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FEDERAL REGISTER

Vol. 76 Friday,

No. 171 September 2, 2011

Pages 54689–54920

OFFICE OF THE FEDERAL REGISTER

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0754; Airspace Docket No. 11–AWP–12]

Amendment of Class E Airspace; Hawaiian Islands, HI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, technical amendment.

SUMMARY: This action amends Class E airspace for the Hawaiian Islands, HI. The FAA is taking this action in response to a request from the Honolulu Control Facility (HCF) to better clarify the legal description of controlled airspace designated as Class E airspace extending upward from 1,200 feet above the surface for the Hawaiian Islands, HI. This action enhances the safety and management of aircraft operations.

DATES: Effective date, 0901 UTC, December 15, 2011. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue, SW., Renton, WA 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

History

The FAA received a request from the Honolulu Control Facility to clarify the legal description of the existing Class E airspace extending upward from 1,200 feet above the surface. The current legal description is vague and confusing; this action is in response to that request.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9V dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by amending the legal description of the Class E airspace area extending upward from 1,200 feet above the surface for the Hawaiian Islands, HI. The legal description has been clarified to avoid confusion on the part of pilots flying in the Hawaiian Islands, HI. This is an administrative change and does not affect the boundaries, altitudes, or operating requirements of the airspace, therefore, notice and public procedures under 5 U.S.C. 553(b) are unnecessary.

The FAA has determined this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace for the Hawaiian Islands, HI.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR Part 71.1 of the Federal Aviation Administration Order 7400.9V, Airspace Designations and Reporting Points, dated August 9, 2011, and effective September 15, 2011, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP HI E5 Hawaiian Islands, HI [Amended]

Hilo VORTAC
(Lat. 19°43′17″ N., long. 155°00′39″ W.)
South Kauai VORTAC
(Lat. 21°54′01″ N., long. 159°31′44″ W.)

That airspace extending upward from 5,500 feet above the surface within an area bounded by a line beginning at lat. 23°56′48″ N., long. 160°45′50″ W.; to lat. 24°18′48″ N., long. 157°16′50″ W.; to lat. 24°02′48″ N., long. 156°18′50″ W.; to lat. 23°31′48″ N., long. 155°28′50″ W.; to lat. 22°59′48″ N., long. 154°38′50″ W.; to lat. 22°21′48″ N., long. 153°52′50″ W.; to lat. 21°42′48″ N., long. 153°08′50″ W.; to lat. 20°48′48″ N., long. 152°59′50″ W.; to lat. 20°15′49″ N., long. 152°13′50″ W.; to lat. 19°13′49″ N., long. 151°53′50″ W.; to lat. 18°18′49″ N., long. 157°48′50″ W.; to lat. 18°25′49″ N., long. 158°53′50″ W.; to lat. 18°52′49″ N., long. 159°52′50″ W.; to lat. 19°31′49″ N., long. 160°35′50″ W.; to lat. 20°05′49″ N., long. 161°51′50″ W.; to lat. 21°00′49″ N., long. 162°13′50″ W.; to lat. 21°55′49″ N., long. 162°28′50″ W.; to lat. 22°49′49″ N., long. 162°13′50″ W.; to lat. 23°31′49″ N., long. 161°34′50″ W.; to the point of beginning. That airspace extending upward

from 1,200 feet above the surface within an area described by a line beginning at lat. 23°29′24″ N., long. 158°54′07″ W.; thence east to lat. 22°30′18″ N., long. 155°48′43″ W.; to lat. 20°59′57″ N., long. 153°51′58″ W.; thence clockwise along the 100-mile radius of the Hilo VORTAC to lat. 19°00′00″ N., long. 153°25′14″ W.; thence west to lat. 19°00′00″ N., long. 157°42′33″ W.; to lat. 20°26′57″ N., long. 160°24′57″ W.; thence clockwise along the 100-mile radius of the South Kauai VORTAC to the point of beginning.

Issued in Seattle, Washington, on August 17, 2011.

Christine Mellon,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2011–22243 Filed 9–1–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0394; Airspace Docket No. 11–ASO–17]

Amendment of Class E Airspace; Clemson, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E Airspace at Clemson, SC, as a runway extension requires amended Standard Instrument Approach Procedures at Oconee County Regional Airport. This action enhances the safety and airspace management of Instrument Flight Rules (IFR) operations within the National Airspace System. This action also changes the airport name.

DATES: Effective 0901 UTC, October 20, 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.

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:

History

On July 1, 2011, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend Class E airspace at Clemson, SC (76 FR 38582) Docket No. FAA–2011–0394. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. 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 Part 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 amends Class E airspace extending upward from 700 feet above the surface at Clemson, SC, to support new Standard Instrument Approach Procedures at Oconee County Regional Airport. This action is necessary for the safety and management of IFR operations at the airport. This action also recognizes the airport name change from Clemson-Oconee County Airport to Oconee County Regional Airport, Clemson, SC.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. 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 rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, part A, subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Oconee County Regional Airport, Clemson, SC.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of 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 SC E5 Clemson, SC [Amended]

Oconee County Regional Airport, SC
(Lat. 34°40′19″ N., long. 82°53′12″ W.)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Oconee County Regional Airport.

Issued in College Park, Georgia, on August 19, 2011.

Mark D. Ward,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2011–22314 Filed 9–1–11; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 2

Statutory Delays of Notifications and Prohibitions of Disclosure

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') is establishing an internal procedure for delegating its authority to seek court orders to delay notification and prohibit disclosure of Commission compulsory process under the Right to Financial Privacy Act (RFPA), the Electronic

Communications Privacy Act (ECPA), and the U.S. SAFE WEB Act (''SAFE WEB''). This procedure is intended to make the process for seeking such orders more administratively efficient.

DATES: This final rule is effective September 2, 2011.

FOR FURTHER INFORMATION CONTACT: Alex Tang, *atang@ftc.gov,* 202–326–2447; or W. Ashley Gum, *wgum@ftc.gov,* 202–326–3006; Federal Trade Commission, Office of the General Counsel, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: The RFPA and the ECPA require the FTC, in certain cases, to notify customers when seeking their records from financial institutions or service providers subject to those statutes in the Commission's law enforcement investigations and proceedings. *See* 12 U.S.C. 3405 (RFPA); 18 U.S.C. 2703(b)(1)(B) (ECPA). These statutes, and SAFE WEB, also authorize the filing of an application seeking an order to delay such notification and to prohibit the recipient of the agency's compulsory process from disclosing that the FTC has requested or received the records, where such notice or disclosure would jeopardize the FTC's investigation. *See* 12 U.S.C. 3409 (RFPA); 18 U.S.C. 2705 (ECPA); *see also* 15 U.S.C. 57b–2a(b) (SAFE WEB). In cases where these statutes do not require customer notification, SAFE WEB separately authorizes the FTC to seek an order prohibiting the recipient of FTC compulsory process from disclosing the existence of such process to any person. *See* 15 U.S.C. 57b–2a(c).

Under this final rule, delegating the Commission's authority pursuant to Reorganization Plan No. 4 of 1961, 26 FR 6191, either an individual Commissioner or the General Counsel may authorize the staff to file actions seeking delay of notification and prohibition of disclosure under the statutes cited above. This delegation will facilitate the Commission's exercise of this authority and, as solely a matter of internal agency administration, is not intended to confer any enforceable right, privilege, or benefit on behalf of any person.

Procedural Requirements

A. Administrative Procedure Act

The FTC has determined that publication of this rule without prior notice and the opportunity for public comment is warranted because this is a rule of agency procedure and practice and therefore is exempt from notice and comment rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553(b)(A). Because it is a non-substantive rule, the Commission shall make the rule effective immediately upon publication. *See* 5 U.S.C. 553(d)(2).

B. Regulatory Flexibility Act

Because the Commission has determined that it may issue this rule without public comment, the Commission is also not required to publish any initial or final regulatory flexibility analysis under the Regulatory Flexibility Act as part of such action. *See* 5 U.S.C. 601(2), 604(a).

C. Paperwork Reduction Act of 1995

The final rule is not subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) because it does not contain any new information collection requirements.

List of Subjects in 16 CFR Part 2

Administrative practice and procedure.

For the reasons set forth above, the Federal Trade Commission is amending Subpart A of part 2 of title 16, Code of Federal Regulations, as follows:

PART 2—NONADJUDICATIVE PROCEDURES

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 15 U.S.C. 46, unless otherwise noted.

Subpart A—Inquiries; Investigations; Compulsory Processes

■ 2. Add § 2.17 to read as follows:

§ 2.17 Statutory delays of notifications and prohibitions of disclosure.

Upon authorization by the Commissioner who issues compulsory process pursuant to § 2.7(a) or, alternatively, upon authorization by the General Counsel, Commission attorneys may seek to delay notifications or prohibit disclosures pursuant to the Right to Financial Privacy Act (12 U.S.C. 3409), the Electronic Communications Privacy Act (18 U.S.C. 2705), or section 7 of the U.S. SAFE WEB Act (15 U.S.C. 57b–2a).

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2011–22593 Filed 9–1–11; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 102

[USCBP–2007–0100; CBP Dec. 11–18]

RIN 1515–AD53 (Formerly RIN 1505–AB49)

Rules of Origin for Imported Merchandise

AGENCIES: Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule that portion of a notice of proposed rulemaking, published in the **Federal Register** on July 25, 2008, that proposed amendments to the country of origin rules codified in part 102 of the Customs and Border Protection (CBP) regulations applicable to pipe fittings and flanges, greeting cards, glass optical fiber, rice preparations, and certain textile and apparel products. However, this document is not adopting as a final rule the portion of the notice that proposed amendments to the CBP regulations to establish uniform rules governing CBP determinations of the country of origin of imported merchandise. CBP is not adopting the uniform rules of origin proposal so as to permit further consideration of relevant issues involved in the proposal.

DATES: This rule is effective October 3, 2011.

FOR FURTHER INFORMATION CONTACT: Monika Brenner, Chief, Valuation and Special Programs Branch, Regulations and Rulings, Office of International Trade, (202) 325–0038.

SUPPLEMENTARY INFORMATION:

Background

Discussion of Proposals

On July 25, 2008, Customs and Border Protection (CBP) published in the **Federal Register** (73 FR 43385) a notice of proposed rulemaking (NPRM) that proposed amendments to the CBP regulations relating to the application of the country of origin rules codified in part 102 of the CBP regulations (19 CFR part 102).

Uniform Rules of Origin

The notice of proposed rulemaking, in part, proposed amendments to the CBP regulations to extend application of the rules of origin codified in part 102 to all country of origin determinations made

under the customs and related laws and the navigation laws of the United States, unless otherwise specified. CBP stated in the NPRM that it believed that the proposed extension of the part 102 country of origin rules to all trade would result in determinations that are more objective, transparent, and predictable, and would facilitate the exercise of reasonable care by U.S. importers with respect to their obligations regarding the identification of the proper country of origin of imported merchandise. Please refer to the July 25, 2008 (73 FR 43385), document for a more detailed discussion of this proposal. As stated later in this document, CBP is not proceeding with this proposal.

Changes to Specific Rules of Origin

The July 25, 2008, document also proposed amendments to the country of origin rules codified in part 102 in regard to five specific product areas: Pipe fittings and flanges, greeting cards, glass optical fiber, rice preparations, and certain textile and apparel products. A brief discussion of the proposed changes for these five product areas is set forth below. For a more detailed discussion of these proposed changes, please see the July 25, 2008, NPRM.

1. Pipe Fittings and Flanges

CBP proposed to amend the tariff shift rule in § 102.20(n), CBP regulations (19 CFR 102.20), for goods classified in headings 7301 through 7307, Harmonized Tariff Schedule of the United States (HTSUS), to provide for a change within heading 7307 from fitting forgings or flange forgings to fittings or flanges made ready for commercial use by certain processing, including beveling, bore threading, center or step boring, face machining, heat treating, recoining or resizing, taper boring, machining ends or surfaces other than a gasket face, drilling bolt holes, and burring or shot blasting. CBP stated in the NPRM that the proposed change is consistent with the decision in *Midwood Industries, Inc.* v. *United States,* 64 Cust. Ct. 499, C.D. 4026, 313 F. Supp. 951 (1970), *appeal dismissed,* 57 CCP 141 (1970), and that the change was being proposed following further consideration of the judicial guidance in *Boltex Manufacturing Co.* v. *United States,* 24 CIT 972, 140 F. Supp. 2d 1339 (2000), and comments received in response to a proposed modification/revocation of rulings published in the *Customs Bulletin and Decisions* on November 21, 2001 (35 Cust. B. & Dec. 35 (2001)).

2. Greeting Cards

CBP proposed to amend the tariff shift rule in § 102.20(j) for goods classified in headings 4901 through 4911, HTSUS, which includes printed greeting cards, by creating a specific rule for heading 4909, providing for a change to that heading from any other heading except from heading 4911 when the change is a result of adding text. CBP explained in the July 25, 2008, NPRM that the effect of this proposed change is to enable the country of origin of all printed greeting cards to be determined according to the country of initial printing of literary text, photographs, graphic designs, or illustrations. CBP further stated that this proposed change is consistent with CBP practice in applying the substantial transformation standard to printed materials, as reflected in CBP's administrative rulings.

3. Glass Optical Fiber

CBP proposed to amend the tariff shift rule in § 102.20(q) for subheading 9001.10, HTSUS, which encompasses optical fibers and optical fiber bundles and cables, by providing for a change to subheading 9001.10 from any other subheading, except from subheading 8544.70, HTSUS, or glass preforms of heading 7002, HTSUS. CBP stated in the NPRM that this proposed change would conform the tariff shift rule to the determination in CBP Headquarters Ruling Letter (HRL) 560660 dated April 9, 1999, that no substantial transformation (and thus no change in origin) results for purposes of the country of marking statute (19 U.S.C. 1304) from the drawing of a glass preform into optical fiber.

4. Rice Preparations

CBP proposed to amend the tariff shift rule in § 102.20(d) for subheading 1904.90, HTSUS, which encompasses certain rice preparations, by providing for a change to subheading 1904.90 from any other heading, except from heading 1006, HTSUS, or wild rice of subheading 1008.90, HTSUS. CBP explained in the NPRM that this proposed change would eliminate the inconsistency between the tariff shift rule and HRL 967925 dated February 28, 2006, in which CBP held that no substantial transformation results for purposes of the country of origin marking statute when rice is processed with 2% water, 0.4% sunflower oil, 0.2% salt, and 0.4% soy lecithin, placed into cups and sealed, and thermally processed.

5. Certain Textile and Apparel Products

In regard to the rules of origin for textile and apparel products set forth in § 102.21, CBP regulations (19 CFR 102.21), CBP proposed two amendments to § 102.21 to properly align the rules with the language of the underlying statute, 19 U.S.C. 3592. First, CBP proposed to amend § 102.21(c)(3)(ii) by adding the words ''fabrics of chapter 59 and'' so that the amended text would read ''Except for fabrics of chapter 59 and goods of heading * * *.'' As explained in the NPRM, this change would have the effect of ensuring that fabrics of chapter 59, HTSUS, derive their country of origin from where the fabric is formed, consistent with 19 U.S.C. 3592(b)(1)(C).

CBP also proposed to amend the tariff shift rule in § 102.21(e) for goods classified in headings 6210 through 6212, HTSUS, by creating a separate rule for heading 6212, which encompasses ''brassieres, girdles, corsets, braces, suspenders, garters and similar articles and parts thereof, whether or not knitted or crocheted.'' CBP noted in the NPRM that the existing tariff shift rule for headings 6210 through 6212 does not provide for the possibility of knit-to-shape goods, even though the body-supporting garments of heading 6212 may be knit to shape. CBP stated that this proposed change would ensure that a knit-to-shape good of heading 6212 is found to derive its origin from where the good is knit to shape in accordance with 19 U.S.C. 3592(b)(2)(A)(ii).

Comment Period

The July 25, 2008, NPRM provided for a sixty-day period (until September 23, 2008) for the submission of public comments on the proposed regulatory changes. The comment period was extended an additional 30 days by a notice published in the **Federal Register** on September 8, 2008 (73 FR 51962). A subsequent notice published in the **Federal Register** on October 30, 2008 (73 FR 64575), re-opened the comment period until December 1, 2008, to afford interested parties an opportunity to provide meaningful comment in light of a final rule document also published on October 30, 2008 (73 FR 64518), which set forth technical corrections to §§ 102.20 and 102.21 to reflect modifications to the HTSUS that became effective in 2007.

Discussion of Comments

A total of 70 commenters responded to the solicitation of public comments, 14 of which provided multiple submissions. Forty-two of the commenters expressed opposition to the proposed uniform application of the country of origin rules set forth in part 102, while 16 commenters raised

specific concerns or questions regarding the uniform rules proposal without expressly supporting or opposing the proposal. Nine of the commenters generally expressed support for the proposal, although certain of these commenters recommended specific modifications to those rules.

In regard to the proposed amendments to the part 102 rules of origin relating to the five specific product areas, six comments were received in regard to two of the product areas. Four commenters discussed the proposed change in the rules pertaining to pipe fittings and flanges, while two commenters addressed the proposed change in the rules regarding glass optical fiber.

Set forth below is a discussion of the comments or portions of comments received that addressed the NPRM's comment period, concerns of a general nature regarding the technical corrections to the part 102 tariff shift rules to reflect the 2007 modifications to the HTSUS, and the proposed amendments to the part 102 rules of origin relating to pipe fittings and flanges and glass optical fiber.

It is noted that a number of comments recommended specific changes to the rules of origin in part 102 other than those that had been proposed. Although CBP considers these comments to be outside the scope of the July 25, 2008, NPRM, CBP nevertheless is reviewing these comments and if, as a result of that review, we determine that additional amendments to the part 102 tariff shift rules are warranted, these changes will be incorporated in a future notice of proposed rulemaking.

Uniform Rules of Origin

Comment

Forty-two commenters opposed implementation of the proposal to establish uniform rules governing CBP determinations of the country of origin of imported merchandise.

CBP's Response

Based on the public comments received in regard to the uniform rules of origin proposal, CBP has determined not to proceed with this proposal. As a result, CBP believes that it is unnecessary to discuss the comments or portions of comments that addressed the proposed amendments relating to the uniform rules of origin proposal.

Extension of Comment Period

Comment

Two commenters requested a 90-day extension of the public comment period beyond the original due date of September 23, 2008, and two commenters requested an additional 60 days within which to submit comments beyond the extended due date of December 1, 2008.

CBP's Response

As noted previously, the notice of proposed rulemaking was published on July 25, 2008, with comments due on or before September 23, 2008. The comment period was extended by a notice published in the **Federal Register** on September 8, 2008 (73 FR 51962), to October 23, 2008. Subsequently, a notice published in the **Federal Register** on October 30, 2008 (73 FR 64575), re-opened the comment period and established a new due date of December 1, 2008. CBP believes that the over four-month comment period afforded to interested parties (with the two extensions) provided all parties with sufficient time to submit comments on the proposed rulemaking.

2007 HTSUS Modifications

Comment

Fifteen commenters maintained that the part 102 tariff shift rules are outdated as they fail to reflect the modifications to the HTSUS that became effective on February 3, 2007 (*see* Presidential Proclamation 8097, published in the **Federal Register** on January 4, 2007 (72 FR 453)). These commenters indicated that maintaining the part 102 tariff shift rules to assure consistency with the 2007 changes as well as future changes to the HTSUS is necessary to the proper evaluation and possible future implementation of the uniform rules of origin proposal.

One of these commenters noted that the North American Free Trade Agreement (NAFTA) country of origin rules in part 102 are static in that they are the result of tripartite negotiations with other sovereigns. As a result, the commenter stated that CBP is without authority to make changes to any of the rules without obtaining agreement from Canada and Mexico. The commenter suggested that the uniform tariff shift rules should be placed elsewhere in the CBP regulations so as to more easily facilitate future changes to the rules.

CBP's Response

As previously noted, a final rule document published in the **Federal Register** on October 30, 2008 (73 FR 64518), set forth technical corrections to the part 102 tariff-shift rules to reflect modifications to the HTSUS that became effective on February 3, 2007. The comment period with respect to the July 25, 2008, NPRM was re-opened on October 30, 2008, specifically to enable interested parties to evaluate the proposed rule in light of the technical corrections made to §§ 102.20 and 102.21 by the above-referenced final rule document. CBP will continue to update the part 102 rules as necessary to assure consistency with future modifications to the HTSUS.

CBP disagrees with the contention by one commenter that the rules set forth in §§ 102.1 through 102.20 (referred to as the ''NAFTA Marking Rules'') are ''static'' as no changes may be made without obtaining agreement with Canada and Mexico. The NAFTA Marking Rules set forth in part 102 are used by the United States under Annex 311 of the NAFTA to determine the country of origin of goods imported into the United States from Canada and Mexico. The United States has full authority to amend those rules whenever it deems it necessary to do so. Of course, the United States engages in consultations with the governments of Canada and Mexico on a regular basis to discuss a number of issues arising under the NAFTA, which may include any amendments being made by each member Party to its NAFTA Marking Rules.

Comment

With respect to the October 30, 2008, technical corrections final rule document, two commenters contended that these updates appear to have been prepared without proper vetting by the trade as they contain numerous errors. A third commenter stated that the technical corrections ''do not make logical sense across the board'', while two additional commenters criticized the corrections as interjecting a ''description-oriented origin determination process, rather than a tariff shift basis.'' Two of these commenters maintained that the inclusion of ''description-shifts'' or the need to subjectively characterize devices within a subheading negates any supposed objective advantage regarding tariff-shift rules and is contrary to the spirit of the original NAFTA agreement regarding origin which was predicated on a clearly-defined shift from one tariff number to another. In addition, it was asserted that using descriptions rather than tariff numbers to determine if a rule has been met hinders or eliminates importers from applying automation to the process, resulting in increased costs to determine if foreign components meet the ''description-shift''.

CBP's Response

CBP acknowledges that the tariff shift rules in § 102.20, as amended by the October 30, 2008, final rule document, contain more descriptions than the prior version but disagrees with the characterization that we are interjecting a description-oriented origin determination process into the tariff-shift system. Our use of certain descriptions is necessitated by the substantial changes in 2007 to portions of the HTSUS, which involved moving a number of goods from various headings or subheadings and concentrating them into one heading or subheading, or vice versa, as well as deleting or adding headings and subheadings. In order to reflect the existing tariff shift rules for the affected goods in their new locations, it was necessary to name or describe goods so that there would be no doubt as to which rule applies to which good.

With regard to the ''logical sense'' of the corrections, CBP notes that the rules were merely updated to reflect the HTSUS 2007 changes. The update required changes in product coverage and/or numbering of certain headings and subheadings and was not intended to have any other substantive effect.

Comment

A commenter contended that the ''technical corrections'' to §§ 102.20 and 102.21 failed to comply with the requirements of the Administrative Procedure Act (APA) (19 U.S.C. 553) which renders the technical corrections invalid or subject to invalidation by the courts. According to the commenter, CBP should have adhered to the standard notice and comment procedures and delayed effective date requirement of the APA. The commenter stated that none of the exceptions to the APA notice and comment procedures apply in this case as the amendments to the part 102 rules are far more than ''technical'' amendments to rules previously existing; they are, in many cases, entirely new rules of origin which speak to entirely new tariff subheadings that did not previously exist. The commenter maintained that these are substantive rules which impose obligations on broad classes of persons in that they dictate the country of origin which must be applied to certain classes of imported merchandise.

CBP's Response

CBP disagrees with the assertion by one commenter that the October 30, 2008, ''technical corrections'' final rule document that amended the part 102 tariff shift rules failed to comply with the requirements of the APA because the amendments were far more than ''technical'' but were substantive in nature. As explained in the final rule document, the 2007 modifications to the HTSUS resulted in certain tariff provisions being added or removed and certain goods being transferred to different or newly-created tariff provisions. Therefore, to properly conform the tariff shift rules in §§ 102.20 and 102.21 to the current version of the HTSUS, it was necessary, depending on each particular HTSUS change, to create an additional rule, remove an existing rule or portion of a rule, or otherwise modify a rule. However, it is important to recognize that these changes to §§ 102.20 and 102.21 were made to ensure that the application of the rules would produce precisely the *same* country of origin result for every good as was the case before the 2007 HTSUS modifications were effected. For this reason, CBP believes that these amendments were not substantive in nature, but indeed qualified as ''technical corrections.''

The October 30, 2008, ''technical corrections'' are contrasted with the amendments made by this final rule document to the tariff shift rules in § 102.20 relating to pipe fittings and flanges, greeting cards, glass optical fiber, and rice preparations. The changes promulgated in this final rule are substantive in nature as they are designed to produce *different* country of origin results under the specific circumstances set forth in this document involving those product areas.

Specifically in regard to the APA, CBP stated in the final rule document that, pursuant to 5 U.S.C. 553(b)(B) and (d)(3), it had determined that it would be impracticable and contrary to the public interest to delay publication of the rule in final form pending an opportunity for public comment and that there was good cause for the rule to become effective immediately upon publication. The document included as the reasons for this determination that the technical corrections merely conformed the tariff shift rules to the current HTSUS and that the amendments facilitated trade by ensuring that country of origin determinations made using the regulations were consistent with the HTSUS. In this regard, CBP wishes to emphasize that, prior to the technical corrections made by the October 30, 2008, final rule document, §§ 102.20 and 102.21 failed to provide accurate tariff shift rules for many of the goods affected by the 2007 modifications to the HTSUS. It was necessary to make these technical corrections at the earliest possible time so that both the public and CBP could properly rely on these rules to accurately determine the country of origin of all goods imported from Canada and Mexico, as required by Annex 311 of the NAFTA, as well as all imported textile and apparel goods. Thus, CBP believes that it appropriately invoked the exceptions described above to the notice, comment, and delayed effective date requirements of the APA.

It is noted that CBP published in the **Federal Register** on July 24, 2003 (68 FR 43630), a similar final rule document that set forth technical corrections to § 102.20 to reflect modifications to the HTSUS that were effective in 2002. CBP determined in that document that the notice and public procedure requirements were inapplicable for the same reasons cited in the October 30, 2008, final rulemaking.

Pipe Fittings and Flanges

Comment

Three commenters expressed support for the proposed tariff shift change for pipe fittings and flanges of heading 7307, HTSUS, set forth in the July 25, 2008, NPRM that would allow a change within heading 7307 from fitting forgings or flange forgings to fittings or flanges made ready for commercial use by certain processing. The commenters stated that the proposed change, which is consistent with the result in *Midwood Industries, Inc.* v. *United States,* 64 Cust. Ct. 499 (1970), would provide stability to the domestic fittings and flanges industry and consistency with longstanding country of origin marking practices, and in addition would encourage further investment in this domestic industry.

CBP's Response

CBP agrees with the commenters that the tariff shift change for pipe fittings and flanges of heading 7307, as proposed in the July 25, 2008, NPRM, is consistent with the court's holding in *Midwood.* We believe that performing the operations set forth in the revised rule results in a fundamental change in the nature of the product. Thus, the country of origin of pipe fittings and flanges of heading 7307 is the country where the referenced operations are performed.

Comment

One commenter disagreed with the proposed change in the tariff shift rule for pipe fittings and flanges, arguing that the change would permit U.S. finishers of imported fittings and flanges to

escape their responsibility to mark the finished product with its foreign origin, thus depriving end users of the ability to make an informed choice between U.S.-manufactured fittings and flanges and foreign articles that are merely subjected to finishing operations in the U.S. According to this commenter, the proposed change would benefit U.S. finishers that purchase inexpensive foreign fittings and flanges in an unfinished form, perform minor, largely superficial processing on the articles, and sell them to U.S. consumers at prices that undercut those for fittings and flanges produced entirely in the United States. The commenter recognized that the proposed change would actually only effect a change for imports of fitting and flange forgings from Mexico and Canada since imports of such forgings from all other countries are currently subject to CBP rulings reflecting the decision in *Midwood.*

This commenter contended that the proposed change is contrary to the country of marking statute (19 U.S.C. 1304) as paragraph (c) of the statute prohibits the establishment of marking exemptions for certain imported pipes and fittings. In addition, the commenter stated that, if CBP truly wishes to codify the substantial transformation standard from *Midwood,* it must revise its proposed rule for heading 7307 to encompass the more complex processing steps that formed the basis for that decision. This would involve requiring that the forging be subjected to at least one of the following processes: (1) Heat-treating; or (2) recoining or resizing, and at least one of the following processes: (1) Beveling, machining the gasket face, or machining ends or surfaces other than a gasket face; (2) threading of the bore; or (3) center boring, step boring, taper boring, or drilling bolt holes. In the commenter's opinion, either (or both) (1) heat-treating or (2) recoining or resizing are necessary because these processes can affect the physical character of the imported forging.

CBP's Response

CBP disagrees with the commenter. As stated previously, the tariff shift rule is being revised to follow the holding of the court in *Midwood.* In *Midwood,* the court considered various processes that would change the country of origin of the imported fittings and flanges involved in that case. In one instance, for example, the court considered imported flange forgings, where excess material was removed from the rim, the forging was faced, bored, threaded or beveled, and drilled and spotfaced. In another instance, the forging was heated and one end was reduced in size and diameter by compression. The commenter contends that either (1) heat treating or (2) recoining or resizing is necessary, along with one other machining process. Regarding the second example above, a specific machining process was not required by the court to effect an origin change. Therefore, while we acknowledge that the other processing steps mentioned by the commenter may be sufficiently complex and significant to result in a change in the country of origin of forgings, we do not believe that they are the only processing steps that would result in a change in the country of origin of these products. CBP believes that the processing operations cited in the proposed rule are also significant enough to result in a change in the country of origin of the forgings and fairly represent the *Midwood* case.

Further, the revised tariff shift rule will not change the statutory requirement set forth in 19 U.S.C. 1304(c) that imported pipes and pipe fittings of steel, stainless steel, chrome-moly steel, or cast and malleable iron must be marked with the English name of the country of origin by means of die stamping, cast-in mold lettering, etching, engraving, or continuous paint stenciling. The revised rule also will not affect the statutory prohibition in section 1304(c) against applying any of the marking exceptions set forth in 1304(a)(3) to the above-described pipes and pipe fittings. The described pipes and pipe fittings will continue to be subject to the special country of origin marking requirements of 19 U.S.C. 1304(c).

Glass Optical Fiber

Comment

A commenter concurred with the proposed change to the part 102 tariff shift rule for glass optical fiber, as set forth in the July 25, 2008, NPRM. However, the commenter suggested that the reference in the proposed rule to ''glass preforms of heading 7002'' should be changed to ''glass preforms of chapter 70'' to take into account any possible change in the classification of glass preforms in the future. The commenter noted in this regard that CBP's decision to classify the preforms in heading 7002 may be contested in court. Thus, the commenter explained that this suggested modification is made solely in the interest of administrative economy and prudence.

Another commenter urged that CBP deny the requested modification to the rule for optical fiber described above for the reason that there is well-established precedent for the classification of fiber preforms in heading 7002. In the view of this commenter, the suggested change to ''glass preforms of chapter 70'' is unusually broad and inconsistent with CBP's goal of increasing certainty and objectivity for all parties. The commenter stated that tariff shift rules should be crafted using the most precise tariff classifications available as reflected in CBP's own existing classification determinations.

CBP's Response

While it is always conceivable that the tariff classification of an article may change for a variety of reasons, including decisions of the courts or CBP, the second commenter above is correct that the text of each tariff shift rule is crafted using the most precise classification available. If it becomes necessary to make a change to the rules as a result of a classification change, this would be done by means of a new rulemaking document.

Conclusions

After analysis of the comments and further consideration, CBP has determined to proceed as follows:

Uniform Rules of Origin Proposal

The portion of the notice of proposed rulemaking published on July 25, 2008, that proposed amendments to establish uniform rules governing CBP determinations of the country of origin of imported merchandise is withdrawn.

Proposed Specific Changes to Rules of Origin

The portion of the notice of proposed rulemaking that proposed amendments to the country of origin rules codified in part 102 that apply to pipe fittings and flanges, greeting cards, glass optical fiber, rice preparations, and certain textile and apparel products is adopted as a final rule without change.

Additional Specific Changes to Rules of Origin Recommended During Comment Period

Although CBP considers comments received in response to the NPRM that suggested additional specific changes to the rules of origin codified in 19 CFR part 102 to be outside the scope of the NPRM, CBP is reviewing these comments. If, as a result of that review, it is determined that additional amendments to the part 102 rules are warranted, these changes will be incorporated in a future notice of proposed rulemaking.

Executive Order 12866

The amendments set forth in this document do not meet the criteria for a ''significant regulatory action'' as specified in Executive Order 12866 because they will not result in the expenditure of over $100 million in any one year. The Office of Management and Budget (OMB) has not reviewed this rule under that Order.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the amendments in this document will not have a significant economic impact on a substantial number of small entities because the final rule more closely aligns the country of origin rules codified in 19 CFR part 102 relating to five specific product areas with CBP administrative rulings, judicial decisions, or the underlying applicable statute. Accordingly, the amendments set forth in this document are not subject to the regulatory analysis requirements or other requirements of 5 U.S.C. 603 and 604.

Signing Authority

This document is being issued in accordance with § 0.1(a)(1) of the CBP regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain customs revenue functions.

List of Subjects in 19 CFR Part 102

CBP duties and inspections, Imports, Reporting and recordkeeping requirements, Rules of origin, Trade agreements.

Amendments to the CBP Regulations

Accordingly, for the reasons stated above, part 102 of the CBP regulations (19 CFR part 102) is amended as set forth below.

PART 102—RULES OF ORIGIN

■ 1. The authority citation for part 102 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1624, 3314, 3592.

■ 2. In the table in § 102.20:

■ a. Paragraph (d), titled ''Section IV: Chapters 16 through 24,'' is amended by revising the entry for 1904.90;

■ b. Paragraph (j), titled ''Section X: Chapters 47 through 49,'' is amended by removing the entry for 4901–4911, and by adding three new entries for 4901–4908, 4909, and 4910–4911;

■ c. Paragraph (n), titled ''Section XV: Chapters 72 through 83,'' is amended by revising the entry for 7301–7307; and

■ d. Paragraph (q), titled ''Section XVIII: Chapters 90 through 92,'' is amended by revising the entry for 9001.10.

The additions and revisions read as follows:

§ 102.20 Specific rules by tariff classification.

* * * * *

HTSUS	Tariff shift and/or other requirements
*	* * * * * *
(d)	Section IV: Chapters 16 through 24.
*	* * * * * *
1904.90	A change to subheading 1904.90 from any other heading, except from heading 1006 or wild rice of subheading 1008.90.
*	* * * * * *
(j)	Section X: Chapters 47 through 49.
*	* * * * * *
4901–4908	A change to heading 4901 through 4908 from any other heading, including another heading within that group.
4909	A change to heading 4909 from any other heading, except from heading 4911 when the change is a result of adding text.
4910–4911	A change to heading 4910 through 4911 from any other heading, including another heading within that group.
*	* * * * * *
(n)	Section XV: Chapters 72 through 83.
*	* * * * * *
7301–7307	A change to heading 7301 through 7307 from any other heading, including another heading within that group, or a change within heading 7307 from fitting forgings or flange forgings to fittings or flanges made ready for commercial use by: (a) At least one of the following processes: (1) Beveling; (2) Threading of the bore; (3) Center or step boring; and (b) At least two of the following processes: (1) Heat treating; (2) Recoining or resizing; (3) Taper boring; (4) Machining ends or surfaces other than a gasket face; (5) Drilling bolt holes; or (6) Burring or shot blasting.
*	* * * * * *
(q)	Section XVIII: Chapters 90 through 92.
9001.10	A change to subheading 9001.10 from any other subheading, except from subheading 8544.70 or glass performs of heading 7002.
*	* * * * * *

■ 3. Section 102.21 is amended by revising paragraph (c)(3)(ii) and by removing the entry for 6210–6212 and adding new entries for 6210–6211 and 6212 in the table in paragraph (e)(1) to read as follows:

§ 102.21 Textile and apparel products.

* * * * *

(c) * * *

(3) * * *

(ii) Except for fabrics of chapter 59 and goods of heading 5609, 5807, 5811, 6213, 6214, 6301 through 6306, and 6308, and subheadings 6209.20.5040, 6307.10, 6307.90, and 9404.90, if the good was not knit to shape and the good was wholly assembled in a single country, territory, or insular possession, the country of origin of the good is the country, territory, or insular possession in which the good was wholly assembled.

* * * * *

(e) * * *

(1) * * *

HTSUS	Tariff shift and/or other requirements
*	* * * * * *
6210–6211	(1) If the good consists of two or more component parts, a change to an assembled good of heading 6210 through 6211 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good does not consist of two or more component parts, a change to heading 6210 through 6211 from any heading outside that group, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5806, 5809 through 5811, 5903, 5906 through 5907, 6001 through 6006, and 6217, and subheading 6307.90, and provided that the change is the result of a fabric-making process.
6212	(1) If the good is not knit to shape and consists of two or more component parts, a change to an assembled good of heading 6212 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good is not knit to shape and does not consist of two or more component parts, a change to heading 6212 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5806, 5809 through 5811, 5903, 5906 through 5907, 6001 through 6006, and 6217, and subheading 6307.90, and provided that the change is the result of a fabric-making process. (3) If the good is knit to shape, a change to heading 6212 from any other heading, provided that the knit to shape components are knit in a single country, territory, or insular possession.
*	* * * * * *

Alan D. Bersin,

Commissioner, U.S. Customs and Border Protection.

