: 06/10/2011.

Accession Number: 20110610–5150.

Comment Date: 5 p.m. Eastern Time on Friday, July 01, 201.1

Docket Numbers: ER11–3783–000.

Applicants: Kentucky Utilities Company.

Description: Kentucky Utilities Company submits tariff filing per 35.13(a)(2)(iii: 06_10_11 Nicholasville Amendment to be effective 6/10/2011.

Filed Date: 06/10/2011.

Accession Number: 20110610–5155.

Comment Date: 5 p.m. Eastern Time on Friday, July 01, 2011.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 10, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–15158 Filed 6–17–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–3643–001.

Applicants: PacifiCorp.

Description: PacifiCorp submits tariff filing per 35.17(b): OATT Formula Rate Revised Schedules 3, 3A, 5 and 6 to be effective 7/25/2011.

Filed Date: 06/09/2011.

Accession Number: 20110609–5096.

Comment Date: 5 p.m. Eastern Time on Thursday, June 30, 2011.

Docket Numbers: ER11–3766–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii:

G773 Termination (2) to be effective 8/3/2011.

Filed Date: 06/09/2011.

Accession Number: 20110609–5022.

Comment Date: 5 p.m. Eastern Time on Thursday, June 30, 2011.

Docket Numbers: ER11–3767–000.

Applicants: CinCap IV, LLC.

Description: CinCap IV, LLC submits tariff filing per 35.15: Cancel Database to be effective 8/8/2011.

Filed Date: 06/09/2011.

Accession Number: 20110609–5028.

Comment Date: 5 p.m. Eastern Time on Thursday, June 30, 2011.

Docket Numbers: ER11–3768–000.

Applicants: Duke Energy Trading and Marketing, L.L.C.

Description: Duke Energy Trading and Marketing, L.L.C. submits tariff filing per 35.15: Cancel Database to be effective 8/8/2011.

Filed Date: 06/09/2011.

Accession Number: 20110609–5029.

Comment Date: 5 p.m. Eastern Time on Thursday, June 30, 2011.

Docket Numbers: ER11–3769–000.

Applicants: WSPP Inc.

Description: WSPP Inc. submits tariff filing per 35.13(a)(2)(iii: Incorporation of Rate Schedule into WSPP Agreement (Westar Energy) to be effective 6/1/2011.

Filed Date: 06/09/2011.

Accession Number: 20110609–5033.

Comment Date: 5 p.m. Eastern Time on Thursday, June 30, 2011.

Docket Numbers: ER11–3770–000.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc. submits tariff filing per 35: NYISO Compliance Filing—Tariff Revisions, Minimum Oil Burn Settlement to be effective 5/1/2011.

Filed Date: 06/09/2011.

Accession Number: 20110609–5034.

Comment Date: 5 p.m. Eastern Time on Thursday, June 30, 2011.

Docket Numbers: ER11–3771–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: Queue No. W1–114; Original Service Agreement No. 2939 to be effective 5/10/2011.

Filed Date: 06/09/2011.

Accession Number: 20110609–5045.

Comment Date: 5 p.m. Eastern Time on Thursday, June 30, 2011.

Docket Numbers: ER11–3772–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: Queue No. W2–076; Original Service Agreement No. 2933 to be effective 5/10/2011.

Filed Date: 06/09/2011.

Accession Number: 20110609–5073.

Comment Date: 5 p.m. Eastern Time on Thursday, June 30, 2011.

Docket Numbers: ER11–3773–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: Queue Position V4–038—Original Service Agreement Nos. 2940 & 2941 to be effective 5/10/2011.

Filed Date: 06/09/2011.

Accession Number: 20110609–5095.

Comment Date: 5 p.m. Eastern Time on Thursday, June 30, 2011.

Docket Numbers: ER11–3774–000.

Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas and Electric Company submits tariff filing per 35.13(a)(2)(iii: PWRPA 2nd Amendment to Appendix B to IA and WDT Service Agreement, to be effective 6/13/2011.

Filed Date: 06/10/2011.

Accession Number: 20110610–5010.

Comment Date: 5 p.m. Eastern Time on Friday, July 01, 2011.

Docket Numbers: ER11–3775–000.

Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas and Electric Company Notice of Termination of Lompoc GSFA and GIA.

Filed Date: 06/09/2011.

Accession Number: 20110609–5115.

Comment Date: 5 p.m. Eastern Time on Thursday, June 30, 2011.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES11–32–000.

Applicants: Northern Indiana Public Service Company.

Description: Supplement to Application for Authorization to Issue Short-Term Debt of Northern Indiana Public Service Company.

Filed Date: 06/09/2011.

Accession Number: 20110609–5109.

Comment Date: 5 p.m. Eastern Time on Monday, June 20, 2011.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 10, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–15159 Filed 6–17–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–1829–002.

Applicants: ISO New England Inc.

Description: ISO New England Inc. submits tariff filing per 35: Conforming Tariff Record Filing to be effective 3/16/2011.

Filed Date: 06/10/2011.

Accession Number: 20110610–5105.

Comment Date: 5 p.m. Eastern Time on Friday, July 01, 2011.

Docket Numbers: ER11–3434–001.

Applicants: Wabash Valley Power Association, Inc.

Description: Wabash Valley Power Association, Inc. submits tariff filing per 35: Correction Filing to be effective 6/10/2011.

Filed Date: 06/10/2011.

Accession Number: 20110610–5099.

Comment Date: 5 p.m. Eastern Time on Friday, July 01, 2011.

Docket Numbers: ER11–3467–000.

Applicants: BlueChip Energy LLC.

Description: Amendment to Application of BlueChip Energy LLC.

Filed Date: 06/09/2011.

Accession Number: 20110609–5060.

Comment Date: 5 p.m. Eastern Time on Thursday, June 23, 2011.

Docket Numbers: ER11–3776–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii: Submission of Revisions to KCPL and KCPL–GMO Depreciation Rates to be effective 12/1/2010.

Filed Date: 06/10/2011.

Accession Number: 20110610–5106.

Comment Date: 5 p.m. Eastern Time on Friday, July 01, 2011.

Docket Numbers: ER11–3777–000.

Applicants: Calpine Oneta Power, L.P.

Description: Calpine Oneta Power, L.P. submits tariff filing per 35.13(a)(2)(iii: Notice of Succession to Market-Based Rate Tariff to be effective 6/11/2011.

Filed Date: 06/10/2011.

Accession Number: 20110610–5111.

Comment Date: 5 p.m. Eastern Time on Friday, July 01, 2011.

Docket Numbers: ER11–3778–000.

Applicants: California Independent System Operator Corporation

Description: California Independent System Operator Corporation submits tariff filing per 35.13(a)(2)(iii: 2011–06–10 CAISO's Non Conforming Pseudo PGA with Rice Solar Energy to be effective 6/15/2011.

Filed Date: 06/10/2011.

Accession Number: 20110610–5117.

Comment Date: 5 p.m. Eastern Time on Friday, July 01, 2011.

Docket Numbers: ER11–3779–000.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corporation submits tariff filing per 35.13(a)(2)(iii: 2011–06–10 eTariff Submittal of CAISO's ABAAOA with WAPA DSR to be effective 7/28/2010.

Filed Date: 06/10/2011.

Accession Number: 20110610–5122.

Comment Date: 5 p.m. Eastern Time on Friday, July 01, 2011.

Docket Numbers: ER11–3780–000.

Applicants: Wisconsin Power and Light Company.

Description: Wisconsin Power and Light Company submits tariff filing per 35.13(a)(2)(iii: WPL MGE–LBAAOCA to be effective 6/10/2011.

Filed Date: 06/10/2011.

Accession Number: 20110610–5135.

Comment Date: 5 p.m. Eastern Time on Friday, July 01, 2011.

Docket Numbers: ER11–3781–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35: 06–10–11 Resource Adequacy Compliance to be effective 7/28/2010.

Filed Date: 06/10/2011.

Accession Number: 20110610–5139

Comment Date: 5 p.m. Eastern Time on Friday, July 01, 2011.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF11–326–000.

Applicants: Town of Cary, NC.

Description: Form 556—Notice of Self-Certification of Town of Cary, NC.

Filed Date: 06/10/2011.

Accession Number: 20110610–5101.

Comment Date: None Applicable.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 10, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–15160 Filed 6–17–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–3784–000.

Applicants: PacifiCorp.

Description: PacifiCorp submits tariff filing per 35.13(a)(2)(iii): Idaho Power Hemingway Point to Point Agreements to be effective 6/1/2011.

Filed Date: 06/13/2011.

Accession Number: 20110613–5000.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 05, 2011.

Docket Numbers: ER11–3785–000.

Applicants: PacifiCorp.

Description: PacifiCorp submits tariff filing per 35.15: Idaho Power Hemingway Point to Point Agreements Termination to be effective 6/1/2011.

Filed Date: 06/13/2011.

Accession Number: 20110613–5001.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 05, 2011.

Docket Numbers: ER11–3786–000.

Applicants: Tampa Electric Company.

Description: Request for Waiver of Tampa Electric Company.

Filed Date: 06/10/2011.

Accession Number: 20110610–5217.

Comment Date: 5 p.m. Eastern Time on Monday, June 20, 2011.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 13, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–15157 Filed 6–17–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR11–16–000]

Chevron Products Company v. SFPP, L.P.; Notice of Complaint

Take notice that on June 13, 2011, pursuant to 13(1) of the Interstate Commerce Act (''ICA''), 49 U.S.C. App. 13(1), Rule 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206, and the Commission's Procedural Rules Applicable to Oil Pipeline Proceedings, 18 CFR 343.1(a), Chevron Products Company (Complaint) filed a formal complaint challenging the lawfulness of the existing rates and charges for services on the interstate oil pipeline system of SFPP, L.P. (Respondent). This complaint is directed at the existing base rates contained in the Respondent's FERC Tariff Nos. 195.0.0, 196.2.0, 197.0.0, 198.2.0, 199.0.0, and 200.0.0 and all predecessor tariffs, supplements and re-issuances.

The Complainant states that a copy of the complaint has been served on the Respondent.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed

docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on July 5, 2011.

Dated: June 14, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–15259 Filed 6–17–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR11–15–000]

Chevron Products Company v. SFPP, L.P.; Notice of Complaint

Take notice that on June 13, 2011, pursuant to 13(1) of the Interstate Commerce Act (''ICA''), 49 U.S.C. App. 13(1), Rule 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206, and the Commission's Procedural Rules Applicable to Oil Pipeline Proceedings, 18 CFR 343.1(a), Chevron Products Company (Complainant) filed a formal complaint against SFPP, L.P. (Respondent) challenging the lawfulness of indexed rate increases filed by SFPP on May 27, 2011, in Docket No. IS11–444. This complaint is directed at the proposed rates contained in the Respondent's Tariff Nos. 194.1.0, 195.1.0, 196.3.0, 197.1.0, 198.3.0, 199.1.0, and 200.1.0 and successor tariffs, supplements and reissuances.

The Complainant states that a copy of the complaint has been served on the Respondent.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on July 5, 2011.

Dated: June 14, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–15258 Filed 6–17–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR11–13–000]

ConocoPhillips Company v. SFPP, L.P.; Notice of Complaint

Take notice that on June 13, 2011, pursuant to Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.206 (2011), section 343.2 of the Procedural Rules Applicable to Oil Pipeline Proceedings, 18 CFR 343.2, and section 13(1) of the Interstate Commerce Act (ICA), 49 U.S.C. App. 13(1), ConocoPhillips Company (Complainant) filed a formal complaint against SFPP, L.P. (Respondent), challenging the lawfulness of the Respondent's existing rates and charges for services on its interstate oil pipeline system and alleging that the Respondent violated and continues to violate the ICA by charging unjust and unreasonable rates for Respondent's jurisdictional interstate service.

The Complainant stated that copies of the complaint have been served on the Respondent as listed on the Commission's list of Corporate officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on July 5, 2011.

Dated: June 14, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–15256 Filed 6–17–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR11–14–000]

ConocoPhillips Company v. SFPP, L.P.; Notice of Complaint

Take notice that on June 13, 2011, pursuant to Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.206 (2011), section 343.2 of the Procedural Rules Applicable to Oil Pipeline Proceedings, 18 CFR 343.2, and section 13(1) of the Interstate Commerce Act (ICA), 49 U.S.C. App. 13(1), ConocoPhillips Company (Complainant) filed a formal complaint against SFPP, L.P. (Respondent), challenging the

lawfulness of the indexed rate increases filed by the Respondent on May 27, 2011 in Docket No. IS11–444 and alleging that the Respondent will violate the ICA by charging proposed rates which are unjust and unreasonable for Respondent's jurisdictional interstate service.

The Complainant stated that copies of the complaint have been served on the Respondent as listed on the Commission's list of Corporate officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on July 5, 2011.

Dated: June 14, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–15257 Filed 6–17–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EG11–61–000, etc.]

Paulding Wind Farm II, LLC, *et al.;* Notice of Effectiveness of Exempt Wholesale Generator Status

	Docket Nos.
Paulding Wind Farm II LLC	EG11–61–000
Macho Springs Power I, LLC.	EG11–63–000
Alta Wind III Owner Lessor A.	EG11–64–000
Alta Wind III Owner Lessor B.	EG11–65–000
Alta Wind III Owner Lessor C.	EG11–66–000
Alta Wind III Owner Lessor D.	EG11–67–000
FRV AE Solar, LLC	EG11–68–000
Rockland Wind Farm LLC ...	EG11–69–000
Lively Grove Energy Partners, LLC.	EG11–70–000
Summit Texas Clean Energy, LLC.	EG11–71–000
White Stallion Energy Center, LLC.	EG11–72–000
Blue Canyon Windpower VI LLC.	EG11–73–000
Ghost Pine Windfarm, LP ...	FC11–5–000

Take notice that during the month of April 2011, the status of the above-captioned entities as Exempt Wholesale Generators or Foreign Utility Companies became effective by operation of the Commission's regulations. 18 CFR 366.7(a).

Dated: June 13, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–15171 Filed 6–17–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP11–485–000]

Distrigas of Massachusetts LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed Heating Value and Wobbe Index Reduction Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Heating Value and Wobbe Index Reduction Project (Project) involving construction and operation of facilities by Distrigas of Massachusetts LLC (DOMAC) in Everett, Massachusetts. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the Project. Your input will help the Commission staff determine what issues need to be evaluated in the EA. Please note that the scoping period will close on July 14, 2011.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives are asked to notify their constituents of this planned project and encourage them to comment on their areas of concern.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice DOMAC provided to landowners. This fact sheet addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (*http://www.ferc.gov*).

Summary of the Proposed Project

DOMAC proposes to design, construct, operate, and maintain a liquid nitrogen injection facility at its liquefied natural gas (LNG) Import Terminal in Everett, Massachusetts. The Project would allow DOMAC to retain its capability to adjust the heating value and Wobbe Index of regasified LNG while complying with the gas quality and interchangeability specifications of applicable FERC Gas Tariffs. The liquid nitrogen injection facility would replace DOMAC's limited air injection system for all of its regasified LNG send-out. Following completion of the Project, DOMAC would decommission and remove the air injection system. Liquid nitrogen would be supplied by truck to the Terminal at the liquid nitrogen truck offloading station for storage in the two proposed storage tanks. DOMAC anticipates construction of the Project to begin in April 2012 with an expected in-service date of October 1, 2012.

The Project would consist of the following facilities:

- Two liquid nitrogen storage tanks, each with a nominal capacity of 120,000 gallons;
- Associated piping support systems and ancillary systems; and

• A liquid nitrogen truck offloading station.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

The site of the Project would be located on a 4.69-acre parcel entirely within the DOMAC LNG Import Terminal and immediately adjacent to DOMAC's existing LNG truck loading area. Following construction, 0.69 acre would be maintained permanently for operation of the liquid nitrogen injection facility.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [2] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. All comments received will be considered during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

• Geology and soils;
• Land use;
• Water resources, fisheries, and wetlands;
• Cultural resources;
• Vegetation and wildlife;
• Air quality and noise;
• Endangered and threatened species; and
• Public safety.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be presented in the EA. The EA will be placed in the public record and, depending on the comments received during the scoping process, may be published and distributed to the public. A comment period will be allotted if the EA is published for review. We will consider all comments on the EA before we make our recommendations to the Commission. To ensure your comments are considered, please carefully follow the instructions in the Public Participation section on this page.

With this notice, we are asking agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the Project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that they will be received in Washington, DC on or before July 14, 2011.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the project docket number (CP11–485–000) with your submission. The Commission encourages electronic filing of comments and has expert eFiling staff available to assist you at (202) 502–8258 or *efiling@ferc.gov*.

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to *Documents and Filings.* An eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments electronically by using the *eFiling* feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' You will be asked to select the type of filing you are making. A comment on a particular project is considered a ''Comment on a Filing;'' or

(3) You may file a paper copy of your comments at the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes Federal, State, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who own homes within certain distances of aboveground facilities and anyone who submits comments on the Project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed Project.

If the EA is published for distribution, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the ''e-filing'' link on the Commission's Web site.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *http://www.ferc.gov* using the

[1] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *http://www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* CP11–485). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: June 14, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–15254 Filed 6–17–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF11–5–000]

Gas Transmission Northwest LLC; Notice of Intent To Prepare an Environmental Assessment for the Planned Carty Lateral Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meeting

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Carty Lateral Project involving construction and operation of facilities by Gas Transmission Northwest LLC (GTN) in Morrow County, Oregon. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues need to be evaluated in the EA. Please note that the scoping period will close on July 14, 2011.

Comments may be submitted in written form or verbally. Further details on how to submit written comments are provided in the Public Participation section of this notice. In lieu of or in addition to sending written comments, the Commission invites you to attend the public scoping meeting scheduled as follows: FERC Public Scoping Meeting, Carty Lateral Project, June 28, 2011, 7 p.m. (PST), Ione Community School, 445 Spring Street, Ione, Oregon 97843.

GTN staff will hold and open house meeting from 5–7 p.m., prior to the public scoping meeting at the location listed above.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives are asked to notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the planned facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' is available for viewing on the FERC Web site (*http://www.ferc.gov*). This fact sheet addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Summary of the Planned Project

GTN plans to construct and operate a natural gas pipeline off its existing mainline system in Morrow County, Oregon. The Carty Lateral Project would provide about 219,085 dekatherms per day of natural gas to the Carty Generating Station proposed by Portland General Electric Company.

The Carty Lateral Project would consist of the following facilities:

- Approximately 25 miles of 20-inch-diameter natural gas pipeline;
- One meter station;
- One pig launcher/receiver; and
- One mainline valve.

The planned pipeline begins at GTN's existing Ione Compressor Station and terminates at the Carty Generating Station site. GTN currently plans to route the pipeline to avoid the Boardman Conservation Area, but is also considering a more direct option through the conservation area.

The general location of the project facilities is shown in Appendix 1.[1]

Land Requirements for Construction

Construction of the planned facilities would disturb about 370 acres of land. Following construction, about 150 acres would be maintained for permanent operation of the project's facilities; the remaining acreage would be restored and allowed to revert to former uses. About 35 percent of the planned pipeline route parallels an existing electrical transmission right-of-way.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[2] to discover and address concerns the public may have about proposals. This process is referred to as scoping. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. All comments received will be considered during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the planned project under these general headings:

- Geology and soils;
- Water resources, fisheries, and wetlands;
- Vegetation and wildlife;
- Endangered and threatened species;
- Cultural resources;
- Land use;
- Air quality and noise; and

[1] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *http://www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

• Public safety.

We will also evaluate possible alternatives to the planned project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Although no formal application has been filed, we have already initiated our NEPA review under the Commission's pre-filing process. A flow chart illustrating the pre-filing process is included with this notice (Appendix 2). The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before an application is filed with the FERC. As part of our pre-filing review, we have begun to contact some Federal and State agencies to discuss their involvement in the scoping process and the preparation of the EA.

Our independent analysis of the issues will be presented in the EA. The EA will be placed in the public record and, depending on the comments received during the scoping process, may be published and distributed to the public. A comment period will be allotted if the EA is published for review. We will consider all comments on the EA before we make our recommendations to the Commission. To ensure your comments are considered, please carefully follow the instructions in the Public Participation section beginning on page 5.

With this notice, we are asking agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the Oregon State Historic Preservation Office, and to solicit the views of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[3] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO as the project is further developed. On natural gas projects, the APE at a minimum encompasses all areas subject to ground disturbance (including the construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that they will be received in Washington, DC on or before July 14, 2011.

For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances, please reference the project docket number (PF11–5–000) with your submission. The Commission encourages electronic filing of comments and has expert eFiling staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You may file your comments electronically by using the *eComment* feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to *Documents and Filings.* An eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments electronically by using the *eFiling* feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' You will be asked to select the type of filing you are making. A comment on a particular project is considered a ''Comment on a Filing''; or

(3) You may mail a paper copy of your comments to the Commission at the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes Federal, State, and local government representatives and agencies; elected officials; environmental and public interest groups; Indian tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the planned project.

If the EA is published for distribution, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (Appendix 3).

Becoming an Intervenor

Once GTN files its application with the Commission, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the ''e-filing'' link on the Commission's Web site. Please note that the Commission will not accept requests for intervenor status at this time. You must wait until a formal application for the project is filed with the Commission.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*http://www.ferc.gov*) using the

[3] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Historic properties are defined in those regulations as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register for Historic Places.

eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* PF11–5). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: June 14, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–15253 Filed 6–17–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11068–014—California]

Orange Cove Irrigation District, and Friant Power Authority; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Energy Regulatory Commission's (Commission) regulations (18 CFR part 380), the Office of Energy Projects has prepared an Environmental Assessment (EA) regarding Orange Cove Irrigation District's and Friant Power Authority's request for a capacity-related amendment of the license for the Fishwater Release Hydroelectric Project. The project is located at the Bureau of Reclamation's Friant Dam on the San Joaquin River in Fresno County, California. This EA concludes that the proposed action would not constitute a major federal action significantly affecting the quality of the human environment.

A copy of the EA is on file with the Commission and is available for public inspection. The EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number (P–11068) in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, (202) 502–8659.

Any comments on the EA should be filed by July 21, 2011, and should be addressed to the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1–A, Washington, DC 20426. Please reference the project name and project number (P–11068) on all comments. Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''eFiling'' link. **FOR FURTHER INFORMATION CONTACT** Andrea Claros at (202) 502–8171.

Dated: June 6, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–15192 Filed 6–17–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2662–012; Project No. 12968–001]

Notice Updating Procedural Schedule for Licensing; FirstLight Hydro Generating Company, City of Norwich Department of Public Utilities

Take notice that the Hydropower Licensing Schedule for the Scotland Hydroelectric Project No. 2662 and Scotland Hydroelectric Project No. 12968 has been updated. Subsequent revisions to the schedule may be made as appropriate.

Milestone	Target date
Filing of Additional Information	July 7, 2011.
Issuance of the Better Adapted Statement Request	July 15, 2011.
Notice of Acceptance/Notice of Ready for Environmental Analysis	July 15, 2011.
Filing of recommendations, preliminary terms and conditions, and fishway prescriptions	September 13, 2011.
Filing of the Better Adapted Statement	September 13, 2011.
Commission issues EA	January 11, 2012.
Comments on EA	February 10, 2012.
Modified terms and conditions	April 10, 2012.

Dated: June 14, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–15261 Filed 6–17–11; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2011–0505; FRL–8877–3]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (*i.e.,* a chemical not on the TSCA Chemical Substances Inventory (TSCA Inventory)) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under TSCA sections 5(d)(2) and 5(d)(3), EPA is required to publish in the **Federal Register** a notice of receipt of a premanufacture notice (PMN) or an

application for a test marketing exemption (TME), and to publish in the **Federal Register** periodic status reports on the new chemicals under review and the receipt of notices of commencement (NOC) to manufacture those chemicals. This document, which covers the period from April 25, 2011 to May 20, 2011, and provides the required notice and status report, consists of the PMNs and TMEs, both pending or expired, and the NOC to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

DATES: Comments identified by the specific PMN number or TME number, must be received on or before July 20, 2011.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2011–0505, and the specific PMN number or TME number for the chemical related to your comment, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery:* OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov,* or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Bernice Mudd, Information Management Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; *telephone number:* (202) 564–8951; *fax number:* (202) 564–8955; *e-mail address: mudd.bernice@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; *telephone number:* (202) 554–1404; *e-mail address: TSCA–Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the PMNs addressed in this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Why is EPA taking this action?

EPA classifies a chemical substance as either an ''existing'' chemical or a ''new'' chemical. Any chemical substance that is not on EPA's TSCA Inventory is classified as a ''new chemical,'' while those that are on the TSCA Inventory are classified as an ''existing chemical.'' For more information about the TSCA Inventory go to: *http://www.epa.gov/opptintr/newchems/pubs/inventory.htm.* Anyone who plans to manufacture or import a new chemical substance for a non-exempt commercial purpose is required by TSCA section 5 to provide EPA with a PMN, before initiating the activity. Section 5(h)(1) of TSCA authorizes EPA to allow persons, upon application, to manufacture (includes import) or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a), for ''test marketing'' purposes, which is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *http://ww.epa.gov/opt/newchems.*

Under TSCA sections 5(d)(2) and 5(d)(3), EPA is required to publish in the **Federal Register** a notice of receipt of a PMN or an application for a TME and to publish in the **Federal Register** periodic status reports on the new chemicals under review and the receipt of NOCs to manufacture those chemicals. This status report, which covers the period from April 25, 2011 to May 20, 2011, consists of the PMNs and TMEs, both pending or expired, and the NOCs to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Reports

In Table I of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: The EPA case number assigned to the PMN, the date the PMN was received by EPA, the projected end date for EPA's review of the PMN, the submitting manufacturer/importer, the potential uses identified by the manufacturer/importer in the PMN, and the chemical identity.

TABLE I—49 PMNS RECEIVED FROM APRIL 25, 2011 TO MAY 20, 2011

Case No.	Received date	Projected notice end date	Manufacturer/importer	Use	Chemical
P–11–0341 ..	4/25/2011	7/23/2011	CBI	(S) One resin component for 2k automotive coatings.	(G) Resin polyester.
P–11–0342 ..	4/25/2011	7/23/2011	CBI	(G) Ink, coating, adhesive	(G) Polyacrylate oligomer.
P–11–0343 ..	4/25/2011	7/23/2011	CBI	(G) Base oil for lubricant	(G) Fatty acid esters.
P–11–0344 ..	4/25/2011	7/23/2011	CBI	(G) PMN substance is an intermediate used to make various ligands for organo-metallic catalysts and potentially other substances.	(G) Polyaromatic heterocycle precursor.
P–11–0345 ..	4/25/2011	7/23/2011	CBI	(G) An organic chemical intermediate for use to make various other chemicals for the synthesis of organo-metallic catalysts and potentially other materials.	(G) Heterocyclic organic intermediate.
P–11–0346 ..	4/25/2011	7/23/2011	CBI	(G) Intermediate precursor to organometallic catalyst synthesis.	(G) Halogenated aromatic heterocyclic intermediate.
P–11–0347 ..	4/27/2011	7/25/2011	Henkel Corporation.	(G) Adhesive	(S) *N,N*-dimethyl-p-toluidine-n-oxide or benzeneamine, *N,N,* 4-trimethyl, n-oxide.
P–11–0348 ..	4/22/2011	7/20/2011	CBI	(G) Battery component manufacturing.	(G) Sodium melt electrolyte.
P–11–0349 ..	4/27/2011	7/25/2011	Nanotech Industries, Inc..	(S) Flooring; paints; top coating ..	(S) Carbamic acid, *N,N′*-(trymethyl-1,6hehanedyl)bis-,ester with 1,2-propanediol (1:2).
P–11–0350 ..	4/28/2011	7/26/2011	CBI	(G) Epoxy curative	(S) Phenol, 4,4′-sulfonylbis-, bis(mixed acetates and propionates).
P–11–0351 ..	4/28/2011	7/26/2011	CBI	(G) Ink binder	(G) Polyurethane.
P–11–0352 ..	4/28/2011	7/26/2011	Sasol North America.	(S) Anti-graying agent in fabric washes.	(S) 1,4-benzenedicarboxylic acid, 1,4-dimethyl ester, polymer with 1,2-ethanediol and 1,2,3-propanetriol, ester with -methyl—hydroxypoly(oxy-1,2-ethandiyl).
P–11–0353 ..	4/28/2011	7/27/2011	Sasol North America.	(S) Anti-graying agent in fabric washes.	(S) 1,4-benzenedicarboxylic acid, 1,4-dimethyl ester, polymer with 1,2-propanediol, ester with -methyl—hydroxypoly(oxy-1,2-ethanediyl).
P–11–0354 ..	4/29/2011	7/27/2011	CBI	(G) Coating	(G) Polycarbonate type urethane resin.
P–11–0355 ..	5/3/2011	7/31/2011	Hybrid Plastics, Inc.	(G) Thermoplastics and coatings additive; elastomer additive.	(S) Tricyclo[7.3.3.15,11]heptasiloxane-3,7,14-triol,1,3,5,7,9,11,14-heptaisooctyl-, stereoisomer.
P–11–0356 ..	5/2/2011	7/30/2011	3M Company	(S) Prepolymer for sprayable adhesive/sealant; prepolymer for high viscosity adhesive/sealant.	(G) Alkoxysilyl polyether prepolymer.
P–11–0357 ..	5/4/2011	8/1/2011	CBI	(G) Coating	(G) Polycarbonate type urethane resin.
P–11–0358 ..	5/4/2011	8/1/2011	CBI	(G) Polyurethane surfactant	(G) Trisiloxane copolymer.