Approved: August 30, 2011.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 2011–22588 Filed 9–1–11; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 351

[Docket No. 0612243022–1484–02]

RIN 0625–AA66

Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule

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

ACTION: Supplemental interim final rule and request for comments.

SUMMARY: The Department of Commerce (''the Department'') is issuing this interim final rule to supplement an interim final rule published on February 10, 2011 (*Interim Final Rule*), which governs the certification of factual information submitted to the Department by a person or his or her representative during antidumping (''AD'') and countervailing duty (''CVD'') proceedings. This supplemental interim final rule concerns the certifications required of foreign governments.

By this supplemental interim final rule, foreign governments will be allowed to submit certifications in either the format that was in use prior to the effective date of the *Interim Final Rule* or in the format provided in the *Interim Final Rule.* This supplemental interim final rule will remain in effect until such time as a final rule is published. All other aspects of the *Interim Final Rule* remain in effect and fully apply to all parties and their counsel. Companies should continue to use the company certification provided for in the *Interim Final Rule.* Representatives of companies or governments should continue to use the representative certification provided for in the *Interim Final Rule.* The Department is also requesting comments on the appropriateness of requiring foreign governments to submit the certification provided for in the *Interim Final Rule,* as discussed in more detail below. The Department is not soliciting comments with respect to any other issues concerning the *Interim Final Rule* as the deadline for such comments has expired.

DATES: *Effective date:* The effective date of this supplemental interim final rule is September 2, 2011.

Applicability date: This supplemental interim final rule will apply to all investigations initiated on the basis of petitions filed on or after September 2, 2011, and other segments of AD/CVD proceedings initiated on or after September 2, 2011, as well as all ongoing investigations and ongoing segments of proceedings. Those foreign governments that submitted certifications between March 14, 2011, the effective date of the *Interim Final Rule,* and September 2, 2011 that did not conform with the certification formats required by the *Interim Final Rule* will have 30 days to submit certifications that conform with the formats provided for in this supplemental interim final rule.

Request for public comment: The Department is requesting public comment on this supplemental interim final rule. To be assured of consideration, comments must be received no later than October 3, 2011. The Department is not soliciting rebuttal

comments. All comments should refer to RIN 0625–AA66. The Department intends to issue a final rule within a year after the publication of this supplemental interim final rule.

ADDRESSES: In order to ensure the timely receipt and consideration of comments, the Department requires commenters to make on-line submissions, using the *http://www.regulations.gov* Web site, unless they do not have access to the Internet. Comments to this notice should be submitted under docket number ITA–2010–0007. To find this docket, enter the docket number in the ''Enter Keyword or ID'' window at the *http://www.regulations.gov* home page and click ''Search.'' The site will provide a search-results page listing all documents associated with that docket number. Find a reference to the supplemental interim final rule notice by selecting ''Rule'' under ''Document Type'' on the search-results page, and click on the link entitled ''Submit a Comment.'' The *http://www.regulations.gov* Web site provides the option of making submissions by filling in a comments field, or by attaching a document. ITA prefers submissions to be provided in an attached document. (For further information on using the *http://www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on the ''Help'' tab.)

Commenters who do not have access to the Internet may submit the original and two copies of each set of comments by mail or hand delivery/courier. All comments should be addressed to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, Room 1870, Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.

The Department will consider all relevant comments regarding the supplemental interim final rule that are received before the close of the comment period. The Department will not accept comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. All comments responding to this notice will be a matter of public record and will be available for inspection at Import Administration's Central Records Unit (Room 7046 of the Herbert C. Hoover Building) or on the Federal eRulemaking Portal (''Portal'') at *http://www.regulations.gov.*

Any questions concerning file formatting, document conversion, access to the Internet, or other electronic filing issues should be addressed to Andrew Lee Beller, Import Administration Webmaster, at (202) 482–0866, e-mail address: *webmaster-support@ita.doc.gov.*

FOR FURTHER INFORMATION CONTACT: Rebecca Cantu, Attorney, Office of the General Counsel, Office of Chief Counsel for Import Administration, or Myrna Lobo, International Trade Analyst, Office 6, Import Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230, 202–482–4618 or 202–482–2371, respectively.

SUPPLEMENTARY INFORMATION:

Background

In the *Interim Final Rule* (*see Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011)) the Department invited comments and rebuttal comments from the public by May 11, 2011 and June 27, 2011, respectively. Subsequently, the Department reopened the period for rebuttal comments until July 14, 2011 because interested parties were unable to file their rebuttal comments within the established deadline due to technical difficulties with the Portal. *See Interim Final Rule on Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings: Reopening of Rebuttal Comment Period,* 76 FR 39770 (July 7, 2011).

Some of the comments received in response to the *Interim Final Rule* discussed the appropriateness of requiring foreign governments and their officials to submit a certification that one commenter claims includes an acknowledgement that the certifying individual may be subject to criminal sanctions under U.S. law (including, but not limited to 18 U.S.C. 1001). This reference to 18 U.S.C. 1001 was not contained in the prior version of the certification. Some parties contend that it is inappropriate for the Department to impose a certification requirement that, these parties claim, subjects foreign government officials to potential liability from which they are immune, absent limited exceptions, pursuant to U.S. statutory law (*e.g.,* the Foreign Sovereign Immunities Act) and common law.

In addition, the new certification requirements include language which, certain parties claim, imposes additional, enforceable legal obligations on foreign governments. These parties have identified language in the new certifications which indicates that the submitter is aware that the Department may preserve the submission for purposes of determining the accuracy of a certification, even if a party otherwise withdraws the submission from the record, and also language which indicates that the submitter must maintain the original of the certification for a five-year period. These parties contend that the purported additional legal obligations which this language imposes are also contrary to principles of sovereign immunity.

The Department requires additional time to analyze these comments as they relate specifically to the government certifications, to obtain public views on the comments described above, and to address fully the parties' comments. We are therefore supplementing the *Interim Final Rule* to allow foreign governments to submit certifications in either the format that was in use prior to the *Interim Final Rule* (which does not include the statutory reference or language described above) or in the new format provided in the *Interim Final Rule* until such time as a final rule is published. This supplemental interim final rule is applicable only to foreign government certifications (*i.e.,* it is not applicable to company certifications or representative certifications).

Issuance of Supplemental Interim Final Rule

In light of the comments received on the *Interim Final Rule* regarding the appropriateness of requiring foreign governments to provide certifications that include the new language provided for in the *Interim Final Rule,* the Department is hereby publishing a supplemental interim final rule pertaining to the government certifications that must accompany factual submissions in AD/CVD proceedings. This supplemental interim final rule, like the *Interim Final Rule,* is part of the ongoing rulemaking process whereby the Department is seeking to strengthen the certification requirements for all parties. This supplemental interim final rule allows foreign governments to submit certifications in either the format that was in use prior to the effective date of the *Interim Final Rule* or in the format provided in the *Interim Final Rule* until such time as a final rule is published.

Classification

This supplemental interim final rule has been determined to be not significant for purposes of Executive Order 12866.

The Department finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment before this regulation becomes

effective. The purpose of this supplemental interim final rule is to permit foreign governments to file certifications in either the format that was in use prior to the effective date of the *Interim Final Rule* or in the format provided in the *Interim Final Rule* in order for the Department to have sufficient time to analyze fully the comments received for the *Interim Final Rule.* Any delay could impede the ability of foreign governments to participate in ongoing AD and CVD proceedings, including their ability to submit information, and as a result, any delay could negatively impact the Department's ability to administer the AD and CVD law. Thus, providing prior notice would be contrary to the public interest. For the same reasons, it would be contrary to the public interest to allow the public an opportunity to comment on this rule before it became effective. Since this is a supplement to the interim final rule, the public will have an opportunity to comment on this supplement until the end of the comment period. The Department will consider those comments before announcing the final rule.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* the Chief Counsel for Regulation at the Department certified to the Chief Counsel for Advocacy, Small Business Administration, that the proposed rule would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published with the *Interim Final Rule.*[1] The changes made by this rule do not change this conclusion, and a final regulatory flexibility analysis is not required and has not been prepared.

Paperwork Reduction Act

It has been determined that this rulemaking is not subject to the Paperwork Reduction Act.[2]

Executive Order 13132

It has been determined that the rulemaking does not contain federalism implications warranting the preparation of a federalism assessment.

List of Subjects in 19 CFR Part 351

Administrative practice and procedure, Antidumping duties, Business and industry, Confidential business information, Countervailing duties, Investigations, Reporting and recordkeeping requirements.

[1] *Interim Final Rule,* 76 FR at 7498–99.

[2] *Id.*

Dated: August 25, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

For the reasons stated above, 19 CFR part 351 is amended as follows:

PART 351—ANTIDUMPING AND COUNTERVAILING DUTIES

■ 1. The authority citation for 19 CFR part 351 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1202 note; 19 U.S.C. 1303 note; 19 U.S.C. 1671 *et seq.;* and 19 U.S.C. 3538.

■ 2. Section 351.303(g) is revised to read as follows:

§ 351.303 Filing, document identification, format, translation, service, and certification of documents.

* * * * *

(g) *Certifications.* A person must file with each submission containing factual information the certification in paragraph (g)(1) of this section and, in addition, if the person has legal counsel or another representative, the certification in paragraph (g)(2) of this section.

(1) For the person(s) officially responsible for presentation of the factual information:

(i) **COMPANY CERTIFICATION** *

I, **(PRINTED NAME AND TITLE)**, currently employed by **(COMPANY NAME),** certify that I prepared or otherwise supervised the preparation of the attached submission of **(IDENTIFY THE SPECIFIC SUBMISSION BY TITLE AND DATE)** pursuant to the **(INSERT ONE OF THE FOLLOWING: THE (ANTIDUMPING OR COUNTERVAILING DUTY) INVESTIGATION OF (PRODUCT) FROM (COUNTRY) (CASE NUMBER) or THE (DATES OF POR) (ADMINISTRATIVE OR NEW SHIPPER) REVIEW UNDER THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY)) (CASE NUMBER) or THE SUNSET REVIEW OR CHANGED CIRCUMSTANCE REVIEW OR SCOPE RULING OR CIRCUMVENTION INQUIRY OF AD/CVD ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER).** I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am aware that the information contained in this submission may be subject to verification or corroboration (as appropriate) by the U.S. Department of Commerce. I am also aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the Department may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that I am filing a copy of this signed certification with this submission to the U.S. Department of Commerce and that I will retain the original for a five-year period commencing with the filing of this document. The original will be available for inspection by U.S. Department of Commerce officials.

Signature: _____

Date: _____

* For multiple person certifications, all persons should be listed in the first sentence of the certification and all persons should sign and date the certification. In addition, singular pronouns and possessive adjectives should be changed accordingly, e.g., ''I'' should be changed to ''we'' and ''my knowledge'' should be changed to ''our knowledge.''

(ii) **GOVERNMENT CERTIFICATION** **

I, **(PRINTED NAME AND TITLE)**, currently employed by **(GOVERNMENT),** certify that I prepared or otherwise supervised the preparation of the attached submission of **(IDENTIFY THE SPECIFIC SUBMISSION BY TITLE AND DATE)** pursuant to the **(INSERT ONE OF THE FOLLOWING: THE (ANTIDUMPING OR COUNTERVAILING DUTY) INVESTIGATION OF (PRODUCT) FROM (COUNTRY) (CASE NUMBER) or THE (DATES OF POR) (ADMINISTRATIVE OR NEW SHIPPER) REVIEW UNDER THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY)) (CASE NUMBER) or THE SUNSET REVIEW OR CHANGED CIRCUMSTANCE REVIEW OR SCOPE RULING OR CIRCUMVENTION INQUIRY OF AD/CVD ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER).** I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am aware that the information contained in this submission may be subject to verification or corroboration (as appropriate) by the U.S. Department of Commerce. I am also aware that U.S. law (including, but not limited to, 18

U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the Department may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that I am filing a copy of this signed certification with this submission to the U.S. Department of Commerce and that I will retain the original for a five-year period commencing with the filing of this document. The original will be available for inspection by U.S. Department of Commerce officials.

Signature: _____

Date: _____

** For multiple person certifications, all persons should be listed in the first sentence of the certification and all persons should sign and date the certification. In addition, singular pronouns and possessive adjectives should be changed accordingly, e.g., ''I'' should be changed to ''we'' and ''my knowledge'' should be changed to ''our knowledge.''

OR

I, (name and title), currently employed by (person), certify that (1) I have read the attached submission, and (2) the information contained in this submission is, to the best of my knowledge, complete and accurate.

(2) For the legal counsel or other representative:

REPRESENTATIVE CERTIFICATION ***

I, **(PRINTED NAME),** with **(LAW FIRM or OTHER FIRM),** counsel or representative to **(COMPANY OR GOVERNMENT OR PARTY)**, certify that I have read the attached submission of **(IDENTIFY THE SPECIFIC SUBMISSION BY TITLE AND DATE)** pursuant to the **(INSERT ONE OF THE FOLLOWING: THE (ANTIDUMPING OR COUNTERVAILING DUTY) INVESTIGATION OF (PRODUCT) FROM (COUNTRY) (CASE NUMBER) or THE (DATES OF POR) (ADMINISTRATIVE OR NEW SHIPPER) REVIEW UNDER THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER) or THE SUNSET REVIEW OR CHANGED CIRCUMSTANCE REVIEW OR SCOPE RULING OR CIRCUMVENTION INQUIRY OF AD/CVD ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER).** In my capacity as an adviser, counsel, preparer or reviewer of this submission, I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the Department may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that I am filing a copy of this signed certification with this submission to the U.S. Department of Commerce and that I will retain the original for a five-year period commencing with the filing of this document. The original will be available for inspection by U.S. Department of Commerce officials.

Signature: _____

Date: _____

*** For multiple representative certifications, all representatives and their firms should be listed in the first sentence of the certification and all representatives should sign and date the certification. In addition, singular pronouns and possessive adjectives should be changed accordingly, e.g., ''I'' should be changed to ''we'' and ''my knowledge'' should be changed to ''our knowledge.''

[FR Doc. 2011–22344 Filed 9–1–11; 8:45 am]

BILLING CODE 3510–DS–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 422

[Docket No. SSA–2011–0052]

RIN 0960–AH35

Protecting the Public and Our Personnel to Ensure Operational Effectiveness

AGENCY: Social Security Administration.

ACTION: Interim final rule with request for comments.

SUMMARY: We are publishing the process we follow when we ban an individual from entering our field offices. Due to escalating reports of threats to our personnel and our customers in our offices, we are taking steps to increase the level of protection we provide. We expect that this rule will result in a safer environment for our personnel and members of the public who use our facilities, while ensuring that we continue to serve the American people with as little disruption to our operations as possible.

DATES: *Effective Date:* This interim final rule is effective September 2, 2011.

Comment date: To ensure that your comments are considered, we must receive them no later than November 1, 2011.

ADDRESSES: You may submit comments by any one of three methods—Internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA–2011–0052 so that we can associate your comments with the correct regulation.

Caution: You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as SSN or medical information.

1. *Internet:* We strongly recommend that you submit your comments via the Internet. Please visit the Federal eRulemaking portal at *http://www.regulations.gov.* Use the *Search* function to find docket number SSA–2011–0052. The system will issue a tracking number to confirm your submission. You will not be able to view your comment immediately because we must post each comment manually. It may take up to a week for your comment to be viewable.

2. *Fax:* Fax comments to (410) 966–2830.

3. *Mail:* Mail your comments to the Office of Regulations, Social Security Administration, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401.

Comments are available for public viewing on the Federal eRulemaking portal at *http://www.regulations.gov* or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Bill McClelland, Office of Public Service and Operations Support, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, 410–965–8004. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Background

Preventing violence is a growing concern for all Federal agencies, particularly the Social Security Administration. We touch the lives of virtually every American, often during times of personal hardship, transition, and uncertainty. In fiscal year (FY) 2010, we had 45 million visits to our field offices, 738,000 hearings before administrative law judges, and over 67 million calls to our national 800 number. Most interactions occur without incident, and 90% of visitors responding to our annual surveys rate our service as excellent, very good, or good. However, some people who visit or call our offices make threatening statements to and against our employees, other government employees, members of the public, our guards, and our office buildings. Unfortunately, some people go beyond verbal threats and physically assault our employees, guards, and members of the public.

As our workloads have risen in recent years, the number of reported threats to our employees has increased significantly. In FY 2010, we received nearly 2,800 reports of threats to our employees across the Nation, an increase of 43% from FY 2009. We respond promptly to these incidents and refer them to law enforcement for further action, when appropriate. We have increased the security measures in our field and hearing offices. We are using the resources Congress provided to handle disability benefit claims more quickly and accurately; we expect these actions will minimize the anxiety that claimants may experience when they seek benefits from us.

As we work to make our offices safer, we must consider risks to the public and our personnel, as well as our service delivery obligations. When we deem it necessary, we may ban an individual from entering our offices.

Section 702(a)(4) of the Social Security Act (Act) provides that the Commissioner is ''responsible for the exercise of all powers and the discharge of all duties of the [agency], and shall have authority and control over all personnel and activities thereof.'' The Act also authorizes the Commissioner to ''prescribe such rules and regulations as [he or she] determines are necessary or appropriate to carry out the functions'' of the agency. Section 702(a)(5) of the Act, 42 U.S.C. 902(a)(5). In order to ensure that the agency operates in an effective manner, the Commissioner determines the methods for providing service to the public and the means for minimizing operational disruptions.

The Commissioner's authority extends to placing reasonable restrictions on an individual's access to in-person services. Courts have held that an individual's right of access to Federal property can reasonably be limited in the interest of public safety.[1] In developing this final rule, we are balancing an individual's right to obtain in-person Social Security services against the threat the individual poses to the safety of our personnel and our visitors. When balancing these interests, we also consider our obligation to effectively administer our programs.[2]

In this final rule, we describe the process we will follow when determining whether to ban an individual from our offices. We may ban an individual from our offices when he or she: (1) Uses force or threats of force against our personnel or offices, including sending threatening letters or other communications; (2) engages in disruptive conduct that impedes our personnel from performing their duties; or (3) engages in disruptive behavior that prevents members of the public from obtaining services from us. When we ban an individual, the ban will apply to all of our offices nationwide.

We will ban an individual only after an agency manager determines that the individual poses a threat to the safety of our personnel or our visitors, our offices, or the operational effectiveness of the agency. We will provide the individual with written notice of the ban. The notice will contain the following information:

(a) *Type of restriction.* If we ban an individual from entering our offices, the ban will apply to all of our offices. A banned individual must obtain all future service through alternate means. We will provide in-person service only if the banned individual establishes that there are no alternate means available. A banned individual requesting in-person service must direct that request to the manager of the office that the individual is requesting to visit. If we determine that an office visit is warranted, we will schedule an appointment for the individual and send a certified letter notifying the individual of the date, time, and location of the appointment.

(b) *Prohibited conduct.* The notice will provide the banned individual with specific details of the prohibited conduct that served as the basis for our decision to ban him or her.

(c) *Alternate means of service.* The notice will provide information about the alternate channels of service available to an individual who we have banned.

1. The individual may use the online services available through our Web site at *http://www.socialsecurity.gov;*

2. The notice will include the contact information for the individual's local office. The individual may call the local office and ask to speak with the office manager or a supervisor;

3. The individual may call our national toll-free number at 1–800–772–1213 between the hours of 7 a.m. and 7 p.m., Monday through Friday. The individual should not try to schedule an in-person appointment through this number. If the individual is deaf or hard of hearing, he or she may call our toll-free TTY number at 1–800–325–0778;

4. The individual may write to the local office. An individual restricted from receiving in-person services from our personnel should address all correspondence to the attention of the office manager; or

5. With the written consent of the banned individual, another person may call, write, or visit us on his or her behalf.

(d) *Appeal rights.* A banned individual may appeal our determination. A banned individual must submit his or her appeal in writing to the address identified in the notice within 60 days of the date of the notice. The appeal should identify the individual's name, address, Social Security number, and the office that issued the ban notice. The appeal should clearly state why we should reconsider the ban determination and provide any supporting documentation. We may allow an additional 10 days for the late filing of an appeal if the individual shows good cause for the late filing. The ban will remain in effect while the appeal is pending. We will provide written notice of the appeal decision.

(e) *Periodic request for review of ban decision.* A banned individual may request review of our ban decision every three years. The three-year cycle to request review will begin on the date we issued the notice of the ban, or if the individual appealed, the date of our

[1] *See Downing* v. *Kunzig,* 454 F.2d 1230, 1232 (6th Cir. 1972) (noting that, ''federal buildings housing federal courts and other governmental agencies are designed to be used strictly for governmental purposes. Although members of the public ordinarily have free access to such buildings, * * * responsible agencies are free to adopt and enforce reasonable rules restricting such public use. * * *''); *cf. United States* v. *Cassiagnol,* 420 F.2d 868, 875 (4th Cir. 1970) (''Even where government property is generally open to the public, reasonable nondiscriminatory regulation is appropriate to prevent interference with the designated and intended governmental use thereof.'').

[2] See 76 FR 13506.

appeal decision. The individual must submit a request for review of a ban decision in writing to the address identified in the original notice of the ban. The request for review should identify the individual's name, address, Social Security number, and office that issued the ban notice. The request should clearly state why we should lift the ban and provide relevant documentation that supports removal of the restriction, including, medical documentation, applicable psychiatric evaluations, work history, and any criminal record. The banned individual must prove by a preponderance of the evidence (meaning that it is more likely than not) that he or she no longer poses a threat to the safety of our personnel, visitors, offices, or the operational effectiveness of the agency. We will notify the individual of our decision in writing.

We will post this regulation in a conspicuous place in our offices that serve the public.

Clarity of This Rule

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this final rule, we invite your comments on how to make rules easier to understand.

For example:

- Would more, but shorter, sections be better?
- Are the requirements in the rule clearly stated?
- Have we organized the material to suit your needs?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format make the rule easier to understand, e.g. grouping and order of sections, use of headings, paragraphing?

When will we start to use this rule?

We will start to use this interim final rule on the date shown under the ''Effective Date'' section earlier in this preamble. However, we are also inviting public comments on the changes made by this rule. We will consider any relevant comments we receive, plan to publish another final rules document to respond to any such comments we receive, and will make any changes to the rules as appropriate based on the comments.

Regulatory Procedures

Justification for Issuing Final Rule Without Notice and Comment

We follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 when developing regulations. *See* Section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5). Generally, the APA requires that an agency provide prior notice and opportunity for public comment before issuing an interim final rule. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures because they are impracticable, unnecessary, or contrary to the public interest. We have determined that good cause exists for dispensing with the notice and public comment procedures for this rule. 5 U.S.C. 553(b)(B).

As we noted above, the number of reported threats to our personnel and property has risen dramatically in recent years. In light of this increase, we believe we must take immediate action to implement this final rule as quickly as possible. The changes we are making in this final rule will increase our ability to protect our claimants, personnel, and other visitors to our offices, while at the same time fulfilling our mission to serve the American people. Accordingly, we find that prior public comment would be contrary to the public interest. However, we are inviting public comment on this final rule and will consider any substantive comments we receive within 60 days of the publication of this final rule.

In addition, for the reasons cited above, we also find good cause for dispensing with the 30-day delay in the effective date of this rule provided for in 5 U.S.C. 553(d)(3). Accordingly, we are making this interim final rule effective upon publication.

Executive Order 12866 As Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this interim final rule met the criteria for a significant regulatory action under Executive Order 12866 as supplemented by Executive Order 13563. Thus, OMB reviewed the final rule.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities because they affect individuals only. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

This rule does not create any new or affect any existing collections and, therefore, does not require OMB approval under the Paperwork Reduction Act.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; and 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 422

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Social security.

Michael J. Astrue,

Commissioner of Social Security.

For the reasons set out in the preamble, we amend part 422 of chapter III of title 20 of the Code of Federal Regulations as set forth below:

PART 422—ORGANIZATION AND PROCEDURES

■ 1. Add and reserve subpart I.

■ 2. Add subpart J to Part 422 to read as follows:

Subpart J—Protecting the Public and Our Personnel To Ensure Operational Effectiveness

Sec.
422.901 Scope and purpose.
422.902 Definition of personnel for purposes of this subpart.
422.903 Prohibited conduct.
422.904 Notice of the ban.
422.905 Appeal rights.
422.906 Periodic request for review of ban decision.
422.907 Posting requirement.

Subpart J—Protecting the Public and Our Personnel To Ensure Operational Effectiveness

Authority: Sec. 702(a)(4)–(5) of the Social Security Act (42 U.S.C. 902(a)(4)–(5)).

§ 422.901 Scope and purpose.

The regulations in this subpart describe the process we will follow when we decide whether to ban you from entering our offices. Due to increasing reports of threats to our personnel and the public, we are taking steps to increase the level of protection we provide to our personnel and to the public. The purpose of this subpart is to inform the public and our personnel of

the conduct that will subject an individual to a ban and the procedures we will follow when banning an individual from entering our offices. We expect that the regulations will result in a safer environment for our personnel and the public who visit our facilities, while ensuring that our personnel can continue to serve the American people with as little disruption to our operations as possible.

§ 422.902 Definition of personnel for purposes of this subpart.

We will construe the term ''personnel'' broadly to mean persons responsible for or engaged in carrying out the responsibilities, programs, or services of or on behalf of the agency. Personnel includes, but is not limited to, our employees, contractors, consultants, and examiners and State disability determination services (DDS) employees, contractors, consultants, and examiners.

§ 422.903 Prohibited conduct.

We will ban you from entering our offices if you:

(a) Physically or verbally assault our personnel or a member of the public in our occupied space;

(b) Use force or threats of force against our personnel or offices, including but not limited to communicating threats in person or by phone, facsimile, mail, or electronic mail;

(c) Engage in disruptive conduct that impedes our personnel from performing their duties; or

(d) Engage in disruptive conduct that impedes members of the public from obtaining services from our personnel.

§ 422.904 Notice of the ban.

If an agency manager makes a decision in writing that you pose a threat to the safety of our personnel, visitors, office, or the operational effectiveness of the agency, we will send you a notice banning you from our offices. The notice will contain the following information:

(a) *Type of restriction.* If we ban you from entering our offices, the ban will apply to all of our offices, and you must obtain all future service through alternate means. We will provide you in-person service only if you establish that there are no alternate means available. You must direct your request for in-person service to the manager of the office you are requesting to visit. If we determine that an office visit is warranted, we will schedule an appointment for you and send you a certified letter notifying you of the date, time, and location of the appointment.

(b) *Prohibited conduct.* We will provide you with specific details of the prohibited conduct that served as the basis for our decision to ban you.

(c) *Alternate means of service.* If you are banned from entering our offices, you still have several means to receive services:

(1) You may use the online services available through our Web site at *http://www.socialsecurity.gov;*

(2) You may call your local office. Your notice will include the contact information for your local office. You should ask to speak with the office manager or a supervisor;

(3) You may call our national toll-free number at 1–800–772–1213 between the hours of 7 a.m. and 7 p.m., Monday through Friday. You should not attempt to schedule an in-person appointment through this number. If you are deaf or hard of hearing, you may call our toll-free TTY number at 1–800–325–0778;

(4) You may write to your local office. You should address all correspondence to the attention of the office manager;

(5) With your written consent, another person may call, write, or visit us to conduct business on your behalf.

(d) *Appeal rights.* The notice will provide you with information on how to appeal the ban.

(e) *Periodic request for review of ban decision.* The notice will provide you with information on how to request review of the ban determination every three years from the date of the ban notice, or if you appeal the ban, the date of the appeal decision.

§ 422.905 Appeal rights.

You may appeal our decision to ban you. You must submit your appeal in writing to the address identified in the notice within 60 days of the date of the notice. You should identify your name, address, Social Security number, and the office that issued the notice of the ban. The appeal should clearly state why we should reconsider our decision and provide any supporting documentation. We may allow an additional 10 days for the late filing of an appeal if you show good cause for the late filing. The ban will remain in effect while the appeal is pending. We will notify you of our decision in writing.

§ 422.906 Periodic request for review of ban decision.

You may request review of our ban decision every three years. The three-year cycle to request review will begin on the date we issued notice of the ban, or if you appealed, the date of our appeal decision. You must submit your request for review of a ban decision in writing to the address identified in the original notice of the ban. Your request for review should identify your name, address, Social Security number, and office that issued the notice of the ban. Your request should clearly state why we should lift the ban and provide relevant documentation that supports removal of the restriction, including medical documentation, applicable psychiatric evaluations, work history, and any criminal record. You must prove by a preponderance of the evidence (meaning that it is more likely than not) that you no longer pose a threat to the safety of our personnel or visitors or the operational effectiveness of the agency. We will notify you of our decision in writing.

§ 422.907 Posting requirement.

We will post the regulation in this subpart in a conspicuous place in our offices that serve the public.

[FR Doc. 2011–22492 Filed 9–1–11; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0001]

RIN 1625–AA00

Safety Zone; Myrtle Beach Triathlon, Atlantic Intracoastal Waterway, Myrtle Beach, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Atlantic Intracoastal Waterway in Myrtle Beach, South Carolina during the Myrtle Beach Triathlon. The Myrtle Beach Triathlon, which is comprised of a series of triathlon races, is scheduled to take place on Saturday, October 8, 2011 and Sunday, October 9, 2011. This temporary safety zone is necessary for the safety of race participants, participant vessels, spectators, and the general public during the swim portions of the triathlon races. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Charleston or a designated representative.

DATES: This rule is effective from 6 a.m. on October 8, 2011 through 11:59 a.m. on October 9, 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–2011–0001 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–0001 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 temporary final rule, call or e-mail Ensign John R. Santorum, Sector Charleston Office of Waterways Management, Coast Guard; telephone 843–740–3184, e-mail *John.R.Santorum@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On June 28, 2011, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; Myrtle Beach Triathlon, Atlantic Intracoastal Waterway, Myrtle Beach, SC in the **Federal Register** (76 FR 124). We received no comments on the proposed rule. No public meeting was requested, and none was held.

Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and limited access areas: 33 U.S.C. 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, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

The purpose of the rule is to ensure the safety of race participants, participant vessels, spectators and the general public during the swim portion of the triathlon races.

Discussion of Comments and Changes

The Coast Guard did not receive any comments to the proposed rule, and no changes were made to the regulatory text.

Discussion of Rule

On October 8 and 9, 2011, the Myrtle Beach Triathlon will be held in Myrtle Beach, South Carolina. This event will be comprised of a series of triathlon races. Approximately 2,500 individuals are scheduled to compete in the event. The rule establishes a temporary safety zone around the swim area of the Myrtle Beach Triathlon on the Atlantic Intracoastal Waterway in Myrtle Beach, South Carolina. The temporary safety zone will be enforced daily from 6 a.m. until 11:59 a.m. on October 8, 2011 through October 9, 2011. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless specifically authorized by the Captain of the Port Charleston or a designated representative. Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the safety zone by contacting the Captain of the Port Charleston via telephone at 843–740–7050, or a designated representative via VHF radio on channel 16.

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.

The economic impact of this rule is not significant for the following reasons: (1) The safety zone will only be enforced for a total of 12 hours; (2) the safety zone will encompass only a small portion of the navigable waterway; (3) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the safety zone without authorization from the Captain of the Port Charleston or a designated representative, they may operate in the surrounding area during the enforcement period; (4) persons and vessels may still enter, transit through, anchor in, or remain within the safety zone if authorized by the Captain of the Port Charleston or a designated representative; and (5) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will 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 may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of the Atlantic Intracoastal Waterway encompassed within the safety zone from 6 a.m. on October 8, 2011 through 11:59 a.m. on October 9, 2011. For the reasons discussed in the Executive Order 12866 and Executive Order 13563 section above, this rule will not have a significant economic impact on a substantial number of small entities.

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 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 effect 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, paragraph (34)(g), of the Instruction. This rule involves establishing a temporary safety zone that will be enforced for a total of 12 hours. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 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 part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 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, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary § 165.T07–0001 to read as follows:

§ 165.T07–0001 Safety Zone; Myrtle Beach Triathlon, Atlantic Intracoastal Waterway, Myrtle Beach, SC.

(a) *Regulated Area.* The following regulated area is a safety zone. All waters of the Atlantic Intracoastal Waterway encompassed within an imaginary line connecting the following points: starting at Point 1 in position 33°45′35″ N, 78°49′42″ W; thence southeast to Point 2 in position 33°45′31″ N, 78°49′39″ W; thence northeast to Point 3 in position 33°45′57″ N, 78°48′57″ W; thence northeast to Point 4 in position 33°46′00″ N, 78°48′57″ W; thence southwest back to origin. All coordinates are North American Datum 1983.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Charleston in the enforcement of the regulated area.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Charleston or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at 843–740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Effective Date and Enforcement Periods.* This rule is effective from 6 a.m. on October 8, 2011 through 11:59 a.m. on October 9, 2011. This rule will be enforced daily from 6 a.m. until 11:59 a.m. on October 8, 2011 through October 9, 2011.

Dated: August 22, 2011.

M.F. White,

Captain, U.S. Coast Guard, Captain of the Port Charleston.

[FR Doc. 2011–22491 Filed 9–1–11; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2010–0856; FRL–9459–1]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Permits for Major Stationary Sources and Major Modifications Locating in Prevention of Significant Deterioration Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. The revision establishes the addition of nitrogen oxides (NO_X) as a precursor to ozone in Virginia for permits of major stationary sources or major modifications locating in Prevention of Significant Deterioration (PSD) areas. EPA is approving the addition of NO_X as a precursor to ozone based on the Virginia regulations dated December 31, 2008. A previous PSD program approval of Virginia's Chapter 80, Article 8 regulations was provided to the Commonwealth as a ''limited approval'' for reasons that will not deny this action as being fully approved. This revision to add NO_X as a precursor to ozone is in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on October 3, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2010–0856. All documents in the docket are listed in the *http://www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, *i.e.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Sharon McCauley, (215) 814–3376, or by e-mail at *mccauley.sharon@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. On May 23, 2011 (76 FR 29686), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed approval of including NO_X as a precursor to ozone for permitting and the construction of new major stationary sources and the significant modification of existing major stationary sources of air pollutants in areas designated attainment or non-classifiable for the National Ambient Air Quality Standards (NAAQS) in Virginia. The formal SIP revision was submitted by Virginia on June 7, 2010.

This approval establishes NO_X as a precursor to ozone, in addition to volatile organic compounds (VOC), in the definitions of ''major modification'', ''major stationary source'', ''regulated New Source Review (NSR) pollutant'' and ''significant'' and to the list of exempted facilities. Virginia's regulations adding NO_X as a precursor to ozone establishes a construction permit program consistent with the Federal CAA's Title I program and implementing regulations at 40 CFR 51.166, ''Prevention of Significant Deterioration of Air Quality.'' VADEQ's regulation 9VAC5 Chapter 80, Article 8 is part of the SIP and sets forth the criteria and procedures for major stationary sources to obtain a permit to construct, operate and/or modify a major stationary source.

Previously, EPA had issued a ''limited approval'' of Virginia's PSD regulations (9VAC5 Chapter 80, Article 8) for reasons that will not deny this action as being fully approved. The ''limited approval'' issues can be found in the Technical Support Document contained in this Docket or in the **Federal Register** action dated October 22, 2008 (73 FR 62897).

II. Summary of SIP Revision

Our review of Virginia's SIP revision request indicates that our approval of this SIP revision is warranted. These changes to the Virginia program are found in the Virginia Code at 9VAC5 Chapter 80, Article 8, Permits for Major Stationary Sources and Major Modifications Locating in Prevention of Significant Deterioration Areas. EPA is approving NO_X as a precursor to ozone in addition to VOCs in the definitions of ''major modification'', ''major stationary source'', ''regulated New Source Review (NSR) pollutant'' and ''significant'' and to the list of exempted facilities as a revision to the Virginia SIP.

This SIP approval for 9VAC5–80–1615 and 9VAC5–80–1695 addresses regulatory changes needed to be equivalent to the CAA's part C PSD permit program. It also corrects deficiencies identified by EPA in the March 27, 2008 **Federal Register** action entitled, ''Completeness Findings for Section 110(a) State implementation Plans for the 8-hour Ozone National Ambient Air Quality Standards (1997 Ozone NAAQS)'' (73 FR 16205). EPA's approval of this SIP submission addresses Virginia's compliance with the portion of CAA Section 110(a)(2)(C) & (J) relating to the CAA's part C PSD permit program for the 1997 Ozone NAAQS, because this approval will allow regulating NO_X as a precursor to ozone in Virginia's SIP in accordance with the **Federal Register** action dated November 29, 2005 (70 FR 71612) that finalized NO_X as a precursor for ozone regulations set forth at 40 CFR 51.166 and in 40 CFR 52.21.

We are fully approving these regulatory citation changes which became effective in Virginia on December 31, 2008, as referenced here in this document and in the Virginia Code of Regulations 9VAC5 Chapter 80, Article 8, sections 5–80–1615 and 5–80–1695 which establish NO_X as a precursor to ozone, into the Virginia SIP.

III. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's

legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege Law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts. * * *'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity Law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its PSD program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

Other specific requirements of NO_X as a precursor to ozone and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

III. Final Action

EPA is approving the addition of NO_X as a precursor to ozone for PSD as a revision to the Virginia SIP.

IV. Statutory and Executive Order Reviews

A. General Requirements

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

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

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 1, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the

purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action to approve NO_X as a precursor to ozone in Virginia may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: August 22, 2011.

W.C. Early,

Acting, Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for 40 CFR part 52 continues to read as follows:

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

Subpart VV—Virginia

■ 2. In § 52.2420, the table in paragraph (c) is amended by revising the entries for Sections 5–80–1615 and 5–80–1695 to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES

State citation	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
*	*	*	*	*
9 VAC 5, Chapter 80 Permits for Stationary Sources				
*	*	*	*	*
Article 8 Permits for Major Stationary Sources and Major Modifications Locating in Prevention of Significant Deterioration (PSD) Areas				
*	*	*	*	*
5–80–1615	Definitions	12/31/08	9/2/11 [Insert page number where the document begins].	Adds NO_X as a precursor to ozone. Limited approval remains in effect.
*	*	*	*	*
5–80–1695	Exemptions	12/31/08	9/2/11 [Insert page number where the document begins].	Adds NO_X as a precursor to ozone. Limited approval remains in effect.
*	*	*	*	*

* * * * *

[FR Doc. 2011–22448 Filed 9–1–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–8193]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.;* unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be

suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final 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 rule involves no policies that have federalism implications under Executive Order 13132.

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

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 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.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region IV				
Alabama: Marion, City of, Perry County	010313	December 12, 1974, Emerg; June 17, 1986, Reg; September 2, 2011, Susp.	Sept. 2, 2011	Sept. 2, 2011
Mississippi:				
Braxton, Village of, Simpson County	280156	September 19, 2007, Emerg; N/A, Reg; September 2, 2011, Susp.	do*	Do.
Clarke County, Unincorporated Areas	280220	April 26, 1979, Emerg; August 16, 1988, Reg; September 2, 2011, Susp.	do	Do.
D'Lo, Town of, Simpson County	280157	June 2, 1975, Emerg; December 16, 1980, Reg; September 2, 2011, Susp.	do	Do.
Enterprise, Town of, Clarke County	280314	April 26, 1979, Emerg; January 1, 1987, Reg; September 2, 2011, Susp.	do	Do.
Magee, City of, Simpson County	280158	December 20, 1974, Emerg; August 15, 1980, Reg; September 2, 2011, Susp.	do	Do.
Mendenhall, City of, Simpson County	280159	October 19, 1973, Emerg; September 30, 1980, Reg; September 2, 2011, Susp.	do	Do.
Pachuta, Town of, Clarke County	280219	March 6, 1979, Emerg; November 18, 2010, Reg; September 2, 2011, Susp.	do	Do.
Quitman, City of, Clarke County	280319	April 26, 1979, Emerg; January 1, 1986, Reg; September 2, 2011, Susp.	do	Do.
Shubuta, Town of, Clarke County	280034	January 17, 1979, Emerg; September 1, 1991, Reg; September 2, 2011, Susp.	do	Do.
Simpson County, Unincorporated Areas	280281	June 15, 1979, Emerg; September 30, 1980, Reg; September 2, 2011, Susp.	do	Do.
Stonewall, Town of, Clarke County	280035	March 31, 1975, Emerg; August 16, 1988, Reg; September 2, 2011, Susp.	do	Do.
Region V				
Indiana:				
Brazil, City of, Clay County	180511	September 30, 1993, Emerg; May 12, 1995, Reg; September 2, 2011, Susp.	do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Clay County, Unincorporated Areas	180408	June 6, 2003, Emerg; May 1, 2010, Reg; September 2, 2011, Susp.	.....do	Do.
Ohio:				
North Baltimore, Village of, Wood County.	390587	July 3, 1975, Emerg; September 2, 1982, Reg; September 2, 2011, Susp.	.....do	Do.
Pemberville, Village of, Wood County	390624	August 5, 1975, Emerg; August 2, 1982, Reg; September 2, 2011, Susp.	.....do	Do.
Portage, Village of, Wood County	390754	May 6, 1976, Emerg; April 15, 1982, Reg; September 2, 2011, Susp.	.....do	Do.
Rossford, City of, Wood County	390589	August 27, 1975, Emerg; May 2, 1983, Reg; September 2, 2011, Susp.	.....do	Do.
Wisconsin: Bagley, Village of, Grant County.	550145	July 25, 1975, Emerg; June 17, 1986, Reg; September 2, 2011, Susp.	.....do	Do.
Bloomington, Village of, Grant County	550146	August 1, 1975, Emerg; August 19, 1986, Reg; September 2, 2011, Susp.	.....do	Do.
Blue River, Village of, Grant County	550147	N/A, Emerg; July 2, 2009, Reg; September 2, 2011, Susp.	.....do	Do.
Boscobel, City of, Grant County	550148	November 27, 1981, Emerg; November 27, 1981, Reg; September 2, 2011, Susp.	.....do	Do.
Cassville, Village of, Grant County	555548	April 23, 1971, Emerg; February 19, 1972, Reg; September 2, 2011, Susp.	.....do	Do.
Grant County, Unincorporated Areas	555557	March 26, 1971, Emerg; May 25, 1973, Reg; September 2, 2011, Susp.	.....do	Do.
Lancaster, City of, Grant County	550150	March 24, 1975, Emerg; August 5, 1986, Reg; September 2, 2011, Susp.	.....do	Do.
Muscoda, Village of, Grant County	550153	October 25, 1974, Emerg; September 8, 1999, Reg; September 2, 2011, Susp.	.....do	Do.
Platteville, City of, Grant County	550154	June 24, 1975, Emerg; September 29, 1996, Reg; September 2, 2011, Susp.	.....do	Do.
Potosi, Village of, Grant County	550155	August 23, 2001, Emerg; N/A, Reg; September 2, 2011, Susp.	.....do	Do.
Region VI				
Louisiana: Winnsboro, Town of, Franklin Parish.	220074	May 2, 1973, Emerg; September 1, 1978, Reg; September 2, 2011, Susp.	.....do	Do.
Region VII				
Kansas:				
Edwardsville, City of, Wyandotte County.	200362	May 13, 1975, Emerg; September 29, 1978, Reg; September 2, 2011, Susp.	.....do	Do.
Kansas City, City of, Wyandotte County	200363	December 10, 1974, Emerg; August 3, 1981, Reg; September 2, 2011, Susp.	.....do	Do.
Region VIII				
Colorado:				
Del Norte, Town of, Rio Grande County	080154	August 9, 1974, Emerg; September 30, 1982, Reg; September 2, 2011, Susp.	.....do	Do.
Monte Vista, City of, Rio Grande County.	080155	May 27, 1975, Emerg; September 30, 1982, Reg; September 2, 2011, Susp.	.....do	Do.
Rio Grande County, Unincorporated Areas.	080153	June 25, 1975, Emerg; May 19, 1987, Reg; September 2, 2011, Susp.	.....do	Do.
South Fork, Town of, Rio Grande County.	080318	N/A, Emerg; June 5, 1995, Reg; September 2, 2011, Susp.	.....do	Do.
Montana:				
Belgrade, City of, Gallatin County	300105	July 9, 1997, Emerg; N/A, Reg; September 2, 2011, Susp.	.....do	Do.
Bozeman, City of, Gallatin County	300028	May 12, 1975, Emerg; March 15, 1982, Reg; September 2, 2011, Susp.	.....do	Do.
Gallatin County, Unincorporated Areas	300027	November 20, 1975, Emerg; August 1, 1984, Reg; September 2, 2011, Susp.	.....do	Do.
Three Forks, City of, Gallatin County	300029	August 1, 1975, Emerg; November 19, 1980, Reg; September 2, 2011, Susp.	.....do	Do.

*do = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: August 15, 2011.

Edward L. Connor,

Deputy Administrator, Insurance, Federal Insurance and Mitigation Administration.

[FR Doc. 2011–22466 Filed 9–1–11; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket ID FWS–R2–ES–2011–0069; 92220–1113–0000; ABC Code: C6]

RIN 1018–AX08

Endangered and Threatened Wildlife and Plants; Bald Eagles Nesting in Sonoran Desert Area of Central Arizona Removed From the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are issuing a final rule to comply with a court order that removed regulatory protections under the Endangered Species Act of 1973, as amended (Act), for the bald eagles nesting in the Sonoran Desert area of central Arizona. On July 9, 2007, we published a final rule to remove bald eagles in the lower 48 States from the List of Endangered and Threatened Wildlife (List) due to recovery. However, the United States District Court for the District of Arizona, by order dated March 6, 2008, enjoined the Service from removing the bald eagles nesting in the Sonoran Desert area of central Arizona from the threatened species list under the Act pending the Service's status review and 12-month finding on a petition to classify the bald eagles nesting in the Sonoran Desert area of central Arizona as a distinct population segment (DPS), list this DPS as endangered, and designate critical habitat. On May 1, 2008, to conform to the court's order, we published a final rule listing the potential Sonoran Desert bald eagle DPS as threatened under the Act. On February 25, 2010, the Service published its 12-month finding determining that the bald eagles nesting in the Sonoran Desert area of central Arizona did not qualify as a DPS and were, therefore, not a listable entity under the Act. On September 30, 2010, as a result of the Service's completed status review and publication of the 12-month finding, the United States District Court for the District of Arizona lifted the injunction. We are issuing this final rule to amend the regulations for the Federal Lists of Endangered and Threatened Wildlife by removing the bald eagles nesting in the Sonoran Desert area of central Arizona from the list. This action amends the CFR to reflect the September 30, 2010, court order.

DATES: This rule amending the CFR to reflect the September 30, 2010, court order is effective September 2, 2011. However, the court order reinstating the provisions of the delisting rule for the bald eagles nesting in the Sonoran Desert area of central Arizona had legal effect immediately upon being filed on September 30, 2010.

ADDRESSES: This final rule is available on the Internet at *http://www.regulations.gov* at Docket No. FWS–R2–ES–2011–0069.

FOR FURTHER INFORMATION CONTACT: Steve Spangle, Field Supervisor, Arizona Ecological Services Field Office, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021; telephone, 602–242–0210; facsimile, 602–242–2513. Individuals who are hearing-impaired or speech-impaired may call the Federal Relay Service at (800) 877–8337 for TTY.

SUPPLEMENTARY INFORMATION:

Background

Bald eagles *(Haliaeetus leucocephalus)* gained protection under the Bald Eagle Protection Act (16 U.S.C. 668–668d) in 1940 and the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703–712) in 1972. A 1962 amendment to the Bald Eagle Protection Act added protection for the golden eagle *(Aquila chrysaetos*), and the amended statute became known as the Bald and Golden Eagle Protection Act (BGEPA). On February 14, 1978, the Service listed the bald eagle as an endangered species under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*) in 43 of the contiguous States, and as a threatened species in the States of Michigan, Minnesota, Wisconsin, Oregon, and Washington (43 FR 6230). On July 12, 1995, we published a final rule to reclassify the bald eagle from endangered to threatened in the 43 States where it had been listed as endangered and retain the threatened status for the other five States (60 FR 36000).

On July 6, 1999, we published a proposed rule to delist the bald eagle throughout the lower 48 States due to recovery (64 FR 36454). On February 16, 2006, we reopened the public comment period to consider new information received on our July 6, 1999 (71 FR 8238), proposed rule to delist the bald eagle in the lower 48 States. On October 6, 2004, we received a petition from the Center for Biological Diversity (CBD), the Maricopa Audubon Society, and the Arizona Audubon Council requesting that the ''Southwestern desert nesting bald eagle population'' be classified as a distinct population segment (DPS) under the Act, that this DPS be reclassified from a threatened species to an endangered species, and that we concurrently designate critical habitat for the DPS under the Act. We announced in our 90-day finding on August 30, 2006 (71 FR 51549), that the petition did not present substantial scientific or commercial information indicating that the petitioned action may be warranted.

On January 5, 2007, the CBD and the Maricopa Audubon Society (Plaintiffs) filed a lawsuit challenging the Service's 90-day finding that the bald eagles nesting in the Sonoran Desert area of central Arizona did not qualify as a DPS, and further challenging the Service's 90-day finding that the population should not be uplisted to endangered status.

On July 9, 2007 (72 FR 37346), we published the final delisting rule for bald eagles in the lower 48 States due to recovery. This final delisting rule also included the bald eagles located in the Sonoran Desert. On August 17, 2007, the CBD and the Maricopa Audubon Society filed a Motion for Summary Judgment, requesting the court to make a decision on their January 5, 2007, lawsuit. In early 2008, several Native American Tribes submitted *amicus curiae* (''friend of the court'') briefs in support of the August 17, 2007, Motion for Summary Judgment. The San Carlos Apache Tribe, Yavapai-Apache Nation, and Tonto Apache Tribe submitted *amicus curiae* briefs to the court on January 29, 2008; the Salt River Pima-Maricopa Indian Community submitted an *amicus curiae* brief to the court on February 4, 2008; and the Fort McDowell Yavapai Nation submitted an *amicus curiae* brief to the court on February 7, 2008.

On March 5, 2008, the U.S. District Court for the District of Arizona made a final decision in the case and ruled in favor of the CBD and the Maricopa Audubon Society. The court order (*Center for Biological Diversity* v. *Kempthorne,* CV 07–0038–PHX–MHM (D. Ariz)), dated March 6, 2008, required the Service to conduct a status review of the Desert bald eagle population pursuant to the Act to determine whether that population may qualify as a DPS, and if so, whether listing that DPS as threatened or endangered pursuant to the Act is warranted. The court enjoined the Service's application

of the July 9, 2007 (72 FR 37346), final delisting rule to the bald eagles nesting in the Sonoran Desert area of central Arizona pending a status review and 12-month finding on the Plaintiffs' petition.

On May 1, 2008, to conform with the court's March 6, 2008, order, we published a final rule listing the potential Sonoran Desert bald eagle DPS as threatened under the Act (73 FR 23966). On May 20, 2008, we published a **Federal Register** notice (73 FR 29096) initiating a status review for the bald eagles nesting in the Sonoran Desert area of central Arizona.

On February 25, 2010, the Service published its 12-month finding on the petition to designate the bald eagles nesting in the Sonoran Desert area of central Arizona as a DPS, list it as endangered, and designate critical habitat under the Act (75 FR 8601). The Service found that the bald eagles nesting in the Sonoran Desert area of central Arizona did not qualify as a DPS and, therefore, were not a listable entity under the Act. Concurrent with publication of our 12-month finding, the Service filed a motion for dissolution of the court's injunction. By order dated September 30, 2010, the United States District Court for the District of Arizona dissolved the injunction. This had the effect of reinstating the provisions of the delisting rule for the bald eagles nesting in the Sonoran Desert area of central Arizona, thereby removing the bald eagles nesting in the Sonoran Desert area of central Arizona from the List of Endangered and Threatened Wildlife. (*Center for Biological Diversity, et al.* v. *Salazar, et al.,* 07–cv–00038–PHX–MHM, 2010 U.S. Dist. LEXIS 72664 (D. Ariz. Sept. 30, 2010). This final rule amends the List of Endangered and Threatened Wildlife at 50 CFR 17.11(h) to reflect the court's order, dated September 30, 2010, that the Service's May 1, 2008, final rule was rendered ineffective by the court's ruling.

We notified all affected Tribes and State and Federal partners of the ruling and its impact shortly after the order was released. We published a statement on our Web site to notify the public of the ruling and its impact shortly after the order was released and provided additional information in a questions-and-answers document. We continued to meet with Tribes after the finding was published to further discuss their concerns.

Administrative Procedure

This rulemaking is necessary to comply with the September 30, 2010, court order. Therefore, under these circumstances, the Director has determined, pursuant to 5 U.S.C. 553(b)(3)(B), that prior notice and opportunity for public comment are unnecessary. Because the court order had legal effect immediately upon being filed on September 30, 2010, the Director has further determined, pursuant to 5 U.S.C. 553(d)(3), that the agency has good cause to make this rule effective immediately upon publication.

Effects of the Rule

We are issuing this rule to amend the regulations for the Federal Lists of Endangered and Threatened Wildlife at 50 CFR 17.11 by removing the bald eagles nesting in the Sonoran Desert area of central Arizona from the list. However, as previously mentioned, the court order reinstating the provisions of the delisting rule for the bald eagles nesting in the Sonoran Desert area of central Arizona had legal effect immediately upon its filing on September 30, 2010.

All bald eagles will continue to be protected under the BGEPA and MBTA. The Bald Eagle Protection Act (16 U.S.C. 668–668d) was passed in 1940, specifically protecting bald eagles in the United States. A 1962 amendment to this Act included the golden eagle in this protection, and the amended statute became known as the Bald and Golden Eagle Protection Act (BGEPA). The golden eagle was given protected status because of population declines, value to agriculture in the control of rodents, and to afford greater protections to bald eagles because of the similarity of appearance to juvenile bald eagles. This law prohibits the take, possession, sale, purchase, barter, or offering to sell, purchase or barter, transport, export or import of any bald eagle, alive or dead, including any part, nest, or egg, unless allowed by permit (16 U.S.C. 668(a)). ''Take'' includes ''pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb'' (16 U.S.C. 668c; 50 CFR 22.3).

The MBTA makes it unlawful to at any time, by any means or in any manner, pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess, offer for sale, sell, offer to barter, barter, offer to purchase, purchase, deliver for shipment, ship, export, import, cause to be shipped, exported, or imported, deliver for transportation, transport or cause to be transported, carry or cause to be carried, or receive for shipment, transportation, carriage, or export, any migratory bird, any part, nest, or eggs of any such bird, or any product, whether or not manufactured, which consists, or is composed in whole or part, of any such bird or any part, nest, or egg thereof (16 U.S.C. 703(a)).

We recommend that persons use our *Bald Eagle National Management Guidelines* (Guidelines) announced in the **Federal Register** on June 5, 2007 (72 FR 31156), as guidance for minimizing the risk of disturbing bald eagles under the BGEPA and its implementing regulations. The Guidelines include suggestions for protecting bald eagles and their habitat while they are nesting, feeding, and roosting.

In addition to the protective provisions provided by the BGEPA and MBTA, the *Conservation Assessment and Strategy for Bald Eagles in Arizona* (CAS) (Driscoll *et al.* 2006), contains guidance on measures to eliminate, reduce, or minimize effects to eagles in Arizona. On January 22, 2007, the Service signed a Memorandum of Understanding with the Arizona Game and Fish Department (AGFD) supporting the implementation of the AGFD's CAS. The Memorandum of Understanding was also signed by the following: Bureau of Reclamation, Bureau of Land Management, National Park Service, Forest Service, Department of Defense, including the U.S. Army Corps of Engineers, Arizona Public Service, Maricopa County, 56th Fighter Wing at Luke Air Force Base (Department of Defense), Salt River Project, and various other agencies for conservation of the bald eagle in Arizona. The CAS provides additional valuable guidance for protecting bald eagles in Arizona, and we support using it in conjunction with our Guidelines to protect bald eagles in Arizona.

This rule will not affect the status of the bald eagles nesting in the Sonoran Desert area of central Arizona under State laws or suspend any other legal protections provided by State law. This rule will not affect the bald eagle's Appendix II status under the Convention on International Trade of Endangered Species of Wild Fauna and Flora (CITES).

References Cited

Driscoll, J.T., K.V. Jacobson, G.L. Beatty, J.S. Canaca, and J.G. Koloszar, 2006. Conservation Assessment and Strategy for the Bald Eagle in Arizona. Nongame and Endangered Wildlife Technical Report 173. Arizona Game and Fish Department, Phoenix, Arizona.

Lists of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, in order to comply with the court orders discussed above, we

amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below.

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

§ 17.11 [Amended]

■ 2. Amend § 17.11 by removing from the table at paragraph (h) the entry for ''Eagle, bald *(Haliaeetus leucocephalus)*''.

§ 17.41 [Amended]

■ 3. Amend § 17.41 by removing and reserving paragraph (a).

Dated: August 26, 2011.

Gregory E. Siekaniec,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2011–22600 Filed 9–1–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 100804324–1496–05]

RIN 0648–BA01

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Biennial Specifications and Management Measures; Correction

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

ACTION: Final rule; correcting amendment.

SUMMARY: This document contains corrections to the final regulations that were published on May 11, 2011. That final rule established the 2011–2012 harvest specifications and management measures for groundfish taken in the U.S. exclusive economic zone (EEZ) off the coasts of Washington, Oregon, and California. This action provides nine corrections to the regulations, all of which are either mis-designated paragraphs, transposed numbers, removal of text that was mistakenly left in, or addition of text that was mistakenly left out.

DATES: Effective September 2, 2011.

FOR FURTHER INFORMATION CONTACT: Gretchen Hanshew (Northwest Region, NMFS), phone: 206–526–6147; fax: 206–526–6736 and; e-mail: *gretchen.hanshew@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On May 11, 2011, NMFS published a final rule (76 FR 27508) to establish the 2011–2012 harvest specifications and management measures for groundfish taken in the EEZ off the coasts of Washington, Oregon, and California. NMFS accepted public comment on the proposed rule and responded to these comments in the preamble to the final rule. Those final regulations revised portions of 50 CFR 660, Subparts C through G, and are the subject of this correcting amendment. These regulations affect persons operating fisheries for groundfish species off the U.S. West Coast. As published, the final regulations contain errors that may mislead the public and need to be corrected. Additionally, there are differences between the text of the final rule and current codified regulations that resulted from incorrect amendatory instructions in the final rule. This action implements a total of nine corrections to the regulations, all of which are either mis-numbered paragraphs, transposed numbers, removal of text that was mistakenly left in, or addition of text that was mistakenly left out.

This action makes four corrections to coordinates in § 660.72, § 660.73, and § 660.74. The coordinates are expressed in degrees latitude and longitude, and define large-scale boundaries utilized in management of the groundfish fishery. These sections contain lists of coordinates, expressed in degrees latitude and longitude, which define large-scale boundaries for Rockfish Conservation Areas off the Pacific coast. The first correction is to reinstate paragraphs § 660.72(f)(143)–(145), which were mistakenly removed in the final rule as a result of incorrect amendatory language. Because of this mistake, these paragraphs in the Code of Federal Regulations (CFR) were ''reserved'' instead of being redesignated. This correction will establish the appropriate coordinates in those paragraphs that are currently ''reserved.'' Additionally, corrections are needed to § 660.72(j) and § 660.73(d), where incorrect and transposed coordinate numbers were listed in the final rule and need to be corrected to define the intended boundary lines. Finally, a correction is needed to § 660.74(g) to publish the coordinates in the correct order. The coordinates that published in the final rule were the correct numbers, but were listed in the wrong order. All the corrections made by this rule do not change the intent or application of the geographic area described in the proposed and final rule.

This action also makes five corrections to § 660.360, which provides the regulations for the recreational fisheries in Washington and California. This rule makes no corrections to the regulations for the recreational fisheries in Oregon. Four of these five changes reinstate regulatory language that was published in the final rule (76 FR 27508). The amendatory instructions as published in the proposed rule (75 FR 67810) were correct and would have amended the codified regulations as intended. However, due to an administrative error, the final rule contained the incorrect amendatory instructions resulting in the final rule either making changes that were incorrect or omitting changes to the codified regulations. This final rule corrects these errors. One correction revises § 660.360(c)(1)(iv), which was correctly redesignated in the final rule but was not appropriately revised due to missing amendatory instructions; the correct text published in the final rule on page 27560. Another correction is to § 660.360(c)(3)(ii)(B), this paragraph was not revised in the codified regulations. The correct text was published in the final rule on page 27562. Finally, text at § 660.360(c)(3)(iii)(A)(*1*)–(*5*) was not revised and paragraph (c)(3)(iii)(A)(*6*) was not removed. The correct regulatory text was listed on page 27562 of the final rule; however a mistake in the amendatory language resulted in the CFR not being updated with the regulations as published in the final rule.

Another correction is to § 660.360(c)(3)(i)(A)(*5*); this paragraph was revised between the proposed and final rule, as described in the preamble of the final rule in the ''Changes from the Proposed Rule'' section; however the last line of the paragraph was mistakenly left the same as the proposed rule. As published, the regulations in this paragraph directly contradict the changes described in the preamble of the proposed rule, as well as the regulations at § 660.360(c)(3)(i)(B), and would be confusing to the public if it is not corrected.

Classification

The Assistant Administrator for Fisheries, NOAA (AA) finds good cause under 5 U.S.C. 553(b)(B), to waive the requirement for prior notice and opportunity for public comment for this

action because notice and comment would be unnecessary, impracticable, and contrary to the public interest. Notice and comment are unnecessary, impracticable, and contrary to the public interest because this action simply makes the text of the codified regulations consistent with the text in the final rule, and makes corrections to accurately reflect the intent of the final rule. This correction eliminates inconsistencies between the regulatory text contained in the final rule and the codified regulations, and therefore eliminates any confusion that the inconsistency might create for the public. If this rule is not implemented immediately, the public will have incorrect information regarding boundaries used for groundfish fisheries management, which will cause confusion and will be inconsistent with the intent of the final rule. Similarly, the corrections to the recreational fishery regulations merely implement the intended language as contained and described in the final rule, and will eliminate any confusion caused by the discrepancy. No aspect of this action is controversial and no change in operating practices in the fishery is required from those intended in the final rule.

For the same reasons, pursuant to 5 U.S.C. 553(d), the AA finds good cause to waive the 30-day delay in effective date. If this rule is not implemented immediately, the public will have incorrect information regarding the boundaries used to manage the groundfish fishery and incorrect information about recreational regulations off the coasts of Washington and California, which will cause confusion and would be inconsistent with the final rule.

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

This final rule has been determined to be not significant for purposes of Executive Order 12866.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian fisheries.

Dated: August 29, 2011.

Samuel D. Rauch III,

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

For reasons set out in the preamble, 50 CFR part 660 is amended by making the following correcting amendments:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.72 paragraphs (f)(143) through (f)(145) are added and paragraph (j)(17) is revised to read as follows:

§ 660.72 Latitude/longitude coordinates defining the 50 fm (91 m) through 75 fm (137 m) depth contours.

* * * * *

(f) * * *

(143) 36°10.42′ N. lat., 121°42.90′ W. long.;

(144) 36°02.55′ N. lat., 121°36.35′ W. long.;

(145) 36°01.09′ N. lat., 121°36.41′ W. long.;

* * * * *

(j) * * *

(17) 48°10.00′ N. lat., 124°57.54′ W. long;

* * * * *

■ 3. In § 660.73 paragraphs (d)(136) through (d)(137) are revised to read as follows:

§ 660.73 Latitude/longitude coordinates defining the 100 fm (183 m) through 150 fm (274 m) depth contours.

* * * * *

(d) * * *

(136) 43°55.73′ N. lat., 124°55.41′ W. long.;

(137) 43°54.74′ N. lat., 124°53.15′ W. long.;

* * * * *

■ 4. In § 660.74 paragraphs (g)(137) through (g)(139) are revised to read as follows:

§ 660.74 Latitude/longitude coordinates defining the 180 fm (329 m) through 250 fm (457 m) depth contours.

* * * * *

(g) * * *

(137) 40°16.94′ N. lat., 124°32.00′ W. long.;

(138) 40°17.58′ N. lat., 124°45.30′ W. long.;

(139) 40°14.40′ N. lat., 124°35.82′ W. long.;

* * * * *

■ 5. In § 660.360, paragraph (c)(3)(iii)(A)(*6*) is removed and paragraphs (c)(1)(iv) introductory text, (c)(3)(i)(A)(*5*), (c)(3)(ii)(B), and (c)(3)(iii)(A)(*1*) through (*5*), are revised to read as follows:

§ 660.360 Recreational fishery—management measures.

* * * * *

(c) * * *

(1) * * *

(iv) *Lingcod.* In areas of the EEZ seaward of Washington that are open to recreational groundfish fishing and when the recreational season for lingcod is open, there is a bag limit of 2 lingcod per day. The recreational fishing seasons and size limits for lingcod are as follows:

* * * * *

(3) * * *

(i) * * *

(A) * * *

(*5*) South of 34°27′ N. lat. (Southern Management Area), recreational fishing for all groundfish (except California scorpionfish as specified below in this paragraph and in paragraph (c)(3)(v) of this section and ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of a boundary line approximating the 60 fm (110 m) depth contour from March 1 through December 31 along the mainland coast and along islands and offshore seamounts, except in the CCAs where fishing is prohibited seaward of the 20 fm (37 m) depth contour when the fishing season is open (see paragraph (c)(3)(i)(B) of this section). Recreational fishing for all groundfish (except California scorpionfish and ''other flatfish'') is closed entirely from January 1 through February 28 (i.e., prohibited seaward of the shoreline). Recreational fishing for California scorpionfish south of 34°27′ N. lat. is prohibited seaward of a boundary line approximating the 60 fm (110 m) depth contour from January 1 through December 31, except in the CCAs where fishing is prohibited seaward of the 20 fm (37 m) depth contour when the fishing season is open.

* * * * *

(ii) * * *

(B) *Bag limits, hook limits.* In times and areas when the recreational season for the RCG Complex is open, there is a limit of 2 hooks and 1 line when fishing for the RCG complex and lingcod. The bag limit is 10 RCG Complex fish per day coastwide. Retention of canary rockfish, yelloweye rockfish, bronzespotted and cowcod is prohibited. Within the 10 RCG Complex fish per day limit, no more than 2 may be bocaccio, no more than 2 may be greenling (kelp and/or other greenlings) and no more than 3 may be cabezon. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

* * * * *

(iii) * * *

(A) * * *

(*1*) Between 42° N. lat. (California/Oregon border) and 40°10.00′ N. lat. (Northern Management Area), recreational fishing for lingcod is open from May 14, 2011 through October 31, 2011 (i.e. it's closed from January 1 through May 13 and from November 1 through December 31 in 2011) and from May 12, 2012 through October 31, 2012 (i.e. it's closed from January 1 through May 11 and from November 1 through December 31 in 2012).

(*2*) Between 40°10′ N. lat. and 38°57.50′ N. lat. (Mendocino Management Area), recreational fishing for lingcod is open from May 14, 2011 through August 15, 2011 (i.e. it's closed from January 1 through May 13 and August 16 through December 31 in 2011) and from May 12, 2012 through August 15, 2012 (i.e. it's closed from January 1 through May 11 and August 16 through December 31 in 2012).

(*3*) Between 38°57.50′ N. lat. and 37°11′ N. lat. (San Francisco Management Area), recreational fishing for lingcod is open from June 1 through December 31 (i.e. it's closed from January 1 through May 31).

(*4*) Between 37°11′ N. lat. and 34°27′ N. lat. (Central Management Area), recreational fishing for lingcod is open from May 1 through December 31 (i.e. it's closed from January 1 through April 30).

(*5*) South of 34°27′ N. lat. (Southern Management Area), recreational fishing for lingcod is open from March 1 through December 31 (i.e. it's closed from January 1 through February 28).

* * * * *

[FR Doc. 2011–22584 Filed 9–1–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 110711384–1534–02]

RIN 0648–XA470

Western Pacific Bottomfish and Seamount Groundfish Fisheries; 2011–12 Main Hawaiian Islands Deep 7 Bottomfish Annual Catch Limits and Accountability Measures

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

ACTION: Final specifications.

SUMMARY: In this rule, NMFS specifies a quota of 325,000 lb of Deep 7 bottomfish in the main Hawaiian Islands for the 2011–12 fishing year, based on an annual catch limit of 346,000 lb. The expected impact of this action is long-term sustainability of Hawaii bottomfish.

DATES: The final specifications are effective October 3, 2011.

ADDRESSES: Copies of the Fishery Ecosystem Plan for the Hawaiian Archipelago and associated Environmental Impact Statement are available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808–522–8220, fax 808–522–8226, or *http://www.wpcouncil.org.* Copies of the environmental assessment and finding of no significant impact for this action are available from *http://www.regulations.gov,* or Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1601 Kapiolani Blvd. 1110, Honolulu, HI 96814.

FOR FURTHER INFORMATION CONTACT: Jarad Makaiau, NMFS PIR Sustainable Fisheries, 808–944–2108.

SUPPLEMENTARY INFORMATION: On August 3, 2011, NMFS published proposed specifications that are finalized here, and a request for public comments (76 FR 46719). Additional background information on this action is found in the preamble to the proposed specifications, and is not repeated here.

Through this action, NMFS is specifying a quota (annual catch target, ACT) of 325,000 lb (147,418 kg) for Deep 7 bottomfish in the main Hawaiian Islands (MHI) for the 2011–12 fishing year, based on an annual catch limit (ACL) of 346,000 lb (156,943 kg). The MHI Management Subarea is the portion of U.S. Exclusive Economic Zone around the Hawaiian Archipelago lying to the east of 161°20′ W. longitude. The Deep 7 bottomfish are onaga (*Etelis coruscans*), ehu (*E. carbunculus*), gindai (*Pristipomoides zonatus*), kalekale (*P. sieboldii*), opakapaka (*P. filamentosus*), lehi (*Aphareus rutilans*), and hapuupuu (*Epinephelus quernus*). The Council recommended the quota and ACL based on the best available scientific, commercial, and other information, taking into account the associated risk of overfishing.

The MHI bottomfish fishery reopens on September 1, 2011. NMFS will monitor the fishery, and if the quota is projected to be reached before August 31, 2012, NMFS will close the non-commercial and commercial fisheries for Deep 7 bottomfish in Federal waters through August 31, 2012. During a fishery closure for Deep 7 bottomfish, no person may fish for, possess, or sell any of these fish in the MHI, except as otherwise authorized by law. Specifically, fishing for, and the resultant possession or sale of, Deep 7 bottomfish by vessels legally registered to Pacific Remote Island Areas bottomfish fishing permits, and conducted in compliance with all laws and regulations, are not affected by the closure. There is no prohibition on fishing for or selling other non-Deep 7 bottomfish species throughout the year. All other management measures continue to apply in the MHI bottomfish fishery.

Comments and Responses

The comment period for the proposed specifications ended on August 18, 2011. NMFS received no comments, and so is adapting the specifications unchanged from the proposal.

Changes From the Proposed Specifications

There are no changes in the final specifications.

Classification

The Regional Administrator, NMFS PIR, determined that this action is necessary for the conservation and management of MHI bottomfish, and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed specification stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed specifications and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required, and none was prepared.

This action is exempt from review under Executive Order 12866.

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

Dated: August 30, 2011.

Samuel D. Rauch III,

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

[FR Doc. 2011–22591 Filed 9–1–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 101126522–0640–02]

RIN 0648–XA678

Fisheries of the Exclusive Economic Zone off Alaska; Northern Rockfish, Pacific Ocean Perch, and Pelagic Shelf Rockfish for Vessels Participating in the Rockfish Entry Level Fishery

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for northern rockfish, Pacific ocean perch, and pelagic shelf rockfish for vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2011 total allowable catch (TAC) of northern rockfish, Pacific ocean perch, and pelagic shelf rockfish allocated to vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the GOA.

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

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2011 TACs allocated to vessels participating in the entry level rockfish fishery in the Central Regulatory Area of the Gulf of Alaska are: 494 metric tons (mt) for Pacific ocean perch, 109 mt for northern rockfish, and 148 mt for pelagic shelf rockfish as established by the final 2011 and 2012 harvest specifications (76 FR 11111, March 1, 2011) for groundfish in the GOA. Section 679.83(a)(2) allows trawl or longline gear vessels participating in the entry level rockfish fishery to harvest any unused northern rockfish, Pacific ocean perch, and pelagic shelf rockfish after 1200 hrs, A.l.t., September 1, 2011.

As of September 1, 2011, 54 mt for Pacific ocean perch, 109 mt for northern rockfish, and 135 mt for pelagic shelf rockfish remain in the total entry level allocated TACs. In accordance with § 679.83(a)(3), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the remaining 2011 TAC of northern rockfish, Pacific ocean perch, and pelagic shelf rockfish allocated to vessels participating in the entry level longline rockfish fishery in the Central Regulatory Area of the GOA is insufficient to support directed fishing. Consequently, NMFS is prohibiting directed fishing for northern rockfish, Pacific ocean perch, and pelagic shelf rockfish for trawl and longline vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) and § 679.81(h)(5) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of northern rockfish, Pacific ocean perch, and pelagic shelf rockfish for vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 29, 2011.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: August 30, 2011.

James P. Burgess,

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

[FR Doc. 2011–22567 Filed 8–30–11; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 76, No. 171
Friday, September 2, 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.

FEDERAL RESERVE SYSTEM

12 CFR Part 241

[Regulation OO; Docket No. R–1430]

RIN 7100–AD 81

Supervised Securities Holding Companies Registration

AGENCY: Board of Governors of the Federal Reserve System (''Board'').

ACTION: Proposed rule with request for public comments.

SUMMARY: The Board is issuing a proposed rule to implement section 618 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act''), which permits nonbank companies that own at least one registered securities broker or dealer, and that are required by a foreign regulator or provision of foreign law to be subject to comprehensive consolidated supervision, to register with the Board and subject themselves to supervision by the Board. The proposed rule outlines the requirements that a securities holding company must satisfy to make an effective election, including filing the appropriate form with the responsible Reserve Bank, providing all additional required information, and satisfying the statutory waiting period of 45 days or such shorter period the Board determines appropriate.