TABLE I—49 PMNS RECEIVED FROM APRIL 25, 2011 TO MAY 20, 2011—Continued

Case No.	Received date	Projected notice end date	Manufacturer/ importer	Use	Chemical
P–11–0359 ..	5/6/2011	8/3/2011	Cytec Industries Inc.	(S) Binder for printing inks	(G) Fatty acids polymers with alkanoic acid, substituted alkyl diol and substituted carbomoncycle.
P–11–0360 ..	5/4/2011	8/1/2011	CBI	(S) As a surface active agent in the preparation of printed circuit boards; as a brightener for the electroplating industry.	(G) Quaternized polyvinylimidazole.
P–11–0361 ..	5/4/2011	8/1/2011	CBI	(S) As a surface active agent in the preparation of printed circuit boards; as a brightener for the electroplating industry.	(G) Quaternized polyvinylimidazole.
P–11–0362 ..	5/10/2011	8/7/2011	CBI	(G) Flame retardant	(G) Phosphonium-substituted heteroaromatic sulfate salt.
P–11–0363 ..	5/9/2011	8/6/2011	CBI	(G) Specialty additive	(G) Sodiium humate, polymer with acrylic monomers.
P–11–0364 ..	5/12/2011	8/9/2011	CBI	(G) Prepolymer for casting transparencies.	(G) Alkanediol, polymer with 1,1′-methylenebis[4-isocyanatocyclohexane].
P–11–0365 ..	5/12/2011	8/9/2011	CBI	(G) Dispersant	(G) Tall oil acids, reaction products with dialkyleneamine and acid anhydride, compounds with polyalkylene glycol hydrogen maleate alkyl ethers.
P–11–0366 ..	5/12/2011	8/9/2011	CBI	(G) Raw material for the manufacturing of release coatings.	(G) 1-propanone, 2-hydroxy-2-methyl-, 1-(4-alkylaryl) derivates.
P–11–0367 ..	5/11/2011	8/8/2011	CBI	(G) Resin is used for production of synthetic leather.	(G) Elastomer polyurethane.
P–11–0368 ..	5/11/2011	8/8/2011	CBI	(G) Lamination adhesive	(G) IPDI modified polyester resin.
P–11–0369 ..	5/12/2011	8/9/2011	Matteson-Ridolfi Incorporated.	(G) Polymeric flow and foam control additive for industrial coatings.	(G) Alkyl polyester—acrylic copolymer.
P–11–0370 ..	5/12/2011	8/9/2011	Matteson-Ridolfi Incorporated.	(G) Polymeric flow and foam control additive for industrial coatings.	(G) Alkyl polyester—acrylic copolymer.
P–11–0371 ..	5/13/2011	8/10/2011	CBI	(G) Binder	(G) Polyurethane.
P–11–0372 ..	5/13/2011	8/10/2011	CBI	(G) Adhesives for open non-descriptive use.	(G) Polyesterurethane.
P–11–0373 ..	5/17/2011	8/14/2011	CBI	(G) Coating component	(G) 1,1′-methylenebis[isocyanatobenzene], polymer with polyester polyols and polypropylene glycol.
P–11–0374 ..	5/17/2011	8/14/2011	CBI	(G) Polymerization process additive destructive use.	(G) Alcanoic acid, 2, 2′-[carbonothioylbis(thio)]bis-, disodium salt.
P–11–0375 ..	5/18/2011	8/15/2011	CBI	(S) Laminate adhesive	(G) Solvent free aromatic adhesive.
P–11–0376 ..	5/18/2011	8/15/2011	CBI	(G) An open non-dispersive use in ink.	(G) Aliphatic alcohol type polyester.
P–11–0377 ..	5/16/2011	8/13/2011	CBI	(G) Lubricants	(G) Highly branched isoparaffinic hydrocarbons.
P–11–0378 ..	5/18/2011	8/15/2011	CBI	(S) As a surface active agent in the preparation of printed; as a brightener for the electroplating industry.	(G) Quaternized polyvinylimidazole.
P–11–0379 ..	5/18/2011	8/15/2011	CBI	(S) As a surface active agent in the preparation of printed; as a brightener for the electroplating industry.	(G) Quaternized polyvinylimidazole.
P–11–0380 ..	5/18/2011	8/15/2011	CBI	(G) Contained use in energy production.	(G) Tertiary amine salt.
P–11–0381 ..	5/18/2011	8/15/2011	CBI	(G) Contained use in energy production.	(G) Tertiary amine salt.
P–11–0382 ..	5/18/2011	8/15/2011	CBI	(G) Contained use in energy production.	(G) Tertiary amine salt.
P–11–0383 ..	5/18/2011	8/15/2011	CBI	(G) Lubricant additive	(G) Calcium alkyl salicylate.
P–11–0384 ..	5/18/2011	8/15/2011	3M Company	(G) Protective treatment	(G) Fluorinated alkylsulfonamidol urethane polymer.
P–11–0385 ..	5/19/2011	8/16/2011	CBI	(G) Pigment formulation additive	(G) Oxirane, 2-alkyl, polymer with oxirane, mono(dihydrogen phosphate), nutshell liquid ethers, dipotassium salts.

TABLE I—49 PMNS RECEIVED FROM APRIL 25, 2011 TO MAY 20, 2011—Continued

Case No.	Received date	Projected notice end date	Manufacturer/ importer	Use	Chemical
P–11–0386 ..	5/20/2011	8/17/2011	Emery Oleochemicals LLC.	(S) Wetting agent	(S) Nonanoic acid, ammonium salt.
P–11–0387 ..	5/19/2011	8/16/2011	CBI	(G) Prepolymers for manufacturing polyurethane rubber elastomer for tires, wheels, rolls, screens, belts and other specialty urethane articles.	(G) Polycarbonate TDI prepolymer.
P–11–0388 ..	5/18/2011	8/15/2011	CBI	(G) Contained use in energy production.	(G) Tertiary amine salt.
P–11–0389 ..	5/18/2011	8/15/2011	CBI	(G) Contained use in energy production..	(G) Tertiary amine salt.

In Table II of this unit EPA provides the following information (to the extent that such information is not claimed as CBI) on the TMEs received by EPA during this period: The EPA case number assigned to the TME, the date the TME was received by EPA, the projected end date for EPA's review of the TME, the submitting manufacturer/ importer, the potential uses identified by the manufacturer/importer in the TME, and the chemical identity.

TABLE II—1 TME RECEIVED FROM APRIL 25, 2011 TO MAY 20, 2011

Case No.	Received date	Projected review end date	Manufacturer/importer	Use	Chemical
T–11–0009	5/6/2011	6/19/2011	Cytec Industries Inc.	(S) Binder for printing inks	(G) Fatty acids polymers with alkanoic acid, substituted alkyl diol and substituted carbomoncycle.

In Table III of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs received by EPA during this period: The EPA case number assigned to the NOC, the date the NOC was received by EPA, the projected end date for EPA's review of the NOC, and chemical identity.

TABLE III—41 NOCS RECEIVED FROM APRIL 25, 2011 TO MAY 20, 2011

Case No.	Received date	Commencement notice end date	Chemical
P–06–0332	5/13/2011	5/5/2011	(G) Phosphine oxide.
P–06–0380	5/5/2011	4/13/2011	(G) Alkyl substituted carbobicycle acid anhydride.
P–07–0471	5/10/2011	4/25/2011	(G) Carbomonocyclic dicarboxylic acid polymer containing trimethyl substituted alkane diol and 1,6-hexanediol.
P–08–0274	5/3/2011	4/12/2011	(G) Alkanedioic acid, polymer with alkanediol, alkanediamine, alkanediol, hydroxy-(hydroxyalkyl)-alkyl-, trialkylamine, carbocycle-isocyanato-(isocyanatoalkyl)-trialkyl-, trialkylcyclohexane and alkylimino alcohol, salt.
P–09–0486	5/5/2011	5/2/2011	(G) Polyalkenyl, N,N'-bistriazole.
P–09–0546	4/27/2011	4/15/2011	(G) Formaldehyde reaction products with aromatic amine.
P–09–0552	5/17/2011	5/6/2011	(S) Benzene, 1,3-bis(1-chloro-1-methylethyl).
P–09–0642	4/27/2011	4/20/2011	(G) Acrylate.
P–09–0644	5/18/2011	5/16/2011	(G) Substituted alkyl phosphate ester.
P–09–0646	4/29/2011	4/7/2011	(G) Aromatic dicarboxylic acid, polymer with aliphatic diols and aliphatic dicarboxylic acid.
P–10–0072	5/20/2011	4/8/2011	(G) Substituted oxidized piperidinyl derivative.
P–10–0247	5/2/2011	2/28/2011	(G) Benzyl isononyl cyclohexane-1,2-dicarboxylate (provisional).
P–10–0266	5/3/2011	4/6/2011	(G) Propanoic acid, alkylthio, (1,1-dimethylethyl)—[[alkyl-4-hydroxy-2-alkylphenyl]thio]alkylphenyl ester.
P–10–0333	4/27/2011	4/1/2011	(G) 1,4:3,6-dianhydrohexitol-, reaction products with chloro-oxopropoxy-benzoic acid and hydroxy-methoxybenzoic acid.
P–10–0334	4/27/2011	4/1/2011	(G) Benzoic acid, (acryloxy)alkoxy-, 1,1'-(methylphenylene) ester.
P–10–0379	4/29/2011	4/20/2011	(G) Vegetable oil, ester, polymd., oxidized.
P–10–0422	4/25/2011	4/12/2011	(S) Propane, 1,1,1,2,3,-pentafluoro-*.
P–10–0440	5/17/2011	4/28/2011	(G) Polyester.
P–10–0476	5/6/2011	4/28/2011	(G) Brominated styrene butadiene polymer.
P–10–0505	4/27/2011	4/14/2011	(G) Alkoxylated alkyl alcohol, ester with alknoenedioic acid, alkali metal salt.

TABLE III—41 NOCS RECEIVED FROM APRIL 25, 2011 TO MAY 20, 2011—Continued

Case No.	Received date	Commencement notice end date	Chemical
P–10–0515	5/11/2011	3/18/2011	(S) 2-propenoic acid, 2-methyl-, methyl ester, polymer with butyl 2-propenoate and N-(1,1-dimethyl-3-oxobutyl)-2-propenamide*.
P–10–0550	4/29/2011	4/8/2011	(G) Vegetable oil, modified products, esters.
P–10–0551	4/29/2011	4/11/2011	(G) Olefins.
P–10–0552	4/29/2011	4/11/2011	(G) Olefins.
P–10–0553	4/29/2011	4/11/2011	(G) Olefins.
P–10–0554	5/16/2011	5/13/2011	(G) Esters.
P–10–0555	5/16/2011	5/13/2011	(G) Esters.
P–10–0563	4/27/2011	4/22/2011	(G) Cycloalkylamine.
P–10–0564	4/25/2011	4/16/2011	(G) Maleated fatty oil, substituted alkanoic acid ester, ester with polyethylene glycol, compounds with alkyl alkanol amine.
P–11–0055	5/11/2011	4/27/2011	(G) Polyester urethane polymer.
P–11–0109	4/25/2011	4/22/2011	(G) Substituted alkyl homopolymer, substituted alkylacrylate and heteromonocyclic homopolymer monoester with substituted alkylacrylate.
P–11–0116	5/18/2011	4/27/2011	(G) Carboxylic acid, alkanoate polymer with ethenylbenzene and 2-propenoic acid, di-me 2,2'-(1,2-diazenediyl)bis[2-methylpropanoate]-initiatied, compds. with 2-(dimethylamino)ethanol.
P–11–0117	4/29/2011	4/8/2011	(G) Polyamine-polymer graft polymer.
P–11–0131	5/3/2011	4/11/2011	(G) Isocyanate-terminated prepolymer.
P–11–0136	5/9/2011	3/30/2011	(G) Polyether polyester polyurethane adhesive.
P–11–0145	4/25/2011	4/16/2011	(G) Acrylic polymer.
P–11–0149	5/11/2011	4/23/2011	(G) Isocyanate function polyester urethane polymer.
P–11–0152	4/29/2011	4/21/2011	(G) Polyester type polyurethane resin.
P–11–0164	5/9/2011	5/5/2011	(G) 2-propenoic acid, 2-methyl-, aminoalkyl ester, polymer with et acrylate, 2-hydroxyethyl methacrylate, polyethylene glycol methacrylate alkyl ether and polyethylene-polypropylene glycol alkyl ether.
P–11–0166	4/27/2011	4/26/2011	(G) Fatty acids, esters with polyalkylene glycol mono alkyl ether.
P–11–0173	5/19/2011	5/17/2011	(G) Polyurethane dispersion in water.

If you are interested in information that is not included in these tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

List of Subjects

Environmental protection, Chemicals, Hazardous substances, Imports, Notice of commencement, Premanufacturer, Reporting and recordkeeping requirements, Test marketing exemptions.

Dated: June 8, 2011.

Chandler Sirmons,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2011–15251 Filed 6–17–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9320–9]

Meeting of the Local Government Advisory Committee and Small Community Advisory Subcommittee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. EPA's Local Government Advisory Committee (LGAC) and Small Communities Advisory Subcommittee (SCAS) will meet July 14–15, 2011, in Chicago, Illinois. The Committee meeting will be held at U.S. EPA Region 5, Ralph Metcalfe Federal Building, Lake Michigan conference room, 77 West Jackson Blvd., Chicago, Illinois. The focus of the Committee meeting will be on Administrator Lisa P. Jackson's seven priorities as expressed in her charge to the committee: protecting America's waters; cleaning up our communities; expanding the conversation on environmentalism; improving air quality; taking action on climate change; assuring the safety of chemicals; and building strong partnerships.

SUPPLEMENTARY INFORMATION: This is an open meeting and all interested persons are invited to attend. The Committee will hear comments from the public between 8:40 a.m.–9 a.m. on Friday, July 15, 2011. Individuals or organizations wishing to address the LGAC will be allowed a maximum of five minutes to present their point of view. Also, written comments should be submitted electronically to *Zampieri.Paula@epa.gov.* Please contact the Designated Federal Officer (DFO) at the number listed below to schedule agenda time.

Public comment will be allotted on a first come first serve basis, and the total period for comments may be extended if the number of requests for appearances requires it. This Small Community Advisory Subcommittee meeting announcement supersedes the July monthly teleconference originally scheduled. The Committee's meeting minutes and summary notes will be available online, within sixty days of the meeting date. Meeting minutes and summary notes can be found online at: *http://www.epa.gov/ocir/scas_lgac/lgac_index.htm.*

ADDRESSES: The LGAC and SCAS meeting will be held at US EPA Region 5, Ralph Metcalfe Federal Building, Lake Michigan conference room, 77 West Jackson Blvd., Chicago, Illinois.

FOR FURTHER INFORMATION CONTACT: Paula Zampieri, DFO for the Local Government Advisory Committee (LGAC) and Small Community Advisory Subcommittee (SCAS) 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: June 9, 2011.

Paula Zampieri,

Designated Federal Officer, Local Government Advisory Committee.

[FR Doc. 2011–15264 Filed 6–17–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9320–8]

Notice of a Project Waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 (ARRA) to Salt Lake City, UT; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: The Environmental Protection Agency published a document in the Federal Register on April 1, 2011, concerning the Agency's decision to grant a project waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 (ARRA) for three vertical linear motion mixers to be installed in Salt Lake City's Water Reclamation Facility anaerobic digesters. The document contained the incorrect quantity of vertical linear motion mixers. The correct number is four.

FOR FURTHER INFORMATION CONTACT: Jody Ostendorf, Recovery Act Coordinator, (303) 312–7814, or Brian Friel, SRF Coordinator, (303) 312–6277, Technical & Financial Services Unit, Water Program, Office of Partnerships & Regulatory Assistance, U.S. EPA Region 8, 1595 Wynkoop St., Denver, CO 80202.

Correction

In the **Federal Register** (FR) of April 1, 2011, in FR Doc. FRL–9287–6, on page 18218, in the second column, in the **SUMMARY**, on line 10, correct the number of vertical linear motion mixers from three to four; on page 18218, in the third column, in the **SUPPLEMENTARY INFORMATION**, on line 7, correct the number of vertical linear motion mixers from three to four; on page 18219, in the second column, in the **SUPPLEMENTARY INFORMATION**, on line 62, correct the number of vertical linear motion mixers from three to four.

Dated: June 8, 2011.

James Martin,

Regional Administrator, Region 8.

[FR Doc. 2011–15252 Filed 6–17–11; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[CG Docket No. 11–99 DA 11–992]

Termination of Dormant Proceedings

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission, via the Consumer and Governmental Affairs Bureau (CGB), seeks comment on whether certain docketed Commission proceedings should be terminated as dormant. The Commission's procedural and organizational rules, which were recently revised to streamline and improve the agency's docket management practices, delegate authority to the Chief, CGB to periodically review all open dockets and, in consultation with the responsible Bureaus or Offices, to identify those dockets that appear to be candidates for termination.

DATES: Comments are due on or before July 20, 2011, and reply comments are due on or before August 4, 2011.

ADDRESSES: Interested parties may submit comments, identified by [CG Docket No. 11–99], by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS) at *http://fjallfoss.fcc.gov/ecfs2/*. Filers should follow the instructions provided on the Web site for submitting comments. In completing the transmittal screen, ECFS filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number, which in this instance is CG Docket No. 11–99.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW., Room TW–A325, Washington, DC 20554. The filing hours are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express mail and Priority mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington DC 20554.

FOR FURTHER INFORMATION CONTACT: Dorothy Stifflemire, Consumer and Government Affairs Bureau at (202) 418–7349 or by e-mail at *Dorothy.Stifflemire@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Public Notice, *Consumer and Governmental Affairs Bureau Seeks Comment on Termination of Certain Proceedings as Dormant,* document DA 11–992, released on June 3, 2011 in CG Docket No. 11–99.

The full text of document DA 11–992 and copies of any subsequently filed documents in this matter will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. Copies may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160, *fax:* (202) 488–5563, or *Internet: www.bcpiweb.com*. Document DA 11–992 can also be downloaded in Word or Portable Document Format (PDF) at: *http://www.fcc.gov/document/consumer-governmental-affairs-bureau-seeks-comment-termination-certain-proceedings-dormant.* The spreadsheet associated with document DA 11–992 listing the proceedings proposed for termination for dormancy, is available in Excel at: *http://fjallfoss.fcc.gov/edocs_public/attachmatch/DA–11–992A2.xls.*

Pursuant to 47 CFR 1.415 and 1.419, interested parties may file comments and reply comments on or before the respective dates indicated in the **DATES** section of this document. Pursuant to 47 CFR 1.1200 *et. seq.,* this matter shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must: (1) List all persons

attending or otherwise participating in the meeting at which the *ex parte* presentation was made; and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with 47 CFR 1.1206(b). In proceedings governed by 47 CFR 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY).

Synopsis

On February 4, 2011, the Commission released *Amendment of Certain of the Commission's Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Organization*, Report and Order, FCC 11–16, in GC Docket No. 10–44, published at 76 FR 24383, May 2, 2011, which revised portions of its Part 1—Practice and Procedure and Part 0—Organizational rules.

The revised rules, in part, delegate authority to the Chief, CGB to periodically review all open dockets and, in consultation with the responsible Bureaus or Offices, to identify those dockets that appear to be candidates for termination. These candidates include dockets in which no further action is required or contemplated, as well as those in which no pleadings or other documents have been filed for several years. However, the Commission specified that proceedings in which petitions addressing the merits are pending should not be terminated, absent the parties' consent. The termination of a dormant proceeding also includes dismissal as moot of any pending petition, motion, or other request for relief that is procedural in nature or otherwise does not address the merits of the proceeding.

Prior to the termination of any particular proceeding, the Commission was directed to issue a public notice identifying the dockets under consideration for termination and affording interested parties an opportunity to comment.

Federal Communications Commission.

Joel Gurin,

Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. 2011–15292 Filed 6–17–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 5, 2011.

A. Federal Reserve Bank of San Francisco (Kenneth Binning, Vice President, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *Stadium Capital Partners, L.P., Stadium Capital Qualified Partners, L.P., Stadium Capital Management LLC, John Welborn, Alexander Seaver, Christine Seaver, Bradley Kent, Melissa Kent, Dominic DeMarco, Kathleen DeMarco, Seaver Kent Family Investments, LLC, the Seaver Family Trust, the Kent Family Trust, and the Dominic P. DeMarco and Kathleen DeMarco* Trustees; to acquire voting shares of Intermountain Community Bancorp, and thereby indirectly voting shares of Panhandle State Bank, both of Sandpoint, Idaho.

Board of Governors of the Federal Reserve System, June 15, 2011.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2011–15234 Filed 6–17–11; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 15, 2011.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) P.O. Box 55882, Boston, Massachusetts 02106–2204:

1. *Brookline Bancorp, Inc.,* Brookline, Massachusetts; to acquire voting shares of, and thereby merge with Bancorp Rhode Island, Inc., and thereby indirectly acquire voting shares of Bank Rhode Island, both of Providence, Rhode Island.

B. Federal Reserve Bank of New York (Ivan Hurwitz, Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. *Banco do Brasil S.A.,* Brasilia, Brazil; to become a bank holding company by acquiring 100 percent of the voting shares of Eurobank, Boca Raton, Florida.

Board of Governors of the Federal Reserve System, June 15, 2011.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2011–15233 Filed 6–17–11; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[Notice—MG–2011–01; Docket No. 2011–0006; Sequence 11]

Office of Federal High-Performance Green Buildings; Establishment of the Green Building Advisory Committee

AGENCY: Office of Governmentwide Policy, U.S. General Services Administration (GSA).

ACTION: Notice.

SUMMARY: GSA announces the establishment of the Green Building Advisory Committee (the Committee), pursuant to Section 494 of the Energy Independence and Security Act of 2007, in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. 2.

DATES: *Effective date:* June 20, 2011.

FOR FURTHER INFORMATION CONTACT: Mr. Ken Sandler, General Services Administration, (202) 219–1121.

SUPPLEMENTARY INFORMATION: The Committee will provide advice and expertise to GSA as specified in Public Law 110–140, as a non-discretionary Federal advisory committee. Under this authority, the Committee is to advise GSA on the acceleration and successful transformation of the Federal building portfolio to sustainable technologies and practices. The Committee will focus on, but is not limited to, reviewing strategic plans, products and activities of the Office of Federal High-Performance Green Buildings and providing advice and expertise regarding how the Office can most effectively accomplish its mission.

Dated: June 14, 2011.

Robert Flaak,

Director, Office of Committee and Regulatory Management, General Services Administration.

[FR Doc. 2011–15298 Filed 6–17–11; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Required Data Elements for Paternity Establishment Affidavits.

OMB No.: 0970–0171.

Description

Section 466(a)(5)(C)(iv) of the Social Security Act the Act) requires States to develop and use an affidavit for the voluntary acknowledgement of paternity. The affidavit for the voluntary acknowledgement of paternity must include the minimum requirements specified by the Secretary under section 452(a)(7) of the Act. The affidavits will be used by hospitals, birth record agencies, and other entities participating in the voluntary paternity establishment program.

Respondents: State and Tribal IV–D agencies, hospitals, birth record agencies and other entities participating in the voluntary paternity establishment program.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Acknowledgments	1,167,097	1	0.17	198,406.49

Estimated Total Annual Burden Hours: 198,406.49.

Additional Information

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov.*

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project. *Fax:* 202–395–7285. *E-mail: OIRA_SUBMISSION@OMB.EOP.GOV. Attn:* Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2011–15112 Filed 6–17–11; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Help America Vote Act (HAVA) Voting Access Application and Annual Report.

OMB No.: 0970–0327.

Description

This is a revision to include the application for the previously cleared Help America Vote Act (HAVA) Annual Report, Payments to States and Units of Local Government, 42 U.S.C. 15421).

The Help America Vote Act (HAVA) application to States and Units of Local Government is required by Federal statute and regulation. Each State or Unit of Local Government must prepare an application to receive funds under the Help America Vote Act (HAVA), Public Law 107–252, Title II, Subtitle D, Part 2, Sections 261 to 265, Payments to States and Units of Local Government to Assure Access for Individuals with Disabilities (42 U.S.C. 15421–25). The application is provided in writing to the Administration for Children and Families, Administration on Developmental Disabilities.

An annual report is required by Federal statute (the Help America Vote Act (HAVA) of 2002, Public Law 107–252, Section 261, Payments to States

and Units of Local Government, 42 U.S.C. 15421). Each State or Unit of Local Government must prepare and submit an annual report at the end of every fiscal year. The report addresses the activities conducted with the funds provided during the year. The information collected from the annual report will be aggregated into an annual profile of how States have utilized the funds and establish best practices for election officials. It will also provide an overview of the State election goals and accomplishments and permit the Administration on Developmental Disabilities to track voting progress to monitor grant activities.

Respondents

Secretaries of State, Directors, State Election Boards, State Chief Election officials.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Help America Vote Act (HAVA) Voting Access Annual Report	55	1	24	1,320
Help America Vote Act (HAVA) Voting Access Application	55	1	50	2,750.

Estimated Total Annual Burden Hours: 4,070.

Additional Information

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. *E-mail address: infocollection@acf.hhs.gov.*

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project. *Fax:* 202–395–7285. *E-mail: OIRA_SUBMISSION@OMB.EOP.GOV. Attn:* Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2011–15115 Filed 6–17–11; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Reunification Procedures for Unaccompanied Alien Children.

OMB No.: 0970–0278.

Description

Following the passage of the 2002 Homeland Security Act (Pub. L. 107–296), the Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR), is charged with the care and placement of unaccompanied alien children in Federal custody, and implementing a policy for the release of these children, when appropriate, upon the request of suitable sponsors while awaiting immigration proceedings. In order for ORR to make determinations regarding the release of these children, the potential sponsors must meet certain conditions pursuant to section 462 of the Homeland Security Act and the Flores v. Reno Settlement Agreement No. CV85 4544–RJK (C.D. Cal. 1997). The proposed information collection requests information to be utilized by ORR for determining the suitability of a sponsor/respondent for the release of a minor from ORR custody. The proposed instruments are the Sponsors Agreement to Conditions of Release, Verification of Release, Family Reunification Packet, and the Authorization for Release of Information.

Respondents: Sponsors requesting release of unaccompanied alien.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Verification of Release (UAC)	4,595	1	0.25	1,148.75
Authorization for Release of Information (Sponsor)	4,595	1	0.25	1,148.75
Family Reunification Packet (Sponsor)	4,595	1	1	4,595
Sponsors Agreement to Conditions of Release (Sponsor)	4,595	1	0.25	1,148.75
Verification of Release (Case Worker)	4,595	1	0.25	1,148.75
Authorization for Release of Information (Case Worker)	4,595	1	0.25	.....
Family Reunification Packet (Case Worker)	4,595	1	1	4,595
Sponsors Agreement to conditions of Release (Case Worker)	4,595	1	0.25	1,148.75

Estimated Total Annual Burden Hours: 16,082.50.

Additional Information

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. *e-mail address: infocollection@acf.hhs.gov.*

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, *Fax:* 202–395–7285, *E-mail: oira_submission@omb.eop.gov, Attn:* Desk Officer for the Administration for Children and Families.

Dated: *March 29, 2011.*

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2011–15189 Filed 6–17–11; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0447]

Agency Information Collection Activities; Proposed Collection; Comment Request; Guidance for Industry on Formal Dispute Resolution: Scientific and Technical Issues Related to Pharmaceutical Current Good Manufacturing Practice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the proposed collection of information resulting from the guidance to manufacturers of veterinary and human drugs, including human biological drug products, on how to resolve disputes of scientific and technical issues relating to current good manufacturing practice (CGMP).

DATES: Submit either electronic or written comments on the collection of information by August 19, 2011.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Berbakos, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3792, *Elizabeth.Berbakos@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comment on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Guidance for Industry on Formal Dispute Resolution: Scientific and Technical Issues Related to Pharmaceutical Current Good Manufacturing Practice—(OMB Control Number 0910–0563)—Extension

The guidance is intended to provide information to manufacturers of veterinary and human drugs, including human biological drug products, on how to resolve disputes of scientific and technical issues relating to CGMP. Disputes related to scientific and technical issues may arise during FDA inspections of pharmaceutical manufacturers to determine compliance with CGMP requirements or during FDA's assessment of corrective actions undertaken as a result of such inspections. The guidance provides procedures that encourage open and prompt discussion of disputes and lead to their resolution. The guidance describes procedures for raising such disputes to the Office of Regulatory Affairs (ORA) and center levels and for requesting review by the dispute resolution (DR) panel.

When a scientific or technical issue arises during an FDA inspection, the manufacturer should initially attempt to reach agreement on the issue informally with the investigator. Certain scientific or technical issues may be too complex or time consuming to resolve during the inspection. If resolution of a scientific or technical issue is not accomplished through informal mechanisms prior to the issuance of the FDA Form 483, the manufacturer can formally request DR and can use the formal two-tiered DR process described in the guidance.

Tier one of the formal DR process involves scientific or technical issues raised by a manufacturer to the ORA and center levels. If a manufacturer disagrees with the tier one decision, tier two of the formal DR process would then be available for appealing that decision to the DR panel.

The written request for formal DR to the appropriate ORA unit should be made within 30 days of the completion of an inspection and should include all supporting documentation and arguments for review, as described in this document. The written request for formal DR to the DR panel should be made within 60 days of receipt of the tier one decision and should include all supporting documentation and arguments, as described in the following paragraphs.

All requests for formal DR should be in writing and include adequate information to explain the nature of the dispute and to allow FDA to act quickly and efficiently. Each request should be

sent to the appropriate address listed in the guidance and include the following:

- Cover sheet that clearly identifies the submission as either a request for tier one DR or a request for tier two DR;
- Name and address of manufacturer inspected (as listed on FDA Form 483);
- Date of inspection (as listed on FDA Form 483);
- Date the FDA Form 483 was issued (from FDA Form 483);
- Facility Establishment Identifier (FEI) Number, if available (from FDA Form 483);
- FDA employee names and titles that conducted inspection (from FDA Form 483);
- Office responsible for the inspection (*e.g.,* district office, as listed on the FDA Form 483);
- Application number, if the inspection was a preapproval inspection;
- Comprehensive statement of each issue to be resolved;
- Identify the observation in dispute:
  - Clearly present the manufacturer's scientific position or rationale concerning the issue under dispute with any supporting data.
  - State the steps that have been taken to resolve the dispute, including any informal DR that may have occurred before the issuance of the FDA Form 483.
  - Identify possible solutions.
  - State expected outcome.
- Name, title, telephone and FAX number, and e-mail address (as available) of manufacturer contact.

The guidance was part of the FDA initiative ''Pharmaceutical CGMPs for the 21st Century: A Risk-Based Approach,'' which was announced in August 2002. The initiative focuses on FDA's current CGMP program and covers the manufacture of veterinary and human drugs, including human biological drug products. The Agency formed the Dispute Resolution Working Group comprising representatives from ORA, the Center for Drug Evaluation and Research, the Center for Biologics Evaluation and Research, and the Center for Veterinary Medicine. The working group met weekly on issues related to the DR process and met with stakeholders in December 2002 to seek their input.

The guidance was initiated in response to industry's request for a formal DR process to resolve differences related to scientific and technical issues that arise between investigators and pharmaceutical manufacturers during FDA inspections of foreign and domestic manufacturers. In addition to encouraging manufacturers to use currently available DR processes, the guidance describes the formal two-tiered DR process explained earlier in this document. The guidance also covers the following topics:

- The suitability of certain issues for the formal DR process, including examples of some issues with a discussion of their appropriateness for the DR process.
- Instructions on how to submit requests for formal DR and a list of the supporting information that should accompany these requests.
- Public availability of decisions reached during the DR process to promote consistent application and interpretation of drug quality-related regulations.

Description of Respondents: Pharmaceutical manufacturers of veterinary and human drug products and human biological drug products.

Burden Estimate: Based on the number of requests for tier one and tier two DRs received by FDA since the guidance published in January 2006, FDA estimates that approximately two manufacturers will submit approximately two requests annually for a tier one DR and that there will be one appeal of these requests to the DR panel (request for tier two DR). FDA estimates that it will take manufacturers approximately 30 hours to prepare and submit each request for a tier one DR and approximately 8 hours to prepare and submit each request for a tier two DR. Table 1 of this document provides an estimate of the annual reporting burden for requests for tier one and tier two DRs.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response (in hours)	Total hours
Requests for Tier One DR	2	1	2	30	60
Requests for Tier Two DR	1	1	1	8	8
Total					68

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 14, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–15141 Filed 6–17–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0264]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Request for Designation as Country Not Subject to the Restrictions Applicable to Human Food and Cosmetics Manufactured From, Processed With, or Otherwise Containing, Material From Cattle

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 20, 2011.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs,

OMB, *Attn:* FDA Desk Officer, *Fax:* 202–395–7285, or e-mailed to *oira_submission@omb.eop.gov*. All comments should be identified with the OMB control number 0910–0623. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Jr., Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3793.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Request for Designation as Country Not Subject to the Restrictions Applicable to Human Food and Cosmetics Manufactured From, Processed With, or Otherwise Containing, Material From Cattle—(OMB Control Number 0910–0623)—Extension

Section 801(a) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 381(a)) provides requirements with regard to imported food and cosmetics and provides for refusal of admission into the United States of human food and cosmetics that appear to be adulterated. Section 701(b) of the FD&C Act (21 U.S.C. 371(b)) authorizes the Secretaries of Treasury and Health and Human Services to jointly prescribe regulations for the efficient enforcement of section 801 of the FD&C Act. To address the potential risk of bovine spongiform encephalopathy (BSE) in human food and cosmetics, FDA regulations in §§ 189.5 and 700.27 (21 CFR 189.5 and 700.27) designate certain materials from cattle as ''prohibited cattle materials,'' including specified risk materials, the small intestine of cattle not otherwise excluded from being a prohibited cattle material, material from nonambulatory disabled cattle, and mechanically separated (MS)(Beef). Under the regulations, no human food or cosmetic may be manufactured from, processed with, or otherwise contain prohibited cattle materials. However, the Agency may designate a country from which cattle materials inspected and passed for human consumption are not considered prohibited cattle materials and their use does not render a human food or cosmetic adulterated.