DATES: Comments must be received on or before October 11, 2011.

ADDRESSES: You may submit comments, identified by Docket No. R–1430 and RIN No. 7100–AD 81, by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at: *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.
- *FAX:* 202/452–3819 or 202/452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, N.W.) between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Amanda K. Allexon, Senior Counsel (202) 452–3818, or Bao Nguyen, Attorney, (202) 736–5599, Legal Division; or Michael J. Sexton, Assistant Director, (202) 452–3009, Division of Banking Supervision and Regulation; Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551. Users of Telecommunication Device for the Deaf (TTD) only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

Section 618 of the Dodd-Frank Act permits a company that owns at least one registered securities broker or dealer (a ''nonbank securities company''), and that is required by a foreign regulator or provision of foreign law to be subject to comprehensive consolidated supervision, to register with the Board as a securities holding company and become subject to supervision and regulation by the Board.[1] A securities holding company that registers with the Board under section 618 is subject to the full examination, supervision, and enforcement regime applicable to a registered bank holding company, including capital requirements set by the Board (though the statute allows the Board to modify its capital rules to account for differences in activities and structure of securities holding companies and bank holding companies). The primary difference in regulatory frameworks between securities holding companies and bank holding companies is that the restrictions on nonbanking activities that apply to bank holding companies do not apply to securities holding companies.

Under section 618 of the Act, a securities holding company that elects to be subject to supervision by the Board must submit a registration form that includes all such information and documents the Board, by regulation, deems necessary or appropriate. The statute also specifies that registration as a supervised securities holding company becomes effective 45 days after the date the Board receives all required information, or within such shorter period as the Board, by rule or order, may determine.

Section 618 makes a registered securities holding company subject to all of the provisions of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (''BHC Act'') in the same manner as a bank holding company, other than the restrictions on nonbanking activities contained in section 4 of the BHC Act.[2] Consistent with the Dodd-Frank Act, the Board anticipates applying the same supervisory program, including examination procedures, reporting requirements, supervisory guidance, and capital standards, to supervised securities holding companies that the Board currently applies to bank holding companies. However, the Board may, based on experience gained during the supervision of supervised securities holding companies, modify these requirements as appropriate and consistent with section 618.

II. Overview of Proposed Rule

This proposed rulemaking would permit securities holding companies to elect to become supervised securities holding companies by registering with the Board. The proposed rule outlines the requirements that a securities holding company must satisfy to make an effective registration, including filing the appropriate form with the responsible Reserve Bank, providing all additional information requested by the Board, and satisfying the statutory waiting period of 45 days or such shorter period the Board determines appropriate. The Board is seeking

[1] 12 U.S.C. 1850a.

[2] 12 U.S.C. 1850a(d)(1) and (e)(2).

comments on all aspects of this proposed rulemaking.

Section 241.1 of the proposed rule outlines the authority under which the Board is issuing the proposed rule. Section 241.2 of the proposed rule incorporates the statutory language in section 618 defining a ''securities holding company'' to mean any company that directly or indirectly owns or controls, is controlled by, or is under common control with, one or more brokers or dealers registered with the Securities and Exchange Commission. The term does not include, among other things, a company that is a nonbank financial company supervised by the Board, a bank holding company, a savings and loan holding company, an insured bank, a savings association, or a foreign banking organization with U.S. banking operations. Under the proposal, terms such as ''affiliate,'' ''bank,'' ''bank holding company,'' ''control,'' and ''subsidiary'' are defined to have the same meaning as in section 225.2 of the Board's Regulation Y.

Section 241.3 of the proposed rule requires a securities holding company that elects to register to become a supervised securities holding company to file the proper form with the responsible Reserve Bank. As discussed further in section IV below, the Board is proposing to create a new form for this purpose. The proposed form, which is similar to the Board's current form Y–3F, used by a company registering to become a bank holding company, would include a number of questions relating to the organizational structure of the securities holding company, its capital structure, and its financial condition. Specifically, the proposed form would require a securities holding company electing to be supervised to submit:

1. An organization chart for the securities holding company showing all subsidiaries.

2. The name, asset size, general activities, place of incorporation, and ownership share held by the securities holding company for each of the securities holding company's direct and indirect subsidiaries that comprise 1 percent or more of the securities holding company's worldwide consolidated assets.

3. A list of all persons (natural as well as legal) in the upstream chain of ownership of the securities holding company who, directly or indirectly, own 5 percent or more of the voting shares of the securities holding company. In addition, the Board would request information concerning any voting agreements or other mechanisms that exist among shareholders for the exercise of control over the securities holding company.

4. For the senior officers and directors with decision-making authority for the securities holding company, the biographical information requested in the Interagency Biographical and Financial Report FR 2081c (the Financial Report need not be provided).

5. Copies of the most recent quarterly and annual reports prepared for shareholders, if any, for the securities holding company and certain subsidiaries.

6. Income statements, balance sheets, and audited GAAP statements, as well as any other financial statements submitted to the securities holding company's current consolidated supervisor, if any, each on a parent-only and consolidated basis, showing separately each principal source of revenue and expense, through the end of the most recent fiscal quarter and for the past two (2) fiscal years.

7. A description of the methods used by the securities holding company to monitor and control its operations, including those of its domestic and foreign subsidiaries and offices (e.g., through internal reports and internal audits).

8. A description of the bank regulatory system that exists in the home country of any of the securities holding company's foreign bank subsidiaries. The description also should include a discussion of each of the following:

a. The scope and frequency of on-site examinations by the home country supervisor;

b. Off-site monitoring by the home country supervisor;

c. The role of external auditors;

d. Transactions with affiliates;

e. Other applicable prudential requirements;

f. Remedial authority of the home country supervisor;

g. Prior approval requirements; and,

h. Any applicable regulatory capital framework.

9. A description of any other regulatory capital framework to which the securities holding company is subject.

The proposed rule further provides that the Board may at any time request additional information that it believes is necessary to complete the registration.

Under the proposed rule, the registration is considered filed when all information required by the Board is received. Section 241.3 of the proposed rule also states that a registration filed by a securities holding company becomes effective and supervision by the Board begins on the 45th calendar day after the date that a complete filing is received. Under the proposed rule, the Board also reserves the right to shorten the 45-day waiting period and begin consolidated supervision at such earlier date as the Board specifies to the securities holding company in writing.

The proposed rule provides that, upon an effective registration, a supervised securities holding company would be supervised and regulated as if it were a bank holding company, and that the nonbanking restrictions contained in section 4 of the BHC Act will not apply to a supervised securities holding company. This treatment will generally mean that supervised securities holding companies will, among other things, be required to submit the same reports and be subject to the same examination procedures, supervisory guidance, and capital standards that currently apply to bank holding companies. However, the Board anticipates that there will be a period of time before the Board becomes fully acquainted with supervised securities holding companies (and their operations) because they are a new class of entities the Dodd-Frank Act requires the Board to supervise. As a result, the proposed rule provides the Board with flexibility to supervise and regulate supervised securities holding companies in a manner that is consistent with safety and soundness and that addresses the risks they pose to financial stability.

III. Solicitation of Comments and Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. 106–102, 113 Stat. 1338, 1471, 12 U.S.C. 4809) requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board invites comment on how to make the proposed rule easier to understand. For example:

- Is the material organized in a clear, understandable, and complete way? If not, how can the rule be presented more clearly?
- Are the requirements in the rule clearly stated? If not, how could the rule be more clearly stated?
- Do the regulations contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes would achieve that?

• Is the section format adequate? If not, which of the sections should be changed and how?

• What other changes can the Board incorporate to make the regulation easier to understand?

IV. Administrative Law Matters

A. Paperwork Reduction Act Analysis

In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Board may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control numbers for the existing information collections are provided below. The OMB control number will be assigned for the new information collection related to registrations described below. The Board reviewed the proposed rule under the authority delegated to the Board by OMB.

Title of Existing Information Collections:

• The Annual Report of Bank Holding Companies (FR Y–6),

• The Report of Foreign Banking Organizations (FR Y–7),

• The Consolidated Financial Statements for Bank Holding Companies (FR Y–9C),

• The Parent Company Only Financial Statements for Large Bank Holding Companies (FR Y–9LP),

• The Parent Company Only Financial Statements for Small Bank Holding Companies (FR Y–9SP),

• The Financial Statements for Employee Stock Ownership Plan Bank Holding Companies (FR Y–9ES),

• The Supplement to the Consolidated Financial Statements for Bank Holding Companies (FR Y–9CS),

• The Financial Statements of U.S. Nonbank Subsidiaries of U.S. Bank Holding Companies (FR Y–11 and FR Y–11S),

• The Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations (FR 2314 and FR 2314S),

• The Bank Holding Company Report of Insured Depository Institutions' Section 23A Transactions with Affiliates (FR Y–8),

• The Consolidated Bank Holding Company Report of Equity Investments in Nonfinancial Companies (FR Y–12) and the Annual Report of Merchant Banking Investments Held for an Extended Period (FR Y–12A), and

• The Capital and Asset Report of Foreign Banking Organizations (FR Y–7Q), and the Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations (FR Y–7N and FR Y–7NS).

Frequency of Response: Annually, semi-annually, quarterly, event-generated.

Affected Public: Nonbank companies.

Abstract: The information collection reporting requirements are found in sections 241.3(a)(1) and 241.3(b)(3)(i) of the proposed rule. These requirements would implement regulations related to section 618 of the Dodd-Frank Act, which, as discussed above, permit securities holding companies to register with, and subject themselves to supervision by, the Board. As previously noted, a supervised securities holding company is subject to all of the provisions of the BHC Act in the same manner as a bank holding company, other than the restrictions on nonbanking activities contained in section 4 of the BHC Act.

Section 241.3(a)(1) would require securities holding companies that elect to register to become supervised securities holding companies to file a registration form with the responsible Reserve Bank. The registration form would ask information on: The organization chart (including all subsidiaries), shareholders, senior officers and directors, methods used to monitor and control its operations, and foreign bank subsidiaries and the bank regulatory system in which these foreign bank subsidiaries operate. Section 241.3(b)(3)(i) would require supervised securities holding companies to be subject to supervision and regulation by the Board as if such companies were bank holding companies. Accordingly, the Federal Reserve would require supervised securities holding companies to file the same reports as bank holding companies as follows: FR Y–6 and FR Y–7 (OMB No. 7100–0297); FR Y–9C, FR Y–9LP, FR Y–9SP, FR Y–9ES, and FR Y–9CS (OMB No. 7100–0128); FR Y–11 and FR Y–11S (OMB No. 7100–0244); FR 2314 and FR 2314S (OMB No. 7100–0073); FR Y–8 (OMB No. 7100–0126); FR Y–12 and FR Y–12A (OMB No. 7100–0300); FR Y–7Q, FR Y–7N and FR Y–7NS (OMB No. 7100–0125).

Estimated Burden:

The estimated burden per filing for the registration form in section 241.3(a)(1) is eight hours (one business day). The Board estimates that approximately five securities holding companies would file a request to become a supervised securities holding company. Therefore, the total annual burden for the registration form is estimated to be 40 hours. Effective upon registration, and except as otherwise provided by order of the Board, a supervised securities holding company shall file the existing bank holding company reporting forms listed above on the calendar quarter-end under section 241.3(b)(3)(i). The hourly burden estimates associated with each of these reporting forms is not expected to change materially as the information to be collected is substantively similar to that which is currently being collected from bank holding companies. There is currently only one securities holding company as of June 30, 2011, which would be added to the respondent panel for each report, as appropriate.

For additional information on the current burden associated with any of the existing information collections, please see OMB's public Web site at: *http://www.reginfo.gov/public/do/PRAMain.* For copies of the current reporting forms, please see the Federal Reserve's public Web site at: *http://www.federalreserve.gov/reportforms/default.cfm.*

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

(b) The accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the information 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 information.

Comments on the collection of information should be sent to Cynthia Ayouch, Acting Federal Reserve Clearance Officer, Division of Research and Statistics, Mail Stop 95–A, Board of Governors of the Federal Reserve System, Washington, DC 20551, with copies of such comments sent to the Office of Management and Budget, Paperwork Reduction Project (SHC Registration), Washington, DC 20503. You may also submit comments electronically, identified by Docket number, by any of the following methods:

• *Agency Web Site: http://www.federalreserve.gov.* Follow the instructions for submitting comments on the *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *E-mail: regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.

B. Regulatory Flexibility Act Analysis

In accordance with section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (''RFA''), the Board is publishing an initial regulatory flexibility analysis of the proposed rule. The RFA requires an agency either to provide an initial regulatory flexibility analysis with a proposed rule for which a general notice of proposed rulemaking is required or to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities. Based on its analysis and for the reasons stated below, the Board believes that this proposed rule will not have a significant economic impact on a substantial number of small entities. Nevertheless, the Board is publishing an initial regulatory flexibility analysis. A final regulatory flexibility analysis will be conducted after comments received during the public comment period have been considered.

In accordance with section 618 of the Dodd-Frank Act, the Board is proposing Regulation OO (12 CFR part 241 *et seq.*) to establish a process for a securities holding company to elect to be supervised by the Board. The proposed rule would establish the requirements and procedures for registering with the Board in order to become a supervised securities holding company. As noted above, a supervised securities holding company would be supervised and regulated as if it were a bank holding company, and would be required to submit the same reports that currently apply to bank holding companies. The reasons and justification for the proposed rule are described in the Supplementary Information. The Board does not believe that the proposed rule duplicates, overlaps, or conflicts with any other Federal rules.

Under regulations issued by the Small Business Administration (''SBA''), a ''small entity'' includes those firms within the ''Finance and Insurance'' sector with asset sizes that vary from $7 million or less in assets to $175 million or less in assets.[3] The Board believes that the Finance and Insurance sector constitutes a reasonable universe of firms for these purposes because such firms generally engage in activities that are financial in nature. Consequently, securities holding companies with asset sizes of $175 million or less are small entities for purposes of the RFA.

As discussed in the Supplementary Information, the proposed rule would apply to any securities holding company that elects to be supervised by the Board regardless of such a company's asset size. However, at this time, only one company, which has assets in excess of $175 million, has expressed interest in electing to become a supervised securities holding company. Moreover, only one company ever elected to be supervised under the investment bank holding company framework administered by the Securities and Exchange Commission, which like the framework in the proposed rule provided an elective mechanism to enable a nonbank securities company to satisfy requirements by a foreign regulator or provision of foreign law that such company be subject to comprehensive consolidated supervision. Taking these facts into consideration but also allowing for additional flexibility, the Board estimates that approximately five securities holding companies may possibly register to become a Board supervised securities holding company.

In light of the foregoing, the Board does not believe that the proposed rule, if adopted in final form, would have a significant economic impact on a substantial number of small entities supervised by the Board. Nonetheless, the Board seeks comment on whether the proposed rule would impose undue burdens on, or have unintended consequences for, small organizations, and whether there are ways such potential burdens or consequences could be minimized in a manner consistent with section 618 of the Dodd-Frank Act.

List of Subjects in 12 CFR Part 241

Administrative practice and procedure, Holding companies, Securities, Federal Reserve System, Brokers and dealers, Foreign law, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR chapter II as follows:

1. Add new part 241 to read as follows:

PART 241—SECURITIES HOLDING COMPANIES (REGULATION OO)

Sec.

241.1 Authority and Purpose.
241.2 Definitions.
241.3 Registration as a supervised securities holding company.

Authority: 12 U.S.C. 1850a.

§ 241.1 Authority and Purpose.

(a) *Authority.* This part is issued by the Board pursuant to section 618 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 1850a).

(b) *Purpose.* This part establishes the procedure by which a securities holding company may elect to register to be supervised by the Board.

§ 241.2 Definitions.

Except as defined below, terms used in this part have the same meaning given them in 12 CFR 225.2.

(a) *Securities holding company.* (1) A securities holding company means any company that directly or indirectly owns or controls, is controlled by, or is under common control with, one or more brokers or dealers registered with the Securities and Exchange Commission; and

(2) Does not include a company that is—

(i) A nonbank financial company supervised by the Board pursuant to Title I of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5301 *et seq.*);

(ii) An insured bank (other than an institution described in subparagraphs (D), (F), or (H) of section 2(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)) or a savings association;

(iii) An affiliate of an insured bank (other than an institution described in subparagraphs (D), (F), or (H) of section 2(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)) or an affiliate of a savings association;

(iv) A foreign bank, foreign company, or company that is described in section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a));

(v) A foreign bank that controls, directly or indirectly, a corporation chartered under section 25A of the Federal Reserve Act (12 U.S.C. 611 *et seq.*); or

(vi) Subject to comprehensive consolidated supervision by a foreign regulator.

(b) *Supervised securities holding company* means a securities holding company that is supervised by the Board pursuant to this part.

§ 241.3 Registration as a supervised securities holding company.

(a) *Registration.*

(1) *Filing Requirement.* A securities holding company may elect to register to become a supervised securities holding company by filing the appropriate form with the responsible Reserve Bank. The responsible Reserve Bank is determined by the Director of

[3] 13 CFR 121.201.

Banking Supervision and Regulation at the Board, or the Director's delegee.

(2) *Request for additional information.* The Board may, at any time, request additional information that it believes is necessary to complete the registration.

(3) *Complete filing.* A registration by a securities holding company is considered to be filed on the date that all information required on the appropriate form is received.

(b) *Effective date of registration.*

(1) *In general.* A registration filed by a securities holding company under paragraph (a) of this section is effective on the 45th calendar day after the date that a complete filing is received by the responsible Reserve Bank.

(2) *Earlier notification that a registration is effective.* The Board may notify a securities holding company that its registration to become a supervised securities holding company is effective prior to the 45th calendar day after the date that a complete filing is received by the responsible Reserve Bank. Such a notification must be in writing.

(3)(i) Upon an effective registration and except as otherwise provided by order of the Board, a supervised securities holding company shall be treated, and shall be subject to supervision and regulation by the Board, as if it were a bank holding company, or as otherwise appropriate to protect the safety and soundness of the supervised securities holding company and address the risks posed by such company to financial stability.

(ii) The provisions of section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) do not apply to a supervised securities holding company.

By order of the Board of Governors of the Federal Reserve System, August 29, 2011.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2011–22469 Filed 9–1–11; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–B–1212]

Proposed Flood Elevation Determinations

Correction

In proposed rule document 2011–20866 beginning on page 50960 in the issue of Wednesday, August 17, 2011, make the following correction:

§ 67.4 [Corrected]

On page 50962, in the eleventh line below the column titles at the top of the page, ''Unincorporated Areas of Craven County'' should read ''Unincorporated Areas of Jones County''.

[FR Doc. C1–2011–20866 Filed 9–1–11; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Chapter III

[Docket No. FMCSA–2010–0257]

RIN 2126–AB28

Parts and Accessories Necessary for Safe Operation: Brakes; Adjustment Limits

AGENCY: Federal Motor Carrier Safety Administration, DOT.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) proposes to revise the requirements regarding clamp and rotochamber brake actuator readjustment limits in the Federal Motor Carrier Safety Regulations (FMCSRs). The purpose of this notice of proposed rulemaking (NPRM) is to amend the readjustment limits, clarify their application, and correct an error in cross-referencing a Federal Motor Vehicle Safety Standard (FMVSS). This proposal responds to a petition for rulemaking from the Commercial Vehicle Safety Alliance (CVSA).

DATES: Send your comments on or before November 1, 2011.

ADDRESSES: You may submit comments identified by Docket ID Number FMCSA–2010–0257 by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the online instructions for submitting comments.

Mail: Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

Hand Delivery or Courier: West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

Fax: 202–493–2251.

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: Ms. Deborah M. Freund, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations (MC–PSV), Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; *deborah.freund@dot.gov;* telephone (202) 366–5370.

SUPPLEMENTARY INFORMATION:

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I. Public Participation and Request for Comments

FMCSA encourages 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 provide.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (FMCSA–2010–0257), 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 or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and click on the ''Submit a Comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop-down menu, select ''Proposed Rules,'' insert ''FMCSA–2010–0257'' in the ''Keyword'' box, and click ''Search.''

When the new screen appears, click on ''Submit a Comment'' 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.

FMCSA will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble, available in the docket, go to *http://www.regulations.gov* and click on the ''Read Comments'' box in the upper right-hand side of the screen. Then, in the ''Keyword'' box insert ''FMCSA–2010–0257'' and click ''Search.'' Next, click the ''Open Docket Folder'' in the ''Actions'' column. Finally, in the ''Title'' column, click on the document you would like to review. 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. ET, Monday through Friday, except Federal holidays.

C. Privacy Act

Anyone is able to search the electronic form for 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 the U.S. Department of Transportation's (DOT) Privacy Act system of records notice for DOT Federal Docket Management System (FDMS) in the **Federal Register** published on January 17, 2008 (73 FR 3316) at *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

II. Abbreviations

ATA American Trucking Associations.
CMV commercial motor vehicle.
CVSA Commercial Vehicle Safety Alliance.
DOT U.S. Department of Transportation.
FHWA Federal Highway Administration.
FMCSRs Federal Motor Carrier Safety Regulations.
FMVSSs Federal Motor Vehicle Safety Standards.
NHTSA National Highway Traffic Safety Administration.
NPRM Notice of Proposed Rulemaking.
OOS out of service.
SAE Society of Automotive Engineers.

III. Legal Basis for the Rulemaking

Appendix G, Minimum Periodic Inspection Standards, was added to the FMCSRs in 1988 (53 FR 49411, Dec. 7, 1988). Under the inspection standards of Appendix G, all items required to be inspected must be in proper adjustment, must not be defective, and must function properly before a commercial motor vehicle (CMV) is placed in service. Appendix G includes, among many other things, brake adjustment (readjustment) limits. Paragraph 1.a.(5) of this appendix currently reads:

> Readjustment limits. The maximum stroke at which brakes should be readjusted is given below. Any brake 1/4″ or more past the readjustment limit or any two brakes less than 1/4″ beyond the readjustment limit shall be cause for rejection. Stroke shall be measured with engine off and reservoir pressure of 80 to 90 psi with brakes fully applied.

The figures in the rightmost column of each of the three tables following paragraph 1.a.(5) indicate the maximum stroke at which brakes should be readjusted.

Subsequently, in June 1991, the Society of Automotive Engineers (SAE) developed International Recommended Practice J1817 (SAE J1817) to provide a marking system that distinguishes long-stroke from standard-stroke air brake actuators, rotochambers, and their components. It defines ''rated stroke'' as the minimum design stroke of a brake actuator.

The 2001 revision of SAE J1817 includes tables listing recommended values for minimum rated stroke and maximum readjustment stroke for clamp band/sealed design standard-stroke brake actuators (Table 1A), clamp band/sealed design long-stroke brake actuators (Table 1B), and rotochamber designs (Table 1C). Table 1B is further broken down to include three classes of long-stroke actuators. The classes are defined according to the range of difference between the maximum readjustment stroke and the standard rated stroke. In most but not all cases, the maximum readjustment stroke is 80 percent of the minimum rated stroke. The differences are greatest for the smaller sizes of brake chambers.

In 1997, the Federal Highway Administration (FHWA), FMCSA's predecessor agency within the U.S. Department of Transportation (DOT), published in the **Federal Register** an NPRM titled ''Parts and Accessories Necessary for Safe Operation; General Amendments'' (62 FR 18169, Apr. 14, 1997). This NPRM proposed to amend 49 CFR part 393 by removing obsolete and redundant regulations; responding to several petitions for rulemaking; providing improved definitions of vehicle types, systems, and components; resolving inconsistencies between part 393 and 49 CFR part 571 (FMVSSs); and codifying certain regulatory guidance regarding the requirements of part 393. Generally, the amendments did not establish new or more stringent requirements but clarified existing requirements.

As part of that NPRM, FHWA proposed to add a new § 393.47(e) to the FMCSRs to specify the maximum permissible stroke for different types (sizes) of brake chambers and incorporate by reference SAE J1817, Long-Stroke Air-Brake Actuator Marking (June 1991). The NPRM proposed to require that the maximum values for pushrod travel for clamp- and rotochamber-type actuators must be less than 80 percent of the rated strokes listed in SAE J1817, or 80 percent of the rated stroke marked on the brake chamber by the chamber manufacturer, or the readjustment limit marked on the brake chamber by the chamber manufacturer. For types 16 and 20 long-stroke clamp-type brake actuators, the NPRM proposed that the pushrod travel must be less than 51 mm (2 in.), or 80 percent of the rated stroke marked on the brake chamber by the chamber manufacturer, or the readjustment limit marked on the brake chamber by the chamber manufacturer. The NPRM did not propose to revise the Appendix G brake readjustment-limits tables.

FMCSA published the final rule on August 15, 2005 (70 FR 48007). The Agency revised § 393.47(e) as proposed, except that it incorporated by reference the July 2001 revision of SAE J1817 rather than the June 1991 edition. The preamble to the final rule did not indicate whether the Agency received comments on the decision to incorporate the July 2001 revision.

IV. Background

On April 16, 2007, CVSA petitioned the Agency to revise § 393.47(e). CVSA stated that, although the readjustment (or brake actuator stroke) limits of SAE J1817 are consistent with those listed in Appendix G and CVSA's North American Standard Out-of-Service (OOS) Criteria, § 393.47(e) ''specifies readjustment (stroke) limits based on 80 percent of the rated (full) strokes listed in SAE J1817.'' Relying on this criterion introduces discrepancies between § 393.47(e) and SAE J1817. Although the readjustment limits listed in SAE J1817 agree with those in Appendix G and the OOS Criteria, they differ, for some brake chambers, from the ''80 percent of rated

stroke'' specified in § 393.47(e). Consequently, ''[t]he enforcement and/or noting of § 393.47(e) violations by cross-referencing the regulation to 80% of SAE J1817—*Long Stroke Air-Brake Actuator Marking, July, 2001* is proving problematic for inspectors and industry.''

CVSA also pointed out that § 393.47(e) considers a brake with the stroke *at* the readjustment limit to be out of adjustment. In contrast, both Appendix G and the OOS Criteria state that the brake travel must *exceed* the readjustment limit for the brake to be considered out of adjustment. The petitioners added that the values in both Appendix G and the OOS Criteria were established consistent with brake manufacturers' recommendations. Although the CVSA subsequently updated the OOS Criteria to include several types of long-stroke clamp-type brake chambers, FMCSA has not similarly revised the Appendix G values.

In addition, CVSA requested that FMCSA revise § 393.53, Automatic brake adjusters and brake adjustment indicators, to include references to the FMVSSs applicable to trailers. Sections 393.53(b) and (c) would be revised so that the FMVSS citations read, ''49 CFR 571.121, S5.1.8 or S5.2.2.''

On June 10, 2008, CVSA amended its April 2007 petition to correct the text of the table subheadings for clamp-type and rotochamber-type chamber data in the original petition and to add tables for Bendix DD–3 and bolt-type brake chamber data. The amended petition changed the table subheadings ''Brake Chamber Pushrod Stroke Limit'' and ''RC Actuate Pushrod Stroke Limit'' to read ''Brake Adjustment Limit'' and ''Rotochamber Type Brake Chamber Data,'' respectively.

FMCSA has placed copies of CVSA's 2007 petition and 2008 correction in the docket for this rulemaking.

V. CVSA's Petition

This NPRM is based on the authority of the Motor Carrier Act of 1935 (1935 Act) and the Motor Carrier Safety Act of 1984 (the 1984 Act), both of which provide broad discretion to the Secretary of Transportation (Secretary) in implementing their provisions.

The 1935 Act provides that the Secretary may prescribe requirements for (1) Qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier [49 U.S.C. 31502(b)(1)], and (2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation [§ 31502(b)(2)]. The 2005 final rule amending part 393 of the FMCSRs (Parts and Accessories Necessary for Safe Operation, 70 FR 48007, Aug. 15, 2005) and these proposed amendments are based on the Secretary's authority to regulate the safety and standards of equipment of for-hire and private carriers.

The 1984 Act gives the Secretary concurrent authority to regulate drivers, motor carriers, and vehicle equipment. Codified in 49 U.S.C. 31136(a), section 206(a) of the Act requires the Secretary to publish regulations on commercial motor vehicle (CMV) safety. Specifically, the Act sets forth minimum safety standards to ensure that (1) CMVs are maintained, equipped, loaded, and operated safely [§ 31136(a)(1)]; (2) the responsibilities imposed on operators of CMVs do not impair their ability to operate the vehicles safely [§ 31136(a)(2)]; (3) the physical condition of CMV operators is adequate to enable them to operate the vehicles safely * * * [§ 31136(a)(3)]; and (4) the operation of CMVs does not have a deleterious effect on the physical condition of the operators [§ 31136(a)(4)].

The proposed rule would provide improved guidance concerning CMV brake adjustment limits. The proposed maximum pushrod travel for brake actuators would enhance the braking performance of the vehicle, consistent with § 31136(a)(1). The rule does not address the responsibilities or physical condition of drivers addressed by § 31136(a)(2) and (3), respectively, and deals with § 31136(a)(4) only to the extent that a safer vehicle is less likely to have a deleterious effect on the physical condition of a driver. Before prescribing any such regulations, however, FMCSA must consider the ''costs and benefits'' of any proposal (49 U.S.C. 31136(c)(2)(A) and 31502(d)).

VI. Agency Analysis

SAE J1817, ''Long-Stroke Air-Brake Actuator Marking,'' describes a marking system to distinguish long-stroke from standard-stroke air brake actuators, rotochambers, and components. Long-stroke air brake actuators are designed to provide longer pushrod stroke capabilities than standard-stroke actuators. Because some of these chambers are nearly identical in exterior appearance to the standard chambers, a unique marking system is needed for the purpose of identification by mechanics, inspectors, and others in the field. This marking helps ensure that both types of actuators are serviced correctly and brakes are adjusted properly. This is important because long-stroke actuator components from different actuator manufacturers are not interchangeable, nor are they interchangeable with standard actuator components.

In addition to providing discrete marking requirements for differentiating long-stroke from standard-stroke actuators, SAE J1817 includes tables that specify the rated stroke and the maximum readjustment stroke for various types of air brake actuators. Tables 1A and 1B provide data for standard-stroke and long-stroke clamp-type brake chambers, respectively, and Table 1C provides data for rotochamber designs.

Section 393.47(e) of the FMCSRs, as amended in the August 2005 final rule, outlines three options for determining brake actuator readjustment limits for clamp- and rotochamber-type actuators. The pushrod travel for these actuators must be:

(1) Less than 80 percent of the rated stroke listed in Tables 1A, 1B, or 1C of SAE J1817; or

(2) Less than 80 percent of the rated stroke marked on the brake chamber by its manufacturer; or

(3) Less than the readjustment limit marked on the chamber by the chamber manufacturer.

As CVSA's petition notes, while § 393.47(e) specifies that readjustment (stroke) limits may be based on 80 percent of the rated (full) strokes listed in SAE J1817, relying on this criterion may introduce discrepancies between § 393.47(e) and SAE J1817. Although in some cases, the readjustment limits listed in SAE J1817 are 80 percent of the rated stroke for a given actuator, deviations exist. Where the readjustment limit listed in SAE J1817 for a given actuator differs from a value equal to 80 percent of the rated stroke, the difference generally is small. In some cases, however, the deviations can be considered more significant (*i.e.,* close to, or greater than, ⅛ inch).[1] The differences vary according to the type (size) of brake chamber. Using the ''80 percent of rated stroke'' criterion in § 393.47(e) may produce a value that is either more stringent or less stringent than the value specified in SAE J1817. The differences, however, are only a fraction of an inch.

CVSA recommends incorporation of a set of tables into § 393.47(e)—similar to the tables that already exist in (a) SAE J1817, (b) the CVSA OOS Criteria, and (c) Appendix G to the FMCSRs—that, if included, would eliminate the discrepancies resulting from application of the ''80 percent'' criterion currently

[1] Brake stroke is measured in increments of ⅛ inch.

permitted under § 393.47(e) as discussed above. Inclusion of these tables would eliminate confusion in the enforcement community and the industry by providing explicit values for the actuator readjustment limits.

In reviewing the tables in SAE J1817, FMCSA confirmed that the specified readjustment limits for certain actuators are not equal to 80 percent of the corresponding rated stroke for those actuators.[2] For example, the readjustment limit for a T–30–L3 chamber (common on new trucks) is listed at 2.5 inches in SAE J1817 and the CVSA OOS Criteria (Appendix G has not been updated to include long-stroke chambers), yet under the requirements of § 393.47(e), 80 percent of its rated stroke of 3.0 inches (as provided in SAE J1817) is 2.4 inches, a difference of slightly less than an eighth of an inch. In another example, for a standard T–36 chamber (common on transit buses), SAE J1817, the CVSA OOS Criteria, and Appendix G all list the readjustment limit as 2.25 inches—but under the requirements of § 393.47(e), 80 percent of the rated stroke of 3.0 inches (as provided in SAE J1817) is 2.4 inches, a difference of slightly more than an eighth of an inch. In the first example, the § 393.47(e) criterion is more stringent; in the second it is less stringent. But in both cases the differences are only a small fraction of an inch.

Even though the discrepancies are minimal, they are confusing to the enforcement community and the industry. Accordingly, for the reasons discussed above, FMCSA proposes to amend § 393.47(e) as recommended by CVSA.

FMCSA does not, however, agree with CVSA's recommendation to limit out-of-adjustment findings to cases where the brake travel exceeds the readjustment limit. An s-cam brake that is *at* the readjustment limit when it is cold will be *beyond* the readjustment limit when it gets hot. FMCSA believes that vehicles should not be dispatched with brakes *at* the readjustment limit, because those brakes will be found to be beyond the adjustment limit—and out of compliance with the regulations—if evaluated during a roadside inspection after the brakes have become hot due to operational use. Based on these fundamental performance characteristics of s-cam brakes, the August 2005 final rule included a provision in § 393.47(e) that requires brake stroke to be ''less than'' the readjustment limit(s), as opposed to the Appendix G provision under which brakes ''at'' the adjustment limit are in compliance with the FMCSRs. This difference reflects roadside inspection tolerances. Roadside inspectors typically refrain from citing a brake adjustment violation until the brake is *beyond* the adjustment limit. Further, under the 20 percent rule for brake violations in the OOS Criteria, roadside inspectors do not remove a CMV from service unless 20 percent of the vehicle's brakes are out of adjustment. The Agency believes, however, that it is appropriate to require *motor carriers* to take action under the requirements of § 393.47 when a brake is *at* the adjustment limit. This position is consistent with findings from a 1995 study concerning the accuracy with which brake adjustment can be measured[3] performed by the University of Michigan Transportation Research Institute for FHWA's Office of Motor Carrier Safety. To avoid confusion in the enforcement community and the industry, this NPRM proposes to amend Appendix G to make its requirements consistent with those of § 393.47(e) adopted in the August 2005 rule.

VII. Discussion of the Proposed Rule

This NPRM proposes to revise and expand the readjustment-limits tables as recommended by CVSA, and includes these revised tables in § 393.47(e) and Appendix G. The revised tables cover readjustment limits not only for clamp-, bolt-, and rotochamber-type brake chambers but also for Bendix DD–3 chambers. The table for clamp-type brake chambers also differentiates between adjustment limits for more sizes of standard-stroke and long-stroke chambers.

The NPRM also proposes to eliminate the cross-reference to SAE J1817 in § 393.47(e). Inclusion of the new tables in § 393.47(e) would provide explicit readjustment limits for each type of actuator, eliminating the need for the cross-reference.

FMCSA notes that the SAE Truck and Bus Brake Actuator Committee has initiated work on a new SAE Recommended Practice, J2899, which would describe the physical characteristics of air brake actuators that allow the correct brake readjustment limits to be determined. The new recommended practice would also define the maximum readjustment limits based on the rated stroke and type (size) of the chamber. The committee voted to develop this new J-specification to identify maximum readjustment limits independently of SAE J1817 and focus the latter on actuator long-stroke marking requirements. As the committee noted, limiting SAE J1817 to the topic defined within its scope will facilitate maintenance of the standard. This project was initiated in May 2009, and it is not known when the new recommended practice will be published.

The proposed rule would adopt CVSA's suggestion to replace the heading ''Maximum stroke at which brakes should be readjusted'' with the term ''Brake Adjustment Limit.'' The proposed wording is more concise and direct.

As discussed in the Agency Analysis section, FMCSA proposes changes to paragraph 1.a.(5) of Appendix G, ''Brake System, Service Brakes,'' to be consistent with the § 393.47(e) requirement that pushrod travel be less than the values specified in the accompanying tables. For actuator types not listed in these tables, the pushrod stroke must be less than 80 percent of the rated stroke marked on the actuator by the actuator manufacturer, or less than the readjustment limit marked on the actuator by the actuator manufacturer.

Lastly, the Agency would revise § 393.53 in response to CVSA's request. Although the introductory text of each paragraph clearly states that it is applicable to ''each commercial motor vehicle,'' § 393.53(b) and (c) omit a cross-reference to the FMVSSs applicable to trailers (S.5.2.2). The proposed rule adds this cross-reference to eliminate potential confusion.