Sections 189.5(e) and 700.27(e) provide that a country seeking to be so designated must send a written request to the Director, Center for Food Safety and Applied Nutrition (CFSAN). The information the country is required to submit includes information about a country's BSE case history, risk factors, measures to prevent the introduction and transmission of BSE, and other information relevant to determining whether specified risk materials, the small intestine of cattle not otherwise excluded from being a prohibited cattle material, material from nonambulatory disabled cattle, or MS(Beef) from the country seeking designation should be considered prohibited cattle materials. FDA uses the information to determine whether to grant a request for designation, and whether to impose conditions if a request is granted.

Sections 189.5 and 700.27 further state that countries that have been designated under 189.5(e) and 700.27(e) will be subject to future review by FDA to determine whether designation remains appropriate. As part of this process, FDA may ask designated countries to confirm that their BSE situation and the information submitted by them in support of their original application remain unchanged. FDA may revoke a country's designation if FDA determines that it is no longer appropriate. Therefore, designated countries may respond to periodic requests by FDA by submitting information to confirm that their designation remains appropriate. FDA uses the information to ensure that their designation remains appropriate.

This estimate is based on FDA's experience and the average number of requests for designation under 189.5 and 700.27 received in the past 3 years. FDA received 1 request for designation in 2009 and 1 in 2010. Based on this experience, FDA estimates the annual number of new requests for designation will be one. FDA estimates that preparing the information required by 189.5 and 700.27 and submitting it to the Agency in the form of a written request to the Director, CFSAN will require a burden of approximately 80 hours per request. Thus, the annual burden for new requests for designation is estimated to be 80 hours, as shown in table 1, row 1 of this document. Under 189.5(e) and 700.27(e), designated countries are subject to future review by FDA and may respond to periodic requests by FDA by submitting information to confirm that their designation remains appropriate. In the last 3 years, FDA has not requested any reviews. Thus, the Agency estimates that one or fewer will occur annually in the future. We estimate that the designated country undergoing a review in the future will need one third the time it took preparing its request for designation to respond to FDA's request for review, or 26 hours (80 hours × 0.33 = 26.4 hours, rounded to 26). The annual burden for reviews is estimated to be 26 hours, as shown in table 1, row 2 of this document. The total annual burden for this information collection is estimated to be 106 hours.

In the **Federal Register** of April 15, 2011 (76 FR 21378), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	No. of respondents	No. of responses per respondent	Total annual responses	Average burden per response	Total hours
189.5 and 700.27—request for designation	1	1	1	80	80
189.5(e) and 700.27(e)—response to request for review by FDA	1	1	1	26	26
Total					106

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 14, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–15142 Filed 6–17–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2004–E–0267 (formerly) 2004E–0325]

Determination of Regulatory Review Period for Purposes of Patent Extension; MYFORTIC

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for MYFORTIC and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

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: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA approved for marketing the human drug product MYFORTIC (mycophenolate sodium). MYFORTIC is indicated for the prophylaxis of organ rejection in patients receiving allogeneic renal transplants, administered in combination with cyclosporine and corticosteroids. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for MYFORTIC (U.S. Patent No. 6,306,900) from Novartis AG, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration and that FDA determine the product's regulatory review period. In a letter dated May 25, 2011, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of MYFORTIC represented the first permitted commercial marketing or use of the product.

FDA has determined that the applicable regulatory review period for MYFORTIC is 1,947 days. Of this time, 1,643 days occurred during the testing phase of the regulatory review period, while 304 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355(i)) became effective:* October 31, 1998. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on October 31, 1998.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* April 30, 2003. FDA has verified the applicant's claim that the new drug application (NDA) for Myfortic (NDA 50–791) was submitted on April 30, 2003.

3. *The date the application was approved:* February 27, 2004. FDA has verified the applicant's claim that NDA 50–791 was approved on February 27, 2004.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 323 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (*see* **ADDRESSES**) either electronic or written comments and ask for a redetermination by August 19, 2011. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by December 19, 2011. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (*See* H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Interested persons may submit to the Division of Dockets Management (*see* **ADDRESSES**) electronic or written comments and written petitions. It is only necessary to send one set of comments. 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 the docket number found in brackets in the heading of this document.

Comments and petitions that have not been made publicly available on *http://www.regulations.gov* may be viewed in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 25, 2011.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 2011–15197 Filed 6–17–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

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.

Proposed Project: Bureau of Primary Health Care (BPHC) Uniform Data System (OMB No. 0915–0193—Revision)

The Uniform Data System (UDS) contains the annual reporting requirements for the cluster of primary care grantees funded by the Health Resources and Services Administration (HRSA). The UDS includes reporting requirements for grantees of the following primary care programs: Community Health Centers, Migrant Health Centers, Health Care for the Homeless, and Public Housing Primary Care. The authorizing statute is section 330 of the Public Health Service Act, as amended.

HRSA collects data in the UDS which are used to ensure compliance with legislative and regulatory requirements, to improve health center performance and operations, and to report overall program accomplishments. To meet these objectives, BPHC requires a core set of data collected annually that is appropriate for monitoring and evaluating performance and reporting on annual trends. The UDS data collection for 2012 will be revised in three ways. A new table will be added to collect tenure data for certain types of health center clinical and administrative staff. Three clinical measures will be added that are consistent with identified national priorities. These new measures are included in the UDS data collection request in order to allow advance time for health centers to change data collection systems. Finally, a few new questions will be asked about health center Electronic Health Record reporting capabilities.

These changes reflect an increase in burden of hours over the previous information collection request in 2010. The burden is increased due to additional hours for reporting the new information. The annual estimate of burden is as follows:

Type of report	Number of respondents	Responses per respondent	Hours per response	Total burden hours
Universal report	1,181	1	82	96,842
Grant report	328	1	18	5,904
Total	1,509			102,746

E-mail comments to *paperwork@hrsa.gov* or mail the HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: June 14, 2011.

Reva Harris,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2011–15194 Filed 6–17–11; 8:45 am]

BILLING CODE 4165–15–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, Member Conflict: Child Psychopathology and Developmental Disabilities.

Date: July 5, 2011.

Time: 1 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: Melissa Gerald, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7848, Bethesda, MD 20892, (301) 408–9107, *geraldmel@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Pathogenesis and Immunity in HIV/AIDS.

Date: July 6, 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, (Virtual Meeting).

Contact Person: Shiv A Prasad, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301–443–5779, *prasads@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Vascular Biology.

Date: July 11, 2011.

Time: 12:30 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Larry Pinkus, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkusl@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group, AIDS Clinical Studies and Epidemiology Study Section.

Date: July 12, 2011.

Time: 8 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Monaco Alexandria, 480 King Street, Alexandria, VA 22314.

Contact Person: Hilary D Sigmon, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, (301) 594–6377, *sigmonh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships: AIDS Predoctoral and Postdoctoral.

Date: July 14, 2011.

Time: 11 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: New York Marriott East Side, 525 Lexington Avenue at 49th Street, New York, NY 10017.

Contact Person: Shiv A Prasad, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301–443–5779, *prasads@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Digestive Sciences.

Date: July 19–20, 2011.

Time: 8:00 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Bonnie L. Burgess-Beusse, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, 301–435–1783, *beusseb@mail.nih.gov.*

(Catalog 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: June 14, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–15289 Filed 6–17–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, P50 (Research Centers in Trauma, Burn and Peri-Operative Injury) Meeting.

Date: July 11, 2011.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room 3AN12B, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Margaret J. Weidman, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18B, Bethesda, MD 20892, 301–594–3663, *weidmanma@nigms.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: June 14, 2011.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–15288 Filed 6–17–11; 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, Signal Transduction.

Date: July 12, 2011.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ramesh Vemuri, PhD, Chief, Scientific Review Branch, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C–212, Bethesda, MD 20892, 301–402–7700, *rv23r@nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Protein Homeostasis.

Date: August 2, 2011.

Time: 1 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: Elaine Lewis, PhD, Scientific Review Officer, Scientific Review Branch, National Institute on Aging, Gateway Building, Suite 2C212, MSC–9205, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7707, *elainelewis@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Cognitive Aging Success.

Date: August 10, 2011.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jeannette L. Johnson, PhD, Scientific Review Officer, National Institutes on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7705, *JOHNSONJ9@NIA.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: June 14, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–15287 Filed 6–17–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Children's Study Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Registration is required since space is limited and will begin at 8 a.m. Please visit the conference Web site for information on meeting logistics and to register for the meeting *http://www.circlesolutions.com/ncs/ncsac/index.cfm.* Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Children's Study Advisory Committee.

Date: July 20, 2011.

Time: 9 a.m. to 5 p.m.

Agenda: The major topic to be discussed will be privacy and participant data, a revised sampling strategy, and a high-level discussion of the Main Study protocol.

Place: National Institutes of Health, Natcher Conference Center, 45 Center Drive, Room E1/E2, Bethesda, MD 20892.

Contact Person: Kate Winseck, MSW, Executive Secretary, National Children's Study, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5C01, Bethesda, MD 20892, (703) 902–1339, *ncs@circlesolutions.com.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and, when applicable, the business or professional affiliation of the interested person. For additional information about the Federal Advisory Committee meeting, please contact Circle Solutions at *ncs@circlesolutions.com.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 14, 2011.

Jennifer S. Spaeth

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–15285 Filed 6–17–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2010–0032]

Federal Radiological Preparedness Coordinating Committee

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of public meeting.

SUMMARY: The Federal Radiological Preparedness Coordinating Committee (FRPCC) is holding a public meeting on July 11, 2011 in Arlington, VA.

DATES: The meeting will take place on July 11, 2011. The session open to the public will be from 9 a.m. EST to 10 a.m. EST. Send written statements and requests to make oral statements to the contact person listed under the **FOR FURTHER INFORMATION CONTACT** caption by close of business July 1, 2011.

ADDRESSES: The meeting will be held at 1800 South Bell Street, Room 803A and 803B, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Timothy Greten, FRPCC Executive Secretary, DHS/FEMA, 1800 South Bell Street—CC847, Mail Stop 3025, Arlington, VA 20598–3025; *telephone:* (202) 646–3907; *fax:* (703) 305–0837; or *e-mail: timothy.greten@dhs.gov.*

SUPPLEMENTARY INFORMATION: The role and functions of the Federal Radiological Preparedness Coordinating Committee (FRPCC) are described in 44 CFR parts 351.10(a) and 351.11(a). The FRPCC is holding a public meeting on July 11, 2011 from 9 a.m. EST to 10 a.m. EST, at 1800 South Bell Street, Room 803A and 803B, Arlington, VA 22202. Please note that the meeting may close early. This meeting is open to the public. Public meeting participants must pre-register to be admitted to the meeting. To pre-register, please provide your name and telephone number by close of business on July 1, 2011, to the individual listed under the **FOR FURTHER INFORMATION CONTACT** caption.

The tentative agenda for the FRPCC meeting includes: (1) Introductions, (2) Advisory Team Concept of Operations update, (3) Agency report-out of the Fukushima-Daiichi Nuclear Power Plant lessons-learned, (4) National Level Exercise 2011 After-Action Report, (5) Senior Official Exercise/Principal Level Exercise SOE/PLE 3–10 update. The FRPCC Chair shall conduct the meeting in a way that will facilitate the orderly conduct of business. Reasonable provisions will be made, if time permits, for oral statements from the public of not more than 5 minutes in length. Any member of the public who wishes to make an oral statement at the meeting should send a written request for time by close of business on July 1, 2011, to the individual listed under the **FOR FURTHER INFORMATION CONTACT** caption. Any member of the public who wishes to file a written statement with the FRPCC should provide the statement by close of business on July 1, 2011, to the individual listed under the **FOR FURTHER INFORMATION CONTACT** caption.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, please write or call the individual listed under the **FOR FURTHER INFORMATION CONTACT** caption as soon as possible.

Authority: 44 CFR 351.10(a) and 351.11(a).

Timothy W. Manning,

Deputy Administrator, Protection and National Preparedness Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2011–15186 Filed 6–17–11; 8:45 am]

BILLING CODE 9110–21–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Report of Diversion

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-day notice and request for comments; extension of an existing information collection: 1651–0025.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Report of Diversion (CBP Form 26). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden

hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (76 FR 19119) on April 6, 2011, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 20, 2011.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

SUPPLEMENTARY INFORMATION:

U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L. 104–13). Your comments should address one of the following four points:

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

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Report of Diversion.

OMB Number: 1651–0025.

Form Number: CBP Form 26.

Abstract: CBP Form 26, *Report of Diversion,* is used to track vessels traveling coastwise from U.S. ports to other U.S. ports when a change occurs in scheduled itineraries. This form is initiated by the vessel owner or agent to notify and request approval by CBP for a vessel to divert while traveling coastwise from one U.S. port to another U.S. port, or a vessel cleared to a foreign port or place having to divert to another U.S. port when a change occurs in the vessel itinerary. CBP Form 26 collects information such as the name and nationality of the vessel, the expected port and date of arrival, and information about any related penalty cases, if applicable. This information collection is authorized by the Jones Act (46 U.S.C. App. 883) and is provided for 19 CFR 4.91. CBP Form 26 is accessible at *http://forms.cbp.gov/pdf/CBP_Form_26.pdf.*

Current Actions: This submission is being made to extend the expiration date with no change to the information collected or to CBP Form 26.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 1,400.

Estimated Number of Responses per Respondent: 2.

Estimated Total Annual Responses: 2,800.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 233.

If additional information is required contact: 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.

Dated: June 14, 2011.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2011–15161 Filed 6–17–11; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5486–N–15]

Notice of Proposed Information Collection for Public Comment On: Participation Agreement, Follow-up Survey, and Key Informant Interview Guide for The Impact of Housing and Services Interventions on Homeless Families

AGENCY: Office of Policy Development and Research, 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 of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date: August 19, 2011.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8234, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Elizabeth Rudd at (202) 402–7607 (this is not a toll-free number). Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Rudd.

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 that will reduce burden, (*e.g.,* permitting electronic submission of responses).

This Notice also lists the following information:

Title of Proposal: The Impact of Housing and Services Interventions on Homeless Families.

OMB Control Number: Pending.

Description of the need for the information and proposed use: The Participant Follow-up Survey Instruments, the Participation Agreement, and the Key Informant Interviews are necessary to conduct the study, The Impact of Housing and Services Interventions on Homeless Families.

The Senate Report 109–109 for the FY 2006 Transportation, Treasury, the Judiciary, Housing and Urban

Development and Related Agencies Appropriations Bill directed the U.S. Department of Housing and Urban Development (HUD) to ''undertake research to ascertain the impact of various service and housing interventions in ending homelessness for families.'' In response to this directive, HUD awarded an Indefinite Quantity Contract (IQC) to Abt Associates, Inc. in September 2008 to conduct a study entitled *The Impact of Housing and Services Interventions on Homeless Families.* The study will compare several combinations of housing assistance and services in a multi-site experiment, to determine which interventions work best to promote housing stability, family preservation, child well-being, adult well-being, and self-sufficiency. The study has begun enrolling families and administering the baseline survey. The follow-up survey enables collection of data on the outcomes of interest from families who have participated in the study; the survey will permit the research team to track participants and measure the outcomes of participants 18 months after assignment to one of the study's interventions. Interviews with key informants will enable the study team to collect cost information so that it is possible to assess the costs of the interventions and services provided to homeless families.

Members of affected public: Households.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

ESTIMATED RESPONDENT BURDEN HOURS AND COSTS

Form	Respondent sample	Number of respondents	Average time to complete (minimum, maximum) in minutes	Frequency	Total burden (hours)
Follow-up Survey	All enrolled families (N = 2,550)	2,550	60 (50–70)	1	2,550
Key Informant Interviews	Staff from programs providing services in the studied interventions.	126	120 (100–150)	1	252
TOTAL Burden Hours					2,802

Respondent's Obligation: Voluntary.

Status of the proposed information collection: Pending OMB approval.

Authority: Title 13 U.S.C. Section 9(a), and Title 12, U.S.C., Section 1701z–1 *et seq.*

Dated: June 13, 2011.

Raphael W. Bostic,

Assistant Secretary for Policy Development and Research.

[FR Doc. 2011–15270 Filed 6–17–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5480–N–52]

Notice of Submission of Proposed Information Collection to OMB; Emergency Comment Request; Application for Energy Innovation Fund—Multifamily Pilot Program

AGENCY: Office of the Chief Information Officer.

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This information is collected from applicants for a new pilot program seeking innovative proposals for increasing the energy efficiency of Multifamily Housing.

DATES: *Comments Due Date:* July 5, 2011.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within fourteen (14) days from the date of this Notice. Comments should refer to the proposal by name/or OMB approval number (2502–New) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; *e-mail: OIRA-Submission@omb.eop.gov; fax:* 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; *e-mail: Colette.Pollard@HUD.gov*; *telephone:* (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This Notice is soliciting comments from members of the public and affecting 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: Energy Innovation Fund—Multifamily Energy Pilot Program.

OMB Control Number, if applicable: 2502–New.

Description of the need for the information and proposed use: Application information will be used to evaluate, score and rank applications for grant funds.

Agency Form Numbers: HUD 2880, HUD 424CB, HUD 2993, HUD 2991.SF424, SF424Supp. and SF LLL.

Members of Affected Public: Eligible applicants are limited to Treasury-certified community development financial institutions with affordable housing and development and rehabilitation programs; National, regional or local private or non-profit entities currently administering affordable housing development and

rehabilitation programs; Special purpose financing entities; and Nonprofit or for-profit organizations (and/or consortia thereof) that own or control a portfolio of Eligible Multifamily Properties.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of responses, and hours of response: The number of burden hours is 2470.5. The number of respondents is 383, the number of responses is 502, the frequency of response is on occasion, and the burden hours per response are 93.25.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, as amended.

Dated: June 15, 2011.

Colette Pollard,

Reports Liaison Officer, Department of Housing and Urban Development.

[FR Doc. 2011–15268 Filed 6–17–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5486–N–13]

Notice of Proposed Information Collection for Public Comment: Section 8 Fair Market Rent Surveys

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal. An extension and modification of the survey mode of the collection effort that expires on August 31, 2011, is being requested.

DATES: *Comments Due Date:* August 19, 2011.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (60) days from the date of this Notice. Comments should refer to the proposal by name/or OMB approval number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8234, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Marie Lihn, Economic and Market Analysis Division, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8224, Washington, DC 20410; telephone (202) 402–5866; e-mail *marie_l._lihn@hud.gov.* This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Lihn.

SUPPLEMENTARY INFORMATION: The Department of Housing and Urban Development will submit the proposed information collection package 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 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: Section 8 Random Digit Dialing Fair Market Rent Surveys.

OMB Control Number: 2528–0142.

Description of the need for the information and proposed use: HUD is evaluating alternative survey methodologies to collect gross rent data for specific areas in a relatively fast and accurate way that may be used to estimate and update Section 8 Fair Market Rents (FMRs) in areas where FMRs are believed to be incorrect and data from the American Community Survey is not available at the local level. Section 8(C)(1) of the United States Housing Act of 1937 requires the Secretary to publish Fair Market Rents (FMRs) annually to be effective on October 1 of each year. FMRs are used for the Section 8 Rental Certificate Program (including space rentals by owners of manufactured homes under that program); the Moderate Rehabilitation Single Room Occupancy program; housing assisted under the Loan Management and Property Disposition programs; payment standards for the Rental Voucher program; and any other programs whose regulations specify their use.

Random digit dialing (RDD) telephone surveys have been used for many years to adjust FMRs and will be evaluated for continued use. These surveys are based on a sampling procedure that uses computers to select statistically random samples of telephone numbers to locate certain types of rental housing units for surveying. Cell phone surveys will be incorporated into this methodology and comprise roughly one-third of the sample. In addition HUD will collect survey data using web-based and mail systems. Initially, as the methodology is being refined, HUD will conduct surveys of up to 4 individual FMR areas in a year to test the accuracy of their FMRs. Up to 5 individual FMR area will be surveyed after the new methodology is determined.

Members of affected public: Individuals or households living in areas surveyed.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

	Screen outs	Stayers	Movers
TELEPHONE/CELLPHONE			
Households	3129	857	300
Average Minutes	4.75	9.5	9.5
Burden Hours	265	140	49
Total	454		
MAIL/WEB			
Households	3129	857	300
Average Minutes	1	5	5
Burden Hours	52	71	25
Total	148		

	Screen outs	Stayers	Movers
ALL MODES			
Total Number Responses	8572		
Total Burden Hours	602		

Status of the proposed information collection: Continuing under current authorization.

Authority: Section 8(C)(1) of the United States Housing Act of 1937.

Dated: June 9, 2011.

Raphael W. Bostic,

Assistant Secretary for Policy Development & Research.

[FR Doc. 2011–15275 Filed 6–17–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–ES–2011–N101; 60120–1113–0000; C4]

Endangered and Threatened Wildlife and Plants; 5-Year Status Reviews of 12 Species in the Mountain-Prairie Region

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of initiation of reviews; request for information.

SUMMARY: We, the U.S. Fish and Wildlife Service, are initiating 5-year status reviews under the Endangered Species Act of 1973, as amended (Act), of 2 animal and 10 plant species. We are requesting any information that has become available since our original listing of each of these species. Based on review results, we will determine whether we should change the listing status of any of these species.

DATES: To ensure consideration, please send your written information by August 19, 2011.

ADDRESSES: For how and where to send comments or information, see ''VIII. Contacts.''

FOR FURTHER INFORMATION CONTACT: To request information, see ''VIII. Contacts.'' Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at (800) 877–8337 for TTY (telephone typewriter or teletypewriter) assistance.

SUPPLEMENTARY INFORMATION: We are initiating 5-year status reviews under the Act of 2 animal and 10 plant species: Autumn buttercup (*Ranunculus acriformis* var. *aestivalis*), clay phacelia (*Phacelia argillacea*), Colorado butterfly plant (*Gaura neomexicana* ssp. *coloradensis*), desert yellowhead (*Yermo xanthocephalus*), dwarf bear-poppy (*Arctomecon humilis*), Last Chance townsendia (*Townsendia aprica*), Neosho madtom (*Noturus placidus*), Penland alpine fen mustard (*Eutrema penlandii*), Salt Creek tiger beetle (*Cicindela nevadica lincolniana*), San Rafael cactus (*Pediocactus despainii*), Welsh's milkweed (*Asclepias welshii*), and Winkler cactus (*Pediocactus winkleri*) species.

I. Why do we conduct 5-year reviews?

We conduct 5-year status reviews to ensure that our classification of each species on the Lists of Endangered and Threatened Wildlife and Plants as threatened or endangered is accurate. A 5-year review assesses the best scientific and commercial data available at the time of the review. We are requesting any information that has become available since our original listing of the species under review. Based on review results, we will determine whether we should change the listing status of any of these species.

Under the Act, we maintain Lists of Endangered and Threatened Wildlife and Plants (which we collectively refer to as the List) in the Code of Federal Regulations (CFR) at 50 CFR 17.11 (for animals) and 17.12 (for plants). Section 4(c)(2)(A) of the Act requires us to review each listed species' status at least once every 5 years. Then, under section 4(c)(2)(B), we determine whether to remove any species from the List (delist), to reclassify it from endangered to threatened, or to reclassify it from threatened to endangered. Any change in Federal classification requires a separate rulemaking process.

In classifying, we use the following definitions, from 50 CFR 424.02:

A. *Species* includes any species or subspecies of fish, wildlife, or plant, and any distinct population segment of any species of vertebrate, that interbreeds when mature;

B. *Endangered species* means any species that is in danger of extinction throughout all or a significant portion of its range; and

C. *Threatened species* means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

We must support delisting by the best scientific and commercial data available, and only consider delisting if data substantiate that the species is neither endangered nor threatened for one or more of the following reasons (50 CFR 424.11(d)):

A. The species is considered extinct;

B. The species is considered to be recovered; or

C. The original data available when the species was listed, or the interpretation of data, were in error.

Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing the species we are reviewing.

II. What species are under review?

This notice announces our active 5-year status reviews of the species in Table 1.

TABLE 1—CURRENT LISTING STATUS OF SPECIES UNDER 5-YEAR STATUS REVIEW

Common name	Scientific name	Status	Where listed	Final listing rule publication date & citation
ANIMALS				
Beetle, Salt Creek Tiger	*Cicindela nevadica lincolniana.*	Endangered	U.S.A. (NE)	October 6, 2005 (70 FR 58335).
Madtom, Neosho	*Noturus placidus*	Threatened	U.S.A. (KS, MO, OK)	May 22, 1990 (55 FR 21148).

TABLE 1—CURRENT LISTING STATUS OF SPECIES UNDER 5-YEAR STATUS REVIEW—Continued

Common name	Scientific name	Status	Where listed	Final listing rule publication date & citation
		PLANTS		
Autumn buttercup	*Ranunculus acriformis* var. *aestivalis*.	Endangered	U.S.A. (UT)	July 21, 1989 (54 FR 30550).
Clay phacelia	*Phacelia argillacea*	Endangered	U.S.A. (UT)	September 28, 1978 (43 FR 44810).
Colorado butterfly plant	*Gaura Neomexicana* ssp. *coloradensis*.	Threatened	U.S.A. (WY, NE, CO)	October 18, 2000 (65 FR 62302).
Desert yellowhead	*Yermo xanthocephalus*	Threatened	U.S.A. (WY)	March 14, 2002 (67 FR 11442).
Dwarf bear-poppy	*Arctomecon humilis*	Endangered	U.S.A. (UT)	November 6, 1979 (44 FR 64250).
Last Chance townsendia	*Townsendia aprica*	Threatened	U.S.A. (UT)	August 21, 1985 (50 FR 33734).
Penland alpine fen mustard.	*Eutrema penlandii*	Threatened	U.S.A. (CO)	July 28, 1993 (58 FR 40539).
San Rafael cactus	*Pediocactus despainii*	Endangered	U.S.A. (UT)	September 16, 1987 (52 FR 34914).
Welsh's milkweed	*Asclepias welshii*	Threatened	U.S.A. (AZ, UT)	October 28, 1987 (52 FR 41435).
Winkler cactus	*Pediocactus winkleri*	Threatened	U.S.A. (UT)	August 20, 1998 (63 FR 44587).

III. What do we consider in our review?

We consider all new information available at the time we conduct a 5-year status review. We consider the best scientific and commercial data that has become available since our current listing determination or most recent status review, such as:

A. Species biology, including but not limited to population trends, distribution, abundance, demographics, and genetics;

B. Habitat conditions, including but not limited to amount, distribution, and suitability;

C. Conservation measures that have been implemented that benefit the species;

D. Threat status and trends (*see* five factors under heading ''IV. How do we determine whether a species is endangered or threatened?''); and

E. Other new information, data, or corrections, including but not limited to taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

IV. How do we determine whether a species is endangered or threatened?

Section 4(a)(1) of the Act requires that we determine whether a species is endangered or threatened based on one or more of the five following factors:

A. The present or threatened destruction, modification, or curtailment of its habitat or range;

B. Overutilization for commercial, recreational, scientific, or educational purposes;

C. Disease or predation;

D. The inadequacy of existing regulatory mechanisms; or

E. Other natural or manmade factors affecting its continued existence.

Under section 4(b)(1) of the Act, we must base our assessment of these factors solely on the best scientific and commercial data available.

V. What could happen as a result of our review?

For each species under review, if we find new information that indicates a change in classification may be warranted, we may propose a new rule that could do one of the following:

A. Reclassify the species from threatened to endangered (uplist);

B. Reclassify the species from endangered to threatened (downlist); or

C. Remove the species from the List (delist).

If we determine that a change in classification is not warranted, then the species remains on the List under its current status.

VI. Request for New Information

To ensure that a 5-year review is complete and based on the best available scientific and commercial information, we request new information from all sources. See ''III. What do we consider in our review?'' for specific criteria. If you submit information, support it with documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources.

Submit your comments and materials to the appropriate Fish and Wildlife Office listed under ''VIII. Contacts.''

VII. Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the offices where the comments are submitted.

VIII. Contacts

Send your comments and information on the following species, as well as requests for information, to the corresponding contacts/addresses included in Table 2. You may view information we receive in response to this notice, as well as other documentation in our files, at the following locations by appointment, during normal business hours.

TABLE 2—CONTACT INFORMATION FOR SPECIES UNDER 5-YEAR STATUS REVIEW

Species	Contact person, phone, e-mail	Contact address
Neosho Madtom	Mike LeValley, Kansas Field Supervisor; (785) 539–3474; e-mail *Mike_LeValley@fws.gov*.	Kansas Field Office, U.S. Fish & Wildlife Service, Attention: Neosho Madtom 5-Year Review, 2609 Anderson Avenue, Manhattan, KS 66502.
Salt Creek Tiger Beetle	Michael George, Nebraska Field Supervisor; (308) 382–6468; e-mail *Mike_George@fws.gov*.	Nebraska Field Office, U.S. Fish & Wildlife Service, Attention: Salt Creek Tiger Beetle 5-Year Review, 203 West Second, 2nd Floor, Federal Building, Grand Island, NE 68801.
Autumn buttercup, Clay phacelia, Dwarf bear-poppy, Last Chance townsendia, San Rafael cactus, Winkler cactus, Welsh's milkweed.	Larry Crist, Utah Field Supervisor; (801) 975–3330; e-mail *Larry_Crist@fws.gov*.	Utah Field Office, U.S. Fish & Wildlife Service, Attention: 5-Year Review, 2369 West Orton Circle, Suite 50, West Valley City, UT 84119.
Colorado butterfly plant, Desert yellowhead	Mark Sattelberg, Wyoming Field Supervisor; (307) 772–2374; e-mail *Mark_Sattelberg@fws.gov*.	Wyoming Field Office, U.S. Fish & Wildlife Service, Attention: 5-Year Review, 5353 Yellowstone Road, Suite 308A, Cheyenne, WY 82009.
Penland alpine fen mustard	Al Pfister, Western Colorado Supervisor; (970) 243–2778; e-mail *Al_Pfister@fws.gov*.	Western Colorado Field Office, U.S. Fish & Wildlife Service, Attention: 5-Year Review, 764 Horizon Drive, Building B, Grand Junction, CO 81506–3946.

IX. Authority

We publish this notice under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 25, 2011.

Noreen E. Walsh,

Deputy Regional Director, Denver, Colorado.

[FR Doc. 2011–15183 Filed 6–17–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVS00560.L58530000.FR0000.241A; N–57230; 11–08807; MO#450020986; TAS:14X5232]

Notice of Correction for Conveyance of Public Lands for Airport Purposes in Clark County, Nevada

In notice document 2011–12626 appearing on page 29784 in the issue of Monday, May 23, 2011 make the following correction:

In the second column, under the heading ''Mount Diablo Meridian'' in the fifth line ''NW14NE14SE¼'' should read ''NW¼NE¼SE¼''.