VIII. Regulatory Analyses

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

This proposed 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. FMCSA expects the economic impact of this NPRM to be minimal. The proposal affects the conditions under which motor carriers are cited for out-of-adjustment brakes during roadside inspections and CMVs are placed OOS for such violations. Each brake adjustment violation cited during a roadside inspection must be addressed

[2] Whereas SAE J1817 provides values for (1) rated stroke and (2) corresponding readjustment limits, the CVSA OOS Criteria and Appendix G provide only readjustment limits.

[3] ''Evaluation of Brake Adjustment Criteria for Heavy Trucks,'' FHWA–MC–94–016, March 1995. A copy of the report is in the docket referenced at the beginning of this notice.

by the carrier, and each OOS order results in time lost for the carrier and driver because the vehicle may not be operated until the OOS defects have been corrected. Consequently, a decrease in OOS orders can be considered a benefit of these proposed amendments to the readjustment limits, while any increase in violations and OOS orders would be a cost. With respect to the safety impact of OOS orders for brake adjustment violations, more such orders on vehicles with defects may produce a safety benefit by reducing crashes. Neither the petitioners nor the Agency, however, are able to estimate whether the number of brake-adjustment violations resulting from this proposal would increase or decrease by a significant amount. It should be noted, however, that FMCSA requires motor carriers to maintain their vehicles in safe and proper operating condition at all times and to have a systematic inspection, repair, and maintenance program to avoid dispatching CMVs with safety defects and deficiencies (*see, e.g.,* 49 CFR 396.3(a)(1) and 398.7). Therefore, the potential costs of this NPRM relate only to carrying out the maintenance task (*e.g.,* readjusting the brakes or replacing an inoperable slack adjuster) at the inspection location rather than at one of the carrier's usual maintenance locations.

From 2000 to 2009, the annual number of Level I and Level V roadside inspections of CMVs—the only inspection levels that include brake stroke measurement—ranged from about 0.94 to 1.25 million, and the percentage of inspections resulting in the CMV being placed OOS for brake violations of all kinds ranged from a high of 17 percent to a low of 12.2 percent. Roughly half of these violations concerned out-of-adjustment brakes, but the Agency believes that the changes in this proposal would have relatively little impact on this ratio. By proposing to: (1) Remove from § 393.47(e) the cross-reference to the readjustment-limits tables in SAE J1817 and the requirement that pushrod travel be less than 80 percent of the rated stroke listed in those tables, (2) incorporate into § 393.47(e) a set of tables (duplicating those in Appendix G) providing explicit readjustment limits, and (3) require that pushrod travel be less than the values specified in those tables, the NPRM would eliminate certain discrepancies between the brake adjustment values derived using the ''80 percent of rated stroke'' criterion under § 393.47(e) and the values specified in the SAE J1817 tables. In addition, these changes would make § 393.47(e) consistent with Appendix G, eliminating confusion in the enforcement community and the industry.

Although substituting the readjustment-limits tables for the cross-reference to SAE J1817 in § 393.47(e) would resolve discrepancies that the cross-reference introduced, these differences are in many cases quite small. The differences vary according to the type (size) of brake chamber. Using the ''80 percent of rated stroke'' criterion may produce a value that is either more stringent or less stringent than the value specified in SAE J1817. For these reasons, FMCSA anticipates that certain brake adjustments that comply with the current rule would be out of compliance with the proposed standard—while the reverse could just as often be true. On the other hand, the proposed Appendix G amendment mirroring the proposed § 393.47(e) requirement that pushrod travel be less than the values specified in the readjustment-limits tables would have no effect on the rate of OOS violations for brake adjustment—because roadside inspection procedures do not reference the readjustment limits in Appendix G.

In summary, although FMCSA is unable to estimate the net economic and safety impacts of the changes proposed in this NPRM, these impacts clearly would be minimal.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires Federal agencies to determine whether proposed rules could have a significant economic impact on a substantial number of small entities. FMCSA estimates that the economic impact of this rule would be minimal. Consequently, I certify that this proposed action would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rulemaking does not impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532 *et seq.*), that will result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $141.3 million (which is the value of $100 million in 2010 after adjusting for inflation) or more in any 1 year.

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 13045 (Protection of Children)

FMCSA analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The Agency determined that this rulemaking does not pose an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This rulemaking does not effect a taking of private property or otherwise have takings implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13132 (Federalism)

A rulemaking 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. FMCSA analyzed this proposed action in accordance with Executive Order 13132. The proposal would not have a substantial direct effect on States, nor would it limit the policymaking discretion of States. Nothing in this rulemaking would preempt any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this action.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that FMCSA consider the impact of paperwork and other information collection burdens imposed on the public. The Agency determined that no new information collection requirements are associated with this proposed rule.

National Environmental Policy Act

FMCSA analyzed this NPRM for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined under our environmental procedures Order 5610.1, published in the **Federal Register** on March 1, 2004 (69 FR 9680), that this proposed action does not have any effect on the quality of the environment.

Therefore, this NPRM is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1, paragraph 6(bb) of Appendix 2. The Categorical Exclusion under paragraph 6(bb) relates to ''regulations concerning vehicle operation safety standards,'' such as the amended brake inspection standards proposed in this rulemaking. A Categorical Exclusion determination is available for inspection or copying in the *Regulations.gov* Web site listed under **ADDRESSES.**

FMCSA also analyzed this proposal under section 176(c) of the Clean Air Act (CAA), as amended (42 U.S.C. 7401 *et seq.*), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since it does not affect direct or indirect emissions of criteria pollutants.

Executive Order 13211 (Energy Effects)

FMCSA analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency has determined that it is not a ''significant energy action'' under that Executive Order because it is not economically significant and is not likely to have an adverse effect on the supply, distribution, or use of energy.

List of Subjects in 49 CFR Part 393

Highways and roads, Motor carriers, Motor vehicle equipment, Motor vehicle safety.

In consideration of the foregoing, FMCSA proposes to amend title 49, Code of Federal Regulations, subchapter B, chapter III, as follows:

PART 393—[AMENDED]

1. The authority citation for part 393 is revised to read as follows:

Authority: 49 U.S.C. 31136, 31151, and 31502; Sec. 1041(b) of Pub. L. 102–240, 105 Stat. 1914, 1993 (1991); and 49 CFR 1.73.

2. In § 393.7, remove paragraph (b)(15) and redesignate paragraphs (b)(16) through (b)(22) as paragraphs (b)(15) through (b)(21), respectively.

3. Amend § 393.47 by revising paragraph (e) to read as follows:

§ 393.47 Brake actuators, slack adjusters, linings/pads, and drums/rotors.

* * * * *

(e) *Clamp, Bendix DD–3, bolt-type, and rotochamber brake actuator readjustment limits.* The pushrod travel for clamp- and rotochamber-type actuators must be less than the values specified in the following tables:

CLAMP-TYPE BRAKE CHAMBERS

Type	Outside diameter	Brake adjustment limit: Standard stroke chamber	Brake adjustment limit: Long stroke chamber
6	4½ in. (114 mm)	1¼ in. (32 mm).	
9	5¼ in. (133 mm)	1⅜ in. (35 mm).	
12	5 11/16 in. (145 mm)	1⅜ in. (35 mm)	1¾ in. (45 mm)
16	6⅜ in. (162 mm)	1¾ in. (45 mm)	2 in. (51 mm)
20	6 25/32 in. (172 mm)	1¾ in. (45 mm)	2 in. (51 mm) 2 ½ in. (64 mm)*
24	7 7/32 in. (184 mm)	1¾ in. (45 mm)	2 in. (51 mm) 2 ½ in. (64 mm)**
30	8 3/32 in. (206 mm)	2 in. (51 mm)	2½ in. (64 mm)
36	9 in. (229 mm)	2¼ in. (57 mm).	

* For type 20 chambers with a 3-inch (76 mm) rated stroke.
** For type 24 chambers with a 3-inch (76 mm) rated stroke.

BENDIX DD–3 BRAKE CHAMBERS

Type	Outside diameter	Brake adjustment limit
30	8⅛ in. (206 mm)	2¼ in. (57 mm)

BOLT-TYPE BRAKE CHAMBERS

Type	Outside diameter	Brake adjustment limit
A	6 5/16 in. (176 mm).	1⅜ in. (35 mm)
B	9 3/16 in. (234 mm).	1¾ in. (45 mm)
C	8 1/16 in. (205 mm).	1¾ in. (45 mm)
D	5¼ in. (133 mm)	1¼ in. (32 mm)
E	6 3/16 in. (157 mm).	1⅜ in. (35 mm)
F	11 in. (279 mm)	2¼ in. (57 mm)
G	9⅞ in. (251 mm)	2 in. (51 mm)

ROTOCHAMBER-TYPE BRAKE CHAMBERS

Type	Outside diameter	Brake adjustment limit
9	4 9/32 in. (109 mm).	1½ in. (38 mm)
12	4 13/16 in. (122 mm).	1½ in. (38 mm)
16	5 13/32 in. (138 mm).	2 in. (51 mm)
20	5 15/16 in. (151 mm).	2 in. (51 mm)
24	6 13/32 in. (163 mm).	2 in. (51 mm)
30	7 1/16 in. (180 mm).	2¼ in. (57 mm)
36	7⅝ in. (194 mm)	2¾ in. (70 mm)
50	8⅞ in. (226 mm)	3 in. (76 mm)

For actuator types not listed in these tables, the pushrod stroke must be less than 80 percent of the rated stroke marked on the actuator by the actuator manufacturer, or less than the readjustment limit marked on the actuator by the actuator manufacturer.

* * * * *

4. Amend § 393.53 by revising paragraphs (b) and (c) to read as follows:

§ 393.53 Automatic brake adjusters and brake adjustment indicators.

* * * * *

(b) *Automatic brake adjusters (air brake systems).* Each commercial motor vehicle manufactured on or after October 20, 1994, and equipped with an air brake system must meet the automatic brake adjustment system requirements of Federal Motor Vehicle Safety Standard No. 121 (49 CFR 571.121, S5.1.8 or S5.2.2) applicable to the vehicle at the time it was manufactured.

(c) *Brake adjustment indicator (air brake systems).* On each commercial motor vehicle manufactured on or after October 20, 1994, and equipped with an air brake system which contains an external automatic adjustment mechanism and an exposed pushrod, the condition of service brake under-adjustment must be displayed by a brake adjustment indicator conforming to the requirements of Federal Motor

Vehicle Safety Standard No. 121 (49 CFR 571.121, S5.1.8 or S5.2.2) applicable to the vehicle at the time it was manufactured.

5. Amend Appendix G to Subchapter B by revising paragraph (1)(a)(5) to read as follows:

Appendix G to Subchapter B of Chapter III—Minimum Periodic Inspection Standards

* * * * *

(1) * * *

(a) * * *

(5) Readjustment limits. The maximum pushrod travel or stroke must be less than the values given in the tables below and at § 393.47(e). Any brake ¼″ or more past the readjustment limit, or any two brakes less than ¼″ past the readjustment limit, will be rejected. Stroke must be measured with engine off and reservoir pressure of 80 to 90 psi with brakes fully applied.

CLAMP-TYPE BRAKE CHAMBERS

Type	Outside diameter	Brake adjustment limit: Standard stroke chamber	Brake adjustment limit: Long stroke chamber
6	4½ in. (114 mm)	1¼ in. (32 mm).	
9	5¼ in. (133 mm)	1⅜ in. (35 mm).	
12	5 11/16 in. (145 mm)	1⅜ in. (35 mm)	1¾ in. (45 mm)
16	6⅜ in. (162 mm)	1¾ in. (45 mm)	2 in. (51 mm)
20	6 25/32 in. (172 mm)	1¾ in. (45 mm)	2 in. (51 mm); 2½ in. (64 mm) *
24	7 7/32 in. (184 mm)	1¾ in. (45 mm)	2 in. (51 mm); 2½ in. (64 mm) **
30	8 3/32 in. (206 mm)	2 in. (51 mm)	2½ in. (64 mm)
36	9 in. (229 mm)	2¼ in. (57 mm).	

* For type 20 chambers with a 3-inch (76 mm) rated stroke.
** For type 24 chambers with a 3-inch (76 mm) rated stroke.

BENDIX DD–3 BRAKE CHAMBERS

Type	Outside diameter	Brake adjustment limit
30	8⅛ in. (206 mm)	2¼ in. (57 mm)

BOLT-TYPE BRAKE CHAMBERS

Type	Outside diameter	Brake adjustment limit
A	6 5/16 in. (176 mm).	1⅜ in. (35 mm)
B	9 3/16 in. (234 mm).	1¾ in. (45 mm)
C	8 1/16 in. (205 mm).	1¾ in. (45 mm)
D	5¼ in. (133 mm)	1¼ in. (32 mm)
E	6 3/16 in. (157 mm).	1⅜ in. (35 mm)
F	11 in. (279 mm)	2¼ in. (57 mm)
G	9⅞ in. (251 mm)	2 in. (51 mm)

ROTOCHAMBER-TYPE BRAKE CHAMBERS

Type	Outside diameter	Brake adjustment limit
9	4 9/32 in. (109 mm).	1½ in. (38 mm)
12	4 13/16 in. (122 mm).	1½ in. (38 mm)
16	5 13/32 in. (138 mm).	2 in. (51 mm)
20	5 15/16 in. (151 mm).	2 in. (51 mm)
24	6 13/32 in. (163 mm).	2 in. (51 mm)
30	7 1/16 in. (180 mm).	2¼ in. (57 mm)
36	7⅝ in. (194 mm)	2¾ in. (70 mm)
50	8⅞ in. (226 mm)	3 in. (76 mm)

For actuator types not listed in these tables, the pushrod stroke must be less than 80 percent of the rated stroke marked on the actuator by the actuator manufacturer, or less than the readjustment limit marked on the actuator by the actuator manufacturer.

* * * * *

Anne S. Ferro,

Administrator.

[FR Doc. 2011–22478 Filed 9–1–11; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 622 and 640

RIN 0648–AY72

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic; Amendment 10

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

ACTION: Notice of availability; request for comments.

SUMMARY: The Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) have submitted Amendment 10 to the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic (FMP) for review, approval, and implementation by NMFS. Amendment 10 proposes actions to revise the lobster species contained within the fishery management unit; revise definitions of management thresholds; establish an acceptable biological catch control (ABC) rule, an annual catch limit (ACL), and an annual catch target (ACT) for Caribbean spiny lobster; revise the Federal spiny lobster tail-separation permitting requirements; revise the regulations specifying the condition of spiny lobster landed during a fishing trip; modify the undersized attractant regulations; modify the framework procedures; and transfer to the state of Florida the authority to remove derelict spiny lobster traps within the exclusive economic zone (EEZ) off Florida.

DATES: Written comments must be received on or before November 1, 2011.

ADDRESSES: You may submit comments on the amendment identified by NOAA–NMFS–2011–0106 by any of the following methods:

- *Electronic submissions:* Submit electronic comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Susan Gerhart, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

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

To submit comments through the Federal e-rulemaking portal: *http://www.regulations.gov,* click on ''submit a comment,'' then enter ''NOAA–NMFS–2011–0106'' in the keyword search and click on ''search.'' To view posted comments during the comment period, enter ''NOAA–NMFS–2011–0106'' in the keyword search and click on

''search.'' NMFS will accept anonymous comments (enter N/A in the required field if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this rule will not be considered.

Electronic copies of the amendment may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, telephone: 727–824–5305, or e-mail: *Susan.Gerhart@noaa.gov.*

SUPPLEMENTARY INFORMATION: The spiny lobster fishery of the Gulf of Mexico (Gulf) and the South Atlantic is managed under the FMP. The FMP was prepared by the Councils and implemented through regulations at 50 CFR parts 622 and 640 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The 2006 revisions to the Magnuson-Stevens Act require that in 2011, for FMPs for fisheries determined by the Secretary to not be subject to overfishing, ACLs must be established at a level that prevents overfishing and helps to achieve optimum yield (OY) within a fishery. The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the OY from Federally managed stocks. These mandates are intended to ensure fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems.

Actions Contained in the Amendment

The amendment proposes to remove four species from the FMP; revise definitions of management thresholds; establish an ABC control rule, an ACL, and an ACT for Caribbean spiny lobster; revise the requirements for the Federal spiny lobster tail-separation permit; revise the regulations specifying the condition of lobster landed during a fishing trip; modify the regulations with respect to the use of undersized attractants; modify the framework procedures; and transfer to the state of Florida the authority to remove unclaimed lobster traps within the EEZ off of Florida.

Removal of Species From the Fishery Management Unit

Five species of lobster are currently within the FMP: the Caribbean spiny lobster (*Panulirus argus*), the smoothtail spiny lobster (*Panulirus laevicaus*), the spotted spiny lobster (*Panulirus guttatus*), the Spanish slipper lobster (*Scyllarides aequinoctialis*), and the ridged slipper lobster (*Scyllarides nodifer*). At present, only the Caribbean spiny lobster and the ridged slipper lobster are managed with regulations; the other species are in the fishery management unit for data collection purposes only. Amendment 10 proposes to remove all species from the FMP except the Caribbean spiny lobster (spiny lobster). The Councils and NMFS have determined these other lobster species are not in need of Federal management at this time. Although these species are targeted in some areas, landings are relatively low. Individual states have the option to extend their regulations into Federal waters for these other lobster species. Furthermore, most landings of these species are off Florida, and Florida regulations concerning the taking of egg-bearing females, or stripping or removing eggs, are more conservative than Federal regulations for most of these species. Therefore, if Florida were to extend its regulations into Federal waters, these species could receive greater protection than under current management. If landings or effort changes for the other lobster species and the Councils determine management at the Federal level is needed, these species could be added back into the FMP at a later date.

Spiny Lobster ABC Control Rule, ACL, and ACT

In 2006, the Magnuson-Stevens Act was re-authorized and included a number of changes to improve the conservation of managed fishery resources. Included in these changes are requirements that fishery management councils establish both a mechanism for specifying ACLs at a level such that overfishing does not occur in a fishery and accountability measures (AMs) to help ensure that ACLs are not exceeded and to mitigate any ACL overages that may occur. Guidance also requires fishery management councils to establish a control rule to determine allowable biological catch (ABC).

The Councils accepted the ABC control rule developed by the Gulf Council's Scientific and Statistical Committee (SSC), which set the ABC for spiny lobster at 7.32 million lb (3.32 million kg). The Councils chose not to set sector allocations and set a stock ACL equal to the ABC. Therefore, the spiny lobster stock ACL is proposed to be set at 7.32 million lb (3.32 million kg). An ACT was set at 90 percent of the ACL, which is 6.59 million lb (2.99 million kg). If the ACT is exceeded in any year, the Councils will convene a scientific panel to review the ACL and ACT, and determine if additional AMs are needed. The ACT is proposed to serve as the AM for the spiny lobster stock. Landings have not exceeded the ACT level since the 2000/2001 fishing year. Therefore, it is unlikely the ACT would be exceeded under the current ACT preferred alternative based on landings history. However, the updated framework procedure contained within this amendment would facilitate timely adjustments of the ACT or ACL of AM if necessary.

Modify the Current Definitions for Management Thresholds

Definitions of maximum sustainable yield (MSY), OY, overfishing, and overfished were set for Caribbean spiny lobster in Amendment 6 to the FMP. Currently, the Councils have different definitions for each reference point. The amendment would set a single definition for each biological reference point that could be used by both Councils and simplify management. The maximum fishing mortality threshold would be set based on the overfishing limit (OFL) recommendation of the SSC of 7.90 million lb (3.58 million kg). The MSY proxy would be set equal to the OFL. The minimum stock size threshold, which is the overfished definition, would be equal to $(1 - M) \times B_{MSY}$, where M equals natural mortality and B equals biomass.

Revisions to Federal Spiny Lobster Tail-Separation Permit Requirements

Spiny Lobster Amendment 1 (July 15, 1987, 52 FR 22659) initially implemented the Federal spiny lobster tail-separation permit. The original intent of the Councils was to confine holders of this permit to the commercial sector. However, the current requirements for obtaining the Federal spiny lobster tail-separation permit do not restrict the permit to commercial fishermen, which is contrary to the original intent. Amendment 10 proposes to require applicants for a Federal spiny lobster tail-separation permit to possess either (1) a Federal spiny lobster permit or (2) a valid Florida Restricted Species Endorsement and a valid Crawfish Endorsement associated with a valid Florida Saltwater Products License to obtain a tailing permit.

Condition of Spiny Lobster Landed During a Fishing Trip

Under certain situations and with possession of a valid Federal tail-separation permit, Caribbean spiny lobster tails may be separated from the body onboard a fishing vessel. This tail-separation provision can create difficulties for law enforcement personnel in determining if the lobster were originally of legal size, especially when some lobster of the same catch are whole and some are tailed. Amendment 10 proposes to require lobster be landed all whole or all tailed during a single fishing trip.

Use of Undersized Attractants

Federal regulations allow as many as 50 spiny lobsters less than the minimum size limit or one per trap, whichever is greater, to be retained aboard a vessel to attract other lobsters for harvest. Currently, Federal regulations are not consistent with Florida regulations, which allow the retention of as many as 50 spiny lobsters less than the minimum size limit and one per trap. Amendment 10 proposes to change the Federal regulations specific to the use of undersized attractants to be consistent with current Florida regulations. Additionally, although approximately 10 percent mortality is associated with the use of undersized attractants, traps using non-lobster bait or no bait at all take up to two to three times longer to harvest the same amount of lobsters as traps that use undersized attractants. The resulting increase in effort may increase the bycatch and bycatch mortality of other species. Therefore, the use of undersized attractants that are consistent with Florida regulations provides both enforcement and biological benefits.

Modification of Generic Framework Procedures

To facilitate timely adjustments to harvest parameters and other management measures, the Councils have added the ability to adjust ACLs and AMs, and establish and adjust target catch levels, including ACTs, to the current framework procedures. These adjustments or additions may be accomplished through a regulatory amendment which is less time intensive than an FMP amendment. By including ACLs, AMs, and ACTs in the framework procedure for specifying total allowable catch, the Councils and NMFS would have the flexibility to expeditiously alter those harvest parameters as new scientific information becomes available. The proposed addition of other management options into the framework procedures would also add flexibility and the ability to more timely respond to certain future Council decisions through the framework procedures.

Removal of Derelict Spiny Lobster Traps in the EEZ Off Florida

On August 27, 2009, an Endangered Species Act (ESA) biological opinion evaluating the impacts of the continued authorization of the spiny lobster fishery on ESA-listed species was completed. The opinion contained specific terms and conditions required to implement the prescribed reasonable and prudent measures, including allowing the public to remove trap-related marine debris in EEZ off Florida. Amendment 10 proposes to delegate authority to Florida to clean up derelict traps in Federal waters off Florida. Florida currently has a trap cleanup program that includes provisions for public participation.

Other Actions Contained in Amendment 10

Currently, no allocations are set between the commercial and recreational sectors for spiny lobster. The Councils considered setting such allocations, but instead chose to not sector allocations and therefore allow for a stock ACL, stock ACT, and AM that affects both sectors.

The Councils considered alternatives to meet requirements from the 2009 biological opinion to establish lobster closed areas and lobster gear trap line marking requirements to protect threatened and endangered species; however, they chose to take no action at this time to allow time for additional stakeholder input. The Councils intend to develop Amendment 11 to the Spiny Lobster FMP to implement these measures prior to the beginning of the next spiny lobster commercial fishing season that begins on August 6, 2012.

Proposed Rule for Amendment 10

A proposed rule that would implement measures outlined in Amendment 10 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating Amendment 10 to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If the determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

The Councils submitted Amendment 10 for Secretarial review, approval, and implementation. NMFS' decision to approve, partially approve, or disapprove Amendment 10 will be based, in part, on consideration of comments, recommendations, and information received during the comment period on this notice of availability.

Public comments received by 5 p.m. eastern time, on November 1, 2011, will be considered by NMFS in the approval/disapproval decision regarding Amendment 10.

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

Dated: August 30, 2011.

James P. Burgess,

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

[FR Doc. 2011–22590 Filed 9–1–11; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 76, No. 171

Friday, September 2, 2011

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committees on Administration and Management, Collaborative Governance, Judicial Review, and Regulation

ACTION: Notice of public meetings.

SUMMARY: Notice is hereby given of public meetings of four committees of the Assembly of the Administrative Conference of the United States (ACUS). Each committee will meet to discuss recommendations for consideration by the full Conference. Complete details regarding each committee's meeting, related research reports, how to attend (including information about remote access and obtaining special accommodations for persons with disabilities), and how to submit comments to the committee can be found in the ''Research'' section of the ACUS Web site. Go to *www.acus.gov* and click on Research - > Committee Meetings. Additional project information may also be found by clicking on Research - > Conference Projects.

Comments may be submitted by e-mail to *Comments@acus.gov,* with the name of the relevant committee in the subject line, or by postal mail to ''[Name of Committee] Comments'' at the address given below. To be guaranteed consideration, comments must be received five calendar days before the meeting to which they are related.

ADDRESSES: The meetings will be held at 1120 20th Street, NW., Suite 706 South, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer for the individual committee (see listings below), ACUS, 1120 20th Street, NW., Suite 706 South, Washington, DC 20036; Telephone 202–480–2080.

SUPPLEMENTARY INFORMATION:

Committee on Administration and Management

The Committee on Administration and Management will meet to consider issues arising when agencies use ''incorporation by reference'' in regulations; i.e., when an agency regulation incorporates by reference material available elsewhere. Among other things, the committee will discuss procedural and drafting issues that arise when agencies use incorporation by reference, challenges agencies face in updating such references, and ways to ensure the reasonable availability of incorporated materials, which may be subject to copyright.

Date: Wednesday, September 21, 2011, from 2 to 5 p.m.

Designated Federal Officer: Scott Rafferty.

Committee on Collaborative Governance

The Committee on Collaborative Governance will meet to consider two projects. The committee will consider recommending potential improvements to the Federal Advisory Committee Act (FACA) and the implementation of the Act. Potential issues for discussion include the chartering requirements for advisory committees; improving access to committee meetings and materials; virtual, asynchronous committee meetings; and other improvements that might reduce the burdens imposed by FACA or improve the transparency of FACA committees.

The Committee on Collaborative Governance will also discuss a project regarding the use of third-party certification in government inspections.

Date: Tuesday, September 20, 2011, from 1 to 4 p.m.

Designated Federal Officer: David Pritzker.

Committee on Judicial Review

The Committee on Judicial Review will meet to consider two projects. First, it will discuss potential changes to 28 U.S.C. 1500, which regulates the jurisdiction of the Court of Federal Claims (CFC). The statute currently deprives the CFC of jurisdiction over a claim if the plaintiff has a claim based on the same facts pending in another court. The committee will consider whether this statute creates a trap for unwary litigants and whether it should be repealed or revised.

The committee will also consider recommending improvements to the Congressional Review Act. The committee will discuss whether better procedures could be implemented to assist Congress in identifying regulations that should be reviewed under the Act and in conducting such review.

Date: Tuesday, September 27, from 1:30 to 4 p.m.

Designated Federal Officer: Reeve Bull.

Committee on Regulation

The Committee on Regulation will meet to consider a project concerning international regulatory cooperation. This project will examine how the Conference might update its Recommendation 91–1, ''Federal Agency Cooperation with Foreign Government Regulators,'' in light of developments in United States government structure, trade agreements, and technology since the recommendation was adopted 20 years ago.

The committee will also discuss a project relating to the Government in the Sunshine Act. This project is designed to determine whether the Act inhibits deliberation at multi-member agencies, and whether the Act might be improved in a way that promotes better deliberation while still serving the openness goals of the Act.

Date: Friday, September 30, from 9:30 a.m. to 12:30 p.m.

Designated Federal Officer: Reeve Bull.

Dated: August 30, 2011.

Jonathan R. Siegel,

Director of Research & Policy.

[FR Doc. 2011–22502 Filed 9–1–11; 8:45 am]

BILLING CODE 6110–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

Rubicon Trail Easement, Eldorado National Forest, Pacific Ranger District

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service, Eldorado National Forest will prepare an environmental impact statement (EIS) to issue an easement to El Dorado

County for the operation and maintenance of the Rubicon Trail where it crosses National Forest System lands. The easement would allow El Dorado County to install new bridges at Ellis Creek and Buck Island, replace the FOTR bridge, construct various erosion control feature as described in the Rubicon Trail Saturated Soil Water Quality Protection Plan (El Dorado County Department of Transportation, December 14, 2010) from Little Sluice to the County line, rehabilitate and close specified unauthorized routes, and install a vault toilet. The proposal will also address the need for access to dispersed recreation and consider whether to add some unauthorized routes to the National Forest Transportation System (NFTS) to provide permanent access to important dispersed recreation areas.

DATES: Comments concerning the scope of the analysis must be received by October 3, 2011. The draft environmental impact statement is expected in December 2011 and the final environmental impact statement is expected in April 2012.

ADDRESSES: Send written comments to Eldorado National Forest Supervisor, Kathryn D. Hardy, and 100 Forni Road, Placerville, CA, 95667. Comments may also be sent via e-mail to *comments-pacificsouthwest-eldorado@fs.fed.us* or via facsimile to 530–621–5297.

FOR FURTHER INFORMATION CONTACT: Laura Hierholzer, Project Leader, 100 Forni Road, Placerville, CA, 95667, 530–642–5187.

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

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The Rubicon Trail crosses National Forest System lands on the Pacific Ranger District of the Eldorado National Forest. The original route was a Native American trail connecting the Sacramento Valley and Lake Tahoe. By the 1890's the trail developed into a road, by the standards of the day, to provide motorized access to Rubicon Springs, Wentworth Springs and Georgetown. The Rubicon Trail is now recognized internationally as the premier OHV route in the United States and is referenced as the ''crown jewel of all off highway trails.''

Pursuant to Federal Revised Statute 2477, El Dorado County has asserted a right-of-way over federal land through an 1887 declaration; this right-of-way is known as the Rubicon Trail. In its adoption of Resolution 142–89 on May 30, 1989, the El Dorado County Board of Supervisors reaffirmed the August 3, 1887 declaration, and declared that the Rubicon Trail is a non-maintained public road in El Dorado County. A legal easement for the Rubicon Trail has not been recorded except for the portion from the Loon Lake Dam to near Ellis Creek (known as the Ellis Creek Intertie). Other than the Ellis Intertie, the exact location and width of the Rubicon Trail has not been fully defined.

The Rubicon Trail is open to OHV use throught the year. The highest OHV use is during weekends and holidays between Memorial Day and Labor Day: however, OHV users also drive the trail when it is covered by snow and at times when saturated soil conditions exist during spring snowmelt and fall rains. Although OHV user groups hold workdays to maintain the trail and El Dorado County has completed maintenance of a portion of the trail; segments of the trail are severly eroded, allowing runoff from rainfall and snowmelt events to discharge sediment to adjacent streams. The trail has become incised due to the heavy use, and water from rainfall and snowmelt events is intercepted by the incised trail and transported, along with sediment, to stream crossings. Water also collects in large puddles and depressions in many locations along the trail. OHVs are driven through these low spots thereby accelerating trail erosion and sedimentation.

In July 2004, the El Dorado County Board of Supervisors issued a state of local emergency due to the significant amount of human fecal waste littered around the Spider Lake area. The amount of fecal waste was determined to pose a health and safety threat to users of the trail and to streams and lakes that are tributary to the Rubicon River and the Middle Fork American River. At the same time the Eldorado National Forest Supervisor issued a Forest Order closing the National Forest System lands around Spdier Lake. As a result, the Spider Lake area was closed to camping and all human access. Currently, restroom facilities exist at each trailhead and Ellis Creek, but there are no public sanitation facilities along the Rubicon Trail at Spider Lake or Buck Island Reservoir primitive camping areas. Once in the backcountry, trail users must rely on individual human waste disposal methods.

The purpose of this project is to:

- Clearly define the responsible party for operations and maintenance of the Rubicon Trail,
- reduce sediment delivery to Ellis Creek,
- reduce runoff from the Rubicon Trail that has the potential to discharge sediment and other waste into waters of the state, and
- address human waste management on the Rubicon Trail.

Proposed Action

The proposed action is to issue an easement to El Dorado County for the operation and maintenance of the Rubicon Trail where it crosses National Forest System lands. Both the Ellis Creek and Buck Island bridges would be constructed as well as the FOTR bridge would be replaced. The features (BMPs) as described in the Saturated Soil Water Quality Protection Plan would be constructed from Little Sluice to the County line. Unauthorized routes would be rehabilitated and closed as well as other unauthorized routes would be added to the NFTS for access for dispersed recreation. One vault toilet would be installed.

Responsible Official

Kathryn D. Hardy, Forest Supervisor of the Eldorado National Forest will be the Responsible Official for the project.

Nature of Decision To Be Made

The decision to be made is whether to adopt and implement the proposed action, an alternative to the proposed action, or take no action to issue an easement to El Dorado County.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however.

Dated: August 29, 2011.

Michael A. Valdes,

Acting Forest Supervisor.

[FR Doc. 2011–22525 Filed 9–1–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Eleven Point Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Eleven Point Resource Advisory Committee will meet in Winona Missouri. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the title II of the Act. The meeting is open to the public. The purpose of the meeting is review proposed forest management projects so that recommendations may be made to the Forest Service on which should be funded through Title II of the Act mentioned above.

DATES: The meeting will be held September 20, 2011, 6:30 p.m.

ADDRESSES: The meeting will be held at the Twin Pines Conservation Education Center located on U.S. Highway 60, Rt 1, Box 1998, Winona, MO. Written comments may be submitted as described under Supplementary Information. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Mark Twain National Forest Supervisors Office, 401 Fairgrounds Road, Rolla, MO. Please call ahead to 573–341–7404 to facilitate entry into the building to view comments.

FOR FURTHER INFORMATION CONTACT: Richard Hall, Eleven Point Resource Advisory Committee Coordinator, Mark Twain National Forest, 573–341–7404, *rrhall@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday. Please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed for further information.

SUPPLEMENTARY INFORMATION: The following business will be conducted: Two projects from Douglas County will be evaluated. The full agenda may be viewed at *https://wwwnotes.fs.fed.us/wo/secure_rural_schools.nsf.* Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by September 19, 2011 to be scheduled on the agenda. Written comments and requests for time for oral comments must be sent to Richard Hall, 401 Fairgrounds Road, Rolla, MO, 65401, or by e-mail to *rrhall@fs.fed.us,* or via facsimile to 573–364–6844. A summary of the meeting will be posted at *https://wwwnotes.fs.fed.us/wo/secure_rural_schools.nsf* within 21 days of the meeting.

Dated: August 29, 2011.

David C. Whittekiend,

Forest Supervisor.

[FR Doc. 2011–22500 Filed 9–1–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Economic Development Administration (EDA).

Title: Compliance with Government Performance and Results Act.

Form Number(s): ED–915, ED–916, ED–917, and ED–918.

OMB Approval Number: 0610–0098.

Type of Review: Regular submission.

Burden Hours: 10,703.

Number of Respondents: 1,529.

Average Hours per Response: 7 hours.

Needs and Uses: EDA must comply with the Government Performance and Results Act of 1993 which requires Federal agencies to develop performance measures, and report to Congress and stakeholders the results of the agency's performance. EDA needs to collect specific data from grant recipients to report on its performance in meeting its stated goals and objectives.

Affected Public: State or local government; Economic Development Districts; Federally-recognized Tribal governments; institutions of higher education; and not-for-profit institutions.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Nicholas Fraser, (202) 395–5887.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Nicholas Fraser, OMB Desk Officer, FAX number (202) 395–7285, or *Nicholas_F._Fraser@omb.eop.gov.*

Dated: August 30, 2011.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–22544 Filed 9–1–11; 8:45 am]

BILLING CODE 3510–34–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request: Field Representative/Decennial Field Staff Exit Questionnaire

AGENCY: U.S. Census Bureau, Department of Commerce.

ACTION: Notice.

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

DATES: To ensure consideration, written comments must be submitted on or before November 1, 2011.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection

instrument(s) and instructions should be directed to Darlene Moul, Census Bureau/Field Division, Room 5H051, Washington, DC 20233, or 301–763–1935, or via the Internet at *darlene.a.moul@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Because of both the monetary costs associated with turnover and the potential impact on data quality, the retention of trained field interviewing staff is a major concern for the Census Bureau. In a continuous effort to devise policies and practices aimed at reducing turnover among interviewers, the Census Bureau collects data on the reasons interviewers voluntarily quit their jobs with the Census Bureau. The BC–1294, Field Representative Exit Questionnaire, is the instrument used to collect this data from a sample of former current survey interviewers.

The BC–1294 asks questions about the factors that affected an interviewer's decision to voluntarily leave Census Bureau employment. The goal or purpose of the exit questionnaire is to identify the reasons for interviewer turnover and determine what the Census Bureau might have done, or can do, to influence interviewers not to leave their jobs. The exit questionnaire seeks reasons interviewers quit, inquires about motivational factors that would have kept the interviewers from leaving, identifies training program strengths and areas for improvement, and explores the impact of automation and the influence of pay and other working conditions on turnover.

As the environment in which surveys take place, the nature of surveys conducted, and the characteristics of our labor force continue to change, it is important that we continue to examine the interviewers' concerns about their former job as Census Bureau interviewers. Information obtained from the exit survey has provided insight on the measures the Census Bureau might take to decrease turnover, and has been useful in helping to determine if the reasons for interviewer turnover appear to be systemic and/or localized. From the BC–1294, we have learned that interviewer turnover is often a combination of reasons rather than one single reason. We have also learned that there are some reasons for turnover within the Census Bureau's control and some which are not.

The data we have collected from former current survey field representatives has helped the Census Bureau develop plans to reduce turnover. Results from prior versions of the exit survey have allowed for better informed management decisions regarding the future field work force and the implementation of more effective recruitment, pay plans, interviewer training, and retention strategies. The BC–1294, Field Representative Exit Questionnaire, has proven to be very useful and we want to continue to use it.

Since our last clearance, our current survey interviewers have been given new tools (*e.g.,* a GPS and mapping software) to help them work more effectively and efficiently. In addition, the Census Bureau implemented a new current survey selection process designed to improve recruiting and retention. We plan to incorporate questions into the BC–1294 to ask former employees what, if any, impact these program changes had on their decision to leave their Census Bureau job.

Plans for the current 2020 inter-decade testing have not been finalized at this time. We do not anticipate any large scale field site tests involving the use of the BC–1294(D), Decennial Field Staff Exit Questionnaire or the BC–1294(CM), Coverage Measurement Exit Questionnaire during the upcoming three years.

II. Method of Collection

The exit questionnaire will be administered by telephone. While the use of automated collection techniques have been considered, a telephone methodology is employed due to the nature of the questions, which may require probing to obtain or clarify answers. In addition, a telephone methodology has historically yielded response rates that are greater than those obtained from similar mail out/mail back methodologies, especially when the collection interval is relatively short and the audience is former employees.

A sample of former employees will be called and asked a series of questions about when and why they voluntarily quit their job. The sample will not include interviewers who have been terminated for cause.

III. Data

OMB Control Number: 0607–0404.

Form Number: BC–1294.

Type of Review: Regular submission.

Affected Public: Former Census Bureau Current Survey Field Representatives.

Estimated Number of Respondents: 500.

Estimated Time per Response: Seven (7) minutes.

Estimated Total Annual Burden Hours: 58.

Estimated Total Annual Cost: There is no cost to the respondents except for their time.

Respondent's Obligation: Voluntary.

Legal Authority: Title 5 U.S.C. Section 301, 2301 and 3101.

IV. Request for Comments

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

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

Dated: August 30, 2011.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–22533 Filed 9–1–11; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to Section 251 of the Trade Act of 1974, as amended (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a

decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE 7/27/2011 THROUGH 8/25/2011

Firm name	Address	Date accepted for investigation	Products
Colonial Mills, Inc	560 Mineral Spring Avenue, Pawtucket, RI 02862.	8/23/2011	The firm manufactures braided-texture area rugs and accessories including baskets, stair treads and chair pads.
Dungeness Development Associates, Inc	313 E Robert Bush Dr., P.O. Box 127, South Bend, WA 98586.	8/19/2011	The firm manufactures canned shrimp and canned albacore.
Esher & Hamilton, Inc	501 S. 8th Street, La Porte, TX 77571–4949.	8/4/2011	The firm manufactures custom cabinets.
Great American Appetizers, Inc	216 8th Street North, Nampa, ID 83687	8/2/2011	The firm manufactures appetizers for retail, club, and foodservice customers.
Jackson Cabinetry, LLC	621 N. Jackson Street, Covington, LA 70433–2533.	8/8/2011	The firm manufactures custom and semi-custom cabinets.
Methods Distributors and Manufacturers, Inc.	104 Sayton Road, Fox Lake, IL 60020	7/27/2011	The firm manufactures plastic and metal screws and fasteners for pressurized devices such as fuel pumps, and compressed air pumps.
Permlight Products, Inc	422 West 6th Street, Tustin, CA 92780–4334.	8/25/2011	The firm manufactures LED-based light engines for general illumination.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 7106, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: August 26, 2011.

Bryan Borlik,

Director, Trade Adjustment Assistance for Firms Program.

[FR Doc. 2011–22476 Filed 9–1–11; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Emerging Technology and Research Advisory Committee; Notice of Partially Closed Meeting

The Emerging Technology and Research Advisory Committee (ETRAC) will meet on September 16, 2011, 8:30 a.m., Room 3884, at the Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on emerging technology and research activities, including those related to deemed exports.

Agenda

Friday, September 16

Closed Session: 9 a.m.–11 a.m.

Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

Open Session: 11 a.m.–12 p.m.

1. ETRAC Member Discussion Emerging Technology Analysis.

Open Session: 1 p.m.–5 p.m.

1. ETRAC Member Discussion Emerging Technology Analysis.
2. Public Comments.
3. ETRAC Member Discussion Emerging Technology Analysis.

The open sessions will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than September 9, 2011.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via e-mail.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on August 15, 2011, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the portion of the meeting dealing with matters of which would be likely to frustrate significantly implementation of a proposed agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)1 and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: August 29, 2011.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2011–22479 Filed 9–1–11; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

Proposed Information Collection; Comment Request; Application for Export Trade; Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before November 1, 2011.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Cecily David, Office of Competition and Economic Analysis, phone: (202) 482–5131, e-mail: *etca@trade.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Title III of the Export Trading Company Act (hereinafter ''the Act'') of 1982 (Pub. L. 97–290, 15 U.S.C. 4001 *et seq.*), authorizes the Secretary of Commerce to issue, with the concurrence of the Attorney General, an Export Trade Certificate of Review to any person that establishes that its proposed export trade, export trade activities, and methods of operation meet the four standards found in Section 303(a) of the Act, 15 U.S.C. 4001 et seq. An Export Trade Certificate of Review provides the certificate holder and its members with limited antitrust preclearance for specified export-related activities. Application for an Export Trade Certificate of Review is voluntary. The information to be collected is found at 15 CFR part 325—Export Trade Certificates of Review. The collection of information is necessary for both the Departments of Commerce and Justice to conduct an antitrust analysis, in order to determine whether the applicant's proposed export-related conduct meets the standards in Section 303(a) of the Act. The collection of information constitutes the essential basis of the statutory determinations to be made by the Secretary of Commerce and the Attorney General.

The Department of Commerce conducts its economic and legal analysis of the information supplied by applicants through the Office of Competition and Economic Analysis and the Office of the General Counsel. In the Department of Justice, analysis is conducted by the Antitrust Division.

Title III was enacted to reduce uncertainty regarding the application of U.S. antitrust laws to export activities—especially joint export activities involving domestic competitors. Among other benefits, the Export Trade Certificate of Review provides its holder and members named in the Certificate with (a) protection from government actions under state and federal antitrust laws for the export conduct specified in the Certificate, and (b) some protection from frivolous private suits, by limiting liability in private actions to actual damages when the challenged activities are covered by an Export Trade Certificate of Review.

II. Method of Collection

The form is sent by request to U.S. firms.

III. Data

OMB Control Number: 0625–0125.

Form Number(s): ITA–4093P.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations; not-for-profit institutions, and state, local or tribal government.

Estimated Number of Respondents: 12.

Estimated Time Per Response: 32 hours.

Estimated Total Annual Burden Hours: 348.

Estimated Total Annual Cost to Public: $55.

IV. Request for Comments

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

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

Dated: August 30, 2011.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–22543 Filed 9–1–11; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, *telephone:* (202) 482–4697.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (''the Act''), may request, in accordance with 19 CFR 351.213, that the Department of Commerce (''the Department'') conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties

interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not-collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that, with regard to reviews requested on the basis of anniversary months on or after August 2011, the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

The Department is providing this notice on its Web site, as well as in its ''Opportunity to Request Administrative Review'' notices, so that interested parties will be aware of the manner in which the Department intends to exercise its discretion in the future.

Opportunity to Request a Review: Not later than the last day of September 2011,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in September for the following periods:

	Period of Review
Antidumping Duty Proceedings	
Belarus: Steel Concrete Reinforcing Bars A–822–804	9/1/10–8/31/11
India: Certain Lined Paper Products, A–533–843	9/1/10–8/31/11
Indonesia:	
Certain Lined Paper Products, A–560–818	9/1/10–8/31/11
Steel Concrete Reinforcing Bars, A–560–811	9/1/10–8/31/11
Italy: Stainless Steel Wire Rod, A–475–820	9/1/10–8/31/11
Japan: Stainless Steel Wire Rod, A–588–843	9/1/10–8/31/11
Latvia: Steel Concrete Reinforcing Bars, A–449–804	9/1/10–8/31/11
Mexico: Certain Magnesia Carbon Bricks, A–201–837	3/11/10–9/6/10, 9/16/10–8/31/11
Moldova: Steel Concrete Reinforcing Bars, A–841–804	9/1/10–8/31/11
Poland: Steel Concrete Reinforcing Bars, A–455–803	9/1/10–8/31/11
Republic of Korea: Stainless Steel Wire Rod, A–580–829	9/1/10–8/31/11
Spain:	
Stainless Steel Wire Rod, A–469–807	9/1/10–8/31/11
Taiwan:	
Narrow Woven Ribbons With Woven Selvedge, A–583–844	9/1/10–8/31/11
Raw Flexible Magnets, A–583–842	9/1/10–8/31/11
Stainless Steel Wire Rod, A–583–828	9/1/10–8/31/11
The People's Republic of China:	
Certain Lined Paper Products, A–570–901	9/1/10–8/31/11
Certain Magnesia Carbon Bricks, A–570–954	3/12/10–8/31/11
Foundry Coke, A–570–862	9/1/10–8/31/11
Freshwater Crawfish Tail Meat, A–570–848	9/1/10–8/31/11
Kitchen Appliance Shelving and Racks, A–570–941	9/1/10–8/31/11
Narrow Woven Ribbons With Woven Selvedge, A–570–952	9/1/10–8/31/11
New Pneumatic Off-The-Road Tires, A–570–912	9/1/10–8/31/11
Raw Flexible Magnets, A–570–922	9/1/10–8/31/11
Steel Concrete Reinforcing Bars, A–570–860	9/1/10–8/31/11

[1] Or the next business day, if the deadline falls on a weekend, Federal holiday or any other day when the Department is closed.

	Period of Review
Ukraine:	
Silicomanganese, A–823–805	9/1/10–8/31/11
Solid Agricultural Grade Ammonium Nitrate, A–823–810	9/1/10–8/31/11
Steel Concrete Reinforcing Bars, A–823–809	9/1/10–8/31/11
Countervailing Duty Proceedings	
Brazil: Hot-Rolled Carbon Steel Flat Products, C–351–829	1/1/10–5/25/10
India: Certain Lined Paper Products, C–533–844	1/1/10–12/31/10
Indonesia: Certain Lined Paper Products, C–560–819	1/1/10–12/31/10
The People's Republic of China:	
Certain Magnesia Carbon Bricks, C–570–955	8/2/10–12/31/10
Kitchen Appliance Shelving and Racks, C–570–942	1/1/10–12/31/10
Narrow Woven Ribbons With Woven Selvedge, C–570–953	9/1/10–12/31/10
New Pneumatic Off-The-Road Tires, C–570–913	1/1/10–12/31/10
Raw Flexible Magnets, C–570–923	1/1/10–12/31/10
Suspension Agreements	
Argentina: Lemon Juice, A–357–818	9/1/10–8/31/11
Mexico: Lemon Juice, A–201–835	9/1/10–8/31/11

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters.[2] If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Please note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. *See also* the Import Administration Web site at *http://ia.ita.doc.gov.*

All requests must be filed electronically in Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS'') on the IA ACCESS Web site at *http://iaaccess.trade.gov. See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011). Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of September 2011. If the Department does not receive, by the last day of September 2011, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

Dated: August 29, 2011.

Susan H. Kuhbach,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–22551 Filed 9–1–11; 8:45 am]

BILLING CODE 3510–DS–P

[2] If the review request involves a non-market economy and the parties subject to the review request do not qualify for separate rates, all other exporters of subject merchandise from the non-market economy country who do not have a separate rate will be covered by the review as part of the single entity of which the named firms are a part.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Southeast Region Gear Identification Requirements

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing

effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before November 1, 2011.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Rich Malinowski, (727) 824–5305 or *Rich.Malinowski@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

National Marine Fisheries Service (NMFS) Southeast Region manages the U.S. fisheries of the exclusive economic zone (EEZ) off the South Atlantic, Caribbean, and Gulf of Mexico under the Fishery Management Plans (FMP) for each Region. The Regional Fishery Management Councils prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The regulations implementing the FMPs that have reporting requirements are at 50 CFR part 622.

The recordkeeping and reporting requirements at 50 CFR part 622 form the basis for this collection of information. Requirements that fishing gear be marked are essential to facilitate enforcement. The ability to link fishing gear to the vessel owner is crucial to enforcement of regulations issued under the authority of the MSA. The marking of fishing gear is also valuable in actions concerning damage, loss, and civil proceedings. The requirements imposed in the Southeast Region are for coral aquacultured live rock; golden crab traps; mackerel gillnet floats; spiny lobster traps; black sea bass pots; and buoy gear.

This request is for a revision of a currently approved information collection. This revision includes the addition of Buoy Gear identification requirements and the removal of Stone Crab trap identification requirements.

II. Method of Collection

The markings will be placed directly on the gear.

III. Data

OMB Control Number: 0648–0359.

Form Number: None.

Type of Review: Regular submission (revision of a currently approved collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,298.

Estimated Total Annual Burden Hours: 25,645.

Estimated Total Annual Cost to Public: $384,675.

IV. Request for Comments

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

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

Dated: August 29, 2011.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–22488 Filed 9–1–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Atlantic Highly Migratory Species Vessel and Gear Marking

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before November 1, 2011.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Craig Cockrell, (301) 427–8503 or *Craig.Cockrell@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a current information collection.

Under current regulations at 50 CFR 635.6, fishing vessels permitted for Atlantic Highly Migratory Species must display their official vessel numbers on their vessels. Flotation devices and high-flyers attached to certain fishing gears must also be marked with the vessel's number to identify the vessel to which the gear belongs. These requirements are necessary for identification, law enforcement, and monitoring purposes.

Specifically, all vessel owners that hold a valid HMS permit under 50 CFR 635.4, other than an HMS Angling permit, are required to display their vessel identification number. Numbers must be permanently affixed to, or painted on, the port and starboard sides of the deckhouse or hull and on an appropriate weather deck, so as to be clearly visible from an enforcement vessel or aircraft.

Furthermore, the owner or operator of a vessel for which a permit has been issued under § 635.4 and that uses handline, buoy gear, harpoon, longline, or gillnet, must display the vessel's name, registration number or Atlantic Tunas, HMS Angling, or HMS Charter/Headboat permit number on each float attached to a handline, buoy gear, or harpoon, and on the terminal floats and high-flyers (if applicable) on a longline or gillnet used by the vessel. The vessel's name or number must be at least 1 inch (2.5 cm) in height in block letters or Arabic numerals in a color that contrasts with the background color of the float or high-flyer.

II. Method of Collection

Marking will be done directly on vessels and gear.

III. Data

OMB Control Number: 0648–0373.

Form Number: None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Non-profit institutions; State, local, or tribal government; business or other for-profit organizations.

Estimated Number of Respondents: 7,575.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 7,613.

Estimated Total Annual Cost to Public: $303,000.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information;

(c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

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

Dated: August 29, 2011.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–22487 Filed 9–1–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA640

Pacific Halibut Fishery; Guideline Harvest Levels for the Guided Sport Fishery for Pacific Halibut in International Pacific Halibut Commission Regulatory Areas 2C and 3A

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

ACTION: Notice of guideline harvest level.

SUMMARY: NMFS provides notice of the 2011 Pacific halibut guideline harvest levels (GHLs) for the guided sport fishery in International Pacific Halibut Commission (IPHC) Regulatory Areas 2C (Southeast Alaska) and 3A (Central Gulf of Alaska). This notice is necessary to meet the regulatory requirement to publish notice announcing the GHLs and to inform the public about the 2011 GHLs for the guided sport fishery for halibut. The GHLs are benchmark harvest levels for participants in the guided sport fishery. The 2011 GHLs remain the same as the 2010 GHLs; the Area 2C GHL is 788,000 lbs (357.4 mt); and the Area 3A GHL is 3,650,000 lbs (1,655.6 mt).

DATES: The GHLs are effective February 1, 2011, through December 31, 2011. This period is specified by IPHC as the sport fishing season in all waters in and off Alaska.

FOR FURTHER INFORMATION CONTACT: Gabrielle Aberle, (907) 586–7228.

SUPPLEMENTARY INFORMATION:

Background

In 2003, NMFS implemented a final rule (68 FR 47256, August 8, 2003) to establish GHLs for Pacific halibut (*Hippoglossus stenolepis*) harvested by the guided sport fishery in IPHC Areas 2C and 3A. Regulations implementing the GHLs have been amended twice. In 2008, the GHL table was corrected at 50 CFR 300.65(c)(1) (73 FR 30504, May 28, 2008). In 2009, regulatory provisions were amended for NMFS' annual publication of the GHL notice and to clarify NMFS' authority to take action at any time to limit the guided sport angler catch to the GHL (74 FR 21194, May 6, 2009).

This notice is consistent with § 300.65(c) and announces the 2011 GHLs for the guided sport fishery for Pacific halibut in IPHC Areas 2C and 3A. Regulations at § 300.65(c)(1) specify the GHLs based on the total constant exploitation yield (CEY) that is established annually by the IPHC. The total CEY for 2011 is 5,390,000 lbs (2,444.9 mt) in Area 2C, and 23,520,000 lbs (10,668.5 mt) in Area 3A. The corresponding GHLs are 788,000 lbs (357.4 mt) in Area 2C, and 3,650,000 lbs (1,655.6 mt) in Area 3A. The GHLs in Areas 2C and 3A did not change from the 2010 level. NMFS may take action at any time to limit the guided sport halibut harvest to as close to the GHL as practicable (50 CFR 300.65(c)(3)).

NMFS published a final rule implementing the charter halibut limited access program for the guided sport halibut fishery in Areas 2C and 3A on January 5, 2010 (75 FR 554). As of February 1, 2011, this program limits the number of charter vessels that may participate in the guided sport halibut fishery in these areas. On July 22, 2011, NMFS published proposed regulations that would implement a catch sharing plan to allocate an annual halibut catch limit, established by the IPHC, between the guided sport and commercial fisheries in Areas 2C and 3A (76 FR 44156). If approved by the Secretary of Commerce, this new allocation program would not be effective before 2012.

Authority: 16 U.S.C. 773 *et seq.*

Dated: August 30, 2011.

Emily H. Menashes,

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

[FR Doc. 2011–22585 Filed 9–1–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA675

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Scientific and Statistical Committee (SSC) and the Spiny Dogfish Monitoring Committee of the Mid-Atlantic Fishery Management Council (Council) will hold meetings.

DATES: The SSC will meet Wednesday, September 21, 2011 at 1 p.m. until 5 p.m. and Thursday, September 22 from 8 a.m. until 5 p.m. The Spiny Dogfish Monitoring Committee will meet Thursday, September 22, 2011 from 9 a.m. until 4 p.m.

ADDRESSES: The meeting will be held at the Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231 *telephone:* (410) 522–7377.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; *telephone:* (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore PhD, Executive Director, Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; *telephone:* (302) 526–5255.

SUPPLEMENTARY INFORMATION: The primary purpose of the SSC meeting

includes ABC recommendations for spiny dogfish; special session for social/economics issues; review MAFMC five-year research plan progress report on Management Strategy Evaluation study; and Ecosystem Subcommittee report and discuss development of Programmatic Environmental Assessment for future ecosystem based fishery management activities by the Mid-Atlantic Council. The purpose of the Spiny Dogfish Monitoring Committee will be to discuss quota recommendations and associated management measures for spiny dogfish for fishing years 2012–2015.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: August 29, 2011.

Tracey L. Thompson,

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

[FR Doc. 2011–22446 Filed 9–1–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA676

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council's (Council) Herring Advisory Panel will hold a meeting to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Thursday, September 22, 2011 at 9:30 a.m.

ADDRESSES: The meeting will be held at the Crowne Plaza Boston North Shore, 50 Ferncroft Road, Danvers, MA 01923; *telephone:* (978) 777–2500; *fax:* (978) 750–7991.

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

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

SUPPLEMENTARY INFORMATION: The items of discussion in the panel's agenda are as follows:

1. The Advisory Panel will review the Management Alternatives Under Consideration and the Draft Environmental Impact Statement (DEIS) for Amendment 5 to the Atlantic Herring FMP and develop comments/recommendations for the Council to consider at its September 26–29, 2011 Meeting;

2. Review and provide feedback regarding the Draft Terms of Reference (TOR) for the upcoming benchmark stock assessment for Atlantic herring (54th Stock Assessment Workshop (SAW) scheduled for spring 2012).

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 identified 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. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: August 29, 2011.

Tracey L. Thompson,

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

[FR Doc. 2011–22453 Filed 9–1–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA679

Pacific Fishery Management Council (Council); Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) will convene a meeting via conference call of the Ecosystem Plan Development Team (EPDT) which is open to the public.

DATES: The EPDT will meet on Wednesday, September 21, 2011 and Thursday, September 22, 2011 from 1 p.m. to 5 p.m. each day, or when business for each day is completed.

ADDRESSES: Public listening stations will be available at the following locations: Pacific Fishery Management Council, Small Conference Room, 7700 NE. Ambassador Place, Suite 101; Portland, Oregon 97220; Telephone: 503–820–2280. National Marine Fisheries Service, Southwest Fisheries Science Center, Conference Room, 110 Shaffer Road, Santa Cruz, California 95060; Telephone: 831–420–3900.

FOR FURTHER INFORMATION CONTACT: Mike Burner, Staff Officer; telephone: 503–820–2280.

SUPPLEMENTARY INFORMATION: Please note, this is not a public hearing; it is a work session for the primary purpose of drafting a report and recommendations to the Council on the Schedule and Plans for Developing a Fishery Ecosystem Plan (FEP). The EPDT will primarily address Council requests from the June 2011 Council meeting where the Council approved a draft purpose and need statement and moved to develop an ecosystem plan that is primarily advisory in nature with the potential for expanding the plan to include regulatory authority in the future. The Council recommended continued management of fisheries through existing fishery management plans (FMPs), including potential future management measures for forage fish species. The Council also tasked the EPDT with developing a list of West Coast species that are not currently included in any FMP, that are not under State management, are not listed under the Endangered Species Act, or are species that could be the target of future fishery exploitation.

Although non-emergency issues not contained in the meeting agenda may come before the EPDT for discussion, those issues may not be the subject of formal EPDT action during this meeting. EPDT 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 intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at 503–820–2280 at least five days prior to the meeting date.

Dated: August 30, 2011.

Tracey L. Thompson,

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

[FR Doc. 2011–22495 Filed 9–1–11; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds products to the Procurement List that will be furnished by the nonprofit agency employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* 10/3/2011.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Patricia Briscoe, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 7/8/2011 (76 FR 40342–40343), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agency to provide products and impact of the additions on the current or most recent contractors, the Committee has determined that the products listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organization that will furnish the products to the Government.

2. The action will result in authorizing the small entity to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products are added to the Procurement List:

Products

NSN: M.R. 1001—Towels, Dish, Kitchen Gourmet, Black, 2pc.
NSN: M.R. 1002—Towels, Dish, Kitchen Gourmet, Red, 2pc.
NSN: M.R. 1003—Towels, Dish, Kitchen Gourmet, Green, 2pc.
NSN: M.R. 1005—Cloth, Dish, Kitchen Gourmet, Black, 2pc.
NSN: M.R. 1006—Cloth, Dish, Kitchen Gourmet, Red, 2pc.
NSN: M.R. 1007—Cloth, Dish, Kitchen Gourmet, Green, 2pc.
NSN: M.R. 1021—Holder, Pot, Deluxe, Black.
NSN: M.R. 1022—Holder, Pot, Deluxe, Red.
NSN: M.R. 1023—Holder, Pot, Deluxe, Green.
NPA: New York City Industries for the Blind, Inc., Brooklyn, NY.
Contracting Activity: Military Resale-Defense Commissary Agency, Fort Lee, VA.
Coverage: C–List for the requirements of military commissaries and exchanges as aggregated by the Defense Commissary Agency.

Patricia Briscoe,

Deputy Director, Business Operations, Pricing and Information Management.

[FR Doc. 2011–22538 Filed 9–1–11; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED PROCUREMENT LIST

Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from the Procurement List.

SUMMARY: The Committee is proposing to add products to the Procurement List that will be furnished by nonprofit agency employing persons who are blind or have other severe disabilities, and deletes products previously furnished by such agencies.

Comments Must Be Received on or Before: 10/3/2011.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Patricia Briscoe, *Telephone:* (703) 603–7740, *Fax:* (703) 603–0655, or e-mail *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entity of the Federal Government identified in this notice will be required to procure the products listed below from the nonprofit agency employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organization that will furnish the products to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products are proposed for addition to the Procurement List for production by the nonprofit agency listed:

Products

Nonrechargeable Battery

NSN: 6135–01–446–8310—Alkaline, D, 1.5V.
NSN: 6135–01–486–1443—Alkaline, 6V.
NSN: 6135–01–275–1363—Alkaline, 6V.
NSN: 6135–00–904–6780—Button, Silver

Oxide, 1.55V.
NSN: 6135–00–993–6823—Button, Silver Oxide, 1.55V.
NSN: 6135–01–538–0997—Button, Lithium, 3V.
NSN: 6135–01–452–8160—Button, Lithium, 3V.
NSN: 6135–01–301–8776—Lithium, AA, 3.6V .
NSN: 6135–01–246–0307—Button, Silver Oxide, 1.55V.
NSN: 6135–01–246–0308—Button, Silver Oxide, 1.55V.
NSN: 6135–01–219–8612—Button, Zinc-Air, 1.4V.
NSN: 6135–01–096–0330—Silver Oxide, 1.55V.
NPA: Eastern Carolina Vocational Center, Inc., Greenville, NC.
Contracting Activity: Defense Logistics Agency Land and Maritime, Columbus, OH.
Coverage: C-List for 100% of the requirement of the Department of Defense, as aggregated by the Defense Logistics Agency Land and Maritime, Columbus, OH.

Deletions

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action may result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products proposed for deletion from the Procurement List.

End of Certification

The following products are proposed for deletion from the Procurement List:

Products

Line, Tent

NSN: 8340–00–252–2291.
NPA: ASPIRO, Inc., Green Bay, WI.
NSN: 8340–00–263–0254.
NSN: 8340–00–263–0255.
NPA: Community Option Resource Enterprises, Inc., Billings, MT.
Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA.

Patricia Briscoe,

Deputy Director, Business Operations, Pricing and Information Management.

[FR Doc. 2011–22537 Filed 9–1–11; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2011–0022]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, Department of Defense (DoD).

ACTION: Notice to Add a System of Records.

SUMMARY: The Department of the Air Force proposes to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective on October 3, 2011 unless comments are received that would result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal Rulemaking Portal: http://www.regulations.gov.*

Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Charles J. Shedrick, Department of the Air Force Privacy Office, Air Force Privacy Act Office, Office of Warfighting Integration and Chief Information Officer, ATTN: SAF/XCPPI, 1800 Air Force Pentagon, Washington, DC 20330–1800, or by phone at 703–696–6488.

SUPPLEMENTARY INFORMATION: The Department of the Air Force's notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act, were submitted on August 29, 2011, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996, (February 20, 1996, 61 FR 6427).

Dated: August 29, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F023 AF AFMC B

SYSTEM NAME:

Air Force Combat Logistics Support System.

SYSTEM LOCATION:

Defense Information Systems Agency Montgomery, 401 East Moore Drive, Building 857, Maxwell-AFB, Gunter Annex, Montgomery, AL 36114–3001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force government civilians, vendors doing business with the U.S. Air Force, Air Force active duty military personnel, Air Force reserve personnel, and Air National Guard personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

First name, last name, middle name, title, suffix, job series, job title, position, grade/step, supervisor's name, job address, organization, work e-mail address, work hours, hire date, pay grade, duty location, employee status, gender, certifications, qualification completeness status, qualification start and end date, qualification awarded date, qualification license number, qualification license restrictions, qualification license expiration date, Electronic Data Interchange Personal Identifier (EDIPI) also known as the DoD Identification Number, Control Air Force Specialty Code (AFSC), company name, bank routing number, bank account number, accrual account number, Government Purchase Card (GPC)/IMPAC card numbers, Taxpayer ID, and Employee Labor Rates.

AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental regulations; 5 U.S.C. 5531, Definitions; 5 U.S.C. 5533, Dual pay from more than one position; limitations, exceptions; 5 U.S.C., Part III, Subpart D. Chapter 53, Subchapter III, Section 5335, Periodic step increases; 5 U.S.C. 6311, Regulations; Public Law 104–134, Debt Collection Improvement Act of 1996; and DoD Financial Management Regulation 7000.14–R, Vol 4, Accounting Policy and Procedures.

PURPOSE(S):

Enhances logistics supportability for Air Force organizations across the globe

through an integrated data system by supporting functions ranging from base maintenance and supply through depot planning, supply and maintenance. It modernizes Air Force Logistics support from depot planning and repair activities to the flightline maintenance and supply activities, and includes financial management for working capital and general funds management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

In addition to those disclosures generally permitted under Title 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

By Name and Electronic Data Interchange Personal Identifier (EDIPI) also known as the DoD Identification Number.

SAFEGUARDS:

Data is maintained in a controlled facility. Physical entry is restricted by the use of locks, guards, and is accessible only to authorized personnel. Records are protected by standard Air Force access authentication procedures and by network system security software. Records are accessed by person(s) responsible for servicing the record system in performance of their official duties, and by authorized personnel who are properly screened and cleared for need-to-know. All access is based upon role-based logons using the individual's Common Access Card (CAC) to login to the system. User's level of access is restricted by their role within the organization.

RETENTION AND DISPOSAL:

Delete records when superseded, obsolete, or no when longer needed, whichever is later.

Transaction records may be temporary in nature and deleted when actions are completed, superseded, obsolete, or when no longer needed.

Other transaction records may be cut off at the completion of the contract or payment and destroyed 6 years and 3 months after cutoff.

Destroy electronic records by overwriting or degaussing.

SYSTEM MANAGER AND ADDRESS:

Program Executive Officer and Director, Expeditionary Combat Support System (ECSS) and Logistics IT Systems (IL), Air Force Materiel Command (AFMC), 754 Electronic Systems Group/ Enterprise Capabilities (ELSG), Building 262, Room N006, 4375 Chidlaw Road, Wright-Patterson Air Force Base, Ohio 45433–5006.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to Program Executive Officer and Director, Expeditionary Combat Support System (ECSS) and Logistics IT Systems (IL), Air Force Materiel Command (AFMC), 754 Electronic Systems Group/ Enterprise Capabilities (ELSG), Building 262, Room N006, 4375 Chidlaw Road, Wright-Patterson Air Force Base, OH 45433–5006.

For verification purposes, individual should provide their full name, any details which may assist in locating records, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 29 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 to determine whether this system of records contains information about themselves should address written inquiries to Program Executive Officer and Director, Expeditionary Combat Support System (ECSS) and Logistics IT Systems (IL), Air Force Materiel Command (AFMC), 754 Electronic Systems Group/ Enterprise Capabilities (ELSG), Building 262, Room N006, 4375 Chidlaw Road, Wright-Patterson Air Force Base, OH 45433–5006.

For verification purposes, individual should provide their full name, any details which may assist in locating records, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 29 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)''

CONTESTING RECORDS PROCEDURES:

The Air Force rules for accessing records and for contesting contents and appealing initial agency determinations are published in 32 CFR part 806b, Air Force Instruction 33–332, Air Force Privacy Program and may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained from automated system interfaces or from other source documents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2011–22482 Filed 9–1–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2011–0021]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, Department of Defense (DoD).

ACTION: Notice to Add a System of Records.

SUMMARY: The Department of the Army proposes to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action would be effective without further notice on October 3, 2011 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number 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: The 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 in **FOR FURTHER INFORMATION CONTACT**.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on August 3, 2011 to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: August 29, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0 025–400–2 OAA

SYSTEM NAME:

Army Records Information Management System (ARIMS).

SYSTEM LOCATION:

Records Management Declassification Agency (RMDA), 7701 Telegraph Road, Casey Building, Room 146A, Alexandria, VA 22315–3860.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active U.S. Army, U.S. Air Force, U.S. Navy, U.S. Marine Corp, and U.S. Coast Guard, Army retired, contractors employed by the Army, Department of Defense civilians employed by the Army, Air Force, Navy, Marine Corp, and Coast Guard, newly assigned Department of Army civilian, Department of Army retired civilians, active and retired military family members verified in the Defense Eligibility Enrollment Reporting System (DEERS), active foreign officers (Non-US Military Officers), Homeland Security employees, Initial Entry Recruits, Individual Ready Reserve, Department of the Army Non-Appropriated Funds civilians, Army National Guard, Army National Guard retired personnel, Army Reserve and United States Military Academy (USMA) cadets who register for access and provide records for retention in the system and individuals who are the subject of records in the system.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system encompasses a variety of records pertaining to all Army and DoD functionality; individual name, Social Security Number (SSN), DoD ID Number, address; user account information that contains data such as names, usernames, unit assignments, locations, office symbols, telephone numbers, e-mail addresses, and user roles; and also including information in the following categories:

PERSONNEL:

Records concern military and Army civilian personnel as they relate to general personnel data of member, his or her dependents, such as insurance, voting, citizenship, and handling responsibility for personal property. Records concerning methods and procedures for identifying skills and abilities of military personnel, testing, and awarding military occupational specialties for use in assignment to related duties and jobs.

Records for the processing of military personnel upon entry into the service, in a training or temporarily unassigned status, upon assignment overseas and return, and for separation from the service. Also covered are records on appointment of officer personnel, enlistment and re-enlistment of enlisted personnel, recruiting activities, and other matters relating to the entry of military personnel into the Army.

INSTALLATION MANAGEMENT AND FIELD ORGANIZATION:

Records concerning administrative and management functions pertaining to installations and responsibilities of installation commanders. Subject functional areas include activation and inactivation, site and master planning, quarters and housing, commercial solicitation, financial institutions, sales of products and services, and similar functions applicable at the installation level not specifically provided for in other series. Also covered are organization, mission, responsibilities, duties, and functions of Department of Defense, Headquarters, Department of the Army, Department of the Army agencies, major commands, and other commands, units, and organizations.

SECURITY:

Records concerning identification, classification, downgrading, declassification, dissemination, and protection of defense information, storage and destruction of classified matter, industrial security, investigations involving compromise of classified information, access to classified data, and other matters pertaining to security; records covering the protection and preservation of the military, economic, and productive strength of the United States, including the security of the Government in domestic and foreign affairs and records concerning responsibilities, policies, functions, and procedures pertaining to security assistance.

INFORMATION MANAGEMENT:

Records concerning planning, policies, procedures, architectures, and responsibilities pertaining to information management; life cycle management of information systems; and records pertaining to all five Information Mission Area disciplines (communications, automation, records management, visual information, and publications and printing); records concerning policy, direction, planning, testing, and operation of communications and electronics systems, such as radio, telephone, teletypewriter, and radar.

MEDICAL SERVICES:

Composition, mission, responsibilities and functions of the Army Medical Department and its related corps, administration and operation of Army medical treatment facilities, medical, dental, and veterinary care, and medical, dental, and veterinary equipment and supplies.

LOGISTICS:

These records concern logistics policies, procedures, and support covering supplies, equipment, and facilities in several different logistical areas.

ADMINISTRATION:

Administrative functions, such as control of office space, visits, attendance at meetings and conferences, gifts and donations, memorialization proceedings, and other support functions not specifically provided for in other series.

EMERGENCY AND SAFETY:

Actions involved in preparing for war or emergencies; bringing the Army to a state of readiness; and assembling and organizing personnel, supplies, and other resources for active military service. Army participation and support in matters of civil disturbance, disaster relief, and civil defense and emergency action; records concern administration of the Army safety program, which is directed toward accident prevention Army-wide. Program responsibilities include conducting studies and surveys to determine unsafe practices and conditions. Also covers records on nuclear accidents and incidents.

LEGAL SERVICES:

Judiciary boards and proceedings, decisions, opinions, and policies applicable to civil law and military affairs, international, foreign, procurement, and contract law, legal assistance for military personnel and their dependents, policies and procedures relative to patents, inventions, taxation, and land litigation involving the Army, trials by courts-martial, including pretrial, trial, and post trial procedures, nonjudicial punishment, investigation, processing, settlement, and payment of claims against or on behalf of the Government when the Army is involved.

FINANCIAL AUDIT:

Policies, procedures, direction, and supervision of financial functions, including budgeting, accounting, funding, entitlement, pay, expenditures, Army Management Structure and fiscal code, and related reporting. Records concerning authority, responsibilities, organization, and policies relating to auditing service in the Department of the Army, action requested on United States Army Audit Agency reports, and audit procedures for non-appropriated and similar funds.