[FR Doc. C1–2011–12626 Filed 6–17–11; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR957000–L631000000–HD000; HAG11–0249]

Filing of Plats of Survey; Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management Oregon/Washington State Office, Portland, Oregon, 30 days from the date of this publication.

Willamette Meridian

Oregon

T. 30 S., R. 3 W., accepted May 2, 2011.
T. 23 S., R. 3 W., accepted May 2, 2011.
T. 7 S., R. 9 W., accepted May 13, 2011.
T. 30 S., R. 8 W., accepted May 13, 2011.
T. 15 S., R. 1 W., accepted May 13, 2011.
T. 27 S., R. 3 W., accepted May 18, 2011.
T. 27 S., R. 4 W. accepted May 18, 2011.
T. 34 S., R. 3 W., accepted May 25, 2011.

Washington

T. 20 N., R. 2 W., accepted May 13, 2011.

ADDRESSES: A copy of the plats may be obtained from the Land Office at the Bureau of Land Management, Oregon/Washington State Office, 333 SW 1st Avenue, Portland, Oregon 97204, upon required payment. A person or party who wishes to protest against a survey must file a notice that they wish to protest (at the above address) with the Oregon/Washington State Director, Bureau of Land Management, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Kyle Hensley, (503) 808–6124, Branch of Geographic Sciences, Bureau of Land Management, 333 SW. 1st Avenue, Portland, Oregon 97204. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Fred O'Ferrall,

Chief, Branch of Land, Mineral, and Energy Resources.

[FR Doc. 2011–15184 Filed 6–17–11; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO922000–L13100000–FI0000; COC64168]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease COC64168

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease COC64168 from SG Interests VII, LTD, for lands in Gunnison County, Colorado. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: BLM, Milada Krasilinec, Land Law Examiner, Branch of Fluid Minerals Adjudication, at (303) 239–3767. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10 per acre or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $163 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the BLM is proposing to reinstate lease COC64168 effective December 1, 2010, under the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Helen M. Hankins,

State Director.

[FR Doc. 2011–15163 Filed 6–17–11; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY920000 L14300000.ET0000; WYW 115104]

Proposed Withdrawal Extension and Opportunity for Public Meeting, Wyoming; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of correction.

SUMMARY: This action corrects one of the counties referenced in the Notice of Proposed Withdrawal Extension and Opportunity for Public Meeting, published in the **Federal Register** on Tuesday, April 26, 2011 (76 FR 23333). The counties reference is hereby corrected to read ''Albany and Carbon counties,'' as referenced in PLO No. 6886 (56 FR 50661 (1991)).

Ruth Welch,

Associate State Director.

[FR Doc. 2011–15153 Filed 6–17–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

National Park Service

[[NPS–WASO–CONC–0511–7144; 2410–OYC]

Temporary Concession Contract for Big South Fork National Recreation Area, TN/KY

AGENCY: National Park Service, Interior.

ACTION: Notice of proposed award of temporary concession contract for Big South Fork National Recreation Area, TN/KY.

SUMMARY: Pursuant to 36 CFR 51.24, public notice is hereby given that the National Park Service (NPS) proposes to award a temporary concession contract for the conduct of certain visitor services within Big South Fork National Recreation Area, Tennessee and Kentucky, for a term not to exceed 3 years. The visitor services include providing backcountry lodging accommodations, food and beverage, and retail sales at Charit Creek Lodge. The NPS is awarding the contract on an emergency basis to avoid extended visitor services interruptions as a result of the prior concession contract expiring on December 31, 2010.

DATES: The term of the temporary concession contract will commence on or around May 1, 2011.

SUPPLEMENTARY INFORMATION: The NPS will award the temporary concession contract to qualified persons as defined in 36 CFR 51.3. The NPS has determined that a temporary concession contract is necessary to avoid an extended interruption of visitor services and has taken all reasonable appropriate steps to consider alternatives to avoid an extended interruption of visitor services.

This action is issued pursuant to 36 CFR 51.24(a). This is not a request for proposals.

Dated: May 13, 2011.

Peggy O'Dell,

Deputy Director, National Park Service.

[FR Doc. 2011–15062 Filed 6–17–11; 8:45 am]

BILLING CODE 4310–53–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–CONC–0511–7182; 2410–OYC]

Temporary Concession Contract for Blue Ridge Parkway

AGENCY: National Park Service, Interior.

ACTION: Notice of proposed award of temporary concession contracts for Blue Ridge Parkway, NC/VA.

SUMMARY: Pursuant to 36 CFR 51.24, public notice is hereby given that the National Park Service (NPS) proposes to award temporary concession contracts for the conduct of certain visitor services within the Blue Ridge Parkway, North Carolina and Virginia, for a term not to exceed 3 years. The visitor services range from lodging accommodations, food and beverage, retail sales, boat rentals, and other services at Crabtree Falls, Price Lake, Bluffs, Mabry Mills, and Rocky Knob. This action is necessary to avoid interruption of visitor services.

DATES: The term of the temporary concession contracts will commence (if awarded) on or around June 1, 2011.

SUPPLEMENTARY INFORMATION: The National Park Service will award the temporary concession contracts to qualified persons as defined in 36 CFR 51.3. The National Park Service has determined that temporary concession contract are necessary in order to avoid interruption of visitor services and has taken all reasonable and appropriate steps to consider alternatives to avoid an interruption of visitor services.

This action is issued pursuant to 36 CFR 51.24(a). This is not a request for proposals.

Dated: May 6, 2011.

Peggy O'Dell,

Deputy Director, National Park Service.

[FR Doc. 2011–15060 Filed 6–17–11; 8:45 am]

BILLING CODE 4310–53–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–313, 314, 317, and 379 (Third Review)]

Brass Sheet and Strip From France, Germany, Italy, and Japan; Notice of Commission Determinations To Conduct Full Five-Year Reviews Concerning the Antidumping Duty Orders on Brass Sheet and Strip from France, Germany, Italy, and Japan

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the antidumping duty orders on brass sheet and strip from France, Germany, Italy, and Japan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR Part 201), and part 207, subparts A, D, E, and F (19 CFR Part 207).

DATES: *Effective Date:* June 6, 2011.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On June 6, 2011, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act. The Commission found that the domestic interested party group response to its notice of institution (76 FR 11509, March 2, 2011) was adequate and that the respondent interested party group response with respect to Germany was adequate, and decided to conduct a full review with respect to the antidumping duty order concerning brass sheet and strip from Germany. The Commission found that the respondent interested party group responses with respect to France, Italy, and Japan were inadequate. However, the Commission determined to conduct full reviews concerning the antidumping duty orders on brass sheet and strip from France, Italy, and Japan to promote administrative efficiency in light of its decision to conduct a full review with respect to the antidumping duty order concerning brass sheet and strip from Germany. A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: June 15, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–15249 Filed 6–17–11; 8:45 am]

BILLING CODE 7020–20–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *In Re Motion-Sensitive Sound Effects Devices and Image Display Devices and Components and Products Containing Same II,* DN 2817; the Commission is soliciting comments on any public interest issues raised by the complaint.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, Secretary to the Commission, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint filed on behalf of Ogma, LLC on June 13, 2011. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain motion-sensitive sound devices and image display devices and components and products containing same II. The complaint names as respondents 3M Company of St. Paul, MN; Bensussen Deutsch & Associates, Inc. of Woodinville, WA; Casio America, Inc. of Dover, NJ; Casio Computer Co., Ltd. of Japan; Christie Digital Systems USA, Inc. of Cypress, CA; Eiki International, Inc. of Rancho Santa Margarita, CA; Intec, Inc. of Miami, FL; Mitsubishi Electric Corporation of Japan; Mitsubishi Electric & Electronics USA, Inc. of Cypress, CA; Optoma Corporation of Taiwan; Optoma Technology, Inc. of Milpitas, CA; Performance Designed Products LLC of Sherman Oaks, CA; Planar Systems, Inc. of Beaverton, OR; Supersonic, Inc. of Commerce, CA; Toshiba Corporation of Japan; Toshiba America Information Systems, Inc. of Irvine, CA.

The complainant, proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five pages in length, on any public interest issues raised by the complaint. Comments should address whether issuance of an exclusion order and/or a cease and desist order in this investigation would negatively affect the public health and welfare in the United

States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the potential orders;

(iii) Indicate the extent to which like or directly competitive articles are produced in the United States or are otherwise available in the United States, with respect to the articles potentially subject to the orders; and

(iv) Indicate whether Complainant, Complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to an exclusion order and a cease and desist order within a commercially reasonable time.

Written submissions must be filed no later than by close of business, five business days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Submissions should refer to the docket number (''Docket No. 2817'') in a prominent place on the cover page and/or the first page. The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50(a)(4) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50(a)(4)).

Issued: June 14, 2011.

By order of the Commission.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–15117 Filed 6–17–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *In Re Certain Universal Serial BUS (''USB'') Portable Storage Devices, Including USB Flash Drives and Components Thereof,* DN 2818; the Commission is soliciting comments on any public interest issues raised by the complaint.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, Secretary to the Commission, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*, and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint filed on behalf of Trek 2000 International Ltd., Trek Technology (Singapore) Pte. Ltd. and S-Com System (S) Pte. Ltd. on June 14, 2011. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain universal serial BUS (''USB'') portable storage devices, including USB flash drives and components thereof. The complaint names as respondents Imation Corporation of Oakdale, MN; IronKey, Inc. of Sunnyvale, CA; Kingston Technology Company, Inc. of Fountain Valley, CA; Patriot Memory LLC of Fremont, CA; RITEK Corporation of Taiwan; Advanced Media, Inc./RITEK USA of Diamond Bar, CA; Verbatim Corporation, Inc. of Charlotte, NC and Verbatim Americas, LLC of Charlotte, NC.

The complainant, proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five pages in length, on any public interest issues raised by the complaint. Comments should address whether issuance of an exclusion order and/or a cease and desist order in this investigation would negatively affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the potential orders;

(iii) Indicate the extent to which like or directly competitive articles are produced in the United States or are otherwise available in the United States, with respect to the articles potentially subject to the orders; and

(iv) Indicate whether Complainant, Complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to an exclusion order and a cease and desist order within a commercially reasonable time.

Written submissions must be filed no later than by close of business, five business days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Submissions should refer to the docket number (''Docket No. 2818'') in a prominent place on the cover page and/or the first page. The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (*see* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50(a)(4) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50(a)(4)).

By order of the Commission.

Issued: June 15, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–15242 Filed 6–17–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–526]

Business Jet Aircraft Industry: Structure and Factors Affecting Competitiveness; Institution of Investigation and Scheduling of Public Hearing

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: Following receipt of a request on May 23, 2011 from the United States House of Representatives Committee on Ways and Means (Committee) under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), the United States International Trade Commission (Commission) instituted investigation No. 332–526, *Business Jet Aircraft Industry: Structure and Factors Affecting Competitiveness.*

DATES: *August 19, 2011:* Deadline for filing request to appear at the public hearing.

September 7, 2011: Deadline for filing pre-hearing briefs and statements.

September 28, 2011: Public hearing.

October 5, 2011: Deadline for filing post-hearing briefs and all other submissions.

April 23, 2012: Transmittal of Commission report to the House Committee on Ways and Means.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street, SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://www.usitc.gov/secretary/edis.htm.*

FOR FURTHER INFORMATION CONTACT: Peder Andersen (202–205–3388 or *peder.andersen@usitc.gov*) or Deborah McNay (202–205–3425 or *deborah.mcnay@usitc.gov*) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Background: As requested by the Committee, the Commission will conduct an investigation and prepare a report on the structure and factors affecting the competitiveness of the business jet aircraft industry in the United States, Brazil, Canada, Europe, and China. To the extent that information is publicly available, the report will include—

1. An overview of the structure of the global industry, including supply chain relationships and foreign direct investment;

2. An overview of the global market for business jet aircraft and recent developments, such as the economic downturn, that may have affected demand;

3. An examination of production, consumption, sales, financing mechanisms, research and development, and business innovation;

4. Information on government policies and programs that focus on or otherwise involve the industry, including policies and programs affecting financing, aircraft research and development, and certification; and

5. A discussion of factors that may affect the future competitiveness of the U.S. business jet aircraft industry, such as workforce characteristics, changes in regional demand, and new or growing entrants through 2028.

The Committee asked that the report focus primarily on the 2006–11 time period, and that the Commission deliver its report no later than April 23, 2012.

Public hearing: A public hearing in connection with this investigation will be held at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC, beginning at 9:30 a.m. on Wednesday, September 28, 2011. Requests to appear at the public hearing should be filed with the Secretary, not later than 5:15 p.m., August 19, 2011, in accordance with the requirements in the ''Submissions'' section below. All pre-hearing briefs and statements should be filed not later than 5:15 p.m., September 7, 2011; and all post-hearing briefs and all other statements should be filed not later than 5:15 p.m., October 5, 2011. In the event that, as of the close of business on August 19, 2011, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or nonparticipant may call the Secretary to the Commission (202–205–2000) after August 19, 2011, for information concerning whether the hearing will be held.

Written submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements concerning this investigation. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., October 5, 2011. All written submissions must conform with the provisions of section 201.8 of the

Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 requires that a signed original (or a copy so designated) and fourteen (14) copies of each document be filed. In the event that confidential treatment of a document is requested, at least four (4) additional copies must be filed, in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''non-confidential'' version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

In its request letter, the Committee stated that it intends to make the Commission's report available to the public in its entirety, and asked that the Commission not include any confidential business information in the report that the Commission sends to the Committee. Any confidential business information received by the Commission in this investigation and used in preparing this report will not be published in a manner that would reveal the operations of the firm supplying the information.

Issued: June 15, 2011.

By order of the Commission.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–15248 Filed 6–17–11; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[OMB Number 1117–0010]

Agency Information Collection Activities: Proposed Collection; Comments Requested: U.S. Official Order Forms for Schedule I and II Controlled Substances (Accountable Forms); Order Form Requisition; DEA Form 222, 222a, Controlled Substances Order System

ACTION: 30-Day notice of information collection under review.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** at Volume 76, Number 71, Page 20710, April 13, 2011, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until July 20, 2011. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Cathy A. Gallagher, Acting Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152; (202) 307–7297.

Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: DOJ Desk Officer. The best way to ensure your comments are received is to e-mail them to *oira_submission@omb.eop.gov* or fax them to (202) 395–7285. All comments should reference the eight-digit OMB number for the collection or the title of the collection. If you have questions concerning the collection, please contact Cathy A. Gallagher, Acting Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152, (202) 307–7297, or the DOJ Desk Officer at (202) 395–3176.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- 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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of Information Collection 1117–0010

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* U.S. Official Order Forms for Schedule I and II Controlled Substances (Accountable Forms); Order Form Requisition.

(3) Agency form number, if any, and the applicable component of the Department sponsoring the collection:

Form number: DEA Forms 222 and 222a.

Component: Office of Diversion Control, Drug Enforcement Administration, Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract:

Primary: Business or other for-profit.

Other: Not-for-profit; State, local or Tribal government.

Abstract: DEA–222 is used to transfer or purchase Schedule I and II controlled substances and data are needed to provide an audit of transfer and purchase. DEA–222a Requisition Form is used to obtain the DEA–222 Order Form. Persons may also digitally sign and transmit orders for controlled substances electronically, using a digital certificate. Orders for Schedule I and II controlled substances are archived and transmitted to DEA.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: DEA estimates that 109,632

registrants participate in this information collection, taking an estimated 17.33 hours per registrant annually.

(6) *An estimate of the total public burden (in hours) associated with the collection:* It is estimated that there are 1,898,970 annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, 145 N Street, NE., Suite 2E–808, Washington, DC 20530.

Jerri Murray,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2011–15130 Filed 6–17–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Voluntary Protection Program Information

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Voluntary Protection Program Information,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

DATES: Submit comments on or before July 20, 2011.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain,* on the day following publication of this notice or by sending an e-mail to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, *Telephone:* 202–395–4816/*Fax:* 202–395–6881 (these are not toll-free numbers), *e-mail: OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Contact the DOL Information Management Team by e-mail at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: OSHA's Voluntary Protection Program (VPP) is a partnership between labor, management, and government. This program recognizes and promotes excellence in safety and health management.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid OMB control number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1218–0239. The current OMB approval is scheduled to expire on June 30, 2011; however, it should be noted that information collections submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on March 22, 2011 (76 FR 16000).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should reference OMB Control Number 1218–0239. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration (OSHA).

Title of Collection: Voluntary Protection Program Information.

OMB Control Number: 1218–0239.

Affected Public: Businesses or other for-profits.

Total Estimated Number of Respondents: 5,244.

Total Estimated Number of Responses: 4,255.

Total Estimated Annual Burden Hours: 115,359.

Total Estimated Annual Other Costs Burden: $0.

Linda Watts-Thomas,

Acting Departmental Clearance Officer.

[FR Doc. 2011–15243 Filed 6–17–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Report of Changes That May Affect Your Black Lung Benefits

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Workers' Compensation Programs (OWCP) sponsored information collection request (ICR) titled, ''Report of Changes That May Affect Your Black Lung Benefits,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

DATES: Submit comments on or before July 20, 2011.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the *RegInfo.gov* Web site, *http://www.reginfo.gov/public/do/PRAMain*, on the day following publication of this notice or by sending an e-mail to *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request to the Office of Information and Regulatory Affairs, *Attn:* OMB Desk Officer for the Department of Labor,

Office of Workers' Compensation Programs (OWCP), Office of Management and Budget, Room 10235, Washington, DC 20503, *Telephone:* 202–395–6929/*Fax:* 202–395–6881 (these are not toll-free numbers), *e-mail: OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION: Contact the DOL Information Management Team by e-mail at *DOL_PRA_PUBLIC@dol.gov*.

SUPPLEMENTARY INFORMATION: The Federal Mine Safety and Health Act of 1977, as amended, 30 U.S.C. 936, 30 U.S.C. 941 and 20 CFR 725.553(e) authorizes the Division of Coal Mine Worker's Compensation (DCMWC) to help determine continuing eligibility of primary beneficiaries receiving black lung benefits from the Disability Trust Fund. To verify and update on a regular basis factors that affect a beneficiary's entitlement to benefits, including income, marital status, receipt of State Worker's Compensation, and dependent status.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid OMB control number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1240–0028. The current OMB approval is scheduled to expire on June 30, 2011; however, it should be noted that information collections submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on March 14, 2011 (76 FR 13669).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should reference OMB Control Number 1240–0028. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Office of Workers' Compensation Programs (OWCP).

Title of Collection: Report of Changes That May Affect Your Black Lung Benefits.

OMB Control Number: 1240–0028.

Affected Public: Individuals and Households.

Total Estimated Number of Respondents: 55,000.

Total Estimated Number of Responses: 55,000.

Total Estimated Annual Burden Hours: 12,627.

Total Estimated Annual Other Costs Burden: $0.

Linda Watts-Thomas,

Acting Departmental Clearance Officer.

[FR Doc. 2011–15244 Filed 6–17–11; 8:45 am]

BILLING CODE 4510–CK–P

DEPARTMENT OF LABOR

Office of Disability Employment Policy

Proposed Information Collection Request

ACTION: Notice.

SUMMARY: The U.S. Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Disability Employment Policy (ODEP) of the Department of Labor (DOL) is soliciting comments concerning the proposed collection of information for the *Evaluation of the Employment and Training Administration/Office of Disability Employment Policy Disability Employment Initiative (DEI).*

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Submit comments on or before August 19, 2011.

ADDRESSES: Submit written comments to the Office of Disability Employment Policy, Room S–1303, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Richard Horne, Director, Division of Policy Planning and Research.

Telephone number: (202) 693–7880.

Fax: (202) 693–7888.

E-mail: horne.richard@dol.gov.

Instructions: Please submit one copy of your comments by only one method. All submissions received must include the agency name and collection name 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 be summarized and/or included in the request for Office of Management and Budget approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Richard Horne, Director, Division of Policy Planning & Research, Office of Disability Employment Policy, U.S. Department of Labor, Room S–1303, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–7880 (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) 693–7880 (this is not a toll-free number). TTY/TTD callers may dial (202) 693–7881 to obtain information or to request materials in alternative formats.

SUPPLEMENTARY INFORMATION:

I. Background

The Combined Appropriation Act of 2010, Division D of Public Law 111–117, includes $12 million in funds to DOL's Employment and Training Administration (ETA) and $12 million to ODEP to develop and implement a plan for improving effective and meaningful participation of persons

with disabilities in the workforce and to evaluate the impact of the DEI. At present, the employment rate of people with disabilities is just 21 percent, compared with a rate of 70 percent among individuals without disabilities (DOL, Bureau of Labor Statistics, 2010). The DEI is designed to reduce this discrepancy by helping states: (1) Improve educational, training, and employment opportunities and outcomes of youth and adults with disabilities who are unemployed, underemployed, and/or receiving Social Security disability benefits; and (2) help individuals with disabilities find a path to the middle class through exemplary and model service delivery by the public workforce system (DOL, 2010).

In September 2010, Alaska, Arkansas, Delaware, Illinois, Kansas, Maine, New Jersey, New York and Virginia received three-year grants to implement the DEI in randomly assigned local workforce investment areas (LWIAs). The DEI grantees are required to implement five program requirements: (1) Hire a State DEI Project Lead; (2) hire a Disability Resource Coordinator (DRC) at each DEI site; (3) maintain One-Stop Career Center accessibility; (4) have each DEI site participate in the Ticket to Work program as an Employment Network; and (5) plan for sustaining DEI activities after the three-year grant period. In addition, grantees are required to incorporate at least two of the following seven program design strategies: (1) Integrated resource teams; (2) integrated resources; (3) customized employment; (4) self-employment; (5) implementation of the Guideposts for Success; (6) asset development strategies; and (7) partnerships and collaboration.

The purpose of the DEI evaluation is to understand and assess DEI program start-up and implementation, DEI program efforts to create system change in the workforce development system, and measures of DEI program impact and customer outcomes. DEI evaluation findings will be shared with ODEP, ETA, and other entities within DOL; DEI grantees; and other organizations involved in disability employment policy and practice to help them: (1) Make ''mid-stream'' adjustments during the grant period; (2) replicate successful program strategies and approaches used by DEI grantees; and (3) support improvements in the workforce development system nationwide. DEI evaluation findings will also be used to improve program activities and services to customers and support DEI grantees and their partners in the development of systems that increase access and availability to employment and employment preparation services for customers with disabilities, including Ticket to Work participants and other Social Security disability beneficiaries.

Data collection for this evaluation includes two types of data collection activities: (1) Annual site visits to the nine DEI grantees and (2) implementation of the DEI data system. For the Annual Site Visits, the DEI Evaluation Team will make two visits to each of the nine DEI grantees, one in 2012 and one in 2013. Interviews will be conducted with the DEI state lead, Disability Resource Coordinators, Workforce Investment Board (WIB) directors, One-Stop Career Center managers, One-Stop staff members, and agency partners and employers. Additionally, eight to ten One-Stop customers will be asked to participate in a customer focus group. The domains to be investigated include: The current status at baseline and change in grantees' workforce development system at follow-up; grantee customer characteristics; implementation of the five grant requirements; implementation of the grantee's selected program design strategies; program implementation challenges; and systems change. The second data collection activity, the DEI data system, is designed to collect information not contained in the Workforce Investment Act Standardized Record Data (WIASRD) and Wagner-Peyser administrative data systems, including additional demographic, outcome and service utilization data. Data for the DEI data system will be collected according to each grantee's preferred mode of data collection and reporting, and will be integrated with their usual data collection processes. Uploading of DEI data system data from DEI grantees will occur on a quarterly basis.

II. Review Focus

DOL is interested in comments that:

* Evaluate whether the proposed collection of information is necessary, and 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.

III. Current Actions

Agency: Department of Labor, Office of Disability Employment Policy.

Title: Evaluation of the Employment and Training Administration/Office of Disability Employment Policy Disability Employment Initiative (DEI)

Annual Site Visits

Total Respondents: Approximately 542. As shown in the table below, the number of respondents per grantee depends on the number of LWIAs participating in the DEI evaluation. Each DEI State Lead, DRC and WIB Director will be interviewed in each state and two One-Stop and partners/employers will be interviewed per Local Workforce Investment Board (LWIB). In states that have one LWIB, one customer focus group will be conducted; in the states with more than one LWIB, three focus groups will be conducted.

Frequency: The DEI Evaluation Team will make two visits to each of the nine DEI grantees, one in 2012 and one in 2013.

Average Time per Response: Partners and employers from small entities will participate in interviews that are 45 minutes in duration. All other interviews will be 60 minutes in duration.

Estimated Total Burden Hours: The cumulative hours of burden due to the site visits to DEI grantees for the entire project period is 1,228 for two annual rounds of site visits.

ESTIMATED ANNUAL HOURS OF BURDEN DUE TO SITE VISITS

State	DEI state lead		DRC		One-stop staff		Partners & employers*	
	# of resp.	Hrs/resp.	# of resp.	Hrs/resp.	# of resp.	Hrs/resp.	# of resp.	Hrs/resp.
Alaska	1	2	5	2	2	0.5	2	0.75
Arkansas	1	2	4	2	16	0.5	16	0.75
Delaware	1	2	4	2	2	0.5	2	0.75
Illinois	1	2	4	2	8	0.5	8	0.75
Kansas	1	2	2	2	8	0.5	8	0.75

ESTIMATED ANNUAL HOURS OF BURDEN DUE TO SITE VISITS—Continued

State	DEI state lead		DRC		One-stop staff		Partners & employers*	
	# of resp.	Hrs/resp.	# of resp.	Hrs/resp.	# of resp.	Hrs/resp.	# of resp.	Hrs/resp.
Maine	1	2	4	2	6	0.5	6	0.75
New Jersey	1	2	6	2	16	0.5	16	0.75
New York	1	2	20	2	40	0.5	40	0.75
Virginia	1	2	8	2	18	0.5	18	0.75
Total	9	18	57	18	116	4.5	116	6.75

ESTIMATED ANNUAL HOURS OF BURDEN DUE TO SITE VISITS (CONTINUED)

State	WIB director		Focus groups		Total hours per year	Cumulative total over 2 years
	# of resp.	Hrs/resp.	# of resp.	Hrs/resp.		
Alaska	1	1	9	1.5	29	58
Arkansas	8	1	24	1.5	74	148
Delaware	1	1	9	1.5	27	54
Illinois	4	1	24	1.5	60	120
Kansas	4	1	24	1.5	56	112
Maine	3	1	24	1.5	56.5	113
New Jersey	8	1	24	1.5	78	156
New York	20	1	24	1.5	148	296
Virginia	9	1	24	1.5	85.5	171
Total	58	9	186	13.5	614	1,228

DEI Data System

Total Respondents: To determine the number of customers with disabilities from whom data will be collected via the DEI data system, the numbers of FY 2009 WIASRD and Wagner-Peyser services users were obtained from the DEI grant applications for the LWIAs selected to participate in the DEI evaluation. These numbers were then reduced by 11 percent (based on information reported in Livermore & Coleman 2010) to obtain an approximate unduplicated count of customers with disabilities, for a total of 43,756 respondents.

Frequency: Because the DEI evaluation includes baseline and follow-up data collection, burden on customers and staff will occur twice.

Average Time per Response: For each data collection point, customers with disabilities and staff will spend on average 4.8 minutes completing the DEI data collection form per point of contact (baseline or follow-up), as determined by a pilot test with 9 One-Stop customers.

Estimated Total Burden Hours: The burden estimate for the DEI data system for the entire study period is 12,352 hours.

DEI DATA SYSTEM BURDEN ESTIMATES

State	# of customers with disabilities (CWD) in FY 2009	2 CWD contact points	2 staff contact points	Time to complete the DEI data system at intake & outcome	Total hours burden per year	Total hours burden per study period
Alaska	5,471	2	2	4.82	193	387
Arkansas	893	2	2	4.82	32	63
Delaware	317	2	2	4.82	11	22
Illinois	3,465	2	2	4.82	122	245
Kansas	997	2	2	4.82	35	70
Maine	3,098	2	2	4.82	110	219
New Jersey	3,950	2	2	4.82	140	279
New York	17,835	2	2	4.82	630	1,261
Virginia	7,730	2	2	4.82	273	546
Total	45,756	.....	.....	.....	1,547	3,093

*The 11% assumption is based on a comparison of unduplicated and total counts of Social Security disability program beneficiaries who used WIA and Wagner Peyser services in 2005 and 2006 in three states, as shown in Livermore, Gina, and Silvie Colman. ''Use of One-Stops by Social Security Disability Beneficiaries in Four States Implementing Disability Program Navigator Initiatives.'' Washington, DC: Mathematica Policy Research, May 2010.

Frequency: Twice.

Total Responses: 43,756 respondents.

Average Time per Response: 4.8 minutes.

Estimated Total Burden Hours: 12,352 hours.

Total Burden Cost: $0.

Note that, due to rounding, the numbers for the totals may differ from the sum of the component numbers.

Comments submitted in response to this Notice will be summarized and/or included in the request for Office of Management and Budget approval of the ICR; they will also become a matter of public record.

Signed: at Washington, DC, this 26th day of May, 2011.

Kathleen Martinez,

Assistant Secretary, Office of Disability Employment Policy.

[FR Doc. 2011–15297 Filed 6–17–11; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Susan Harwood Training Grant Program, FY 2011

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notification of Funding Opportunity for Susan Harwood Training Grant Program, FY 2011.

Funding Opportunity No.: SHTG–FY–11–01.

Catalog of Federal Domestic Assistance No.: 17.502.

SUMMARY: This notice announces availability of approximately $4.7 million for Susan Harwood Training Program grants under the following categories: Capacity Building Developmental, Capacity Building Pilot, Targeted Topic Training, and Training and Educational Materials Development grants.

DATES: Grant applications must be received electronically by the *Grants.gov* system no later than 4:30 p.m., E.T., on Wednesday, July 20, 2011, the application deadline date.

ADDRESSES: The complete Susan Harwood Training Grant Program solicitation for grant applications and all information needed to apply for this funding opportunity are available at the Grants.gov Web site, *http://www.grants.gov*.

FOR FURTHER INFORMATION CONTACT: Questions regarding this solicitation for grant applications should be e-mailed to *HarwoodGrants@dol.gov* or directed to Kimberly Mason, Program Analyst, or Jim Barnes, Director, Office of Training and Educational Programs, at 847–759–7700 (note this is not a toll-free number). To obtain further information on the Susan Harwood Training Grant Program, visit the OSHA Web site at: *https://www.osha.gov,* select the ''Training'' tab, and then select ''Susan Harwood Training Grant Program.''

Authority: Section 21 of the Occupational Safety and Health Act of 1970, (29 U.S.C. 670), Public Law 111–117, and Public Law 112–10.

Signed at Washington, DC on June 15, 2011.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2011–15231 Filed 6–17–11; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Nixon Presidential Historical Materials; Opening of Materials

AGENCY: National Archives and Records Administration.

ACTION: Notice of Opening of Additional Materials.

SUMMARY: This notice announces the opening of additional Nixon Presidential Historical Materials by the Richard Nixon Presidential Library and Museum, a division of the National Archives and Records Administration. Notice is hereby given that, in accordance with section 104 of Title I of the Presidential Recordings and Materials Preservation Act (PRMPA, 44 U.S.C. 2111 note) and 1275.42(b) of the PRMPA Regulations implementing the Act (36 CFR part 1275), the Agency has identified, inventoried, and prepared for public access additional textual materials and sound recordings from among the Nixon Presidential Historical Materials.

DATES: The Richard Nixon Presidential Library and Museum intends to make the materials described in this notice available to the public on Wednesday, July 20, 2011, at the Richard Nixon Library and Museum's primary location in Yorba Linda, CA, beginning at 9:30 a.m. (P.D.T.). In accordance with 36 CFR 1275.44, any person who believes it necessary to file a claim of legal right or privilege concerning access to these materials must notify the Archivist of the United States in writing of the claimed right, privilege, or defense within 30 days of the publication of this notice.

ADDRESSES: The Richard Nixon Presidential Library and Museum, a division of the National Archives, is located at 18001 Yorba Linda Blvd., Yorba Linda, CA. Researchers must have a NARA researcher card, which they may obtain when they arrive at the facility. Petitions asserting a legal or constitutional right or privilege that would prevent or limit public access to the materials must be sent to the Archivist of the United States, National Archives at College Park, 8601 Adelphi Rd., College Park, Maryland 20740–6001.

FOR FURTHER INFORMATION CONTACT: Timothy Naftali, Director, Richard Nixon Presidential Library and Museum, 714–983–9120.

SUPPLEMENTARY INFORMATION: The following materials will be made available in accordance with this notice:

1. Previously restricted textual materials. Volume: 3.5 cubic feet. A number of textual materials previously withheld from public access have been reviewed for release and/or declassified under the systematic declassification review provisions and under the mandatory review provisions of Executive Order 13526, the Freedom of Information Act (5 U.S.C. 552), or in accordance with 36 CFR 1275.56 (Public Access regulations). The materials are from integral file segments for the National Security Council (NSC Files and NSC Institutional Files); the Henry A. Kissinger (HAK) Office Files; and White House Special Files, Staff Member and Office Files.

2. White House Central Files, Staff Member and Office Files. Volume: 260 cubic feet. The White House Central Files Unit was a permanent organization within the White House complex that maintained a central filing and retrieval system for the records of the President and his staff. The Staff Member and Office Files consist of materials that were transferred to the Central Files but were not incorporated into the Subject Files. The following file groups will be made available: David R. Gergen, William E. Timmons.

3. White House Central Files, Staff Member and Office Files, Miscellaneous Series: Submission of Presidential Conversations to the Committee on the Judiciary of the House of Representatives by President Richard Nixon, April 30, 1974. Volume: 1 cubic foot.

4. White House Central Files, Name Files: Volume: 1.5 cubic feet. The Name Files were used for routine materials filed alphabetically by the name of the correspondent; copies of documents in the Name Files were usually filed by subject in the Subject Files. The following Name Files folders will be made available: Baranowski, Frank; Black, Shirley Temple; Eastland, James O. (Senator); Graham, Billy; Konop; Litw; Booth, S.; Pulask; Rebozo, C. G.; Robert Allen; Richer, Evangeline; Rodriguez, Cleto L.; Williams, Paul.

5. Office of Presidential Papers and Archives. Exit Interviews. Volume:

<0.25 cubic feet. Exit interviews of Benjamin L. Stein, Gordon C. Strachan.

6. White House Special Files, Staff Member and Office Files. Volume: Approximately 60 minutes of audio recordings from the following collections: President's Personal File (PPF), White House Special Files—Administrative Files, John D. Ehrlichman and H. R. Haldeman.

Dated: June 14, 2011.

David S. Ferriero,

Archivist of the United States.

[FR Doc. 2011–15390 Filed 6–17–11; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Buy American Waiver Under the American Recovery and Reinvestment Act of 2009

AGENCY: National Science Foundation (NSF).

ACTION: Notice.

SUMMARY: NSF is hereby granting a limited exemption of section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act), Public Law 111–5, 123 Stat. 115, 303 (2009), with respect to the purchase of the Heating Ventilating and Air Conditioning (HVAC) system steam generators that will be used in the Alaska Region Research Vessel (ARRV). Steam generators provide added humidity for the HVAC system.

DATES: June 20, 2011.

ADDRESSES: National Science Foundation, 4201 Wilson Blvd., Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey Leithead, Division of Acquisition and Cooperative Support, 703–292–4595

SUPPLEMENTARY INFORMATION: In accordance with section 1605(c) of the Recovery Act and section 176.80 of Title 2 of the Code of Federal Regulations, the National Science Foundation (NSF) hereby provides notice that on May 25, 2011, the NSF Chief Financial Officer, in accordance with a delegation order from the Director of the agency, granted a limited project exemption of section 1605 of the Recovery Act (Buy American provision) with respect to the HVAC system steam generators that will be used in the ARRV. The basis for this exemption is section 1605(b)(2) of the Recovery Act, in that HVAC system steam generators of satisfactory quality are not produced in the United States in sufficient and reasonably available commercial quantities. The cost of the six (6) required HVAC system steam generators (~$15,000) represents less than 0.1% of the total $148 million Recovery Act award provided toward construction of the ARRV.

I. Background

The Recovery Act appropriated $400 million to NSF for several projects being funded by the Foundation's Major Research Equipment and Facilities Construction (MREFC) account. The ARRV is one of NSF's MREFC projects. Section 1605(a) of the Recovery Act, the Buy American provision, states that none of the funds appropriated by the Act ''may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.''

The ARRV has been developed under a cooperative agreement awarded to the University of Alaska, Fairbanks (UAF) that began in 2007. UAF executed the shipyard contract in December 2009 and the project is currently under construction. The purpose of the Recovery Act is to stimulate economic recovery in part by funding current construction projects like the ARRV that are ''shovel ready'' without requiring projects to revise their standards and specifications, or to restart the bidding process again.

Subsections 1605(b) and (c) of the Recovery Act authorize the head of a Federal department or agency to waive the Buy American provision if the head of the agency finds that: (1) Applying the provision would be inconsistent with the public interest; (2) the relevant goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) the inclusion of the goods produced in the United States will increase the cost of the project by more than 25 percent. If the head of the Federal department or agency waives the Buy American provision, then the head of the department or agency is required to publish a detailed justification in the **Federal Register**. Finally, section 1605(d) of the Recovery Act states that the Buy American provision must be applied in a manner consistent with the United States' obligations under international agreements.

II. Finding That Relevant Goods Are Not Produced in the United States in Sufficient and Reasonably Available Quality

Section 512.5.4 of the technical specifications for the ARRV (Rev E., October 2009) require installation of steam generators in the HVAC system. This is necessary to provide needed interior humidity for environmental quality and health of personnel in the dry air of the Polar regions. The HVAC specifications are based on the Society of Naval Architects and Marine Engineers (SNAME) Technical and Research Standard R 4–16 and establish the minimum acceptable standards for a sustained living and work environment at sea. The resulting technical requirements for selecting the HVAC system steam generators include:

1. Maintain 50% relative humidity at the compartment's interior design temperature of 70 °F during winter conditions.

2. Make steam for humidity from the ship's potable water using electricity rather than engine waste heat to save weight with piping systems.

3. Have the required steam generation capacity to maintain the specified level of humidity.

4. Demonstrate a Marine-grade and designed to withstand ship's motions

5. Fit within the required space.

Failure to meet any of these technical requirements would have severe negative consequences for the project. This includes potential nonperformance of the HVAC system and the resulting impacts on human health. It also includes significant added program cost if replacement is required during operations, or if additional space and weight allowances are needed to accommodate non-marine equipment. Given the availability of the steam generators for shore-side commercial applications as described below, the two most important factors quickly became the ability to operate at sea with the ship in motion (heave, pitch, and roll) and for the unit to fit within the available space. If system components are not specifically designed for use on a moving platform they can operate improperly and therefore not meet specification requirements, wear out pre-maturely and require more frequent replacement, or completely malfunction and become a warranty or major re-design issue. Most HVAC components designed for stationary applications ashore simply cannot be used on board ships. Most vendors recognize this and will not accept the risk of installing their systems unless they have experience with marine applications. The cost of the six steam generators required for the design is relatively low ($15,000). If non-compliant units were initially installed, the cost to re-design the system and re-install proper marine units after the compartments are closed and the vessel delivered would likely result in additional costs that exceed the

initial costs of the units themselves. Similarly, making space for non-compliant units would also lead to significant additional costs: a change request with the shipyard at this point in construction to re-arrange interior walls and other system components in order to make space for non-compliant units would be expected to cost on the order of $150,000—or roughly 10 times the purchase price of the steam generators themselves.

Space and weight considerations are vitally important for the ARRV to ensure the ship comes within acceptable operational limits for draft (depth from the waterline to the bottom of the keel), freeboard (height from the waterline to the main deck), and stability (the ability for the ship to right itself). Space for installation of system components was carefully considered in all aspects of the design of the ARRV. It is not possible to keep enlarging the spaces, or the vessel itself, without impacting other critical spaces or increasing total project cost. In most instances, it is far more cost-effective to purchase more expensive system components specifically designed for marine applications with size and weight limitations in mind, than to keep making the vessel larger.

The market research for availability of steam generators for the HVAC system was conducted by the shipyard during late 2010 and early 2011. A total of twenty eight (28) possible US manufacturers of commercial-grade steam generators were located. However, all of these manufacturers supplied steam generators for stationary applications in the building industry. Recognizing the special requirements involved related to the limited space and the mobile, marine operating environment, all but one declined to bid. The vendor that chose to submit a quote proposed a unit that had never been proven in a marine application and was too large to fit in the required space.

As noted in UAF's request for this exemption, the shipyard and their HVAC sub-contractor performed market research in late 2010 and early 2011 by reviewing industry publications and the Internet in order to assess whether there exists a domestic capability to provide HVAC system steam generators that meet the necessary requirements. Based on the information acquired, twenty eight (28) potential vendors were sent Request for Quotation (RFQ) packages and all were contacted either by phone or e-mail to determine suitability with regard to marine application and size. This effort reduced the list to one (1) possible US manufacturer. Technical review of the product quoted found that it had never been used in a marine application, was twice the sized required, and was deck-mounted as opposed to bulkhead mounted.

The project's conclusion is that there are no US manufacturers who produce a suitable HVAC system steam generator that meets all of the ARRV requirements, so an exemption to the Buy American requirements is necessary.

In the absence of a domestic supplier that could provide requirements-compliant HVAC system steam generators, UAF requested that NSF issue a Section 1605 exemption determination with respect to the purchase of foreign-supplied, requirements-compliant HVAC system steam generators, so that the vessel will meet the specific design and technical requirements that, as explained above, are necessary for this vessel to be able to perform its mission successfully. Furthermore, the shipyard's market research indicated that HVAC system steam generators compliant with the ARRV's technical specifications and requirements are commercially available from foreign vendors within their standard product lines.

NSF's Division of Acquisition and Cooperative Support (DACS) and other NSF program staff reviewed the UAF exemption request submittal, found that it was complete, and determined that sufficient technical information was provided in order for NSF to evaluate the exemption request and to conclude that an exemption is needed and should be granted.

III. Exemption

On May 25, 2011, based on the finding that no domestically produced HVAC system steam generators met all of the ARRV's technical specifications and requirements and pursuant to section 1605(b), the NSF Chief Financial Officer, in accordance with a delegation order from the Director of the agency signed on May 27, 2010, granted a limited project exemption of the Recovery Act's Buy American requirements with respect to the procurement of HVAC system steam generators.

Dated: June 14, 2011.

Lawrence Rudolph,

General Counsel.

[FR Doc. 2011–15294 Filed 6–17–11; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Buy American Waiver Under the American Recovery and Reinvestment Act of 2009

AGENCY: National Science Foundation (NSF).

ACTION: Notice.

SUMMARY: NSF is hereby granting a limited exemption of section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act), Public Law 111–5, 123 Stat. 115, 303 (2009), with respect to the purchase of the ultrasonic antifouling system that will be used in the Alaska Region Research Vessel (ARRV). An ultrasonic antifouling system prevents the harmful growth of marine organisms in the ship's sea water inlets and piping systems.

DATES: June 20, 2011.

ADDRESSES: National Science Foundation, 4201 Wilson Blvd., Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey Leithead, Division of Acquisition and Cooperative Support, 703–292–4595.

SUPPLEMENTARY INFORMATION: In accordance with section 1605(c) of the Recovery Act and section 176.80 of Title 2 of the Code of Federal Regulations, the National Science Foundation (NSF) hereby provides notice that on May 25, 2011, the NSF Chief Financial Officer, in accordance with a delegation order from the Director of the agency, granted a limited project exemption of section 1605 of the Recovery Act (Buy American provision) with respect to the ultrasonic antifouling system that will be used in the ARRV. The basis for this exemption is section 1605(b)(2) of the Recovery Act, in that an ultrasonic antifouling system of satisfactory quality is not produced in the United States in sufficient and reasonably available commercial quantities. The cost of the ultrasonic antifouling system (~$21,000) represents less than 0.1% of the total $148 million Recovery Act award provided toward construction of the ARRV.

I. Background

The Recovery Act appropriated $400 million to NSF for several projects being funded by the Foundation's Major Research Equipment and Facilities Construction (MREFC) account. The ARRV is one of NSF's MREFC projects. Section 1605(a) of the Recovery Act, the Buy American provision, states that none of the funds appropriated by the Act ''may be used for a project for the construction, alteration, maintenance, or

repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.''

The ARRV has been developed under a cooperative agreement awarded to the University of Alaska, Fairbanks (UAF) that began in 2007. UAF executed the shipyard contract in December 2009 and the project is proceeding toward construction. The purpose of the Recovery Act is to stimulate economic recovery in part by funding current construction projects like the ARRV that are ''shovel ready'' without requiring projects to revise their standards and specifications, or to restart the bidding process again.

Subsections 1605(b) and (c) of the Recovery Act authorize the head of a Federal department or agency to waive the Buy American provision if the head of the agency finds that: (1) Applying the provision would be inconsistent with the public interest; (2) the relevant goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) the inclusion of the goods produced in the United States will increase the cost of the project by more than 25 percent. If the head of the Federal department or agency waives the Buy American provision, then the head of the department or agency is required to publish a detailed justification in the Federal Register. Finally, section 1605(d) of the Recovery Act states that the Buy American provision must be applied in a manner consistent with the United States' obligations under international agreements.

II. Finding That Relevant Goods Are Not Produced in the United States in Sufficient and Reasonably Available Quality

Installation of an ultrasonic antifouling system is included in the construction specifications of the ARRV to prevent the growth of marine organisms in the ship's sea water inlets and piping systems. Harmful marine organisms for ships include barnacles, shellfish and grasses and are known collectively as ''biofouling.'' There are five inlets and piping systems on the ARRV that require protection; two that supply seawater for scientific purposes, and three that supply cooling water to the main machinery and auxiliary systems. Main machinery includes diesel engines on the generators and main electric propulsion motors. Auxiliary machinery includes fire fighting, ballast and heating ventilating and air conditioning systems. If the growth of these organisms goes unchecked, the water flow to the machinery will decrease to the point where they will not perform as required or damage will occur as a result of overheating. Science seawater systems include uncontaminated seawater for sampling as the ship is underway, and incubator water for keeping samples at the current sea surface temperature. If the flow to the science seawater systems is reduced, or contaminated with undesirable marine growth or chemicals from a different kind of antifouling system, the data collected could be severely compromised and not meet scientific data quality requirements.

Design drivers for selecting the type of anti-fouling system used include:

1. Proven ability to control marine growth in inlets and piping

2. No chemical contamination of the seawater itself. Failure to meet either of these technical requirements would have severe negative consequences for the project with regard to nonperformance and significant added program cost.

An ultrasonic antifouling system produces low level sound waves in the water of a certain frequency that discourages marine organisms from growing in the area. Specifying such a system prevents the vessel from having to use other methods that potentially contaminate the water with biocides, such as anti-fouling paints (which generally contain copper) or other systems which inject chemicals. Both of these chemical-based methods would have a detrimental effect on the uncontaminated science seawater system by introducing chemicals that would skew the natural elements being studied and thus produce erroneous data. An ultrasonic system has zero discharges into the water and is proven technology that offers excellent protection against marine biofouling in localized areas. Use of such a system will help ensure that science samples are taken from ''pure'' sea water to the maximum extent possible.

The daily cost of operations for the ARRV is estimated at $45,000 per day in 2014 dollars, or $12.6M/year for 280 days at sea. Given that the science seawater system is employed on nearly every multi-disciplinary science cruise, the loss to science and the federal ship funding agencies could be significant if samples were found to be contaminated or otherwise compromised. A main machinery casualty from overheating could result in the loss or re-scheduling of weeks of ship time and cost hundreds of thousands of dollars in repairs.

The initial market research for availability of an ultrasonic antifouling system was done by UAF in 2009. Only two sources were identified world-wide and none were manufactured in the U.S. As noted in UAF's request for this exemption, the shipyard performed market research in late 2010 by reviewing industry publications and the internet in order to assess whether there exists a domestic capability to provide an ultrasonic antifouling system that meets the necessary requirements. None were found. The result of the shipyard's independent market research remains consistent with a determination made by the UAF project team in 2009.

The project's conclusion is there are no U.S. manufacturers who produce a suitable ultrasonic antifouling system that meets all of the ARRV requirements so an exemption to the Buy American requirements is necessary.

In the absence of a domestic supplier that could provide a requirements-compliant ultrasonic antifouling system, UAF requested that NSF issue a Section 1605 exemption determination with respect to the purchase of a foreign-supplied, requirements-compliant ultrasonic antifouling system, so that the vessel will meet the specific design and technical requirements which, as explained above, are necessary for this vessel to be able to perform its mission safely and successfully. Furthermore, the shipyard's market research was consistent with UAF's and indicated that an ultrasonic antifouling system compliant with the ARRV's technical specifications and requirements is commercially available from foreign vendors within their standard product lines.

NSF's Division of Acquisition and Cooperative Support (DACS) and other NSF program staff reviewed the UAF exemption request submittal, found that it was complete, and determined that sufficient technical information was provided in order for NSF to evaluate the exemption request and to conclude that an exemption is needed and should be granted.

III. Exemption

On May 25, 2011, based on the finding that no domestically produced ultrasonic antifouling system met all of the ARRV's technical specifications and requirements and pursuant to section 1605(b), the NSF Chief Financial Officer, in accordance with a delegation order from the Director of the agency signed on May 27, 2010, granted a limited project exemption of the Recovery Act's Buy American requirements with respect to the procurement of an ultrasonic antifouling system.

Dated: June 14, 2011.

Lawrence Rudolph,

General Counsel.

[FR Doc. 2011–15295 Filed 6–17–11; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0135]

Interim Staff Guidance Regarding the Environmental Report for Applications To Construct and/or Operate Medical Isotope Production Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Interim staff guidance; request for public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) staff is requesting public comment on a proposed draft Interim Staff Guidance (ISG), NPR–ISG–2011–001, ''Staff Guidance Regarding the Environmental Report for Applications to Construct and/or Operate Medical Isotope Production Facilities.'' This ISG provides guidance to the Environmental Review and Guidance Update Branch (RERB) of the Division of License Renewal (DLR), Office of Nuclear Reactor Regulation on the information that should be included in the Environmental Report, which is part of an application to construct and operate a medical isotope production facility. The draft ISG is located in the Agencywide Documents Access and Management System (ADAMS) ML11116A166.

DATES: Comments may be submitted by August 4, 2011. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any one of the following methods. Please include Docket ID NRC–2011–0135 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.

• *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2011–0135. Address questions about NRC dockets to Carol Gallagher 301–492–3668; e-mail *carol.gallagher@nrc.gov*.

• *Mail comments to:* Cindy K. Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Division of Administrative Services, Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to RADB at 301–492–3446.

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

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

• *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 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 notice can be found at *http://www.regulations.gov* by searching for documents filed under Docket ID: NRC–2011–0135.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Sloan, Project Manager, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; *telephone:* 301–415–1619, *e-mail: Scott.Sloan@nrc.gov*.

The NRC staff is issuing this notice to solicit public comments on the proposed NPR–ISG–2011–001. After the NRC staff considers any public comments, it will make a determination regarding issuance of the proposed ISG.

Dated at Rockville, Maryland, this 13th day of June 2011.

For the Nuclear Regulatory Commission.

Andrew S. Imboden,

Chief, Environmental Review and Guidance Update Branch, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 2011–15227 Filed 6–17–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0148]

Notice of Issuance of Regulatory Guide

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance and Availability of Regulatory Guide 8.4, Revision 1, ''Personnel Monitoring Device—Direct-Reading Pocket Dosimeters.''

FOR FURTHER INFORMATION CONTACT: Harriet Karagiannis, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; *telephone:* 301–251–7477 or *e-mail: Harriet.Karagiannis@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC or Commission) is issuing a revision to an existing guide in the agency's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Proposed Revision 1 of Regulatory Guide (RG) 8.4, ''Personnel Monitoring Device—Direct-Reading Pocket Dosimeters,'' was issued with a temporary identification as Draft Regulatory Guide, DG–8036 on April 9, 2010 (75 FR 18241). This guidance sets forth the NRC staff's views of acceptable methods for complying with the NRC's regulations on direct-reading pocket dosimeters; it includes specific performance standards for personnel monitoring but not for area monitoring.

The regulatory requirements for the use of personnel monitoring devices are mainly established in Title 10 of the *Code of Federal Regulations,* (CFR) part 20, ''Standards for Protection Against

Radiation'' (10 CFR part 20), which requires licensees to determine and record occupational exposures to demonstrate compliance with dose limits for adults (including declared pregnant women), for an embryo/fetus, and for minors, and to provide and direct the use of individual monitoring devices. In addition, 10 CFR part 34, ''Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations,'' includes a specific provision, 10 CFR 34.47, ''Personnel Monitoring,'' that requires the use of a direct-reading pocket dosimeter or, as an alternative to an ion-chamber pocket dosimeter, an electronic personnel dosimeter for industrial radiographer personnel monitoring. Also, NUREG–1556, ''Consolidated Guidance about Materials Licenses,'' Volume 2, ''Program-Specific Guidance about Industrial Radiography Licenses,'' issued August 1998, provides guidance for the use of pocket dosimeters in industrial radiographic operations.

II. Further Information

On April 9, 2010, DG–8036 was published with a request for public comments (75 FR 18241). The public comment period closed on June 8, 2010. The staff's response to public comments are located in NRC's Agencywide Documents Access and Management System (ADAMS) under Accession No. ML101900115. The regulatory analysis may be found in ADAMS under Accession No. ML101900101. Electronic copies of Regulatory Guide 8.4, Revision 1 are available through the NRC's public Web site under ''Regulatory Guides'' at *http://www.nrc.gov/reading-rm/doc-collections/.*

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR) located at Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852–2738. The PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at 301–415–4737 or 800–397–4209, by fax at (301) 415–3548, and by e-mail to *pdr.resource@nrc.gov.*

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

Dated at Rockville, Maryland, this 10th day of June, 2011.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2011–15220 Filed 6–17–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0136]

Notice of Opportunity for Public Comment on the Proposed Model Safety Evaluation for Plant-Specific Adoption of Technical Specifications, Task Force Traveler TSTF–510, Revision 2, ''Revision to Steam Generator Program Inspection Frequencies and Tube Sample Selection''

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of opportunity for public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is requesting public comment on the proposed model safety evaluation (SE) for plant-specific adoption of Technical Specifications (TS) Task Force (TSTF) Traveler TSTF–510, Revision 2, ''Revision to Steam Generator Program Inspection Frequencies and Tube Sample Selection.'' TSTF–510, Revision 2, is available in the Agencywide Documents Access and Management System (ADAMS) under Accession Number ML110610350, and includes a model application. The proposed change revises the Improved Standard Technical Specification (ISTS), NUREGs–1430, –1431, and –1432, Specification 5.5.9, ''Steam Generator (SG) Program,'' 5.6.7, ''Steam Generator Tube Inspection Report,'' and the SG Tube Integrity specification (Limiting Condition for Operation (LCO) 3.4.17, LCO 3.4.20, and LCO 3.4.18 in ISTS NUREG–1430, –1431, and –1432, respectively). The proposed changes are necessary to address implementation issues associated with the inspection periods, and address other administrative changes and clarifications. The model SE will facilitate expedited approval of plant-specific adoption of TSTF–510, Revision 2. This TS improvement is part of the consolidated line item improvement process (CLIIP).

DATES: The comment period expires on July 20, 2011. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any one of the following methods. Please include Docket ID NRC–2011–0136 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.

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2011–0136. Address questions about NRC dockets to Carol Gallagher, 301–492–3668; e-mail *carol.gallagher@nrc.gov.*
- *Mail comments to:* Cindy K. Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Division of Administrative Services, Office of Administration, *Mail Stop:* TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to RADB at 301–492–3446.

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

- *NRC's Public Document Room (PDR):* The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–

415–4737, or by e-mail to *pdr.resource@nrc.gov.* The proposed model SE for plant-specific adoption of TSTF–510, Revision 2, is available electronically under ADAMS Accession Number ML111150552.

• *Federal Rulemaking Web site:* Public comments and supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID: NRC–2011–0136.

FOR FURTHER INFORMATION CONTACT: Ms. Michelle C. Honcharik, Senior Project Manager, Licensing Processes Branch, *Mail Stop:* O–12 D1, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC, 20555–0001; telephone 301–415–1774 or e-mail at *michelle.honcharik@nrc.gov* or Mr. Ravinder Grover, Technical Specifications Branch, *Mail Stop:* O–7 C2A, Division of Inspection and Regional Support, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; *telephone:* 301–415–2166 or e-mail: *ravinder.grover@nrc.gov.*

SUPPLEMENTARY INFORMATION: TSTF–510, Revision 2, is applicable to pressurized water reactor plants. The proposed changes revise the ISTS to implement a number of editorial corrections, changes, and clarifications intended to improve internal consistency, consistency with the implementing industry documents, and usability without changing the intent of the requirements. The proposed changes to Specification 5.5.9.d.2 are more effective in managing the frequency of verification of tube integrity and sample selection than those required by current technical specifications. As a result, the proposed changes will not reduce the assurance of the function and integrity of SG tubes. TS Bases changes that reflect the proposed changes are included.

This notice provides an opportunity for the public to comment on proposed changes to the ISTS after a preliminary assessment and finding by the NRC staff that the agency will likely offer the changes for adoption by licensees. This notice solicits comment on proposed changes to the ISTS, which if implemented by a licensee will modify the plant-specific TS. The NRC staff will evaluate any comments received and reconsider the changes or announce the availability of the changes for adoption by licensees as part of the CLIIP. Licensees opting to apply for this TS change are responsible for reviewing the NRC staff's SE, and the applicable technical justifications, providing any necessary plant-specific information, and assessing the completeness and accuracy of their license amendment request (LAR). The NRC will process each amendment application responding to the notice of availability according to applicable NRC rules and procedures.

The proposed changes do not prevent licensees from requesting an alternate approach or proposing changes other than those proposed in TSTF–510, Revision 2. However, significant deviations from the approach recommended in this notice or the inclusion of additional changes to the license require additional NRC staff review. This may increase the time and resources needed for the review or result in NRC staff rejection of the LAR. Licensees desiring significant deviations or additional changes should instead submit an LAR that does not claim to adopt TSTF–510, Revision 2.

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

For the Nuclear Regulatory Commission.

John R. Jolicoeur,

Chief, Licensing Processes Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. 2011–15225 Filed 6–17–11; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64675; File No. SR–EDGA–2011–18]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGA Exchange, Inc. Fee Schedule

June 15, 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 June 3, 2011, the EDGA Exchange, Inc. (the ''Exchange'' or the ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its fees and rebates applicable to Members [3] of the Exchange pursuant to EDGA Rule 15.1(a) and (c). All of the changes described herein are applicable to EDGA Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.directedge.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Purpose

In SR–EDGA–2011–16,[4] the Exchange filed for immediate effectiveness a rule filing to amend Rule 11.9 to introduce three additional routing strategies to the rule. These routing strategies included ROBB and ROCO, which were added to Rules 11.9(b)(3)(c)(vi)–(vii), respectively, and SWPC, which was added to Rule 11.9(b)(3)(q).

ROBB/ROCO are routing options whereby orders check the System for available shares and then are sent to destinations on the System routing table. If shares remain unexecuted after routing, they are posted on the book, unless otherwise instructed by the User.[5] The difference between the latter two routing strategies lies in the difference in the System routing tables for the ROBB/ROCO strategies.

SWPC is a routing option under which an order checks the System for available shares and then is sent to only Protected Quotations and only for displayed size. To the extent that any portion of the order is unexecuted, the remainder is posted on the book at the

[3] A Member is any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange.

[4] *See* SR–EDGA–2011–16 (May 5, 2011).

[5] As defined in Rule 1.5(cc).

order's limit price. The entire SWPC order will not be cancelled back to the User immediately if at the time of entry there is an insufficient share quantity in the SWPC order to fulfill the displayed size of all Protected Quotations. This routing option is similar to the strategies set forth in NASDAQ Rule 4758(a)(1)(A)(vi) (''NASDAQ's ''MOPP'' strategy) and BATS Exchange, Inc. Rule 11.13(a)(3)(D) (''Parallel T'').[6]

The Exchange proposes to add the ROBB and ROCO strategies to the description of Flag BY and assign it a rebate of $0.0004 per share (*i.e,* routed to BATS BYX Exchange, removes liquidity) since they are additional strategies that route orders to the BATS BYX Exchange (''BYX'') for the purpose of removing liquidity.

In addition, the Exchange also proposes to add the ROCO routing strategy to the description of Flag MT and assign it a fee of $0.00012 per share since it routes orders to EDGX Mid-Point Match (''MPM'').

Additionally, the Exchange proposes to add the SWPC routing strategy to Flag SW and assign it a fee of $0.0031 per share for removal of liquidity from all market centers except from the New York Stock Exchange (NYSE). For any orders that use the SWPC strategy that remove liquidity from the NYSE, the Exchange will continue to assign them a Flag D and charge a fee of $0.0023 per share. This is further clarified in footnote 8 to the EDGA fee schedule.

Finally, the Exchange proposes to add the ROOC routing strategy, as defined in EDGA Rule 11.9(b)(3)(n),[7] to the description of the RT flag so that the ROOC strategy yields the RT flag and is assessed a rate of $0.0025 per share for any routed executions other than executions adding liquidity at the opening or closing sessions. In addition, the Exchange proposes to add clarifying language to footnote 10 of the fee schedule to clarify that footnote 10 only applies to the ROUT routing strategy and *not* to the ROOC routing strategy.

The Exchange proposes to implement these amendments to its fee schedule on June 6, 2011.

[6] *See, e.g.,* NASDAQ Rule 4758, BATS Rule 11.13(a)(3)(D).

[7] Rule 11.9(b)(3)(n) defines a ROOC as a routing option for orders that the entering firm wishes to designate for participation in the opening or closing process of a primary listing market (NYSE, Nasdaq, NYSE Amex, or NYSE Arca) if received before the opening/closing time of such market. If shares remain unexecuted after attempting to execute in the opening or closing process, they are either posted to the book, executed, or routed like a ROUT routing option, as defined in Rule 11.9(b)(3)(c).

Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Exchange Act,[8] in general, and furthers the objectives of Section 6(b)(4),[9] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The fee of $0.0012 per share for the MT Flag for orders that are routing using the ROCO routing strategy represents a pass through of the EDGX fee for removing liquidity from MPM, as indicated in the EDGX fee schedule for Flag MT. The $0.0012 per share is competitive and superior to comparable exchange standard removal rates of $0.0030 per share (Nasdaq), $0.0030 per share (NYSE Arca), $0.0023 per share (NYSE), and $0.0028 per share (BATS BZX). The fee is also equitable as it is competitive with other fees assessed for similar routing strategies to ROCO that access low cost destinations, such as ROUZ, as defined in Rule 11.9(b)(3)(c)(v) (yields Flag Z, $0.0010 per share) and ROUD/ROUE, as defined in Rules 11.9(b)(3)(b) and 11.9(b)(3)(c)(i) (Flag T, $0.0012 per share). The Exchange believes that the proposed fee is non-discriminatory in that it applies uniformly to all Members.

The Exchange believes that the rebate of $0.0004 per share for routing to BYX and removing liquidity using routing strategies ROBB/ROCO is an equitable allocation of reasonable dues, fees, and other charges among its members and other person using its facilities. When EDGA routes to BYX and removes liquidity, BYX rebates EDGA $0.0003 per share. If a member uses EDGA to route to BYX using one of the listed routing strategies (including ROBB/ROCO, as proposed), EDGA provides a $0.0001 discount per share. The Exchange believes that this discounted rate would incentivize Members to first route through EDGA to reach BYX and would thereby increase liquidity on EDGA. This type of rate is also similar to other rates that EDGA charges, such as ''one-under'' pricing for routing to Nasdaq using the INET routing strategy and is consistent with the processing of similar routing strategies by EDGA's competitors.[10] The Exchange believes that the proposed rebate is non-discriminatory in that it applies uniformly to all Members.

The fee of $0.0031 per share for the SWPC routing strategy is an equitable allocation of reasonable dues, fees, and other charges in that the SWPC routing strategy is limited in its interaction with other Member orders as it only executes to the extent a Member order is at the Protected Quotation. As a result, compared to other routing strategies that always sweep the EDGA book before routing out, such as ROBA (fee of $0.0025 per share), the SWPC fee is higher. Secondly, the fee is equitable when compared to other similar type strategies of EDGA's competitors. As noted in SR–EDGA–2011–16 (May 5, 2011), the SWPC routing strategy is based on Nasdaq's MOPP strategy and BATS BZX/BYX Exchange Parallel T routing strategy.[11] Specifically, Nasdaq charges $0.0035 per share for the MOPP strategy and BATS charges $0.0033 per share for the Parallel T strategy. EDGA's rate is even more competitive than these. Finally, the SWPC routing strategy is similar in functionality to SWPA/SWPB, both of which are charged $0.0031 per share.[12] The lower fee charged for removing liquidity from the NYSE ($0.0023 per share) is consistent with the processing of similar routing strategies by EDGA's competitors. Secondly, of the major market centers, the NYSE fees for removing liquidity itself are lower, and EDGA is thus able to pass back such lower rates to its Members.

The Exchange believes that assessing a fee of $0.0025 per share for Members using the ROOC routing strategy, as defined in EDGA Rule 11.9(b)(3)(n), for any routed executions other than executions adding liquidity at the opening or closing sessions of primary listing markets, is an equitable allocation of reasonable dues, fees, and other charges among its members and other person using its facilities. The rate represents a flat, low cost routing rate for EDGA members. The flat-rate provides simplicity for customers instead of passing through the actual rates that EDGA receives from various destinations on its schedule. This type of rate is similar to other rates that EDGA charges, such as the flat rates for the ROUT routing strategy (yielding Flag RT and priced at $.0025 per share) and for Flag 7 executions ($0.0027 per

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] *See* footnote 7 of the EDGA fee schedule. *See also* BATS BZX fee schedule: Discounted Destination Specific Routing (''One Under'') to NYSE, NYSE ARCA and NASDAQ. *See* Securities Exchange Act Release No. 62858, 75 FR 55838 (September 14, 2010) (SR–BATS–2010–023) (modifying the BATS fee schedule in order to amend the fees for its BATS + NYSE Arca destination specific routing option to continue to offer a ''one under'' pricing model).

[11] *See, e.g.,* NASDAQ Rule 4758 and BATS Rule 11.13.

[12] *See* Securities Exchange Act Release No. 63820, 76 FR 7608 (February 10, 2011) (SR–EDGA–2011–02).

share). In this rate, EDGA takes into account the rates that it is charged or rebated when routing to other destinations. It is also consistent with the processing of similar routing strategies by EDGA's competitors, such as Nasdaq's DOTM routing strategy [13] for which Nasdaq charges $0.0030 per share.

The rate is also equitable in that for any routed executions other than adding liquidity at the opening or closing sessions of primary listing markets, the ROOC routing strategy acts like an ROUT routing strategy, as defined in Rule 11.9(b)(3)(c). As a result, it is assessed an identical fee to the ROUT routing strategy. The Exchange believes that the proposed rebate is non-discriminatory in that it applies uniformly to all Members.

The Exchange also notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange. The Exchange believes that the proposed rates are equitable in that they apply uniformly to all Members. The Exchange believes the fees and credits remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) [sic] of the Act [14] and Rule 19b–4(f)(2) [15] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–EDGA–2011–18 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGA–2011–18. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGA–2011–18 and should be submitted on or before July 11, 2011.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–15265 Filed 6–17–11; 8:45 am]

BILLING CODE 8011–01–P

[13] Nasdaq's DOTM routing strategy posts on a primary listing market for the open and then acts like Nasdaq's STGY routing strategy for the rest of the trading session. *See* NASDAQ Rule 4758. [sic]

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 19b–4(f)(2).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64674; File No. SR–CBOE–2011–054]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated: Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Sales Value Fee

June 15, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 3, 2011, Chicago Board Options Exchange, Incorporated (''CBOE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by CBOE. 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 make clarifying changes to its Fees Schedule concerning the application and collection of the Sales Value Fee. 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

1. Purpose

The Exchange is proposing amendments to its Fees Schedule to make clear the circumstances that trigger application of the Sales Value Fee, and to make other clarifying changes. Section 6 of the CBOE Fees Schedule permits the Exchange to collect a fee from its Trading Permit Holders for sales of securities on CBOE and the CBOE Stock Exchange, LLC (''CBSX'') [3] with respect to which the Exchange is obligated to pay a fee to the SEC pursuant to Section 31 of the Act [4] and Rule 31, thereunder.[5] Each national securities exchange and association is required to calculate the aggregate dollar amount of ''covered sales'' occurring on the exchange or through a member of the national securities association and to pay fees based on those covered sales to the Commission (''Section 31 fees''). A covered sale is a ''sale of a security, other than an exempt sale or a sale of a security future, occurring on a national securities exchange or by or through any member of a national securities association otherwise than on a national securities exchange.'' [6] Pursuant to Section 6 of the Fees Schedule, the Exchange assesses a Trading Permit Holder the Sales Value Fee for an executed sell order entered on CBOE or CBSX that results in a covered sale. The Sales Value Fee defrays the cost of the Section 31 fee triggered by the covered sale. In this regard, the Sales Value Fee assessed a Trading Permit Holder is equal to the Section 31 fee assessed by the Commission for the covered sale. Further, the Exchange adjusts the Sales Value Fee in lock step with changes to the Section 31 fee made by the Commission. Assessing a sales fee is common practice among the national securities exchanges and associations.[7]

As noted above, the Sales Value Fee defrays the cost of the Section 31 fee. The Sales Value Fee is triggered by the fulfillment of a Trading Permit Holder's sell order in options securities entered on CBOE or equity securities entered on CBSX that results in a covered sale. If the Trading Permit Holder's sell order is fulfilled on CBOE or CBSX, the Exchange incurs a Section 31 fee obligation. Sell orders in options securities entered on CBOE or equity securities entered on CBSX that are routed to another market for execution, however, do not result in a covered sale on CBOE or CBSX. Execution of such routed orders is facilitated by CBOE's and CBSX's routing brokers,[8] which act as the selling Trading Permit Holder for a routed order on the away market on behalf of the CBOE or CBSX Trading Permit Holder that entered the sell order. Such routed sell orders result in a covered sale on the away market, which incurs a Section 31 fee obligation. Like the Exchange, the away market assesses a sales fee on the Trading Permit Holder that entered the sell order, in this case the CBOE or CBSX routing broker, as applicable, to defray the cost of the Section 31 fee obligation. The Exchange may reimburse its routing broker for all Section 31-related fees (*e.g.,* away market sales fees) incurred by the routing broker in connection with the routing services it provides.

In turn, the Exchange assesses its Trading Permit Holder, the original selling party, a Sales Value Fee pursuant to Section 6 of the Fees Schedule to defray the cost of the Section 31 fee passed on by the away exchange pursuant to its sales fee. As such, the Exchange's Sales Value Fee offsets the sales fee its routing broker is assessed by the away market (which the routing broker then passes to CBOE), 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 CBOE or CBSX.

In light of the varying means by which a Sales Value Fee is incurred by Trading Permit Holders, as described above, the Exchange believes that a more detailed description of the circumstances that trigger the Sales Value Fee is warranted. Accordingly, the new Fees Schedule language proposed by the Exchange expressly discusses covered sales in both option and non-option securities. In addition, the proposed new Fees Schedule language includes a description of sell orders entered on CBOE or CBSX that result in a covered sale on another exchange, expressly discussing the fee incurred by the Exchange and the application of the Sales Value Fee in such circumstances.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (''Act''),[9] in general, and furthers the objectives of Section 6(b)(4) [10] of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among Trading Permit Holders and other persons using its facilities and it does not unfairly discriminate between customers, issuers, brokers or dealers.

The proposed clarifying language does not change the application and assessment of the Sales Value Fee under the Fees Schedule, but rather provides greater detail on the transactions that trigger the fee and the process by which the fee is collected. The Exchange applies Section 6 of its Fees Schedule uniformly to all Trading Permit Holders' sell orders entered on CBOE and CBSX resulting in covered sales. The Exchange also believes the proposed rule change is consistent with the provisions of Section 6 of the Act,[11] in general and with Section 6(b)(5) of the Act,[12] in particular, which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. The Exchange believes that the proposed rule change is consistent with these requirements because the proposed amended Fees Schedule text provides Trading Permit Holders with more detail regarding the circumstances under which the Exchange assesses a Sales Value Fee, and the process by

[3] CBSX operates as a facility of CBOE.

[4] 15 U.S.C. 78ee.

[5] 17 CFR 240.31.

[6] 17 CFR 240.31(a)(6).

[7] *See, e.g.,* ISE Rule 212, NASDAQ Rule 7002, NASDAQ OMX PHLX Rule 607 and NYSE Rule 440H.

[8] CBOE and CBSX route orders to other exchanges in conjunction with one or more routing brokers pursuant to CBOE Rule 6.14B and CBSX Rule 52.10, respectively.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(5).

which the fee is collected. As such, the proposed changes will help avoid Trading Permit Holder confusion and foster better understanding of the application of the fee. Accordingly, the Exchange believes the proposed rule change will promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

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.

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) of the Act [13] and subparagraph (f)(2) of Rule 19b–4 [14] thereunder. 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–2011–054 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–2011–054. 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 CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File No. SR–CBOE–2011–054 and should be submitted on or before July 11, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–15281 Filed 6–17–11; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64673; File No. SR–C2–2011–013]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Sales Value Fee

June 15, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 3, 2011, C2 Options Exchange, Incorporated (''C2'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by C2. 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

C2 Options Exchange, Incorporated (''C2'' or ''Exchange'') proposes to make clarifying changes to its Fees Schedule concerning the application and collection of the Sales Value Fee. 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, C2 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. C2 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, Proposed Rule Change

1. Purpose

The Exchange is proposing amendments to its Fees Schedule to make clear the circumstances that trigger application of the Sales Value Fee, and to make other clarifying changes. Section 6 of the C2 Fees Schedule permits the Exchange to collect a fee from its Trading Permit Holders for sales of securities on C2 with respect to which the Exchange is obligated to pay a fee to the SEC pursuant to Section 31 of the Act [3] and Rule 31, thereunder.[4] Each national securities exchange and association is required to calculate the aggregate dollar amount of ''covered sales'' occurring on the exchange or through a member of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78ee.

[4] 17 CFR 240.31.

the national securities association and to pay fees based on those covered sales to the Commission (''Section 31 fees''). A covered sale is a ''sale of a security, other than an exempt sale or a sale of a security future, occurring on a national securities exchange or by or through any member of a national securities association otherwise than on a national securities exchange.'' [5] Pursuant to Section 6 of the Fees Schedule, the Exchange assesses a Trading Permit Holder the Sales Value Fee for an executed sell order entered on C2 that results in a covered sale. The Sales Value Fee defrays the cost of the Section 31 fee triggered by the covered sale. In this regard, the Sales Value Fee assessed a Trading Permit Holder is equal to the Section 31 fee assessed by the Commission for the covered sale. Further, the Exchange adjusts the Sales Value Fee in lock step with changes to the Section 31 fee made by the Commission. Assessing a sales fee is common practice among the national securities exchanges and associations.[6]

As noted above, the Sales Value Fee defrays the cost of the Section 31 fee. The Sales Value Fee is triggered by the fulfillment of a Trading Permit Holder's sell order in options securities entered on C2 that results in a covered sale. If the Trading Permit Holder's sell order is fulfilled on C2, the Exchange incurs a Section 31 fee obligation. Sell orders in securities entered on C2 that are routed to another market for execution, however, do not result in a covered sale on C2. Execution of such routed orders is facilitated by C2's routing broker,[7] which acts as the selling Trading Permit Holder for a routed order on the away market on behalf of the C2 Trading Permit Holder that entered the sell order. Such routed sell orders result in a covered sale on the away market, which incurs a Section 31 fee obligation. Like the Exchange, the away market assesses a sales fee on the Trading Permit Holder that entered the sell order, in this case the C2 routing broker, to defray the cost of the Section 31 fee obligation. The Exchange may reimburse its routing broker for all Section 31-related fees (e.g., away market sales fees) incurred by the routing broker in connection with the routing services it provides. In turn, the Exchange assesses its Trading Permit Holder, the original selling party, a Sales Value Fee pursuant to Section 6 of the Fees Schedule to defray the cost of the Section 31 fee passed on by the away exchange pursuant to its sales fee. As such, the Exchange's Sales Value Fee offsets the sales fee its routing broker is assessed by the away market (which the routing broker then passes to C2), 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 C2.

In light of the varying means by which a Sales Value Fee is incurred by Trading Permit Holders, as described above, the Exchange believes that a more detailed description of the circumstances that trigger the Sales Value Fee is warranted. Accordingly, the new Fees Schedule language proposed by the Exchange expressly discusses covered sales in option securities. In addition, the proposed new Fees Schedule language includes a description of sell orders entered on C2 that result in a covered sale on another exchange, expressly discussing the fee incurred by the Exchange and the application of the Sales Value Fee in that circumstance.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (''Act''),[8] in general, and furthers the objectives of Section 6(b)(4) [9] of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among C2 Trading Permit Holders and other persons using its facilities and it does not unfairly discriminate between customers, issuers, brokers or dealers. The proposed clarifying language does not change the application and assessment of the Sales Value Fee under the Fees Schedule, but rather provides greater detail on the transactions that trigger the fee and the process by which the fee is collected. The Exchange applies Section 6 of its Fees Schedule uniformly to all Trading Permit Holders' sell orders entered on C2 resulting in covered sales. The Exchange also believes the proposed rule change is consistent with the provisions of Section 6 of the Act,[10] in general and with Section 6(b)(5) of the Act,[11] in particular, which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. The Exchange believes that the proposed rule change is consistent with these requirements because the proposed amended Fees Schedule text provides Trading Permit Holders with more detail regarding the circumstances under which the Exchange assesses a Sales Value Fee, and the process by which the fee is collected. As such, the proposed changes will help avoid Trading Permit Holder confusion and foster better understanding of the application of the fee. Accordingly, the Exchange believes the proposed rule change will promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

C2 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.

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) of the Act [12] and subparagraph (f)(2) of Rule 19b–4 [13] thereunder. 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,

[5] 17 CFR 240.31(a)(6).

[6] *See, e.g.,* ISE Rule 212, NASDAQ Rule 7002, NASDAQ OMX PHLX Rule 607 and NYSE Rule 440H.

[7] C2 routes orders to other exchanges in conjunction with one or more routing brokers pursuant to C2 Rule 636.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(2).

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–C2–2011–013 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–C2–2011–013. 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 No. SR–C2–2011–013 and should be submitted on or before July 11, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–15280 Filed 6–17–11; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64667; File No. SR–NASDAQ–2011–080]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a Market Order Spread Protection Feature

June 14, 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 June 8, 2011, The NASDAQ Stock Market LLC (the ''Exchange'' or ''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 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

NASDAQ is filing with the Commission a proposal for the NASDAQ Options Market (''NOM'') to amend Chapter VI, Trading Systems, Section 1, Definitions, to adopt a Market Order Spread Protection feature, as described further below.

This change is scheduled to be implemented on NOM on or about August 1, 2011; the Exchange will announce the implementation schedule by Options Trader Alert, once the rollout schedule is finalized.

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, 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 add an enhancement to NOM's System to protect Market Orders from being executed in very wide markets. Specifically, the Market Order Spread Protection feature will validate the NBBO when such order is received. If the NBBO is wider than a preset threshold at the time the order is received, the Market Order will be rejected. For example, if the Market Order Spread Protection is set to $20.00, and a Market Order to buy is received while the NBBO is $1.00–$50.00, such Market Order will be rejected.

The Exchange will establish the threshold at a number and notify Participants in an Options Trader Alert, with sufficient advanced notice, including if the threshold changes. The Exchange believes that this flexibility is important and similar to other configurable features.[3] The Market Order Spread Protection, which is not optional, will be the same for all options traded on NOM and is applicable to all Participants submitting Market Orders.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[4] in general, and furthers the objectives of Section 6(b)(5) of the Act[5] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest, by mitigating risks to market participants. The Exchange believes that the proposal is appropriate and reasonable, because it offers a protection for Market Orders that may encourage price continuity, which should, in turn, protect investors and the public interest by reducing executions occurring at dislocated prices.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See e.g.,* PHLX Rule 1017(l)(iii)(A) regarding the Opening Quote Range, which is also a configurable feature.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition 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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6)[7] thereunder.

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–2011–080 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–2011–080. 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–NASDAQ–2011–080 and should be submitted on or before July 11, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–15278 Filed 6–17–11; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64666; File No. SR–NSCC–2011–03]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Analytic Reporting Service

June 14, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on June 2, 2011, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared primarily by NSCC. NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[2] and Rule 19b–4(f)(4) thereunder[3] so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of Terms of Substance of the Proposed Rule Change

The proposed rule change clarifies provisions related to the Analytic Reporting Service.

II. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC 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 Purpose of, and Statutory Basis for, the Proposed Rule Change

Under the proposed rule change, NSCC will amend Rule 57 (Insurance and Retirement Processing Services), Section 12 (Analytic Reporting Service) to clarify (i) the scope of information included within the Analytic Reporting Service and (ii) the opt-out provisions

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78s(b)(3)(A)(iii).

[3] 17 CFR 240.19b–4(f)(4).

applicable to the Analytic Reporting Service with the goal of providing greater transparency to NSCC Members and Limited Members.[4] The rule change, which can be viewed as filed by NSCC on its Web site at *http://www.dtcc.com/downloads/legal/rule_filings/2011/nscc/2011-03.pdf,* include the following:

1. Change in Name

The original name of the service was the ''Analytics Reporting Service.'' Based on further discussions, NSCC has determined that it will call the service the ''Analytic Reporting Service'' (*i.e.,* Analytic will be singular and not plural).

2. Scope of the Release of Clearing Data

''Clearing Data,'' as defined in NSCC's Rule 49, includes data received by NSCC for inclusion in the clearance and settlement process of NSCC or such data, reports, or summaries produced as a result of NSCC processing such transaction data. In order to clarify the information that will be released as part of the Analytic Reporting Service, NSCC is revising Rule 57, Section 12, to define the term ''Analytics Data'' to mean ''aggregated information related to the insurance products market, including benchmarking information and league tables.'' The intent of this change is to clarify the scope and extent of the data that will be released as part of the Analytic Reporting Service.

3. Opt-Out Provision

NSCC Members and Limited Members are provided with the opportunity to opt-out of having information attributed to them as part of the league tables because certain NSCC Members and Limited Members may consider this to be a release of proprietary or confidential information. In order to clarify the relationship between the Analytic Reporting Service opt-out provisions and Rule 49, Section 12 of Rule 57 is being amended to specifically state that those NSCC Members or Limited Members that do not opt-out in the manner described in section 12 of Rule 57 are deemed to have consented to the release of their IPS Data as part of the Analytics Data for the purposes of Rule 49.

In order for an IPS Member to opt-out of having information attributed to itself prior to the service becoming available, an IPS Member must notify NSCC in writing during the initial ninety (90) day opt-out period. NSCC will announce the beginning of this ninety (90) day period through an Important Notice. A new IPS Member may opt-out by providing NSCC with written notice of its election to opt-out at any time prior to activation of its account. Once the Analytic Reporting Service commences to include the information of an IPS Member, the IPS Member may elect to opt-out at any time by providing NSCC with thirty (30) days' written notice.

By opting-out, an IPS Member is prohibiting NSCC from attributing Analytics Data in any discernable manner to that IPS Member. However, opting-out does not prohibit NSCC from including the IPS Member's information for purposes of benchmarking in a manner that does not identify the specific IPS Member. By opting-out, the IPS Member also permits NSCC to disclose that the specific Analytics Data attributable to the particular IPS Member is not included in certain types of data (*e.g.,* in the production of league tables, NSCC will disclose which IPS Members have not been included in the league tables). This disclosure will provide transparency to all IPS Members and will assist in the usability of the Analytics Data.

As stated in the original Analytic Reporting Service filing,[5] an IPS Member that opts-out will forfeit any portion of NSCC's annual refund, if any, that is directly attributable to the revenue generated by the Analytic Reporting Service.

NSCC states that the proposed change is consistent with the requirements set forth under Section 17A of the Act[6] because it will permit NSCC Members and Limited Members to enhance their monitoring and analysis of their respective businesses and is designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions, to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have any impact or impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has not solicited or received written comments relating to the proposed rule change. NSCC will notify the Commission of any written comments it receives.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act[7] and Rule 19b–4(f)(4)[8] thereunder because the proposed rule change effects a change in an existing service of NSCC that (i) does not adversely affect the safeguarding of securities or funds in NSCC's custody or control or for which it is responsible and (ii) does not significantly affect the respective rights of NSCC or persons using the service. 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 No. SR–NSCC–2011–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NSCC–2011–03. 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

[4] The Analytic Reporting Service provides NSCC Members and Limited Members with the ability to perform market analysis based on Insurance Processing Service (''IPS'') Data. This market analysis (commonly referred to as ''benchmarking data'') allows users of the service to obtain and compare aggregated data from different perspectives. Securities Exchange Act Release No. 63604 (Dec. 23, 2010), 75 FR 82115 (Dec. 29, 2010).

[5] *Supra* note 4.

[6] 15 U.S.C. 78q–1.

[7] *Supra* note 2.

[8] *Supra* note 3.

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 filings also will be available for inspection and copying at NSCC's principal office and NSCC's Web site at *http://www.dtcc.com/downloads/legal/rule_filings/2011/nscc/2011-03.pdf.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NSCC–2011–03 and should be submitted on or before July 11, 2011.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[9]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–15174 Filed 6–17–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64665; File No. SR–FINRA–2011–025]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend a TRACE Pilot Program

June 14, 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 June 7, 2011, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to extend the pilot program in FINRA Rule 6730(e)(4) to January 27, 2012. The pilot program exempts from reporting to Trade Reporting and Compliance Engine (''TRACE'') transactions in TRACE-Eligible Securities that are executed on a facility of the NYSE in accordance with NYSE Rules 1400, 1401 and 86 and reported to NYSE in accordance with NYSE's applicable trade reporting rules and disseminated publicly by NYSE.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA, 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, FINRA 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. FINRA 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

FINRA proposes to amend FINRA Rule 6730(e)(4) to extend the pilot program, which is scheduled to expire on July 8, 2011, to January 27, 2012.[4] The pilot program exempts from reporting to TRACE transactions in TRACE-Eligible Securities that are executed on a facility of NYSE in accordance with NYSE Rules 1400, 1401 and 86 and reported to NYSE in accordance with NYSE's applicable trade reporting rules and disseminated publicly by NYSE, provided that a data sharing agreement between FINRA and NYSE related to transactions covered by the Rule remains in effect.

FINRA is proposing to extend the pilot program until January 27, 2012 to continue to exempt transactions in TRACE-Eligible Securities on an NYSE facility (and as to which all the other conditions of the exemption are met) from the TRACE reporting requirements.[5] FINRA believes that the extension will provide additional time to analyze the impact of the exemption. Without the extension, members would be subject to both FINRA's and NYSE's trade reporting requirements with respect to these securities.

The proposed rule change would not expand or otherwise change the pilot. FINRA notes that the success of the pilot program remains dependent on FINRA's ability to effectively continue to conduct surveillance on corporate debt trading in the over-the-counter market. In this regard, FINRA Rule 6730(e)(4) would continue to require that the exemption be predicated on the data agreement between FINRA and NYSE to share data related to the transactions covered by the Rule remaining in effect. However, FINRA supports a regulatory construct that, in the future, consolidates all last sale transaction information to provide better price transparency and a more efficient means to engage in market surveillance of TRACE-Eligible Securities transactions. The extension proposed herein will allow the pilot program to continue to operate without interruption while FINRA and the NYSE further assess the effect of the exemption and issues regarding the consolidation of market data, market surveillance and price transparency.

FINRA has filed the proposed rule change for immediate effectiveness. The implementation date will be July 8, 2011.

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] *See* Securities Exchange Act Release No. 54768 (November 16, 2006), 71 FR 67673 (November 22, 2006) (Order Approving Proposed Rule Change; File No. SR–NASD–2006–110) (pilot program in FINRA Rule 6730(e)(4), subject to the execution of a data sharing agreement addressing relevant transactions, became effective on January 9, 2007); Securities Exchange Act Release No. 59216 (January 8, 2009), 74 FR 2147 (January 14, 2009) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR–FINRA–2008–065) (pilot program extended to January 7, 2011), Securities Exchange Act Release No. 63673 (January 7, 2011), 76 FR 2739 (January 14, 2011) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR–FINRA–2011–002) (pilot program extended to July 8, 2011).

[5] The exemption in FINRA Rule 6730(e)(4) is conditioned, among other things, upon a data sharing agreement between FINRA and NYSE remaining in effect. A data sharing agreement between FINRA and NYSE related to transactions covered by Rule 6730(e)(4) remains in effect.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[6] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the extension of the exemptive provision protects investors and the public because transactions will be reported, transparency will be maintained for these transactions, and NYSE's agreement to share data with FINRA allows FINRA, at this time, to conduct surveillance in the corporate debt securities market.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA 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.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

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–FINRA–2011–025 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–FINRA–2011–025. 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 FINRA. 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–FINRA–2011–025 and should be submitted on or before July 11, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–15173 Filed 6–17–11; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78*o*–3(b)(6).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has complied with this requirement.

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of: SHC Corp. (f/k/a Victormaxx Technologies, Inc.), Shells Seafood Restaurants, Inc., SI Restructuring, Inc. (f/k/a Schlotzsky's, Inc.), SLS Industries, Inc., Softlock.com, Inc. (n/k/a The Cap One Group, Inc.), Solar Satellite Communication, Inc., and Sonoran Energy, Inc.; Order of Suspension of Trading

June 16, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of SHC Corp. (f/k/a Victormaxx Technologies, Inc.) because it has not filed any periodic reports since the period ended June 30, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Shells Seafood Restaurants, Inc. because it has not filed any periodic reports since the period ended June 29, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of SI Restructuring, Inc. (f/k/a Schlotzsky's, Inc.) because it has not filed any periodic reports since June 30, 2004.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of SLS Industries, Inc. because it has not filed any periodic reports since the period ended January 31, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Softlock.com, Inc. (n/k/a The Cap One Group, Inc.) because it has not filed any periodic reports since the period ended March 31, 2008.

It appears to the Securities and Exchange Commission that there is a

lack of current and accurate information concerning the securities of Solar Satellite Communication, Inc. because it has not filed any periodic reports since the period ended September 30, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Sonoran Energy, Inc. because it has not filed any periodic reports since the period ended July 31, 2008.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. E.D.T. on June 16, 2011, through 11:59 p.m. EDT on June 29, 2011.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2011–15392 Filed 6–16–11; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of: BP International, Inc., CyGene Laboratories, Inc., Delek Resources, Inc., Flooring America, Inc., International Diversified Industries, Inc., Nova Biogenetics, Inc., and Tube Media Corp. (The); Order of Suspension of Trading

June 16, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of BP International, Inc. because it has not filed any periodic reports since the period ended February 28, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of CyGene Laboratories, Inc. because it has not filed any periodic reports since the period ended March 31, 2005.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Delek Resources, Inc. because it has not filed any periodic reports since the period ended March 31, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Flooring America, Inc. because it has not filed any periodic reports since the period ended February 5, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of International Diversified Industries, Inc. because it has not filed any periodic reports since the period ended September 30, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Nova Biogenetics, Inc. because it has not filed any periodic reports since the period ended June 30, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Tube Media Corp. (The) because it has not filed any periodic reports since the period ended September 30, 2006.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. E.D.T. on June 16, 2011, and terminating at 11:59 p.m. E.D.T. on June 29, 2011.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2011–15396 Filed 6–16–11; 4:15 pm]

BILLING CODE 8011–01–P

U.S. SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12619]

New Mexico Disaster #NM–00019 Declaration of Economic Injury

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of New Mexico, dated 06/10/2011.

Incident: February Freeze.

Incident Period: 02/01/2011 through 02/11/2011.

Effective Date: 06/10/2011.

EIDL Loan Application Deadline Date: 03/12/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's EIDL declaration, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Bernalillo, Lincoln, Taos.

Contiguous Counties:

New Mexico: Chaves, Cibola, Colfax, De Baca, Guadalupe, Mora, Otero, Rio Arriba, Sandoval, Santa Fe, Sierra, Socorro, Torrance, Valencia.

Colorado: Conejos, Costilla.

The Interest Rates are:

	Percent
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for economic injury is 126190.

The States which received an EIDL Declaration # are New Mexico, Colorado.

(Catalog of Federal Domestic Assistance Number 59002)

June 10, 2011.

Karen G. Mills,

Administrator.

[FR Doc. 2011–15139 Filed 6–17–11; 8:45 am]

BILLING CODE 8025–01–P

U.S. SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12590 and #12591]

South Dakota Disaster Number SD–00041

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of South Dakota (FEMA–1984–DR), dated 05/13/2011.

Incident: Flooding.

Incident Period: 03/11/2011 and continuing.

Effective Date: 06/08/2011.
Physical Loan Application Deadline Date: 07/12/2011.
Economic Injury (EIDL) Loan Application Deadline Date: 02/13/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of South Dakota, dated 05/13/2011, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Union.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Jane M. D. Pease,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2011–15140 Filed 6–17–11; 8:45 am]

BILLING CODE 8025–01–P

U.S. SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12590 and #12591]

South Dakota Disaster Number SD–00041

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of South Dakota (FEMA–1984–DR), dated 05/13/2011.