QUALITY ASSURANCE AND QUALITY CONTROL:

Army environmental management records, including programs, policies, instructions, and activities; matters affecting the quality of the environment, such as impact on the atmosphere, natural resources, water, and the community.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; 44 U.S.C. Sections 3301–3314, the Federal Records Act; Executive Order 13526—Classified National Security Information Memorandum of December 29, 2009—Implementation of the E.O. 'Classified National Security Information' Order of December 29, 2009—Original Classification Authority; DoDD 5015.2, DoD Records Management Program; Army Regulation 25–400–2, The Army Records Information Management System; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

The Department of the Army is proposing to establish a new system of records that will be used to manage and archive long-term and permanent records providing core information technology to records management support programs (Freedom of Information Act, Privacy Act, Component Programs, Combat Records Research, and declassification review of classified, permanent, historical Army records 25 years old or older, as well as manage the joint review of DoD equities in the Joint Referral Center (JRC).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DOD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notice also apply to this system.

To the Department of Veterans Affairs to verify military service for claims filed by the veteran.

Note: This system of records contains individually identifiable health information. The DoD Health Information Privacy Regulation (DoD 6025.18–R) issued pursuant to the Health Insurance Portability and Accountability Act of 1996, applies to most such health information. DoD 6025.18–R may place additional procedural requirements on the uses and disclosures of such information beyond those found in the Privacy Act of 1974 or mentioned in this system of records notice.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media and hard copy records.

RETRIEVABILITY:

By name of individual, Social Security Number (SSN), subject matter, or title of record.

SAFEGUARDS:

Electronically and optically stored records are maintained in fail-safe system software with password-protected access. Indexes of hard copy records are stored in records holding areas Army wide. Records are accessible only to authorized persons with a need-to-know who are properly screened, cleared and trained. The system maintains data encryption, role based access, Common Access Card access, and authentication through the Army Knowledge Online Portal through secure socket protocols.

RETENTION AND DISPOSAL:

Records will be retained in accordance with their respective disposition schedule and will be destroyed or permanently accessioned to the National Archives when no longer needed for reference and/or for conducting business. Records are destroyed by erasing, purging, shredding or burning.

SYSTEMS MANAGERS(S) AND ADDRESS:

ARIMS Systems Managers, Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Room 102, Alexandria, VA 22315–3860.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the System Manager, Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Room 102, Alexandria, VA 22315–3860.

For verification purpose, individual should provide full name, any details which may assist in locating records and their signature. The individual should also reasonably specify the record contents being sought.

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 State 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 in 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 Systems Managers, Records Management and Declassification Agency, 7701 Telegraph

Road, Casey Building, Alexandria, VA 22315–3860.

For verification purpose, individual should provide full name, any details which may assist in locating records and their signature. The individual should also reasonably specify the record contents being sought.

In addition, the requester must provide a notarized statement or declaration made in accordance with 28 U.S.C. 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)'.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORDS SOURCE CATEGORIES:

Information is obtained from individuals, Department of Veterans Affairs, and other Federal, state and local agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

During the course of records management, declassification and claims research, exempt materials from 'other' systems of records in turn may become part of the case records in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, the Department of the Army hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary systems of records which they are a part.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 36 CFR, Chapter XII, Subchapter B. For additional information contact the system manager.

[FR Doc. 2011–22467 Filed 9–1–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment Request.

SUMMARY: The Acting 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 October 3, 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: August 30, 2011.

Kate Mullan,

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

Office of Planning, Evaluation and Policy Development

Type of Review: New.

Title of Collection: Analysis of State Bullying Laws and Policies.

OMB Control Number: Pending.

Agency Form Number(s): N/A.

Frequency of Responses: Once.

Affected Public: State, Local or Tribal Government.

Total Estimated Number of Annual Responses: 400.

Total Estimated Annual Burden Hours: 276.

Abstract: The U.S. Department of Education (ED) Policy and Program Studies Service is conducting an analysis of bullying laws and policies. Evaluation, Management and Training Associates, Inc. is under contract with ED to conduct the analysis. The field data collection portion of the study will involve case studies conducted in 24 school sites nationwide to document state and local implementation of anti-bullying laws and policies. The purpose of the study is to describe bullying policy implementation at the district and school site level, to determine the factors that facilitate or impede implementation (*e.g.,* legislation, state model policies, and school contextual factors), and to identify lessons from the field that can inform the development of policies and school-based practices to promote a positive climate and reduce bullying behavior.

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 4634. 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. 2011–22596 Filed 9–1–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Proposed Agency Information Collection

AGENCY: Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy.

ACTION: Notice and Request for OMB Review and Comment.

SUMMARY: The Department of Energy (DOE) has submitted to the Office of Management and Budget (OMB) for clearance, a proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995. The proposed collection will gather information on solar energy market indicators. The Solar Energy Technologies Program (SETP) seeks to reduce non-hardware costs of solar systems associated with processes such as project siting, permitting and interconnection, system installation, and project financing. In order to direct strategic investments toward reducing those costs, the Agency requires information on the current status of non-hardware costs and the underlying cost drivers. Questions for this collection are focused on permitting processes, interconnection processes, available financing options, and planning and zoning issues as they relate to rooftop solar PV installations.

DATES: Comments regarding this collection must be received on or before October 3, 2011. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the DOE Desk Officer at OMB of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4650.

ADDRESSES: Written comments should be sent to the

DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street, NW., Washington, DC 20503.

And to

Jennifer DeCesaro, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC, 20585, Fax: 202–586–8148, *Jennifer.DeCesaro@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Jennifer DeCesaro, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585. Fax: 202–586–8148. *Jennifer.DeCesaro@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) *OMB No.* New; (2) *Information Collection Request Title:* Solar Market Indicators: Data collection from local jurisdictions and other relevant regional stakeholders (e.g. non-profit organizations, state energy offices) on policies and processes that contribute to solar system costs; (3) *Type of Request:* New collection; (4) *Purpose:* The DOE will use this information to establish a baseline for key solar market indicators and process contributions to the non-hardware costs for solar installations, an effort that has not been formally undertaken by the Federal government or industry to date. Likely respondents are local jurisdictions, state governments, and non-profit organizations; (5) *Annual Estimated Number of Respondents:* 35; (6) *Annual Estimated Number of Total Responses:* 35; (7) *Annual Estimated Number of Burden Hours:* 210; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $0.

Statutory Authority: These activities are authorized under the Solar Photovoltaic Energy Research, Development, and Demonstration Act of 1978, Pub. L. 95–590, codified at 42 U.S.C. 5581 et seq., and the Department of Energy Organization Act, Pub. L. 95–91, as amended, codified at 42 U.S.C. 7101 *et seq.*

Issued in Washington, DC, on August 30, 2011.

Ramamoorthy Ramesh,

Program Manager, Solar Energy Technologies Program, Office of Energy Efficiency and Renewable Energy.

[FR Doc. 2011–22599 Filed 9–1–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Efficiency and Renewable Energy

State Energy Advisory Board

AGENCY: Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the State Energy Advisory Board (STEAB). The Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: November 15–16, 2011 9 a.m.–5 p.m. November 17, 2011 9 a.m.–12 p.m.

ADDRESSES: Hilton Knoxville, 501 West Church Avenue, Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT: Gil Sperling, STEAB's Designated Federal Officer; U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, 1000 Independence Ave., SW., Washington DC 20585; phone: (202) 586–1644.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* To make recommendations to the Assistant Secretary for the Office of Energy Efficiency and Renewable Energy regarding goals and objectives, programmatic and administrative policies, and to otherwise carry out the Board's responsibilities as designated in the State Energy Efficiency Programs Improvement Act of 1990 (Pub. L. 101–440).

Tentative Agenda: Receive updates and review accomplishments of STEAB's Sub-committee and Taskforces, meet with key members of Oak Ridge National Laboratory (ORNL) to discuss new initiatives and technologies and explore possible technology transfer programs, meet with Laboratory staff to gain a better understanding of deployment efforts, discuss ways to make sure states are successful with implementing ARRA in light of the March 2012 deadline, and update to the Board on routine business matters and other topics of interest.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Gil Sperling at the address or telephone number listed above. Requests to make oral comments must be received five days prior to the meeting; reasonable provision will be made to include requested topic(s) on the agenda. The Chair of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying within 60 days on the STEAB Web site at *http://www.steab.org.*

Issued at Washington, DC, on August 29, 2011.

LaTanya Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2011–22539 Filed 9–1–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Efficiency and Renewable Energy

State Energy Advisory Board

AGENCY: Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of open teleconference.

SUMMARY: This notice announces a teleconference call of the State Energy Advisory Board (STEAB). The Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, September 15, 2011 3:30 p.m.—4:30 p.m. EST. To receive the call-in number and passcode, please contact the Board's Designated Federal Officer (DFO) at the address or phone number listed below.

FOR FURTHER INFORMATION CONTACT: Gil Sperling, STEAB's Designated Federal Officer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, 1000 Independence Avenue, SW., Washington, DC 20585; Phone: (202) 287–1644.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: To make recommendations to the Assistant Secretary for the Office of Energy Efficiency and Renewable Energy regarding goals and objectives, programmatic and administrative policies, and to otherwise carry out the Board's responsibilities as designated in the State Energy Efficiency Programs Improvement Act of 1990 (Pub. L. 101–440).

Tentative Agenda: Review and update accomplishments of STEAB's Sub-committee and Taskforces, update Board members on the status of draft Resolution 11–01, review possible letters to the Department of Energy from the Board regarding the State Energy Program, and provide an update to the Board on routine business matters and other topics of interest, and plan for the upcoming November 2011 and March 2012 Board meetings.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Gil Sperling at the address or telephone number listed above. Requests to make oral comments must be received five days prior to the meeting; reasonable provision will be made to include requested topic(s) on the agenda. The Chair of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying within 60 days on the STEAB Web site: *http://www.steab.org.*

Issued at Washington, DC, on August 29, 2011.

LaTanya R. Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2011–22527 Filed 9–1–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC11–519–001]

Commission Information Collection Activities (FERC–519); Comment Request; Submitted for OMB Review

AGENCY: Federal Energy Regulatory Commission, Energy.

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 35871, 6/20/2001) requesting public comments. FERC received no comments on the FERC–519 and has made this notation in its submission to OMB.

DATES: Comments on the collection of information are due by October 3, 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 1902–0082 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. IC11–519–001. 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. IC11–519–001.

Users interested in receiving automatic notification of activity in FERC Docket Number IC11–519 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,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION: 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 (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
112	1	395	44,240

The estimated total cost to respondents is $3,028,143 [44,240 hours/2080 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.

[1] Number of hours an employee works each year.

[2] Average annual salary per employee (including overhead).

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: August 29, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–22512 Filed 9–1–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC11–523–001]

Commission Information Collection Activities (FERC–523); Comment Request; Submitted for OMB Review

AGENCY: Federal Energy Regulatory Commission, Energy.

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 35870, 6/20/2011) requesting public comments. FERC received no comments on the FERC–523 and has made this notation in its submission to OMB.

DATES: Comments on the collection of information are due by October 3, 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 1902–0043 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. IC11–523–001. 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 website 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. IC11–523–001.

Users interested in receiving automatic notification of activity in FERC Docket Number IC11–523 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,* 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.

Federal Power Act (FPA) section 204, 16 USC 824c, prohibits public utilities and licensees from issuing any security, or assuming any obligation or liability as guarantor, endorser, surety, or otherwise in respect of any security of another person, unless they have submitted an application to the Commission and receive Commission authorization to do so. The Commission issues an order if it finds that the security issue or assumption meets three criteria. First, it is for ''lawful object,'' within the corporate purposes of the applicant and compatible with the public interest. Second it is necessary or appropriate for or consistent with the proper performance by the applicant as a public utility. Third, it will not impair its ability to perform service, and (b) is reasonably necessary or appropriate to perform service.

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 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 (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1) × (2) × (3)
78	1.7	88	11,669 (Rounded).

The estimated total cost to respondents is $798,721 [11,669 hours/2080 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 file 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, 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: August 29, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–22513 Filed 9–1–11; 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

[Project No. 13080–003]

Putnam Green Power, LLC; Notice of Application Accepted for Filing With the Commission, Intent To Waive Scoping, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, Soliciting Comments, Terms and Conditions, Recommendations, and Prescriptions, and Establishing an Expedited Schedule for Processing

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Exemption from Licensing.

b. *Project No.:* 13080–003.

c. *Date filed:* April 13, 2011.

d. *Applicant:* Putnam Green Power, LLC.

e. *Name of Project:* Cargill Falls Hydropower Project.

f. *Location:* On the Quinebaug River, in the Town of Putnam, Windham County, Connecticut. The project would not occupy lands of the United States.

g. *Filed Pursuant to:* Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2705, 2708.

h. *Applicant Contact:* Leanne Parker, 58 Pomfret Street, Putnam, CT 06260, (401) 529–8738.

i. *FERC Contact:* Jeff Browning, (202) 502–8677.

j. *Deadline for filing motions to intervene and protests, comments, terms and conditions, recommendations, and prescriptions:* Due to the small size and particular location of this project and the close coordination with state and Federal agencies during the preparation of the application, the 60-day timeframe in 18 CFR 4.34(b) for filing comments, terms and conditions, recommendations, and prescriptions is shortened. Instead, comments, terms and conditions, recommendations, and prescriptions will be due 30 days from the issuance date of this notice. Further, the date for filing motions to intervene and protests will be due 30 days from the issuance date of this notice. All reply comments must be filed with the Commission within 45 days from the 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 for filing and is now ready for environmental analysis.

l. *Project description:* The Cargill Falls Project would consist of: (1) Two existing concrete gravity dams consisting of a 60-foot-long, 18-foot-high overflow spillway, and an 85-foot-long, 18-foot-high gated spillway separated by a 70-foot-long natural rock outcrop; (2) an existing 1.5-acre upper reservoir with a normal water surface elevation of 254.3 feet above mean sea level; (3) an existing forebay and intake structure equipped with four 3-foot-wide, 5-foot-high gates; (4) an existing 135-foot-long penstock bifurcating into existing 135-foot-long and 360-foot-long penstocks; (5) two existing powerhouses, one that will contain a refurbished 530 kilowatt (kW) generating unit and one that will contain a refurbished 345 kW unit for a total installed capacity of 875 kW; (6) two existing tailraces, one 75-foot-long, and one 125-foot-long; and (7) an existing 120-foot-long, 600 volt transmission line and a new 100-foot-long, 600 volt transmission line. The applicant proposes to refurbish or replace the two existing tailraces and add a new fish passage facility. The project would be operated in a run-of-river mode, and would have an annual generation of 2,523 megawatt-hours.

m. Due to the project works already existing and the limited scope of proposed rehabilitation of the project site described above, the applicant's close coordination with Federal and state agencies during the preparation of the application, completed studies during pre-filing consultation, and agency recommended preliminary terms and conditions, we intend to waive scoping, shorten the notice filing period, and expedite the exemption process. Based on a review of the application, resource agency consultation letters including the preliminary 30(c) terms and conditions, and comments filed to date, Commission staff intends to prepare a single environmental assessment (EA). Commission staff determined that the issues that need to be addressed in its EA have been adequately identified during the pre-filing period, which included a public meeting and site visit, and no new issues are likely to be identified through additional scoping. The EA will consider assessing the potential effects of project construction and operation on geology and soils, aquatic, terrestrial, threatened and endangered species, recreation and land use, aesthetic, and cultural and historic resources.

n. 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 *FERCOnlineSupport@ferc.gov.*

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.

o. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''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 protesting or intervening; 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. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

p. *Procedural schedule:* The application will be processed according to the following procedural schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Notice of the availability of the EA.	January 2012.

Dated: August 26, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–22518 Filed 9–1–11; 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 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:* 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 does not occupy 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, 202–502–8675, *janet.hutzel@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 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.

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. A license applicant must file no later than 60 days following the date of issuance of this notice: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Dated: August 26, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–22521 Filed 9–1–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP11–537–000]

Dominion Transmission, Inc.; Notice of Application

Take notice that on August 19, 2010, Dominion Transmission, Inc. (DTI), with a principal place of business at 701 East Cary Street, Richmond, VA, filed in Docket No. CP11–537–000 an application pursuant to section 7(b) of the Natural Gas Act and Part 157 the Commission's Rules and Regulations for all the necessary authorizations required to abandon by sale the East Emporium Measurement and Regulation facility located in Potter County, Pennsylvania, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Copies of this filing are available for review at the Commission in the Public Reference Room, or may be viewed on the Commission's Web site Web 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 at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

Questions regarding this application should be directed to Margaret H. Peters, Assistant General Counsel, DominionTransmission, Inc., 701 East Cary Street, Richmond, VA 23219, telephone (804) 771–3992, FAX (804) 771–3940, and e-mail *Margaret.H.Peters@dom.com.*

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, before the comment date of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link. 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.

Comment Date: September 15, 2011.

Dated: August 25, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–22508 Filed 9–1–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13305–002]

Whitestone Power and Communications; Notice of Intent To File License Application, Filing of Draft Application, Request for Waivers of Integrated Licensing Process Regulations Necessary for Expedited Processing of a Hydrokinetic Pilot Project License Application, and Soliciting Comments

a. *Type of Filing:* Notice of Intent to File a License Application for an Original License for a Hydrokinetic Pilot Project.

b. *Project No.:* 13305–002.

c. *Date Filed:* August 22, 2011.

d. *Submitted By:* Whitestone Power and Communications.

e. *Name of Project:* Microturbine Hydrokinetic River-In-Stream Energy Conversion Power Project (also known as Whitestone Poncelet RISEC Project).

f. *Location:* On the Tanana River within the Unorganized Borough, near Delta Junction, Alaska.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Applicant Contact:* Steven M. Selvaggio, Whitestone Power and Communications, P.O. Box 1630, Delta Junction, Alaska 99737; (907) 895–4938.

i. *FERC Contact:* Dianne Rodman (202) 502–6077.

j. Whitestone Power and Communications (Whitestone) has filed with the Commission: (1) A notice of intent (NOI) to file an application for an original license for a hydrokinetic pilot project and a draft license; (2) a request for waivers of the integrated licensing process regulations necessary for expedited processing of a hydrokinetic pilot project license application; (3) a proposed process plan and schedule; (4) a request to be designated as the non-Federal representative for section 7 of the Endangered Species Act consultation; and (5) a request to be designated as the non-Federal representative for section 106 consultation under the National Historic Preservation Act (collectively the pre-filing materials).

k. With this notice, we are soliciting comments on the pre-filing materials listed in paragraph j above, including the draft license application and monitoring plans. All comments should be sent to the address above in paragraph h. In addition, all comments (original and eight copies) must be filed with the Commission at the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All filings with the Commission must include on the first page, the project name (Microturbine Hydrokinetic River-In-Stream Energy Conversion Power Project) and number (P–13305–002), and bear the heading ''Comments on the proposed Microturbine Hydrokinetic River-In-Stream Energy Conversion Power Project.'' Any individual or entity interested in submitting comments on the pre-filing materials must do so by September 21, 2011.

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 (*http://www.ferc.gov*) under the ''e-filing'' link.

l. With this notice, we are approving Whitestone's request to be designated as the non-Federal representative for section 7 of the Endangered Species Act (ESA) and its request to initiate consultation under section 106 of the

National Historic Preservation Act; and recommending that it begin informal consultation with: (a) The U.S. Fish and Wildlife Service and the National Marine Fisheries Service as required by section 7 of ESA; and (b) the Alaska State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

m. This notice does not constitute the Commission's approval of Whitestone's request to use the Pilot Project Licensing Procedures. Upon its review of the project's overall characteristics relative to the pilot project criteria, the draft license application contents, and any comments filed, the Commission will determine whether there is adequate information to conclude the pre-filing process.

n. The proposed Microturbine Hydrokinetic River-In-Stream Energy Conversion Power Project would consist of: (1) A 12-foot-wide, 16-foot-diameter Poncelet undershot water wheel; (2) a 34-foot-long, 19- to 24-foot-wide, aluminum-frame floatation platform mounted on a 34-foot-long, 3.5-foot-diameter high-density-polyethylene (HDPE) pontoon and a 34-foot-long, 3-foot-diameter HDPE pontoon; (3) a 100-kilowatt turbine/generator unit; (4) a 33-foot-long, 3.5-foot-wide gangway from the shore to the floating pontoon; (5) three anchoring cables to secure the flotation platform to the shore, including a 30-foot-long primary safety tether, a 117-foot-long primary cable, and a 100-foot-long secondary cable; (6) an approximately 900-foot-long transmission cable from the floatation platform to an existing Golden Valley Electric Association distribution line; and (7) appurtenant facilities. The project is anticipated to operate from April until October, with an estimated annual generation of 200 megawatt-hours.

o. A copy of the draft license application and all pre-filing materials are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov* or toll free at 1–866–208–3676, of for TTY, (202) 502–8659.

p. *Pre-filing process schedule.* The pre-filing process will be conducted pursuant to the following tentative schedule. Revisions to the schedule below may be made based on staff's review of the draft application and any comments received.

Milestone	Date
Comments on pre-filing materials due	September 21, 2011.
Issuance of meeting notice (if needed)	October 6, 2011.
Public meeting/technical conference (if needed)	November 7, 2011.
Issuance of notice concluding pre-filing process and ILP waiver request determination	October 21, 2011 (if no meeting is needed). December 1, 2011 (if meeting is needed).

q. Register online at *http://ferc.gov/esubscribenow.htm* to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: August 25, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–22506 Filed 9–1–11; 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 corporate filings:

Docket Numbers: EC11–109–000.

Applicants: APX, Inc.

Description: Application of APX, Inc. for Authorization under Section 203 of the Federal Power Act and Request for Expedited Action.

Filed Date: 08/24/2011.

Accession Number: 20110824–5128.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 14, 2011.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG11–121–000.

Applicants: Bellevue Solar, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Bellevue Solar, LLC.

Filed Date: 08/24/2011.

Accession Number: 20110824–5081.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 14, 2011.

Docket Numbers: EG11–122–000.

Applicants: Yamhill Solar, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Yamhill Solar, LLC.

Filed Date: 08/24/2011.

Accession Number: 20110824–5082.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 14, 2011.

Docket Numbers: EG11–123–000.

Applicants: Osage Wind, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Osage Wind, LLC.

Filed Date: 08/24/2011.

Accession Number: 20110824–5101.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 14, 2011.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–4357–001.

Applicants: Marathon Power LLC.

Description: Marathon Power LLC submits tariff filing per 35.17(b): Amended Tariff to be effective 8/23/2011.

Filed Date: 08/24/2011.

Accession Number: 20110824–5000.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 14, 2011.

Docket Numbers: ER11–4358–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii: LGIA Genesis McCoy Solar Project- NextEra Desert Center Blythe, LLC to be effective 8/25/2011.

Filed Date: 08/24/2011.

Accession Number: 20110824–5001.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 14, 2011.

Docket Numbers: ER11–4362–000.

Applicants: Alabama Power Company.

Description: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii: Black Warrior NITSA Amendment Filing (Add Terry Wyatt Delivery Point) to be effective 8/1/2011.

Filed Date: 08/24/2011.

Accession Number: 20110824–5066.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 14, 2011.

Docket Numbers: ER11–4363–000.

Applicants: Osage Wind, LLC.
Description: Osage Wind, LLC submits tariff filing per 35.12: Initial Market-Base Rate Tariff to be effective 10/23/2011.
Filed Date: 08/24/2011.
Accession Number: 20110824–5086.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 14, 2011.

Docket Numbers: ER11–4364–000.
Applicants: Fowler Ridge II Wind Farm LLC.
Description: Fowler Ridge II Wind Farm LLC submits tariff filing per 35: Updated Market-Based Rate Tariff Update to be effective 8/29/2011.
Filed Date: 08/24/2011.
Accession Number: 20110824–5094.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 14, 2011.

Docket Numbers: ER11–4365–000.
Applicants: Montgomery L'Energia Power Partners LP.
Description: Notice of Cancellation of FERC Electric Rate Schedule Tariff of Montgomery L'Energia Power Partners LP.
Filed Date: 08/24/2011.
Accession Number: 20110824–5095.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 14, 2011.

Docket Numbers: ER11–4366–000.
Applicants: Manitowoc Public Utilities.
Description: Manitowoc Public Utilities submits tariff filing per 35.1: Baseline Rate Filing to be effective 8/24/2011.
Filed Date: 08/24/2011.
Accession Number: 20110824–5104.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 14, 2011.

Docket Numbers: ER11–4367–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: Ministerial filing to clean up the PJM Tariff Schedule 12 Appendices to be effective 9/17/2010.
Filed Date: 08/24/2011.
Accession Number: 20110824–5106.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 14, 2011.

Take notice that the Commission received the following electric reliability filings:
Docket Numbers: RR11–7–000.
Applicants: North American Electric Reliability Corporpation
Description: Request of the North American Electric Reliability Corporation for Acceptance of its 2012 Business Plan and Budget and the 2012 Business Plans and Budgets of Regional Entities and for Approval of Proposed Assessments to Fund Budgets.
Filed Date: 08/24/2011.
Accession Number: 20110824–5068.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 14, 2011.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 25, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–22496 Filed 9–1–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP11–2423–000.
Applicants: Colorado Interstate Gas Company.
Description: Colorado Interstate Gas Company submits tariff filing per 154.203: Rate Case Implementation Filing to be effective 10/1/2011.
Filed Date: 08/25/2011.
Accession Number: 20110825–5048.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 06, 2011.

Docket Numbers: RP11–2424–000.
Applicants: Kinder Morgan Louisiana Pipeline LLC.
Description: Kinder Morgan Louisiana Pipeline LLC submits tariff filing per 154.204: Tariff Charge to be effective 10/1/2011.
Filed Date: 08/25/2011.
Accession Number: 20110825–5052.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 06, 2011.

Docket Numbers: RP11–2425–000.
Applicants: Petal Gas Storage, LLC.
Description: Petal Gas Storage, LLC submits tariff filing per 154.402: ACA 2011 to be effective 10/1/2011.
Filed Date: 08/25/2011.
Accession Number: 20110825–5065.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 06, 2011.

Docket Numbers: RP11–2426–000.
Applicants: Paiute Pipeline Company.
Description: Paiute Pipeline Company submits tariff filing per 154.204: Rate Change—CP10–41 to be effective 10/1/2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5000.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Docket Numbers: RP11–2427–000.
Applicants: Gas Transmission Northwest Corporation.
Description: Gas Transmission Northwest Corporation submits tariff filing per 154.402: Annual Charge Adjustment 2011 to be effective 10/1/2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5015.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Docket Numbers: RP11–2428–000.
Applicants: Great Lakes Gas Transmission Limited Partnership
Description: Great Lakes Gas Transmission Limited Partnership submits tariff filing per 154.402: Annual Charge Adjustment 2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5016.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 26, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–22493 Filed 9–1–11; 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: ER11–3350–001.
Applicants: Public Service Company of Colorado.
Description: Public Service Company of Colorado submits tariff filing per 35: 2011–8–3_Gunbarrel Refund Rep 297–PSCo to be effective N/A.
Filed Date: 08/03/2011.
Accession Number: 20110803–5079.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 24, 2011.

Docket Numbers: ER11–4212–000.
Applicants: Florida Power & Light Company.
Description: Florida Power & Light Company submits tariff filing per 35.13(a)(2)(iii: FPL and City of Wauchula, FL Rate Schedule to be effective 10/1/2011.
Filed Date: 08/03/2011.
Accession Number: 20110803–5078.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 24, 2011.

Docket Numbers: ER11–4213–000.
Applicants: PacifiCorp.
Description: PacifiCorp submits tariff filing per 35.13(a)(2)(iii: BPA AC Intertie Agreement 4th Revised to be effective 10/3/2011.
Filed Date: 08/03/2011.
Accession Number: 20110803–5088.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 24, 2011.

Docket Numbers: ER11–4214–000.
Applicants: PacifiCorp.
Description: PacifiCorp submits tariff filing per 35.13(a)(2)(iii: Sierra Pacific Interconnection Agreement to be effective 9/22/2010.
Filed Date: 08/03/2011.
Accession Number: 20110803–5099.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 24, 2011.

Docket Numbers: ER11–4215–000.
Applicants: Nevada Power Company.
Description: Nevada Power Company Cancellation of FERC Electric Rate Schedule No. 56.
Filed Date: 08/03/2011.
Accession Number: 20110803–5131.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 24, 2011.

Docket Numbers: ER11–4216–000.
Applicants: Nevada Power Company.
Description: Nevada Power Company Cancellation of FERC electric Rate Schedule No. 71.
Filed Date: 08/03/2011.
Accession Number: 20110803–5132.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 24, 2011.

Docket Numbers: ER11–4217–000.
Applicants: Tampa Electric Company.
Description: Request of Tampa Electric Company for Extension of Waiver.
Filed Date: 08/03/2011.
Accession Number: 20110803–5133.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 17, 2011.

Docket Numbers: ER11–4218–000.
Applicants: Nevada Power Company.
Description: Nevada Power Company Cancellation of FERC Electric Rate Schedule No. 72.
Filed Date: 08/03/2011.
Accession Number: 20110803–5134.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 24, 2011.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF06–31–003.
Applicants: Air Products, LLC.
Description: Air Products LLC's Notice of Application for Commission Certification of Qualifying Facility Status for a Cogeneration Facility.
Filed Date: 08/02/2011.
Accession Number: 20110802–5134.
Comment Date: 5 p.m. Eastern Time on Tuesday, August 23, 2011.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 4, 2011.

Kimberly D. Bose,
Secretary.

[FR Doc. 2011–22522 Filed 9–1–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP11–2429–000.
Applicants: ANR Storage Company.
Description: ANR Storage Company submits tariff filing per 154.402: Annual Charge Adjustment 2011 to be effective 10/1/2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5026.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Docket Numbers: RP11–2430–000.
Applicants: Blue Lake Gas Storage Company.
Description: Blue Lake Gas Storage Company submits tariff filing per 154.402: Annual Charge Adjustment 2011 to be effective 10/1/2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5028.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Docket Numbers: RP11–2431–000.
Applicants: North Baja Pipeline, LLC.
Description: North Baja Pipeline, LLC submits tariff filing per 154.402: Annual Charge Adjustment 2011 to be effective 10/1/2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5029.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Docket Numbers: RP11–2432–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: Transcontinental Gas Pipe Line Company, LLC submits tariff filing per 154.203: Pascagoula Expansion Project Compliance with Docket No. CP09–456–000 to be effective 9/30/2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5031.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Docket Numbers: RP11–2433–000.
Applicants: Northern Border Pipeline Company.
Description: Northern Border Pipeline Company submits tariff filing per 154.402: Annual Charge Adjustment 2011 to be effective 10/1/2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5035.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Docket Numbers: RP11–2434–000.

Applicants: ANR Pipeline Company.
Description: ANR Pipeline Company submits tariff filing per 154.402: Annual Charge Adjustment 2011 to be effective 10/1/2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5044.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Docket Numbers: RP11–2435–000.
Applicants: Tuscarora Gas Transmission Company.
Description: Tuscarora Gas Transmission Company submits tariff filing per 154.402: Annual Charge Adjustment 2011 to be effective 10/1/2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5046.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Docket Numbers: RP11–2436–000.
Applicants: Tres Palacios Gas Storage LLC.
Description: Tres Palacios Gas Storage LLC submits tariff filing per 154.402: Tres Palacios Gas Storage LLC–ACA Tariff Filing to be effective 10/1/2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5049.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Docket Numbers: RP11–2437–000.
Applicants: OkTex Pipeline Company, L.L.C.
Description: OkTex Pipeline Company, L.L.C. submits tariff filing per 154.402: 2011 ACA Rate to be effective 10/1/2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5063.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Docket Numbers: RP11–2438–000.
Applicants: Guardian Pipeline, L.L.C.
Description: Guardian Pipeline, L.L.C. submits tariff filing per 154.402: 2011 ACA Rate to be effective 10/1/2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5064.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Docket Numbers: RP11–2439–000.
Applicants: Viking Gas Transmission Company.
Description: Viking Gas Transmission Company submits tariff filing per 154.402: 2011 ACA Rate to be effective 10/1/2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5065.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Docket Numbers: RP11–2440–000.
Applicants: Midwestern Gas Transmission Company.
Description: Midwestern Gas Transmission Company submits tariff filing per 154.402: 2011 ACA Rate to be effective 10/1/2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5066.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Docket Numbers: RP11–2441–000.
Applicants: Columbia Gas Transmission, LLC.
Description: Columbia Gas Transmission, LLC submits tariff filing per 154.204: ACA 2011 to be effective 10/1/2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5093.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Docket Numbers: RP11–2442–000.
Applicants: Central Kentucky Transmission Company.
Description: Central Kentucky Transmission Company submits tariff filing per 154.204: ACA 2011 to be effective 10/1/2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5094.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Docket Numbers: RP11–2443–000.
Applicants: Columbia Gulf Transmission Company.
Description: Columbia Gulf Transmission Company submits tariff filing per 154.204: ACA 2011 to be effective 10/1/2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5096.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Docket Numbers: RP11–2444–000.
Applicants: Hardy Storage Company, LLC.
Description: Hardy Storage Company, LLC submits tariff filing per 154.204: ACA 2011 to be effective 10/1/2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5097.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Docket Numbers: RP11–2445–000.
Applicants: Millennium Pipeline Company, LLC.
Description: Millennium Pipeline Company, LLC submits tariff filing per 154.204: ACA 2011 to be effective 10/1/2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5098.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Docket Numbers: RP11–2446–000.
Applicants: Crossroads Pipeline Company.
Description: Crossroads Pipeline Company submits tariff filing per 154.204: ACA 2011 to be effective 10/1/2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5099.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Docket Numbers: RP11–2447–000.
Applicants: El Paso Natural Gas Company.
Description: El Paso Natural Gas Company submits tariff filing per 154.204: EBB Notice Categories to be effective 10/1/2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5123.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Docket Numbers: RP11–2448–000.
Applicants: Portland Natural Gas Transmission System.
Description: Portland Natural Gas Transmission System submits tariff filing per 154.402: Annual Charge Adjustment 2011 to be effective 10/1/2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5124.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Docket Numbers: RP11–2449–000.
Applicants: Portland Natural Gas Transmission System.
Description: Portland Natural Gas Transmission System submits tariff filing per 154.203: RP11–1789 Compliance EnergyNorth to be effective 7/28/2011.
Filed Date: 08/26/2011.
Accession Number: 20110826–5134.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Docket Numbers: RP11–2450–000.
Applicants: WestGas InterState, Inc.
Description: WestGas InterState, Inc. submits tariff filing per 154.402: 2011.08.29_WGI Annual Charge Adjustment to be effective 10/1/2011.
Filed Date: 08/29/2011.
Accession Number: 20110829–5000.
Comment Date: 5 p.m. Eastern Time on Monday, September 12, 2011.

Docket Numbers: RP11–2451–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Gulf South Pipeline Company, LP submits tariff filing per 154.204: Questar K37657–7 Amendment to Negotiated Rate Agreement to be effective 8/25/2011.
Filed Date: 08/29/2011.
Accession Number: 20110829–5039.
Comment Date: 5 p.m. Eastern Time on Monday, September 12, 2011.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR § 385.211 and § 385.214) on or before 5 p.m. Eastern

time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

* * *

Docket Numbers: RP11–2420–001.

Applicants: White River Hub, LLC.

Description: White River Hub, LLC submits tariff filing per 154.205(b): Amended RP11–2420–000 ACA filing to be effective 10/1/2011.

Filed Date: 08/26/2011.

Accession Number: 20110826–5154.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 07, 2011.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 29, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–22494 Filed 9–1–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF11–7–000]

Alliance Pipeline L.P.; Notice of Intent To Prepare an Environmental Assessment for the Planned Tioga 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 Tioga Lateral Project involving construction and operation of facilities by Alliance Pipeline L.P. (Alliance) in Williams, Mountrail, Burke, Ward, and Renville Counties, North Dakota. 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 September 26, 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, Tioga Lateral Project, September 14, 2011–6:30 p.m., Memorial Hall, 53rd Street NE., Kenmare, North Dakota 58746.

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

Alliance plans to construct and operate a natural gas pipeline to connect new natural gas production in the Williston Basin with the existing Alliance mainline, which currently delivers high-energy natural gas from production areas in northwestern Canada to the Chicago market area. The project would also involve construction of a new compressor station and other appurtenant facilities. The Tioga Lateral Project would create approximately 120 million cubic feet per day of new transportation capacity.

The Tioga Lateral Project would consist of the following facilities:

- Approximately 77.1 miles of 12-inch-diameter natural gas pipeline crossing portions of Williams, Mountrail, Burke, Ward, and Renville Counties, North Dakota;
- A 4,500 horsepower compressor station containing two natural gas-driven engines/compressors in Williams County;
- One meter station within the proposed compressor station site in Williams County;
- One pressure regulating station adjacent to the existing Alliance mainline in Renville County;
- One pig [1] launcher at the proposed compressor station site and one pig receiver at the pressure regulating station site; and
- Three mainline block valves.

The planned pipeline route begins at an existing gas processing facility near Tioga, North Dakota, and terminates at a tie-in along the existing Alliance mainline near Sherwood, North Dakota. The proposed pipeline would cross approximately 1.7 miles of public land, including approximately 0.8 mile of the Des Lacs National Wildlife Refuge and 0.9 mile of state land. The proposed pipeline would also cross approximately 16.0 miles of private lands that are subject to conservation easements held by the U.S. Fish and Wildlife Service (FWS). Alliance is evaluating potential route refinements to reduce the crossing of FWS conservation easements.