Incident: Flooding.
Incident Period: 03/11/2011 and continuing.
Effective Date: 06/10/2011.
Physical Loan Application Deadline Date: 07/12/2011.
Economic Injury (EIDL) Loan Application Deadline Date: 02/13/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of South Dakota, dated 05/13/2011, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Yankton.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–15124 Filed 6–17–11; 8:45 am]

BILLING CODE 8025–01–P

U.S. SMALL BUSINESS ADMINISTRATION

Disaster Declaration #12630 and #12631

Illinois Disaster #IL–00031

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Illinois (FEMA—1991–DR), dated 06/10/2011.

Incident: Severe Storms and Flooding.
Incident Period: 04/19/2011 and continuing.
Effective Date: 06/10/2011.
Physical Loan Application Deadline Date: 08/09/2011.
Economic Injury (EIDL) Loan Application Deadline Date: 03/12/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 06/10/2011, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Lawrence, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Wabash, Washington, Wayne, White, Williamson.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere	3.250
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 126306 and for economic injury is 126316.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–15126 Filed 6–17–11; 8:45 am]

BILLING CODE 8025–01–P

U.S. SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12632 and #12633]

Alaska Disaster #AK–00020

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Alaska (FEMA–1992–DR), dated 06/10/2011.

Incident: Ice Jam and Flooding.
Incident Period: 05/08/2011 through 05/13/2011.
Effective Date: 06/10/2011.
Physical Loan Application Deadline Date: 08/09/2011.
Economic Injury (EIDL) Loan Application Deadline Date: 03/12/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 06/10/2011, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address

listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Areas: Alaska Native Villages of Crooked Creek and Red Devil in the Kuspuk Reaa.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere	3.250
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 126326 and for economic injury is 126336.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–15127 Filed 6–17–11; 8:45 am]

BILLING CODE 8025–01–P

U.S. SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12634 and #12635]

New York Disaster #NY–00105

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of New York (FEMA–1993–DR), dated 06/10/2011.

Incident: Severe Storms, Flooding, Tornadoes, and Straight-line Winds.

Incident Period: 04/26/2011 through 05/08/2011.

Effective Date: 06/10/2011.

Physical Loan Application Deadline Date: 08/09/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 03/12/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 06/10/2011, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Allegany, Broome, Chemung, Chenango, Clinton, Delaware, Essex, Franklin, Hamilton, Herkimer, Lewis, Madison, Niagara, Oneida, Onondaga, Ontario, Steuben, Tioga, Ulster, Warren, Yates.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	3.250
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 12634B and for economic injury is 12635B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–15133 Filed 6–17–11; 8:45 am]

BILLING CODE 8025–01–P

U.S. SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12560 and #12561]

Arkansas Disaster Number AR–00048

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 6.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Arkansas (FEMA–1975–DR), dated 05/02/2011.

Incident: Severe Storms, Tornadoes, and Associated Flooding.

Incident Period: 04/23/2011 through 06/03/2011.

Effective Date: 06/13/2011.

Physical Loan Application Deadline Date: 08/01/2011.

EIDL Loan Application Deadline Date: 02/02/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Arkansas, dated 05/02/2011 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 08/01/2011.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–15135 Filed 6–17–11; 8:45 am]

BILLING CODE 8025–01–P

U.S. SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12599 and #12600]

Kentucky Disaster Number KY–00040

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FEMA–1976–DR), dated 05/19/2011.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 04/22/2011 through 05/20/2011.

Effective Date: 06/10/2011.

Physical Loan Application Deadline Date: 07/18/2011.

EIDL Loan Application Deadline Date: 02/21/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the Commonwealth of Kentucky, dated 05/19/2011 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans):
Carlisle, Carroll, Fulton, Johnson.
Contiguous Counties: (Economic Injury Loans Only):
Kentucky: Gallatin, Henry, Magoffin, Owen, Trimble.
Indiana: Jefferson, Switzerland.
Missouri: New Madrid.
Tennessee: Lake.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–15136 Filed 6–17–11; 8:45 am]

BILLING CODE 8025–01–P

U.S. SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12566 and #12567]

Kentucky Disaster Number KY–00039

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 6.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the Commonwealth of Kentucky (FEMA–1976–DR), dated 05/04/2011.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 04/22/2011 through 05/20/2011.

Effective Date: 06/10/2011.

Physical Loan Application Deadline Date: 07/05/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 02/06/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the Commonwealth of Kentucky, dated 05/04/2011, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Breathitt, Carlisle.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–15138 Filed 6–17–11; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 7505]

The Designation of Othman al-Ghamdi Also Known as Al Umairah al-Ghamdi, Also Known as Uthman al-Ghamdi, Also Known as Uthman al-Ghamidi, Also Known as Uthman Ahmad Uthman al-Ghamdi, Also Known as Othman Ahmed Othman al-Omirah 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 Othman al-Ghamdi and also known as Uthman al-Ghamdi, also known as Uthman al-Ghamidi, also known as Uthman Ahmad Uthman al-Ghamdi, also known as Othman Ahmed Othman al-Omirah 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: May 11, 2011.

Hillary Rodham Clinton,

Secretary of State.

[FR Doc. 2011–15290 Filed 6–17–11; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending May 28, 2011

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions To Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2011–0102.

Date Filed: May 27, 2011.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope: June 17, 2011.

Description: Application of FLY DOM N.V. d/b/a JET BUDGET (''JET BUDGET'') requesting a foreign air carrier permit and related exemption that would enable it to provide charter foreign air transportation of persons, property, cargo and mail between any point or points in the territory of the Netherlands Antilles and any point or points in the territory of the United States; and between any point or points in the territory of the United States and any point or points in a third country or countries, provided that, except with respect to cargo charters, such service constitutes part of a continuous operation, with or without a change of aircraft, that includes service to the Netherlands Antilles for the purpose of carrying local traffic between the Netherlands Antilles and the United States.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2011–15203 Filed 6–17–11; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending May 21, 2011

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et seq.*).

The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2002–11966.

Date Filed: May 19, 2011.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 9, 2011.

Description:

Application of Triair (Bermuda) Limited (''Triair'') requesting an exemption and an amended foreign air carrier permit authorizing Triair to engage in: (i) Foreign charter air transportation of persons, property, and mail from any point or points behind any Member State of the European Union, via any point or points in any EU Member State and via intermediate points, to any point or points in the United States and beyond; (ii) foreign charter air transportation of persons, property, and mail between any point or points in the United States and any point or points in any member of the European Common Aviation Area; (iii) foreign charter air transportation of cargo between any point or points in the United States and any other point or points; (iv) other charters pursuant to the prior approval requirements set forth in the Department's regulations governing charters; and (v) charter transportation authorized by any additional route rights made available to European Union carriers in the future, to the extent permitted by the Applicant's homeland license on file with the Department.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2011–15206 Filed 6–17–11; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice of Limitation on Claims Against Proposed Public Transportation Projects

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of limitation on claims.

SUMMARY: This notice announces final environmental actions taken by the Federal Transit Administration (FTA) for the following projects: (1) sbX E Street Corridor Bus Rapid Transit (BRT) Corridor, Omnitrans, San Bernardino, CA; (2) Georgia Transit Connector: Atlanta Streetcar, City of Atlanta and Metropolitan Atlanta Rapid Transit Authority (MARTA), Atlanta, GA; (3) Baldwin Park Transit Center Project, City of Baldwin Park, Baldwin Park, CA; (4) Regional Intermodal Transportation Center and Runway 33 Safety Area Restoration at Bob Hope Airport, Burbank-Glendale-Pasadena Airport Authority, Burbank, CA; (5) Downtown Transit Center, Des Moines Area Regional Transit (DART) Authority, Des Moines, IA; (6) Improvements at Farmdale Avenue and Exposition Boulevard for the Exposition Light Rail Transit Project, Los Angeles County Metropolitan Transportation Authority, Los Angeles, CA; (7) Relocation of Traction Power Substations 3 and 4 for the Exposition Light Rail Project, Los Angeles County Metropolitan Transportation Authority, Los Angeles, CA; (8) I–90 Two-Way Transit and High Occupancy Vehicle (HOV) Operations Project, Central Puget Sound Regional Transit Authority (Sound Transit), King County, WA; (9) University of Washington to Sound Transit Link Pedestrian Connection Project (Montlake Triangle Project) Sound Transit North Link Light Rail, Sound Transit, Seattle, WA; (10) North Metro Corridor, Regional Transportation District, Commerce City, Thornton, Northglenn, and Adams County, CO; (11) St. Louis Loop Trolley, East-West Gateway Council of Governments, City of St. Louis and University City, MO; (12) Bus Operations and Maintenance Facility, Worchester Regional Transit Authority (WRTA), Worchester, MA; and (13) Jacksonville Bus Rapid Transit North Corridor, Jacksonville Transportation Authority, Jacksonville, FL. The purpose of this notice is to announce publicly the environmental decisions by FTA on the subject projects and to activate the limitation on any claims that may challenge these final environmental actions.

DATES: By this notice, FTA is advising the public of final agency actions subject to Section 139(l) of Title 23, United States Code (U.S.C.). A claim seeking judicial review of the FTA actions announced herein for the listed public transportation project will be barred unless the claim is filed on or before December 16, 2011.

FOR FURTHER INFORMATION CONTACT: Katie Grasty, Environmental Protection Specialist, Office of Planning and Environment, 202–366–9139, or Christopher Van Wyk, Attorney-Advisor, Office of Chief Counsel, 202–366–1733. FTA is located at 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 9 a.m. to 5:30 p.m., EST, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FTA has taken final agency actions by issuing certain approvals for the public transportation projects listed below. The actions on these projects, as well as the laws under which such actions were taken, are described in the documentation issued in connection with the project to comply with the National Environmental Policy Act (NEPA) and in other documents in the FTA administrative record for the projects. Interested parties may contact either the project sponsor or the relevant FTA Regional Office for more information on the project. Contact information for FTA's Regional Offices may be found at *http://www.fta.dot.gov.*

This notice applies to all FTA decisions on the listed projects as of the issuance date of this notice and all laws under which such actions were taken, including, but not limited to, NEPA [42 U.S.C. 4321–4375], Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303], Section 106 of the National Historic Preservation Act [16 U.S.C. 470f], and the Clean Air Act [42 U.S.C. 7401–7671q]. This notice does not, however, alter or extend the limitation period of 180 days for challenges of project decisions subject to previous notices published in the **Federal Register**. The projects and actions that are the subject of this notice are:

1. *Project name and location:* sbX E Street Corridor Bus Rapid Transit (BRT)

Corridor, San Bernardino, CA. *Project sponsor:* Omnitrans. *Project description:* The project is a 15.7-mile transit improvement project connecting the northern portion of the City of San Bernardino with the City of Loma Linda. The route begins near Palm Avenue and Kendall Drive and ends near the Veterans Administration hospital at Barton Road and Benton Street. The project is combined side- and center-running BRT containing segments of exclusive and mixed-flow lanes. The sixteen station stops will be placed approximately one mile apart. *Final agency actions:* Section 106 finding of no historic properties affected; no use of Section 4(f) properties; project-level air quality conformity; and a Finding of No Significant Impact (FONSI) dated September 2009.

Supporting documentation: Environmental Assessment dated April 2009.

2. *Project name and location:* Georgia Transit Connector: Atlanta Streetcar, Atlanta, GA. *Project sponsor:* City of Atlanta and Metropolitan Atlanta Rapid Transit Authority (MARTA). *Project description:* The project consists of a north/south alignment of 2.7 miles from the Five Points MARTA rail station in Downtown along Broad Street and Peachtree Street to the Arts Center MARTA rail station in Midtown. The east/west alignment extends 1.3 miles between the Martin Luther King Jr. National Historic Site to the east and Centennial Olympic Park to the west. *Final agency actions:* Section 106 finding of no adverse effect; no use of Section 4(f) properties; and a Finding of No Significant Impact (FONSI) dated April 2011. *Supporting documentation:* Environmental Assessment dated December 2010.

3. *Project name and location:* Baldwin Park Transit Center Project, Baldwin Park, CA. *Project sponsor:* City of Baldwin Park. *Project description:* The project consists of the construction and subsequent operation of the Baldwin Park Transit Center and involves the construction of a parking structure, pedestrian and bicycle facilities, a pedestrian bridge, and bus layover facilities. *Final agency actions:* Section 106 finding of no adverse effect; no use of Section 4(f) properties; project-level air quality conformity; and a Finding of No Significant Impact (FONSI) dated April 2011. *Supporting documentation:* Environmental Assessment dated January 2011.

4. *Project name and location:* Regional Intermodal Transportation Center and Runway 33 Safety Area Restoration at Bob Hope Airport, Burbank, CA. *Project sponsor:* Burbank-Glendale-Pasadena Airport Authority. *Project description:* FTA is adopting the Environmental Assessment of the Federal Aviation Administration (FAA) on the Regional Intermodal Transportation Center and Runway 33 Runway Safety Area Restoration Project at Bob Hope Airport. The proposed FTA action is the partial funding of the local and regional transit bus station and bus passenger waiting lounge, which are elements of the proposed Regional Intermodal Transportation Center. *Final agency actions:* Section 106 finding of no historic properties affected; no use of Section 4(f) properties; and a Finding of No Significant Impact (FONSI) dated December 2010. *Supporting documentation:* Environmental Assessment dated December 2010.

5. *Project name and location:* Downtown Transit Center, Des Moines, IA. *Project sponsor:* Des Moines Area Regional Transit (DART) Authority. *Project description:* The project is a transit hub located at 616 Cherry Street on 1.9 acres. The hub will include bus bays, a loading zone, a public waiting area, a bicycle storage facility, and office and vendor space. *Final agency actions:* Section 106 finding of no historic properties affected and no use of Section 4(f) properties. *Supporting documentation:* Documented Categorical Exclusion dated October 2010.

6. *Project name and location:* Improvements at Farmdale Avenue and Exposition Boulevard for the Exposition Light Rail Transit Project, Los Angeles, CA. *Project sponsor:* Los Angeles County Metropolitan Transportation Authority. *Project description:* The project consists of a new passenger station at the intersection of Farmdale and Exposition Boulevard for the Exposition Light Rail Transit project that runs from downtown Los Angeles to Culver City. *Final agency actions:* Section 106 finding of no historic properties affected; Section 4(f) *de minimis* impact determination; and a Finding of No Significant Impact (FONSI) dated November 2010. *Supporting documentation:* Supplemental Environmental Assessment dated October 2010.

7. *Project name and location:* Relocation of Traction Power Substations 3 and 4 for the Exposition Light Rail Project, Los Angeles, CA. *Project sponsor:* Los Angeles County Metropolitan Transportation Authority. *Project description:* The project consists of the relocation of two Traction Power Substations (TPSS) for the Exposition Light Rail Transit project that runs from downtown Los Angeles to Culver City. The locations for two of the eight TPSS sites along the project alignment have changed since certification of the Final Environmental Impact Statement/Environmental Impact Report (FEIS/EIR). Eight TPSS were proposed in the FEIS/EIR. *Final agency actions:* Section 106 finding of no historic properties affected; no use of Section 4(f) properties; and a Finding of No Significant Impact (FONSI) dated September 2008. *Supporting documentation:* Environmental Assessment dated September 2008.

8. *Project name and location:* I–90 Two-Way Transit and High Occupancy Vehicle (HOV) Operations Project, King County, WA. *Project sponsor:* Central Puget Sound Regional Transit Authority (Sound Transit). *Project description:* The project consists of two new HOV lanes on the outer roadways of I–90 and new HOV direct access exit ramps to Mercer Island. *Final agency actions:* Section 106 finding of no historic properties affected; no use of Section 4(f) properties; project-level air quality conformity; and a Record of Decision (ROD) dated April 2011. *Supporting documentation:* Final Environmental Impact Statement dated May 2004.

9. *Project name and location:* University of Washington to Sound Transit Link Pedestrian Connection Project (Montlake Triangle Project) Sound Transit North Link Light Rail, Seattle, WA. *Project sponsor:* Sound Transit. *Project description:* The project is the North Link of Sound Transit's route through Seattle that includes a station at University of Washington. The University of Washington Station identified in the 2006 FEIS included a grade-separated pedestrian crossing of Montlake Boulevard, via a tunnel or bridge. A reevaluation was issued due to design changes in the Montlake Triangle and Ranier Vista in the vicinity of the University of Washington Stadium Station. *Final agency actions:* FTA determination that neither a Supplemental Environmental Impact Statement nor a Supplemental Environmental Assessment is necessary. *Supporting documentation:* Reevaluation dated January 2010.

10. *Project name and location:* North Metro Corridor, Commerce City, Thornton, Northglenn, and Adams County, CO. *Project sponsor:* Regional Transportation District. *Project description:* The project is an 18-mile commuter rail train and track system between Denver Union Station and the State Highway 7/162nd Avenue area. *Final agency actions:* Section 106 Memorandum of Agreement dated April 2011; Section 4(f) no feasible and prudent avoidance alternatives and *de minimis* impact determinations; project-

level air quality conformity; and a Record of Decision (ROD) dated April 2011. *Supporting documentation:* Final Environmental Impact Statement dated January 2011.

11. *Project name and location:* St. Louis Loop Trolley, City of St. Louis and University City, MO. *Project sponsor:* East-West Gateway Council of Governments. *Project description:* The project is a two-mile fixed guideway trolley that will be constructed on Delmar Boulevard and DeBaliviere Avenue and run from the History Museum in Forest Park in St. Louis to Trinity Avenue in University City. *Final agency actions:* Section 106 finding of no adverse effect; Section 4(f) *de minimis* impact determination; and a Finding of No Significant Impact (FONSI) dated May 2011. *Supporting documentation:* Environmental Assessment dated March 2011.

12. *Project name and location:* Bus Operations and Maintenance Facility, Worchester, MA. *Project sponsor:* Worchester Regional Transit Authority (WRTA). *Project description:* The project is a bus operations and maintenance facility at 40 Quinsigamond Avenue in Worchester. The new facility would consist of a two-story building that will be used to store and maintain the WRTA's entire fleet of 53 fixed route buses and 16 vans. *Final agency actions:* Section 106 finding of no historic properties affected and no use of Section 4(f) properties. *Supporting documentation:* Documented Categorical Exclusion dated March 2011.

13. *Project name and location:* Jacksonville Bus Rapid Transit (BRT) North Corridor, Jacksonville, FL. *Project sponsor:* Jacksonville Transportation Authority. *Project description:* The project is a 9.28-mile alignment on existing surface streets and predominately within existing right-of-way. The project will connect to the BRT Phase One Downtown project and includes eight new or enhanced station areas. *Final agency actions:* Section 106 finding of no historic properties affected; no use of Section 4(f) properties; and a Finding of No Significant Impact (FONSI) dated May 2011. *Supporting documentation:* Environmental Assessment dated May 2011.

Issued on: June 15, 2011.

Elizabeth S. Riklin,

Deputy Associate Administrator for Planning and Environment, Washington, DC.

[FR Doc. 2011–15296 Filed 6–17–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD 2011 0080]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before August 19, 2011.

FOR FURTHER INFORMATION CONTACT: Anne Wehde, Office of Maritime Workforce Development, Maritime Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. *Telephone:* 202–366–5469; or *e-mail: anne.wehde@dot.gov.* Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: MARAD Maritime Operator Survey Concerning Mariner Availability.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0537.

Form Numbers: MA–1048.

Expiration Date of Approval: Three years after date of approval by the Office of Management and Budget.

Summary of Collection of Information: Part of the stated statutory policy of the Merchant Marine Act, 1936, is to foster the development and maintenance of an adequate U.S.-flag merchant marine manned with trained and efficient citizen mariners. In order to successfully meet this mandate, the Maritime Administration (MARAD) must determine whether a current or projected shortage of mariners exists and the possible impact of such a shortage on the merchant marine. MARAD believes that a survey is necessary because it has received an abundance of anecdotal information indicating there is a serious existing and projected mariner shortage in different market sectors.

Need and Use of the Information: The information will be used by MARAD to determine if a current and/or projected mariner shortage exists. If there is a projected shortage that appears to be more short-term, MARAD will follow up with a more detailed survey to ascertain the best means to address the shortage.

Description of Respondents: The target population for the survey will be approximately 100 vessel operating companies representing different sectors of the U.S. maritime industry.

Annual Responses: 100 responses.

Annual Burden: 33 hours.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. Comments also may be submitted by electronic means via the Internet at *http://www.regulations.gov.* Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. *EDT* (*or EST*), Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at *http://www.regulations.gov.*

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

Authority: 49 CFR 1.66.

By Order of the Maritime Administrator.

Dated: June 13, 2011.

Christine Gurland,

Secretary, Maritime Administration.

[FR Doc. 2011–15151 Filed 6–17–11; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Offer for Public Sale of Two High Speed Vessels

AGENCY: Maritime Administration (MARAD), Department of Transportation.

ACTION: Notice.

SUMMARY: MARAD is offering for public sale, on an ''as is, where is'' basis, two fast ferry vessels, ALAKAI, Official

Number 1182234, and HUAKAI, Official Number 1215902.

DATES: Bids may be submitted on or before 5 p.m. July 20, 2011.

FOR FURTHER INFORMATION CONTACT: David Heller, Office of Shipyards and Marine Engineering, Maritime Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: (202) 366–1850; or e-mail *David.Heller@dot.gov*. Copies of this notice may also be obtained from that office. An electronic copy of this document may be downloaded from the **Federal Register's** home page at: *http://www.archives.gov* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara*.

SUPPLEMENTARY INFORMATION: The Maritime Administration (''MARAD''), an agency of the U.S. Department of Transportation, is offering for public sale, on an ''as is, where is'' basis, two fast ferry vessels, ALAKAI, Official Number 1182234, and HUAKAI, Official Number 1215902 (each a ''Vessel'' and collectively, the ''Vessels''). MARAD will warrant title to the Vessels and convey title free and clear of all liens. The Vessels were previously owned by Hawaii Superferry LLC and MARAD has obtained title through foreclosure. The Vessels were built in Mobile, AL by Austal USA and are currently berthed at Lambert's Point Dock, Norfolk, VA. Specifications for the Vessels are set forth at the end of this notice (no guarantee or warranty as to specifications is made by MARAD).

All bids must contain specific information on the offer price, details of any financing for the purchase of the Vessels, timing of the closing of the proposed transaction, affidavit stating that the bidder is not affiliated with the former owner, Hawaii Superferry LLC, or any of its officers, directors or significant equity owners, and any contigencies that could affect the closing of the transaction. Bidders may be either U.S. citizens or foreign citizens. However, because the Vessels are U.S. flagged, any bidder who is a foreign citizen must be prepared to comply promptly with the provisions of 46 U.S.C. 56101 and MARAD's implementing regulations.

Responsive and successful bids should include the following components: (1) Purchase of both Vessels (MARAD only will consider an offer for sale of a single Vessel if concurrent sale of both Vessels to separate buyers can be arranged), (2) monthly reimbursement of any lay-up costs for the Vessels between the execution of a sale contract and closing of the sale, (3) purchase of the Vessels on an ''as is, where is'' basis with MARAD only required to warrant title to the Vessels and that they are free and clear of liens, and (4) cash sale or owner-procured financing (proposals with MARAD financing of the Vessels will not be considered).

The successful bidder will be required to submit a $500,000 deposit for each Vessel. Deposits must be made by wire transfer or in the form of a certified check, drawn on a U.S. bank and made payable to MARAD, within five business days of the bidder being advised that its bid is approved by the Maritime Administrator. *The successful bid will be considered non-responsive if the bid deposit is not received in the required five business day time frame.* The deposit is nonrefundable. No interest will be paid on the deposit. The successful bidder's deposit will be credited toward the bid offer. The successful bidder may not assign its right to the Vessel without consent of MARAD.

The successful bidder will be required to sign the MARAD form vessel sale contract that, among other provisions, incorporates all of the requirements set forth in this notice.

MARAD reserves the right to reject any and all bids and to seek additional bids from the bidders and any other interested parties. Arrangements to inspect the Vessel must be made through MARAD. All inspections will be at the bidder's own risk and expense. For additional information or to arrange an inspection, please contact Mr. David Heller at (202) 366–1850 or *david.heller@dot.gov*. Bids and affidavits must be submitted by overnight courier to the Maritime Administration, Office of Marine Financing, 1200 New Jersey Ave., SE., Room W23–432, Washington, DC 20590, Attention: Mr. Daniel Ladd, by 5 p.m. 30 days from date of publication of this notice.

ALAKAI	
Hull:	
Length	321.2′.
Beam	78.1′.
Height to Upper Deck	30.8′.
Design Draft at Transit	11.67′.
Passengers	836′.
Vehicles	Cars 282 (max.) Trucks 28 forty-foot trucks (342 lane metres) with 65 cars.
Maximum Deadweight	800 tonnes/882 tons.
Maximum Axle Loads	center lanes (dual axle load) 15.0 tonnes/16.5 tons; (single axle load) 12.0 tonnes/13.2 tons; side lanes (dual axle load) 12.0 tonnes/13.2 tons; (single axle load) 9.0 tonnes/9.9 tons; mezzanine lanes 1.0 tonnes/1.1 tons.
Fuel	215,000 litres/56,800 gal.
Propulsion:	
Main Engines	4 × MTU 20V 8000 M70.
Gearboxes	4 × ZF 53000 − 2.
Waterjets	4 × Kamewa 125 S11.
Performance:	
Speed	35 knots 90% MCR 400 tons.
HUAKAI	
Hull:	
Length	338.3′.
Beam	78.1′.
Height to Upper Deck	30.8′.
Design Draft at Transit	11.67′.
Passengers	836′.
Ramp	Stern Starboard Quartering.
Vehicles	Cars 282 (max.) Trucks 28 forty-foot trucks (342 lane metres) with 65 cars.
Maximum Deadweight	800 tonnes/882 tons.

Maximum Axle Loads	center lanes (dual axle load) 15.0 tonnes/16.5 tons; (single axle load) 12.0 tonnes/13.2 tons; side lanes (dual axle load) 12.0 tonnes/13.2 tons; (single axle load) 9.0 tonnes/9.9 tons; mezzanine lanes 1.0 tonnes/1.1 tons.
Fuel	215,000 litres/56,800 gal.
Propulsion:	
Main Engines	4 × MTU 20V 8000 M70.
Gearboxes	4 × ZF 53000 – 2.
Waterjets	4 × Kamewa 125 S11.
Performance:	
Speed	35 knots 90% MCR 400 tons.

By Order of the Maritime Administrator.

Dated: June 14, 2011.

Murray Bloom,

Acting Secretary, Maritime Administration.

[FR Doc. 2011–15147 Filed 6–17–11; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2011–0075]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel PARTYNUTTS III.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2011–0075 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084, April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before July 20, 2011.

ADDRESSES: Comments should refer to docket number MARAD–2011–0075. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979, E-mail *Joann.Spittle@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel PARTYNUTTS III is:

Intended Commercial Use of Vessel: ''Charter boat for (6) passengers or less in Florida waters.''

Geographic Region: ''Florida.''

Privacy Act

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

By Order of the Maritime Administrator.

Dated: June 9, 2011.

Christine Gurland,

Secretary, Maritime Administration.

[FR Doc. 2011–15143 Filed 6–17–11; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2011 0076]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel M/Y VIVERE.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2011–0076 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388 (68 FR 23084, April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before July 20, 2011.

ADDRESSES: Comments should refer to docket number MARAD–2011–0076. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979, E-mail *Joann.Spittle@dot.gov*.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel M/Y VIVERE is:

Intended Commercial Use of Vessel: ''Occasional charter for pleasure cruising (limited to 12 passengers during charter).''

Geographic Region: ''Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, and Maine.''

Privacy Act

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

By Order of the Maritime Administrator.

Dated: June 9, 2011.

Christine Gurland,

Secretary, Maritime Administration.

[FR Doc. 2011–15150 Filed 6–17–11; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2011 0077]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel MOKSHA.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2011–0077 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084, April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before July 20, 2011.

ADDRESSES: Comments should refer to docket number MARAD–2011–0077. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979, E-mail *Joann.Spittle@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel MOKSHA is:

Intended Commercial use of Vessel: ''Premium charters marketed on an ad hoc basis to high-end clientele. In Washington, DC, trips would consist of a river cruise on the Potomac or Anacostia Rivers but there may be some overnight cruises in other locations, possibly up to one week in duration. For a day cruise we would have a maximum of 12 passengers, for overnight we would accommodate a maximum of 6 guests. Charters would be arranged depending on the level of interest and schedule. The primary use of this vessel would remain recreational.''

Geographic Region: ''District of Columbia, Virginia, Maryland, Florida.''

Privacy Act

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

By Order of the Maritime Administration.

Dated: June 9, 2011.

Christine Gurland,

Secretary, Maritime Administration.

[FR Doc. 2011–15149 Filed 6–17–11; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2011 0073]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel MANDARIN.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2011–0073 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388 (68 FR 23084, April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before July 20, 2011.

ADDRESSES: Comments should refer to docket number MARAD–2011–0073. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979, E-mail *Joann.Spittle@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel MANDARIN is:

Intended Commercial Use of Vessel: ''Carrying passengers for hire.''

Geographic Region: ''California.''

Privacy Act

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

By Order of the Maritime Administrator.

Dated: June 7, 2011.

Christine Gurland.

Secretary, Maritime Administration.

[FR Doc. 2011–15144 Filed 6–17–11; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2011 0078]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel WANDERBIRD.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2011–0078 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388 (68 FR 23084, April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before June 20, 2011.

ADDRESSES: Comments should refer to docket number MARAD–2011–0078. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979, E-mail *Joann.Spittle@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel WANDERBIRD is:

Intended Commercial Use of Vessel: ''Weekly and daily charters for pleasure cruising.''

Geographic Region: ''Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, Connecticut, Rhode Island, Massachusetts, New Hampshire, Maine.''

Privacy Act

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

By Order of the Maritime Administrator.

Dated: June 9, 2011.

Christine Gurland,

Secretary, Maritime Administration.

[FR Doc. 2011–15148 Filed 6–17–11; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2011–0079]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel LIL LIZ.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2011–00709 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388 (68 FR 23084, April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before July 20, 2011.

ADDRESSES: Comments should refer to docket number MARAD–2011–0079. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979, E-mail *Joann.Spittle@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel LIL LIZ is:

Intended Commercial Use of Vessel: ''At beginning of work shift to ferry employees from shore to dredge and at end of work shift to ferry employees from dredge to shore.''

Geographic Region: ''Louisiana only.''

Privacy Act

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

By Order of the Maritime Administrator.

Dated: June 7, 2011.

Christine Gurland,

Secretary, Maritime Administration.

[FR Doc. 2011–15145 Filed 6–17–11; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 6; Sub–No. 477X]

BNSF Railway Company—Abandonment Exemption—in Los Angeles County, CA.

On May 31, 2011, BNSF Railway Company (BNSF) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon its rail freight service easement over 4.85 miles of rail line owned by Los Angeles County Metropolitan Transportation Authority (LACMTA) extending between milepost 119.35, just east of the San Gabriel River, in Irwindale, and milepost 124.20, just east of the Santa Anita Blvd. grade crossing, in Arcadia, in Los Angeles County, CA (the Line). The Line traverses United States Postal Service Zip Codes 91006, 91007, 91010, 91016, 91702, and 91706. There are no rail stations on the Line.

In addition to an exemption from the provisions of 49 U.S.C. 10903, NSR seeks exemption from 49 U.S.C. 10904 (offer of financial assistance (OFA) procedures) and 49 U.S.C. 10905 (public use conditions). In support, BNSF contends that an exemption from these provisions is necessary to permit LACMTA to extend light rail passenger service over the Line. These requests will be addressed in the final decision.

BNSF states that, based on information in its possession, the Line does contain federally granted rights-of-way. Any documentation in BNSF's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by September 16, 2011.

Any OFA under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,500 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the Line, the Line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than July 11, 2011. Each trail use request must be accompanied by a $250 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to Docket No. AB 6 (Sub-No. 477X), and must be sent to: (1) Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001; and (2) Karl Morell, Of Counsel, Ball Janik LLP, 655 Fifteenth Street, NW., Suite 225, Washington, DC 20005. Replies to the BNSF petition are due on or before July 11, 2011.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full abandonment or discontinuance regulations at 49 CFR pt. 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental

Analysis (OEA) at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

Board decisions and notices are available on our Web site at ''*http://www.stb.dot.gov.*''

Decided: June 14, 2011.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–15187 Filed 6–17–11; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35521]

Maine Northern Railway Company—Modified Rail Certificate—in Aroostook and Penobscot Counties, ME

On June 7, 2011, Maine Northern Railway Company (MNRC) filed a notice for a modified certificate of public convenience and necessity, pursuant to 49 CFR 1150 subpart C—*Modified Certificate of Public Convenience and Necessity,* to lease and operate approximately 233 miles of rail line (the Line) in Aroostook and Penobscot Counties, Me.

The Line was the subject of an abandonment application granted by the Board in *Montreal, Maine & Atlantic Railway, Ltd.—Discontinuance of Service and Abandonment—in Aroostook and Penobscot Counties, Me.,* AB 1043 (Sub-No. 1)(STB served Dec. 27, 2010).[1] Although authorized for abandonment, the State of Maine, by and through its Department of Transportation (State), sought to preserve service on the Line and purchased the Line pursuant to the class exemption found in *Common Carrier Status of States, State Agencies and Instrumentalities, and Political Subdivisions,* 363 I.C.C. 132 (1980) (*Common Carrier*), *aff'd sub nom Simmons* v. *ICC,* 697 F.2d 326 (D.C. Cir. 1982), codified at 49 CFR 1150.22. Montreal, Maine & Atlantic Railway, Ltd. (MMA), the abandoning carrier, was authorized to provide service on the Line on an interim basis while the State conducted a search for a new operator.[2] In April 2011, the State selected MNRC as the new operator, and on April 14, 2011, MMA filed its 60-day notice to terminate its interim service.[3]

Pursuant to a lease and operating agreement (Agreement) dated June 1, 2011, between MNRC and the State, MNRC will provide operations on the Line for an initial term of 10 years, which MNRC may extend for 1 or 2 additional 10-year terms. The Agreement may be terminated, and operations may cease, in whole or in part, during any term upon the occurrence of certain events described in the Agreement. MNRC points out that, as stated in the Agreement, the portion of the Limestone Subdivision between Caribou and the end of the line in Limestone is not operational and will not be operated, as of the date of the Agreement. If future circumstances warrant, MNRC can begin operations on this segment under the Agreement.

The transaction in Docket No. FD 35521 is related to the following transactions.

(1) In *Montreal, Maine & Atlantic Railway, Ltd.—Trackage Rights Exemption—Maine Northern Railway Company,* FD 35505 (STB served May 27, 2011), MMA invoked Board authority for overhead trackage rights being granted to it by MNRC over approximately 151 miles of rail line extending between milepost 109 near Millinocket, Me. and milepost 260 near Madawaska, Me., to access MMA lines south of Millinocket and the MMA line beyond Madawaska.

(2) In *Maine Northern Railway Company—Trackage Rights Exemption—Montreal, Maine & Atlantic Railway, Ltd.,* FD 35518 (STB served June 3, 2011), MNRC invoked Board authority for overhead trackage rights being granted to it by MMA over MMA's line extending between Madawaska, Me. (at or about milepost 260 on MMA's Madawaska Subdivision) and the connection to the Canadian National Railway (CN) in St. Leonard, N.B. (at or about milepost 194.1 on CN's Nappadoggin Subdivision), plus additional trackage as described in that notice, so that MNRC can directly access CN to the north once MNRC begins its operations.

(3) In *Maine Northern Railway Company—Trackage Rights Exemption—Montreal, Maine & Atlantic Railway, Ltd.,* FD 35519 (STB served June 3, 2011), MNRC invoked Board authority for overhead trackage rights being granted to it by MMA over MMA's line extending between Millinocket, Me. (at or about milepost 109 on MMA's Millinocket Subdivision) and Brownville Junction, Me. (at or about milepost 104.84 on the Mattawamkeag Subdivision of the Eastern Maine Railway (EMR)), including MMA's Brownville Junction Yard, so that MNRC can directly access EMR to the south once MNRC begins its operations.

(4) In *The New Brunswick Railway Company—Continuance in Control Exemption—Maine Northern Railway Company,* FD 35520 (STB served June 3, 2011), The New Brunswick Railway Company (NBRC), the parent company of both EMR and MNRC, was authorized to continue in control of EMR and MNRC once MNRC becomes a Class III carrier after filing the modified certificate notice in Docket No. FD 35521.

The Line qualifies for a modified certificate of public convenience and necessity. *See Common Carrier* and 49 CFR 1150.22. MNRC states that it will receive no subsidies in connection with its operations and that there will be no preconditions that shippers must meet to receive service.

This notice will be served on the Association of American Railroads (Car Service Division) as agent for all railroads subscribing to the car-service and car-hire agreement at 425 Third Street, SW., Suite 1000, Washington, DC 20024; and on the American Short Line and Regional Railroad Association at 50 F Street, NW., Suite 7020, Washington, DC 20001.

[1] Specifically, the application, as amended, identified the Line to be abandoned as comprising: (1) The Madawaska Subdivision, consisting of approximately 151 miles of line between milepost 109 near Millinocket and milepost 260 near Madawaska in Penobscot and Aroostook Counties; (2) the Presque Isle Subdivision, consisting of approximately 25.3 miles of line between milepost 0.0 near Squa Pan and milepost 25.3 near Presque Isle in Aroostook County; (3) the Fort Fairfield Subdivision, consisting of approximately 10 miles of line between milepost 0.0 near Presque Isle and milepost 10.0 near Easton in Aroostook County; (4) the Limestone Subdivision, consisting of approximately 29.85 miles of line between milepost 0.0 near Presque Isle and milepost 29.85 near Limestone in Aroostook County and; (5) the Houlton Subdivision, running between milepost 0.0 near Oakfield and milepost 17.27 near Houlton in Aroostook County, and including the B Spur.

[2] *See Montreal, Me. & Atl. Ry.—Modified Rail Certificate—in Aroostook and Penobscot Cntys., Me.,* FD 35463 (STB served Jan. 26, 2011).

[3] Under 49 CFR 1150.23, rail operations of a carrier under a modified certificate may commence immediately upon the filing of a modified certificate notice with the Board. MNRC, however, will not begin its rail operations until June 15, 2011.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: June 15, 2011.

By the Board.

Rachel D. Campbell,

Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–15232 Filed 6–17–11; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Proposed Agency Information Collection Activities; Submission for OMB Review

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

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning its information collection titled, ''Community Reinvestment Act Regulations.'' The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: Comments must be submitted on or before July 20, 2011.

ADDRESSES: Communications Division, Office of the Comptroller of the Currency, Mail Stop 2–3, Attention: 1557–0160, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–5274, or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 250 E Street, SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, please send a copy of your comments to OCC Desk Officer, 1557–0160, by mail to U.S. Office of Management and Budget, 725 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: You can request additional information or a copy of the collection from Mary H. Gottlieb, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend OMB approval of the following information collection:

Title: Community Reinvestment Act Regulations.

OMB Control Number: 1557–0160.

Description: The Community Reinvestment Act (CRA) requires the Federal banking agencies (Agencies) to assess the record of banks and savings associations in helping to meet the credit needs of their entire communities, including low- and moderate-income neighborhoods, consistent with safe and sound operations; and to take this record into account in evaluating applications for mergers, branches, and certain other corporate activities.[1] The CRA statute requires the Agencies to issue regulations to carry out its purposes.[2]

Each Agency must prepare written CRA evaluations of the institutions they supervise. The public portion of each written evaluation must present the Agency's conclusions with respect to the CRA performance standards identified in its regulations; include the facts and data supporting those conclusions; and contain the institution's CRA rating and the basis for that rating.

The data collection requirements in the CRA regulations are necessary for the Agencies to examine, assess, and assign a rating to an institution's CRA performance and to prepare the public section of the written CRA performance evaluation.

Type of Review: Regular review.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1,441.

Estimated Frequency of Response: On occasion.

Estimated Total Annual Burden: 109,835 hours.

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless the information collection displays a currently valid OMB control number. On March 23, 2011, the OCC issued a notice for 60 days of comment. 76 FR 16476. No comments were received. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the information to the OCC.

Dated: June 14, 2011.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

[FR Doc. 2011–15154 Filed 6–17–11; 8:45 am]

BILLING CODE 4810–33–P

[1] 12 U.S.C. 2903.

[2] 12 U.S.C. 2905.

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0009]

Agency Information Collection (Disabled Veterans Application for Vocational Rehabilitation) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 20, 2011.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to VA's

OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503; (202) 395–7316. Please refer to ''OMB Control No. 2900–0009'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 461–0966 or e-mail *denise.mclamb@va.gov.* Please refer to ''OMB Control No. 2900–0009.''

SUPPLEMENTARY INFORMATION:

Title: Disabled Veterans Application for Vocational Rehabilitation (Chapter 31, Title 38 U.S.C), VA Form 28–1900.

OMB Control Number: 2900–0009.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 28–1900 is completed by Veterans with a combined service–connected disability rating of ten percent or more and awaiting discharge for such disability to apply for vocational rehabilitation benefits. VA provides service and assistance to veterans with disabilities, who have an entitlement determination, to gain and keep suitable employment. Vocational rehabilitation also provides service to support veterans with disabilities to achieve maximum independence in their daily living activities if employment is not reasonably feasible. VA uses the information collected to determine the claimant's eligibility for vocational rehabilitation benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 13, 2011, at pages 20821–20822.

Affected Public: Individuals or households.

Estimated Annual Burden: 16,961 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 67,844.

By direction of the Secretary.

Dated: June 15, 2011.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2011–15198 Filed 6–17–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0662]

Agency Information Collection (Civil Rights Discrimination Complaint) Activity Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 20, 2011.

ADDRESSES: Submit written comments on the collection of information through *http://www.regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0662'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, fax (202) 461–0966 or e-mail *denise.mclamb@va.gov*. Please refer to ''OMB Control No. 2900–0662.''

SUPPLEMENTARY INFORMATION:

Title: Civil Rights Discrimination Complaint, VA Form 10–0381.

OMB Control Number: 2900–0662.

Type of Review: Extension of a currently approved collection.

Abstract: Veterans and other VHA customers who believe that their civil rights were violated by agency employees while receiving medical care or services in VA medical centers, or institutions such as state homes receiving Federal financial assistance from VA, complete VA Form 10–0381 to file a formal complaint of the alleged discrimination.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 13, 2011, at page 20821.

Affected Public: Individuals or households.

Estimated Total Annual Burden: 46 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 183.

By direction of the Secretary.

Dated: June 15, 2011.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2011–15199 Filed 6–17–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0715]

Agency Information Collection Activity (Servicer's Staff Appraisal Reviewer (SAR) Application) Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 20, 2011.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov;* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0715'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 461–0966 or e-mail *denise.mclamb@va.gov*. Please refer to ''OMB Control No. 2900–0715.''

SUPPLEMENTARY INFORMATION:

Title: Servicer's Staff Appraisal Reviewer (SAR) Application, VA Form 26–0829.

OMB Control Number: 2900–0715.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–0829 is completed by servicers to nominate employees for approval as Staff Appraisal Reviewer (SAR). Servicers SAR's will have the authority to review real estate appraisals and to issue liquidation notices of value on behalf of VA. VA will also use the data collected to track the location of SARs when there is a change in employment.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 13, 2011, at page 20822.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 2 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 20.

By direction of the Secretary.

Dated: June 15, 2011.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2011–15200 Filed 6–17–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0556]

Agency Information Collection Activity (Living Will and Durable Power of Attorney for Health Care) Under OMB Review

AGENCY: Department of Veterans Affairs, Veterans Health Administration.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 20, 2011.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov;* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0556'' in any correspondence.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, Fax (202) 461–0966 or e-mail *denise.mclamb@va.gov.* Please refer to ''OMB Control No. 2900–0556.''

SUPPLEMENTARY INFORMATION

Title: Living Will and Durable Power of Attorney for Health Care, VA Form 10–0137.

OMB Control Number: 2900–0556.

Type of Review: Extension of a currently approved collection.

Abstract: Claimants admitted to a VA medical facility complete VA Form 10–0137 to appoint a health care agent to make decision about his or her medical treat and to record specific instructions about their treatment preferences in the event they no longer can express their preferred treatment. VA's health care professionals use the data to carry out the claimant's wish.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 13, 2011, at pages 20822–20823.

Affected Public: Individuals or Households.

Estimated Total Annual Burden: 171,811 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 343,622.

Dated: June 15, 2011.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2011–15201 Filed 6–17–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New (DBQs—Group 3)]

Agency Information Collection (Disability Benefits Questionnaires—Group 3) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 20, 2011.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–New (DBQs—Group 3)'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 461–0966 or e-mail *denise.mclamb@va.gov.* Please refer to ''OMB Control No. 2900—New (DBQs—Group 3).''

SUPPLEMENTARY INFORMATION:

Titles:

a. Central Nervous System and Neuromusculo Diseases, Disability Benefits Questionnaire, VA Form 21–0960C–5.

b. Headaches (Including Migraine Headaches), Disability Benefits Questionnaire, VA Form 21–0960C–8.

c. Multiple Sclerosis (MS), Disability Benefits Questionnaire, VA Form 21–0960C–9.

d. Esophageal Disorders (Including GERD), Disability Benefits Questionnaire, VA Form 21–0960G–1.

e. Gallbladder and Pancreas Conditions, Disability Benefits Questionnaire, VA Form 21–0960G–2.

f. Intestinal Disorders (Other Than Surgical or Infectious) (Including

Irritable Bowel Syndrome, Crohn's Disease, Ulcerative Colitis, and Diverticulitis) Disability Benefits Questionnaire, VA Form 21–0960G–3.

g. Intestines Surgical and/or Infectious Intestinal Disorders (Bowel Resection, Colostomy, Ileostomy, Bacterial and Parasitic Infections) Disability Benefits Questionnaire, VA Form 21–0960G–4.

h. Hepatitis, Cirrhosis and Other Liver Conditions, Disability Benefits Questionnaire, VA Form 21–0960G–5.

i. Peritoneal Adhesions Disability Benefits Questionnaire, VA Form 21–0960G–6.

j. Stomach and Duodenal Conditions (Not Including GERD or Esophageal Disorders) Disability Benefits Questionnaire, VA Form 21–0960G–7.

k. Rectum and Anus Disability Benefits Questionnaire, VA Form 21–0960H–2.

l. Breast Conditions and Disorders Disability Benefits Questionnaire, VA Form 21–0960K–1.

m. Gynecological Conditions Disability Benefits Questionnaire, VA Form 21–0960K–2.

n. Sleep Apnea Disability Benefits Questionnaire, VA Form 21–0960L–2.

o. Arthritis Disability Benefits Questionnaire, VA Form 21–0960M–3.

p. Osteomyelitis Disability Benefits Questionnaire, VA Form 21–0960M–11.

q. Ear Conditions (Including Vestibular and Infectious) Disability Benefits Questionnaire, VA Form 21–0960N–1.

OMB Control Number: 2900–New (DBQs—Group 3).

Type of Review: New collection.

Abstract: Data collected on VA Form 21–0960 series will be used obtain information from claimants treating physician that is necessary to adjudicate a claim for disability benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 15, 2011, at pages 21429–21430.

Affected Public: Individuals or households.

Estimated Annual Burden:

a. VA Form 21–0960C–5—5,000.
b. VA Form 21–0960C–8—3,750.
c. VA Form 21–0960C–9—7,500.
d. VA Form 21–0960G–1—10,000.
e. VA Form 21–0960G–2—1,250.
f. VA Form 21–0960G–3—1,250.
g. VA Form 21–0960G–4—1,250.
h. VA Form 21–0960G–5—5,000.
i. VA Form 21–0960G–6—1,250.
j. VA Form 21–0960G–7—2,500.
k. VA Form 21–0960H–2—2,500.
l. VA Form 21–0960K–1—7,500.
m. VA Form 21–0960K–2—10,000.
n. VA Form 21–0960L–2—1,250.
o. VA Form 21–0960M–3—25,000.
p. VA Form 21–0960M–11—10,000.
q. VA Form 21–0960N–1—6,250.

Estimated Average Burden per Respondent:

a. VA Form 21–0960C–5—30 minutes.
b. VA Form 21–0960C–8—15 minutes.
c. VA Form 21–0960C–9—45 minutes.
d. VA Form 21–0960G–1—15 minutes.
e. VA Form 21–0960G–2—15 minutes.
f. VA Form 21–0960G–3—15 minutes.
g. VA Form 21–0960G–4—15 minutes.
h. VA Form 21–0960G–5—30 minutes.
i. VA Form 21–0960G–6—15 minutes.
j. VA Form 21–0960G–7—15 minutes.
k. VA Form 21–0960H–2—15 minutes.
l. VA Form 21–0960K–1—15 minutes.
m. VA Form 21–0960K–2—30 minutes.
n. VA Form 21–0960L–2—15 minutes.
o. VA Form 21–0960M–3—15 minutes.
p. VA Form 21–0960M–11—15 minutes.
q. VA Form 21–0960N–1—15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. VA Form 21–0960C–5—10,000.
b. VA Form 21–0960C–8—15,000.
c. VA Form 21–0960C–9—10,000.
d. VA Form 21–0960G–1—40,000.
e. VA Form 21–0960G–2—5,000.
f. VA Form 21–0960G–3—5,000.
g. VA Form 21–0960G–4—5,000.
h. VA Form 21–0960G–5—10,000.
i. VA Form 21–0960G–6—5,000.
j. VA Form 21–0960G–7—10,000.
k. VA Form 21–0960H–2—10,000.
l. VA Form 21–0960K–1—30,000.
m. VA Form 21–0960K–2—20,000.
n. VA Form 21–0960L2—5,000.
o. VA Form 21–0960M–3—100,000.
p. VA Form 21–0960M–11—40,000.
q. VA Form 21–0960N–1—25,000.

By direction of the Secretary.

Dated: June 15, 2011.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2011–15202 Filed 6–17–11; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 76 Monday,
No. 118 June 20, 2011

Part II

The President

Notice of June 17, 2011—Continuation of the National Emergency With Respect to the Risk of Nuclear Proliferation Created by the Accumulation of Weapons-Useable Fissile Material in the Territory of the Russian Federation

Federal Register
Vol. 76, No. 118
Monday, June 20, 2011

Presidential Documents

Title 3—

The President

Notice of June 17, 2011

Continuation of the National Emergency With Respect to the Risk of Nuclear Proliferation Created by the Accumulation of Weapons-Useable Fissile Material in the Territory of the Russian Federation

On June 21, 2000, the President issued Executive Order 13159 (the ''order'') blocking property and interests in property of the Government of the Russian Federation that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons that are directly related to the implementation of the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993, and related contracts and agreements (collectively, the ''HEU Agreements''). The HEU Agreements allow for the downblending of highly enriched uranium derived from nuclear weapons to low enriched uranium for peaceful commercial purposes. The order invoked the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) and declared a national emergency to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States posed by the risk of nuclear proliferation created by the accumulation of a large volume of weapons usable fissile material in the territory of the Russian Federation.

The national emergency declared on June 21, 2000, must continue beyond June 21, 2011, to provide continued protection from attachment, judgment, decree, lien, execution, garnishment, or other judicial process for the property and interests in property of the Government of the Russian Federation that are directly related to the implementation of the HEU Agreements and subject to U.S. jurisdiction. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to the risk of nuclear proliferation

created by the accumulation of weapons-usable fissile material in the territory of the Russian Federation. This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
June 17, 2011.

[FR Doc. 2011–15591
Filed 6–17–11; 2:00 pm]
Billing code 3195–W1–P

Reader Aids

Federal Register

Vol. 76, No. 118

Monday, June 20, 2011

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Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
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Public Laws Update Service (numbers, dates, etc.)	**741–6043**
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FEDERAL REGISTER PAGES AND DATE, JUNE

31451–31784 1
31785–32064 2
32065–32312 3
32313–32850 6
32851–33120 7
33121–33612 8
33613–33966 9
33967–34142 10
34143–34572 13
34573–34844 14
34845–35094 15
35095–35300 16
35301–35712 17
35713–35956 20

CFR PARTS AFFECTED DURING JUNE

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR

780 34143
782 34573

Proposed Rules:

Ch. XI 32330
Ch. XVIII 31884
Ch. XXIV 31884
Ch. XXVII 34003

3 CFR

Proclamations:

8683 32065
8684 32851
8685 32853
8686 32855
8687 32857
8688 33119
8689 35089

Executive Orders:

13575 34841
13576 35297
13577 35715

Administrative Orders:

Memorandums:
Memorandum of May 31, 2011 33117
Memorandum of June 6, 2011 33613
Notice of June 14, 2011 35093
Notice of June 17, 2011 35955
Presidential Determinations:
No. 2011-10 of June 3, 2011 35713
No. 2011-11 of June 8, 2011 35719

5 CFR

531 32859
532 31785

Proposed Rules:

Ch. I 31886
532 31885
Ch. VII 32088
Ch. XXVI 32330
Ch. XXVIII 34003
Ch. XXXV 31886
Ch. XLII 34177
Ch. XLV 32330
Ch. LIX 31884
Ch. LXV 31884

6 CFR

Proposed Rules:

Ch. I 32331
5 ..... 34177, 34616

7 CFR

51 31787
201 31790
210 ..... 34542, 35301
215 34542
220 34542
225 34542
226 34542
246 35095
457 32067
953 33967
985 33969
3430 ..... 35318, 35319

Proposed Rules:

36 31887
205 ..... 31495, 34180
271 35787
273 35787
281 35787
916 31888
917 31888
983 34181
987 34618
1170 34004
1205 32088
3434 34187

8 CFR

214 33970

Proposed Rules:

Ch. I 32331
Ch. V 34003

9 CFR

307 33974
381 33974
590 33974

Proposed Rules:

92 31499
93 31499
94 31499
96 31499
98 31499

10 CFR

20 35512
30 35512
40 35512
50 35512
70 35512
72 ..... 33121, 35512
217 33615
430 31750
431 ..... 31795, 33631

Proposed Rules:

35 33173
40 31507
50 ..... 32878, 34007
72 35137
73 35137
150 31507
430 34914
431 34192

12 CFR

202 31451

213.....35721
226.....35722, 35723
914.....33121
1235.....33121
1229.....35724
1237.....35724
1732.....33121

Proposed Rules:

4.....32332
5.....32332
7.....32332
8.....32332
28.....32332
34.....32332
43.....34010
225.....35351
244.....34010
373.....34010
652.....35138
Ch. XVII.....31884
1234.....34010
1236.....35791

13 CFR

124.....33980

14 CFR

1.....34576
23.....33129
25.....31451, 31453, 31454, 31456, 33129, 35324, 35736
27.....33129
29.....33129
33.....33981
39.....31457, 31459, 31462, 31465, 31796, 31798, 31800, 31803, 33982, 33984, 33986, 33988, 33991, 35327, 35330, 35334, 35336, 35340, 35342, 35344 35346
71.....31821, 31822, 34576, 35097
91.....31823
93.....34576
95.....33136
97.....35098, 35101
121.....35103
135.....35103
417.....33139

Proposed Rules:

39.....31508, 32103, 33173, 33176, 33658, 33660, 34011, 34014, 34625, 34918
71.....31510, 32879, 34196, 34627, 35362, 35363, 35369, 35370, 35371, 35799
139.....32105
217.....31511
241.....31511
298.....31511
382.....32107
Ch. V.....31884

15 CFR

732.....35276
738.....35276
740.....34577, 35276
743.....34577, 35276
774.....34577, 35276

16 CFR

259.....31467

Proposed Rules:

309.....31513
1460.....33179

17 CFR

200.....35348
240.....34300, 34579
249.....34300

Proposed Rules:

1.....32880, 33066, 35372
5.....33066
7.....33066
8.....33066
15.....33066
18.....33066
21.....33066
22.....31518, 33818, 35141
36.....33066
41.....33066
140.....33066
145.....33066
155.....33066
166.....33066
190.....31518, 33818, 35141
230.....31518, 34920
232.....33420
239.....31518
240.....32880, 33420, 34920
246.....34010
249.....33420
249b.....33420
260.....34920

19 CFR

122.....31823

Proposed Rules:

Ch. I.....32331

20 CFR

Proposed Rules:

Ch. III.....31892
Ch. IV.....34177
Ch. V.....34177
Ch. VI.....34177
Ch. VII.....34177
Ch. IX.....34177

21 CFR

5.....31468
10.....31468
14.....31468
19.....31468
20.....31468
21.....31468
201.....35620, 35665
310.....35620, 35665
312.....32863
314.....31468
320.....32863
350.....31468
516.....31468
814.....31468
874.....34845
1310.....31824

Proposed Rules:

Ch. I.....32330
Ch. II.....34003
201.....35672, 35678
310.....35678
352.....35669
573.....32332

22 CFR

62.....33993
208.....34143
210.....34573

24 CFR

Proposed Rules:

Ch. I.....31884
Ch. II.....31884
267.....34010
Ch. III.....31884
Ch. IV.....31884
Ch. V.....31884
Ch. VI.....31884
Ch. VIII.....31884
Ch. IX.....31884
Ch. X.....31884
Ch. XII.....31884

25 CFR

Proposed Rules:

Ch. I.....33180
Ch. III.....33181
Ch. V.....32330

26 CFR

1.....33994, 33997
31.....32864

Proposed Rules:

1.....31543, 32880, 32882, 34017, 34019
31.....32885
301.....31543

27 CFR

Proposed Rules:

Ch. II.....34003

28 CFR

Proposed Rules:

Ch. I.....34003
III.....34003
V.....34003
VI.....34003

29 CFR

1910.....33590
1915.....33590
1917.....33590
1918.....33590
1919.....33590
1926.....33590
1928.....33590
4001.....34590
4022.....34590, 34847
4044.....34590, 34847

Proposed Rules:

Ch. II.....34177
Ch. IV.....34177
Ch. V.....34177
Ch. VII.....34177
1602.....31892
Ch. XXV.....34177
2550.....31544

30 CFR

950.....34816

Proposed Rules:

Ch. I.....34177
75.....35801
104.....35801

31 CFR

10.....32286
500.....35739
505.....35739
510.....35740
545.....31470

Proposed Rules:

Ch. IX.....34003

32 CFR

706.....32865

Proposed Rules:

Ch. I.....32330
Ch. V.....32330
Ch. VI.....32330
Ch. VII.....32330
Ch. XII.....32330

33 CFR

1.....31831
27.....31831
96.....31831
100.....32313, 34606
101.....31831
107.....31831
110.....35742
115.....31831
117.....31831, 31838, 34848, 35349
135.....31831
140.....31831
148.....31831
150.....31831
151.....31831
160.....31831
161.....31831
162.....31831
164.....31831
165.....31839, 31843, 31846, 31848, 31851, 31853, 32069, 32071, 32313, 33151, 33154, 33155, 33157, 33639, 33641, 33643, 33646, 34145, 34852, 34854, 34855, 34859, 34862, 34867, 34869, 35104, 35106, 35742
166.....31831
167.....31831
169.....31831
175.....33160
183.....33160

Proposed Rules:

Ch. I.....32331
100.....35802
167.....35805
110.....34197
165.....31895
Ch. II.....32330
175.....35378
183.....35378
334.....35379

34 CFR

Ch. II.....32073
222.....31855
668.....34386

36 CFR

Proposed Rules:

Ch. III.....32330

37 CFR

201.....32316

38 CFR

18.....33999
21.....33999

Proposed Rules:

17.....35162

39 CFR

111.....34871

40 CFR

52.....31856, 31858, 32321, 33647, 33650, 33651, 34000,

34608, 34872
63.....35744
180 .....31471, 31479, 31485, 34877, 34883
268.....34147
271.....34147
300.....32081
Proposed Rules:
Ch. I.....35383
52 .....31898, 31900, 32110, 32113, 32333, 33181, 33662, 34020, 34021, 34630, 34935, 35167, 35380
63.....35806
86.....32886
174.....33183
180.....33184, 34937
268.....34200
271.....34200
300.....32115
Ch. IV.....34003
Ch. VII.....32330

41 CFR

302-16.....35110
Proposed Rules:
Ch. 50.....34177
Ch. 60.....34177
Ch. 61.....34177
Ch. 101.....32088
Ch. 102.....32088
102-34.....31545
Ch. 105.....32088
Ch. 128.....34003
301-11.....32340
302-2.....32340
302-3.....32340
302-17.....32340

42 CFR

412.....32085
434.....32816
438.....32816
447.....32816
Proposed Rules:
Ch. I.....32330
5.....31546
84.....33188
401.....33566
412.....34633
413.....34633
414.....31547, 32410
476.....34633
485.....35684
Ch. V.....32330

44 CFR

64.....34611
65.....35753
67.....35111, 35119
Proposed Rules:
Ch. I.....32331
67.....32896

45 CFR

Proposed Rules:
Ch. II.....32330
Ch. III.....32330
Ch. IV.....32330
Ch. V.....34003
Ch. VIII.....31886
Ch. X.....32330
Ch. XIII.....32330

46 CFR

45.....32323
Proposed Rules:
Ch. I.....32331
Ch. III.....32331
10.....35169
12.....35173
515.....34945

47 CFR

1.....32866
2.....33653
73.....33656
80.....33653
90.....33653
Proposed Rules:
4.....33686
11.....35810
15.....35176
27.....32901
73.....32116, 35831
74.....35181
76.....32116
78.....35181
101.....35181

48 CFR

203.....32840
211.....33166
212.....33170
225.....32841, 32843
246.....33166
252 .....32840, 32841, 33166
539.....34886
552.....34886
Proposed Rules:
Ch. 1.....32133, 32330
2.....32330
8.....34634
9.....34634
17.....31886
21.....31886
52.....32330, 34634
54.....32330
203.....32846
204.....32846
252.....32845, 32846
Ch. 5.....32088
Ch. 16.....31886
Ch. 18.....31884
Ch. 24.....31884
Ch. 28.....34003
Ch. 29.....34177
Ch. 61.....32088

49 CFR

171.....32867
177.....32867
192.....35130
195.....35130
213.....34890
383.....32327
390.....32327
572.....31860
Proposed Rules:
390.....32906
391.....34635
396.....32906
Ch. XII.....32331

50 CFR

17 .....31866, 33036, 35349
217.....34157
223.....35755
300.....34890
600.....34892
622.....31874, 34892
635.....32086
648 .....31491, 32873, 34903
660.....32876, 34910
679.....31881, 33171
680.....35772, 35781
Proposed Rules:
17 .....31686, 31903, 31906, 31920, 32911, 33880, 33924
223.....31556, 34023
224.....31556
226.....32026
648.....34947, 35578
660.....33189
665.....32929

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws*.

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H.R. 754/P.L. 112–18

Intelligence Authorization Act for Fiscal Year 2011 (June 8, 2011; 125 Stat. 223)

Last List June 6, 2011

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