The general location of the project facilities is shown in Appendix 1.[2]

Land Requirements for Construction

Based on preliminary information, construction of the planned facilities would disturb about 730.6 acres of land. Following construction, about 477.5 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. Due to a lack of existing utility infrastructure between Tioga and Sherwood, the proposed route does not

[1] A ''pig'' is a tool that is inserted into and moves through the pipeline, and is used for cleaning the pipeline, internal inspections, or other purposes.

[2] 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.

typically parallel existing linear corridor facilities; approximately 1.7 miles of the route parallels existing roads.

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 [3] 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
- 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 North Dakota State Historic Preservation Office (SHPO), and to solicit the views of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] 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 September 26, 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 (PF11–7–000) 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.

[3] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

[4] 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.

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 Alliance 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 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., PF11–7). 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.*

FERC's 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.

Finally, Alliance has established an Internet Web site on its homepage, *http://www.alliance-pipeline.com/,* to provide the public with information about the planned Tioga Lateral Pipeline. Alliance's Web site will be updated as the project review progresses.

Dated: August 25, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–22507 Filed 9–1–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP11–159–000]

Perryville Gas Storage, LLC; Notice of Availability of the Environmental Assessment for the Proposed Crowville Gas Storage Project Amendment

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Crowville Gas Storage Project Amendment (Project) as proposed by Perryville Gas Storage, LLC (Perryville) in the above referenced docket. Perryville proposes to increase the working capacity of its two previously certificated (Docket No. CP09–418–000) natural gas storage caverns by 2.5 billion-cubic-feet each; and install three freshwater supply wells, six brine disposal wells and eight groundwater monitoring wells, all of which would be located in Franklin Parish, Louisiana.

The EA assesses the potential impacts on the environment resulting from construction and operation of the proposed Project in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA). As described in the EA, the FERC staff has concluded that approval of the proposed Project, with the implementation of appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The EA has been placed in the public files of the FERC and is available for public viewing on the FERC's Web site at *http://www.ferc.gov.* A limited number of copies of the EA are available for distribution and public inspection at:

Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426. (202) 502–8371.

Copies of the EA have been mailed to federal, state, and local government representatives and agencies; elected officials; Native American tribes; potentially affected landowners and other interested individuals and groups; newspapers and libraries in the project area; and parties to this proceeding.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential impacts on the environment, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are properly recorded and considered prior to a Commission decision on the proposal, it is important that we receive your comments in Washington, DC on or before September 26, 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 numbers (CP11–159–000) with your submission. The Commission encourages the electronic filing of comments (eFiling) and has dedicated expert staff to assist you by phone at (202) 502–8258 or by electronic mail at *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 text-only comments on a project;

(2) You may file your comments electronically by using the eFiling feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to Documents and Filings. With eFiling you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making. A comment on a particular project is considered a ''Comment on a Filing''; or

(3) You may file a paper copy of your comments at the following address:

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.

Although your comments will be considered by the Commission, simply filing comments will not serve to make the commentor a party to the

proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, which can be reached by phone at (866) 208–FERC or on the FERC Web site (*http://www.ferc.gov*). Following the eLibrary link, click on ''General Search'' and enter the docket number CP11–159 in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or by phone toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Dated: August 26, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–22516 Filed 9–1–11; 8:45 am]

BILLING CODE 6717–01–P

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP11–67–000; CP11–67–001]

Texas Eastern Transmission, LP; Notice of Availability of the Environmental Assessment for the Proposed Texas Eastern Appalachia to Market Expansion Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Texas Eastern Appalachia to Market 2012 Expansion Project (Project) as proposed by Texas Eastern Transmission, LP (Texas Eastern) in the above referenced dockets. Texas Eastern proposes to install and operate approximately 17.3 miles of 36-inch-diameter natural gas transmission pipeline and associated aboveground facilities in Greene, Fayette, Franklin, Adams and Fulton Counties, Pennsylvania. Texas Eastern also proposes to abandon approximately 11.3 miles of 24-inch-diameter natural gas transmission pipeline in Franklin and Adams Counties, Pennsylvania. Additionally, Texas Eastern proposes to increase the amount of compression at its Bedford Compressor Station located in Bedford County, Pennsylvania by 20,720 horsepower (hp).

The EA assesses the potential impacts on the environment resulting from construction and operation of the proposed Project in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA). As described in the EA, the FERC staff has concluded that approval of the proposed Project, with the implementation of appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The EA has been placed in the public files of the FERC and is available for public viewing on the FERC's Web site at *http://www.ferc.gov.* A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Copies of the EA have been mailed to Federal, state, and local government representatives and agencies; elected officials; Native American Tribes; potentially affected landowners and other interested individuals and groups; newspapers and libraries in the project area; and parties to this proceeding.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential impacts on the environment, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are properly recorded and considered prior to a Commission decision on the proposal, it is important that we receive your comments in Washington, DC on or before September 26, 2011.

For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances please reference the project docket number (CP11–67–000) with your submission. The Commission encourages the electronic filing of comments (eFiling) and has dedicated expert staff to assist you by phone at (202) 502–8258 or by electronic mail at *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 text-only comments on a project;

(2) You may file your comments electronically by using the eFiling feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to Documents and Filings. With eFiling you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making. A comment on a particular project is considered a ''Comment on a Filing''; or

(3) You may file a paper copy of your comments at the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.

Although your comments will be considered by the Commission, simply filing comments will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, which can be reached by phone at (866) 208–FERC or on the FERC Web site (*http://www.ferc.gov*). Following the eLibrary link, click on ''General Search'' and enter the docket number CP11–67 in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or by phone toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Dated: August 26, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–22517 Filed 9–1–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP11–531–000]

Golden Triangle Storage, Inc.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Golden Triangle Storage Expansion 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 Golden Triangle Storage Expansion Project (GTS Expansion Project), involving construction and operation of facilities by Golden Triangle Storage, Inc. (GTS) in Jefferson County, Texas. 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 September 28, 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 proposed 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 proposed 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?'' was attached to the project notice GTS 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

GTS proposes to construct and operate two new salt dome natural gas storage caverns. The GTS Expansion Project would provide an additional working gas capacity of 16.6 billion cubic feet. According to GTS, its project would provide needed natural gas storage capacity in the Gulf Coast region.

The GTS Expansion Project would consist of the following facilities:

- Two wellheads and associated valves for solution mining and natural gas injections/withdrawals;
- Two new permanent well pads and access roads;
- Two 16-inch-diameter raw water supply pipelines (750 and 1,400 feet in length) and two 16-inch-diameter brine return pipelines (750 and 1,400 feet in length);
- Two 20-inch-diameter natural gas pipelines (1,300 and 700 feet in length); and
- Other appurtenant facilities.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Construction of the proposed facilities would disturb about 20.2 acres of land. Following construction, about 4.5 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.

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

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[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.

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 beginning on page 4.

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 Texas State Historic Preservation Office (SHPO), and to solicit their views and those 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 facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include 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.

[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 of Historic Places.

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 September 28, 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 (CP11–531–000) 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; 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 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 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 ''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.,* CP11–531). 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: August 29, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–22510 Filed 9–1–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER11–3627–000]

Southwest Power Pool, Inc.; Notice of Filing

Take notice that, on August 24, 2011, Southwest Power Pool, Inc. filed to supplement its May 24, 2011 filing of revisions to its Open Access Transmission Tariff, in the above-captioned docket, pursuant to the Commission's request. Such filing serves to reset the filing date in this proceeding.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on September 14, 2011.

Dated: August 25, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–22504 Filed 9–1–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER11–4355–000]

TPW Petersburg, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of TPW Petersburg, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 13, 2011.

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 Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 24, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–22505 Filed 9–1–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER11–4357–000]

Marathon Power LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Marathon Power LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 13, 2011.

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 Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding 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: August 24, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–22503 Filed 9–1–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13982–000]

Northland Power Mississippi River LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On January 3, 2011, Northland Power Mississippi River LLC filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of hydropower on the Mississippi River, near the town of Point a La Hache, in Plaquemines Parish, Louisiana. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed NPI 014 hydrokinetic project would consist of the following: (1) Up to 400 TREK generating units installed in a matrix on the bottom of the river; (2) the total capacity of the installation would be up to 100,000 kilowatts; (3) shielded underwater cables would convey each matrix power to a substation; and (4) a transmission line would interconnect with the power grid. The proposed project would have an average annual generation of 876.0 gigawatt-hours (GWh), which would be sold to a local utility.

Applicant Contact: Tim Richardson, 30 St. Clair Avenue West 17th Floor, Toronto, Ontario, Canada; phone (416) 820–9521.

FERC Contact: Michael Spencer, (202) 502–6093.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov;* call toll-free at (866) 208–3676; or, for TTY, contact (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.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13982–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: August 18, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–22509 Filed 9–1–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14253–000]

Lock+ Hydro Friends Fund IV; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On August 10, 2011, the Lock+ Hydro Friends Fund IV filed an application for a preliminary permit under section 4(f) of the Federal Power Act proposing to study the feasibility of the proposed USACE LD 17 Project No. 14253, to be located at the existing Mississippi River Lock and Dam No. 17 on the Mississippi River, near the City of New Boston, in Mercer County, Illinois. The Mississippi River Lock and Dam No. 17 is owned by the United States government and operated by the Army Corps of Engineers.

The proposed project would consist of: (1) Three new 109-foot-wide by 40-foot-high steel lock frame modules each containing ten 650-kilowatt hydropower turbines having a total combined generating capacity of 19.5 megawatts; (2) one new 109-foot-wide and one new 220-foot-wide tailrace extending 75–150 feet downstream; (3) a new 25-foot by 50-foot switchyard; (4) a new intake structure of undetermined size; (5) a new 6-mile-long, 69-kilovolt transmission line; and (6) appurtenant facilities. The project would have an estimated annual generation of 119,655 megawatt-hours.

Applicant Contact: Mr. Wayne F. Krouse, 5090 Richmond Avenue, #390, Houston, TX 77056; (877) 556–6566, extension 709.

FERC Contact: Tyrone A. Williams, (202) 502–6331.

Deadline for filing comments, motions to intervene, and competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your

name and contact information at the end of your comments.

For assistance, please contact FERC Online Support 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.

More information about this project, including a copy of the application can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14253) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: August 29, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–22515 Filed 9–1–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14063–000]

Amnor Hydro West Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On January 24, 2011, and supplemented on April 25, 2011, May 3, 2011, July 6, 2011, and August 6, 2011, Amnor Hydro West Inc. (Amnor or applicant) filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of constructing the Hiram M. Chittenden Lock and Dam Hydroelectric Project (Hiram Dam Project or project) located at the Hiram M. Chittenden Lock and Dam facility owned and operated by the U.S. Army Corps of Engineers (Corps). The project would be located on Salmon Bay near Seattle in King County, Washington. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would include: (1) Three new intake structures and a new powerhouse integral with three of the six gates of the Corps' lock and dam facility; (2) three new axial turbine/generator units with a combined capacity of 5 megawatts with a design head of 26 feet; (3) a new tailrace exhaust apron returning flows to Salmon Bay; (4) a new 14.7-kilovolt, 100-foot-long transmission line from the powerhouse south to a proposed substation; and (5) appurtenant facilities. The estimated annual generation of the project would be 17.3 gigawatt-hours.

Applicant Contact: Mr. Adam T. Supronik, 42 Pearsall Street, Staten Island, New York 10305; phone: (347) 415–9600.

FERC Contact: Patrick Murphy; phone: (202) 502–8755.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support 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.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14063–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: August 26, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–22520 Filed 9–1–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of FERC Staff Attendance at a Hearing Before the Arkansas Public Service Commission

The Federal Energy Regulatory Commission hereby gives notice that members of its staff may attend the hearing noted below. Their attendance is part of the Commission's ongoing outreach efforts.

The Arkansas Public Service Commission will hold an evidentiary hearing involving Entergy Arkansas, Inc. (EAI) in Docket No. 10–011–U beginning at 8:30 a.m. on September 7, 2011. The hearing involves issues surrounding EAI's membership in the Entergy System Agreement, or any successor agreement and control of its transmission system.

The hearing will be held in Hearing Room 1, Arkansas Public Service Commission Building, 1000 Center Street, Little Rock, Arkansas.

The discussions may address matters at issue in the following proceedings:

Docket No. OA07–32	Entergy Services, Inc.
Docket No. EL00–66	*Louisiana Public Service Commission* v. *Entergy Services, Inc.*
Docket No. EL01–88	*Louisiana Public Service Commission* v. *Entergy Services, Inc.*
Docket No. EL07–52	*Louisiana Public Service Commission* v. *Entergy Services, Inc.*
Docket No. EL08–51	*Louisiana Public Service Commission* v. *Entergy Services, Inc.*
Docket No. EL08–60	*Ameren Services Co.* v. *Entergy Services, Inc.*

Docket No. EL09–43	*Arkansas Public Service Commission* v. *Entergy Services, Inc.*
Docket No. EL09–50	*Louisiana Public Service Commission* v. *Entergy Services, Inc.*
Docket No. EL09–61	*Louisiana Public Service Commission* v. *Entergy Services, Inc.*
Docket No. EL10–55	*Louisiana Public Service Commission* v. *Entergy Services, Inc.*
Docket No. EL10–65	*Louisiana Public Service Commission* v. *Entergy Services, Inc.*
Docket No. EL11–34	Midwest Independent System Transmission Operator, Inc.
Docket No. ER05–1065	Entergy Services, Inc.
Docket No. ER07–682	Entergy Services, Inc.
Docket No. ER07–956	Entergy Services, Inc.
Docket No. ER08–1056	Entergy Services, Inc.
Docket No. ER09–833	Entergy Services, Inc.
Docket No. ER09–1224	Entergy Services, Inc.
Docket No. ER10–794	Entergy Services, Inc.
Docket No. ER10–1350	Entergy Services, Inc.
Docket No. ER10–1676	Entergy Services, Inc.
Docket No. ER10–2001	Entergy Arkansas, Inc.
Docket No. ER10–2161	Entergy Texas, Inc.
Docket No. ER10–2748	Entergy Services, Inc.
Docket No. ER10–3357	Entergy Arkansas, Inc.
Docket No. ER11–2131	Entergy Arkansas, Inc.
Docket No. ER11–2132	Entergy Gulf States, Louisiana, LLC
Docket No. ER11–2133	Entergy Gulf States, Louisiana, LLC
Docket No. ER11–2134	Entergy Mississippi, Inc.
Docket No. ER11–2135	Entergy New Orleans, Inc.
Docket No. ER11–2136	Entergy Texas, Inc.
Docket No. ER11–2161	Entergy Texas, Inc.
Docket No. ER11–3156	Entergy Arkansas, Inc.
Docket No. ER11–3157	Entergy Arkansas, Inc.
Docket No. ER11–3274	Entergy Arkansas, Inc.
Docket No. ER11–3728	Midwest Independent Transmission System Operator, Inc.
Docket No. ER11–3657	Entergy Arkansas, Inc.
Docket No. ER11–3658	Entergy Arkansas, Inc.

This hearing is open to the public.

For more information, contact Patrick Clarey, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (317) 249–5937 or *patrick.clarey@ferc.gov.*

Dated: August 29, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–22514 Filed 9–1–11; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8998–8]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–1399 or *http://www.epa.gov/compliance/nepa/.*

Weekly Receipt of Environmental Impact Statements

Filed 08/22/2011 Through 08/26/2011 Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html.*

EIS No. 20110281, Draft EIS, NPS, IA, Effigy Mounds National Monument, General Management Plan, Implementation, Clayton and Allamakee Counties, IA, Comment Period Ends: 10/24/2011, Contact: Nich Chevance 402–661–1844.

EIS No. 20110282, Final EIS, NRCS, UT, Logan Northern Canal Reconstruction Project, To Construct a System that will Safely Restore Delivery of Water, City of Logan, Cache County, UT, Review Period Ends: 10/03/2011, Contact: Bronson Smart 801–524–4559.

EIS No. 20110284, Final EIS, USFS, OR, Deschutes and Ochoco National Forest and the Crooked River National Grassland Travel Management Project, Implementation, Deschutes, Jefferson, Crook, Klamath, Lake, Grant and Wheeler County, OR, Review Period Ends: 10/03/2011, Contact: Mollie Chaudet 541–383–5300.

EIS No. 20110285, Final EIS, USACE, CA, San Clemente Shoreline Protection Project, To Provide Shore Protection through Nourishment of the Beach at the San Clemente Pier, San Clemente, CA, Review Period Ends: 10/03/2011, Contact: Thomas W. Keeney 213–452–3875.

EIS No. 20110286, Final EIS, BPA, WA, Whistling Ridge Energy Project, Construction and Operation of a 75-megawatt (MW) Wind Turbine Facility, City of White Salmon, Skamania County, WA, Review Period Ends: 10/03/2011, Contact: Andrew M. Montano 503–230–4145.

EIS No. 20110287, Draft EIS, NRC, WA, Generic—License Renewal of Nuclear Plants, Supplement -47 Regarding Columbia Generating Station (NUREG—1437), Issuance of a Renewed Operating License, Benton County, WA, Comment Period Ends: 11/16/2011, Contact: Daniel Doyle 301–415–3748.

EIS No. 20110288, Final EIS, USFS, UT, Oil and Gas Leasing on Lands Administered by the Dixie National Forest, Implementation, Garfield,

Iron, Kane, Piute, and Washington Counties, UT, Review Period Ends: 10/03/2011, Contact: Robert MacWhorter 435–865–3700.

EIS No. 20110289, Final Supplement, USACE, FL, Martin County Hurricane and Storm Damage Reduction Project, Section 404 Permit, Hutchinson Island, Martin County, FL, Review Period Ends: 10/03/2011, Contact: Paul DeMarco 904–232–1897.

EIS No. 20110290, Final EIS, DOS, 00, Keystone XL Oil Pipeline Project, Additional Information, Presidential Permit for the Proposed Construction, Connection, Operation, and Maintenance of a Pipeline and Associated Facilities at the United States Border for Importation of Crude Oil from Canada, Review Period Ends: 10/03/2011, Contact: Alexander Yuan 202–647–4284.

EIS No. 20110291, Final Supplement, NNSA, NM, Nuclear Facility of the Chemistry and Metallurgy Research Replacement Project, To Address New Geologic Information Regarding Seismic Conditions at the Site, Los Alamos National Laboratory, Los Alamos, NM, Review Period Ends: 10/03/2011, Contact: John Tegtmeier 505–665–0113.

Dated: August 30, 2011.

Cliff Rader,

Acting Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2011–22602 Filed 9–1–11; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 11–1424]

Notice of Suspension and Commencement of Proposed Debarment Proceedings; Schools and Libraries Universal Service Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau (the ''Bureau'') gives notice of Mr. Tyrone D. Pipkin's suspension from the schools and libraries universal service support mechanism (or ''E–Rate Program''). Additionally, the Bureau gives notice that debarment proceedings are commencing against him. Mr. Pipkin, or any person who has an existing contract with or intends to contract with him to provide or receive services in matters arising out of activities associated with or related to the schools and libraries support, may respond by filing an opposition request, supported by documentation to Joy Ragsdale, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4–C330, 445 12th Street, SW., Washington, DC 20554.

DATES: Opposition requests must be received by 30 days from the receipt of the suspension letter or October 3, 2011, whichever comes first. The Bureau will decide any opposition request for reversal or modification of suspension or debarment within 90 days of its receipt of such requests.

ADDRESSES: Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4–C330, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Joy Ragsdale, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4–C330, 445 12th Street, SW., Washington, DC 20554. Joy Ragsdale may be contacted by phone at (202) 418–1697 or e-mail at *Joy.Ragsdale@fcc.gov.* If Ms. Ragsdale is unavailable, you may contact Ms. Terry Cavanaugh, Acting Chief, Investigations and Hearings Division, by telephone at (202) 418–1420 and by e-mail at *Terry.Cavanaugh@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Bureau has suspension and debarment authority pursuant to 47 CFR 54.8 and 47 CFR 0.111(a)(14). Suspension will help to ensure that the party to be suspended cannot continue to benefit from the schools and libraries mechanism pending resolution of the debarment process. Attached is the suspension letter, DA 11–1424, which was mailed to Mr. Pipkin and released on August 17, 2011. The complete text of the notice of suspension and initiation of debarment proceedings is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portal II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554, In addition, the complete text is available on the FCC's Web site at *http://www.fcc.gov.* The text may also be purchased from the Commission's duplicating inspection and copying during regular business hours at the contractor, Best Copy and Printing, Inc., Portal II, 445 12th Street, SW., Room CY–B420, Washington, DC 20554, telephone (202) 488–5300 or (800) 378–3160, facsimile (202) 488–5563, or via e-mail *http://www.bcpiweb.com.*

Federal Communications Commission.

Theresa Z. Cavanaugh,

Acting Chief, Investigations and Hearings Division, Enforcement Bureau.

The suspension letter follows:

August 17, 2011

DA 11–1424

SENT VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED AND FACSIMILE

Mr. Tyrone D. Pipkin
c/o Mr. Walter Francis Becker, Jr.
Chaffe McCall LLP
Energy Centre
1100 Poydras St., Suite 2300
New Orleans, LA 70163–2300

Re: Notice of Suspension and Initiation of Debarment Proceedings, File No. EB–11–IH–1071

Dear Mr. Pipkin:

The Federal Communications Commission (''Commission'') has received notice of your conviction of conspiracy to defraud the United States in violation of 18 U.S.C. 371 in connection with your participation in the Federal schools and libraries universal service support mechanism (''E–Rate program'').[1] Consequently, pursuant to 47 CFR 54.8, this letter constitutes official notice of your suspension from the E–Rate program. In addition, the Enforcement Bureau (''Bureau'') hereby notifies you that the Bureau will commence debarment proceedings against you.[2]

I. Notice of Suspension

The Commission has established procedures to prevent persons who have ''defrauded the government or engaged in similar acts through activities associated with or related to the schools and libraries support mechanism'' from receiving the benefits associated with that program.[3] Schools may

[1] Any further reference in this letter to ''your conviction'' refers to your conviction in *United States v. Tyrone D. Pipkin,* Criminal Docket Nos. 10–325 and 11–15 ''A'', Judgment (E.D.LA. filed June 21, 2011) (''*Tyrone Pipkin Judgment*'').

[2] See 47 CFR 54.8; 47 CFR 0.111 (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings). The Commission adopted debarment rules for the schools and libraries universal service support mechanism in 2003. *See Schools and Libraries Universal Service Support Mechanism,* Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202 (2003) (''*Second Report and Order*'') (adopting section 54.521 to suspend and debar parties from the E-rate program). In 2007 the Commission extended the debarment rules to apply to all Federal universal service support mechanisms. *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight; Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Rural Health Care Support Mechanism; Lifeline and Link Up; Changes to the Board of Directors for the National Exchange Carrier Association, Inc.,* Report and Order, 22 FCC Rcd 16372 app. C at 16410–12 (2007) (*Program Management Order*) (section 54.521 of the universal service debarment rules was renumbered as section 54.8 and subsections (a)(1), (5), (c), (d), (e)(2)(i), (3), (e)(4), and (g) were amended.)

[3] *Second Report and Order,* 18 FCC Rcd at 9225, paragraph 66; *Program Management Order,* 22 FCC

receive E-Rate program funding for eligible goods and services by filing application forms, seeking competitive bids, and selecting the most cost-effective vendor.[4] To ensure the integrity of the program, the E-rate program rules prohibit an E-Rate vendor or anyone associated with an E-Rate vendor from participating in the application process or vendor selection.[5]

On March 28, 2011, you entered a plea agreement and pleaded guilty to conspiring with others to defraud and obtain money from the E-Rate Program by controlling the application, bidding, and implementation process of the E-Rate program for schools located in four states.[6] Specifically, you [7] and a co-conspirator [8] violated E-Rate program rules by completing E-Rate applications on behalf of Innovation Schools and other schools from December 2001 through September 2005.[9] Second, you and a co-conspirator obstructed the open competitive bidding process by concealing your relationship with a school official who devised a scheme to ensure Innovation Schools and other schools would hire GNT and Computer Training and Associates (''CTA'') as their E-Rate service providers.[10] In exchange, you and a co-conspirator paid the school official $79,382 in bribes and kickbacks for steering E-Rate contracts to your companies.[11] As a result of your assistance, Innovation Schools received more than $10,000 in Federal E-Rate funding in 2003, 2004 and 2005.[12] Your company and CTA directly benefited from this scheme by receiving over $1.4 million in E-Rate work from Innovation Schools and other schools located in Florida and elsewhere.[13] These actions constitute the conduct or transactions upon which this suspension notice and proposed debarment proceeding is based.[14]

On June 21, 2011, the United States District Court for the Eastern District of Louisiana sentenced you to serve one year and a day in prison followed by a two year period of supervised release for conspiring to defraud the Federal E-Rate program in multiple states.[15] The court also ordered you to pay a $6,000 criminal fine for your role in the conspiracy scheme.[16]

Pursuant to § 54.8(b) of the Commission's rules,[17] upon your conviction the Bureau is required to suspend you from participating in any activities associated with or related to the schools and libraries support mechanism, including the receipt of funds or discounted services through the schools and libraries support mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.[18] Your suspension becomes effective upon receipt of this letter or publication of the notice in the *Federal Register,* whichever comes first.[19]

In accordance with the Commission's debarment rules, you may contest this suspension or the scope of this suspension by filing arguments, with any relevant documents, within 30 calendar days after receipt of this letter or after a notice is published in the **Federal Register,** whichever comes first.[20] Such requests, however, will not ordinarily be granted.[21] The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.[22] Absent extraordinary circumstances, the Bureau will decide any request to reverse or modify a suspension within 90 calendar days of its receipt of such request.[23]

II. Initiation of Debarment Proceedings

As discussed above, your guilty plea and conviction of criminal conduct in connection with the E-Rate program serves as a basis for immediate suspension from the program, as well as a basis to commence debarment proceedings against you. Conviction of criminal fraud is cause for debarment as defined in § 54.8(c) of the Commission's rules.[24] Therefore, pursuant to § 54.8(b) of the rules, your conviction requires the Bureau to commence debarment proceedings against you.[25]

As with the suspension process, you may contest debarment or the scope of the proposed debarment by filing arguments and any relevant documentation within 30 calendar days of receipt of this letter or publication in the **Federal Register,** whichever comes first.[26] The Bureau, in the absence of extraordinary circumstances, will notify you of its decision to debar within 90 calendar days of receiving any information you may have filed.[27] If the Bureau decides to debar you, its decision will become effective upon either your receipt of a debarment notice or publication of the decision in the **Federal Register,** whichever comes first.[28]

If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to the schools and libraries support mechanism for three years from the date of debarment.[29] The Bureau may set a longer debarment period or extend an existing debarment period if necessary to protect the public interest.[30]

Please direct any response, if sent by messenger or hand delivery, to Marlene H. Dortch, Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, D.C. 20554, to the attention of Joy M. Ragsdale, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4–A236, with a copy to Theresa Z. Cavanaugh, Acting Division Chief, Investigations and Hearings Division, Enforcement Bureau, Room 4–C322, Federal Communications

Rcd at 16387, paragraph 32. The Commission's debarment rules define a ''person'' as ''[a]ny individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however organized.'' 47 CFR 54.8(a)(6).

[4] 47 CFR 54.504, 54.511(c).

[5] *See Request for Review by Mastermind Internet Services, Inc., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.,* CC Docket No. 96–45, Order, 16 FCC Rcd 4028, 4032–33 paragraphs 10–12 (2000) (Mastermind Order) (finding that when an applicant surrenders control of the bidding process to an employee of an entity that will also participate in the bidding process as a prospective service provider, the applicant irreparably impairs its ability to hold a fair and open competitive bidding process); *see also* Universal Service Administrative Company's (''USAC'') description of an Open and Fair Competitive Bidding Process at http://www.universalservice.org/sl/applicants/step03/run-open-fair-competition.aspx.

[6] United States v. Tyrone D. Pipkin, Criminal Docket No. 11–15 ''A'', Plea Agreement (E.D. La. 2011) (''Plea Agreement''). The conspiracy scheme involved schools in Arkansas, Florida, Illinois and Louisiana.

[7] Tyrone Pipkin is co-owner of Global Networking Technologies, Inc. (''GNT''), an E-Rate service provider hired by Innovation Schools and other schools located in four states.

[8] The Bureau will serve notice of suspension and initiation of debarment proceedings to Gloria F. Harper, co-owner of GNT and owner of CTA, who pleaded guilty to conspiracy on June 2, 2011, and awaits sentencing scheduled for the fall of 2011. *See* Justice News, DEP'T OF JUSTICE, Former Co-Owner of Illinois Technology Company Sentenced to Serve One Year and a Day in Prison for Role in Conspiracy to Defraud the Federal E-Rate Program, June 21, 2011, at http://www.justice.gov/opa/pr/2011/June/11-at-807.html (''*Press Release*'').

[9] *United States v. Tyrone D. Pipkin,* Criminal Docket No. 11–15 ''A'', Factual Basis at 2 (E.D. La. 2011) (''*Factual Basis*'').

[10] *Factual Basis* at 3, 4. *See also United States v. Tyrone D. Pipkin,* Docket No. 4:10cr67, Indictment at 2 (N.D. Fla. 2010).

[11] *Factual Basis* at 4. *See also* Press Release paragraph 4.

[12] *Factual Basis* at 4.

[13] *Id.*

[14] *Second Report and Order,* 18 FCC Rcd at 9226, paragraph 70; 47 CFR 54.8(e)(2)(i).

[15] *Judgment* at 2 (The prison term is one year and a day for both Count one of Case No. 10–325 and Count one of Case No. 11–15 ''A''. Both terms will run concurrently for a total prison term of one year and one day.).

[16] *Judgment* at 5. You were also ordered to immediately pay a $200 Special Assessment. *Id.*

[17] 47 CFR 54.8(b). See Second Report and Order, 18 FCC Rcd at 9225–9227, paragraphs 67–74.

[18] 47 CFR 54.8(a)(1), (d).

[19] *Second Report and Order,* 18 FCC Rcd at 9226, paragraphs 69; 47 CFR 54.8(e)(1).

[20] 47 CFR 54.8(e)(4).

[21] *Id.*

[22] 47 CFR 54.8(f).

[23] *Second Report and Order,* 18 FCC Rcd at 9226, paragraph 70; 47 CFR 54.8(e)(5), (f).

[24] ''Causes for suspension and debarment are conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural healthcare support mechanism, and the low-income support mechanism.'' 47 CFR 54.8(c). Associated activities ''include the receipt of funds or discounted services through [the Federal universal service] support mechanisms, or consulting with, assisting, or advising applicants or service providers regarding [the Federal universal service] support mechanisms.'' 47 CFR 54.8(a)(1).

[25] 47 CFR 54.8(b).

[26] *Second Report and Order,* 18 FCC Rcd at 9226, paragraph 70; 47 CFR 54.8(e)(3).

[27] *Id.,* 18 FCC Rcd at 9226, paragraph 70; 47 CFR 54.8(e)(5).

[28] *Id.* The Commission may reverse a debarment, or may limit the scope or period of debarment upon a finding of extraordinary circumstances, following the filing of a petition by you or an interested party or upon motion by the Commission. 47 CFR 54.8(f).

[29] *Second Report and Order,* 18 FCC Rcd at 9225, paragraph 67; 47 CFR 54.8(d), (g).

[30] *Id.*

Commission. All messenger or hand delivery filings must be submitted without envelopes.[31] If sent by commercial overnight mail (other than U.S. Postal Service (''USPS'') Express Mail and Priority Mail), the response must be sent to the Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, Maryland 20743. If sent by USPS First Class, Express Mail, or Priority Mail, the response should be addressed to Joy Ragsdale, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4–A236, Washington, D.C. 20554, with a copy to Theresa Z. Cavanaugh, Acting Division Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4–C322, Washington, D.C. 20554. You shall also transmit a copy of your response via e-mail to Joy M. Ragsdale, *joy.ragsdale@fcc.gov* and to Theresa Z. Cavanaugh, *Terry.Cavanaugh@fcc.gov.*

If you have any questions, please contact Ms. Ragsdale via U.S. postal mail, email, or by telephone at (202) 418–7931. You may contact me at (202) 418–1420 or at the email address noted above if Ms. Ragsdale is unavailable.

Sincerely yours,

Theresa Z. Cavanaugh
Acting Chief
Investigations and Hearings Division
Enforcement Bureau

cc: Johnnay Schrieber, Universal Service Administrative Company (via email) Rashann Duvall, Universal Service Administrative Company (via email) Juan Rodriguez, Antitrust Division, United States Department of Justice (via email) Marvin Opotowsky, Antitrust Division, United States Department of Justice (via email)

[FR Doc. 2011–22598 Filed 9–1–11; 8:45 am]

BILLING CODE 6712–01–P

[31] *See* FCC *Public Notice,* DA 09–2529 for further filing instructions (rel. Dec. 3, 2009).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 4656, Connecticut Bank of Commerce, Stamford, CT

Notice is hereby given that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for Connecticut Bank of Commerce, (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of Connecticut Bank of Commerce on June 26, 2002. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to:

Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 8.1, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Federal Deposit Insurance Corporation.

Dated: August 29, 2011.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2011–22474 Filed 9–1–11; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: September 8, 2011—10 a.m.

PLACE: 800 North Capitol Street, NW., First Floor Hearing Room, Washington, DC.

STATUS: A portion of the meeting will be in Open Session and the remainder of the meeting will be in Closed Session.

Matters To Be Considered

Open

1. Staff Briefing and Recommendation Concerning Draft Proposed Rule Revising Passenger Vessel Financial Responsibility Requirements, 46 CFR part 540, and Form FMC–131.

2. Staff Recommendation and Discussion Concerning Proposed Modification of 46 CFR 530.8(c)(2) for Index-based Service Contracts.

Closed

1. Staff Update and Discussion of PierPass Traffic Mitigation Fee.

2. Staff Briefing and Discussion Concerning Slow Steaming and Bunker Fuel Surcharges.

CONTACT PERSON FOR MORE INFORMATION: Karen V. Gregory, Secretary, (202) 523–5725.

Karen V. Gregory,

Secretary.

[FR Doc. 2011–22733 Filed 8–31–11; 4:15 pm]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Public Meeting: Notification by Capital One Financial Corporation, McLean, VA, To Acquire ING Bank, FSB, Wilmington, DE, and Indirectly To Acquire Shares of Sharebuilder Advisors, LLC and ING Direct Investing, Inc., Both of Seattle, WA

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of public meeting.

SUMMARY: Three public meetings will be held regarding the notice submitted by Capital One Financial Corporation, McLean, Virginia, to acquire ING Bank, FSB, Wilmington, Delaware, and indirectly to acquire shares of Sharebuilder Advisors, LLC, and ING Direct Investing, Inc., both of Seattle, Washington, pursuant to the Bank Holding Company Act (''BHC Act'') and related statutes. The purpose of the public meetings is to collect information relating to factors the Board is required to consider under the BHC Act.

DATES: The meeting dates are:

(1) Tuesday, September 20, 2011, 8:30 a.m. EDT, Washington, DC.

(2) Tuesday, September 27, 2011, 8:30 a.m. CDT, Chicago, IL.

(3) Wednesday, October 5, 2011, 8:30 a.m. PDT, San Francisco, CA.

ADDRESSES: The public meeting locations are:

(1) Washington, DC—Renaissance Washington DC Downtown Hotel, 999 Ninth Street, NW. Washington DC 20001.

(2) Chicago—Federal Reserve Bank of Chicago, 230 South LaSalle Street, Chicago, IL 60604.

(3) San Francisco—Federal Reserve Bank of San Francisco, 101 Market Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: For the Washington meeting: Kimberly Zeuli, Vice President and Community Affairs Officer, Federal Reserve Bank of Richmond, 701 East Byrd Street, Richmond, VA 23261. *E-mail: caorichmondfed@rich.frb.org; facsimile:* 804/697–5460.

For the Chicago meeting: Alicia Williams, Vice President, Federal Reserve Bank of Chicago, 230 South LaSalle Street, Chicago, IL 60604. *E-*

mail: ccaevents@chi.frb.org; facsimile: 312/913–2626.

For the San Francisco meeting: Scott Turner, Vice President and Community Affairs Officer, Federal Reserve Bank of San Francisco, 101 Market Street, Mail Stop 215, San Francisco, CA 94105. *E-mail: scott.turner@sf.frb.org; facsimile:* 415/393–1920.

SUPPLEMENTARY INFORMATION: On July 15, 2011, Capital One Financial Corporation, McLean, Virginia (''Capital One''), requested the Board's approval under the Bank Holding Company Act (12 U.S.C. 1841 *et seq.*) (''BHC Act'') and related statutes to acquire ING Bank, FSB, Wilmington, Delaware, and to indirectly acquire shares of Sharebuilder Advisors, LLC and ING Direct Investing, Inc., both of Seattle, Washington (collectively, ''ING''). The General Counsel, acting under authority delegated by the Board, hereby orders that public meetings on the Capital One/ING proposal be held in Washington, DC; Chicago, Illinois; and San Francisco, California.

Purpose and Procedures

The purpose of the public meetings is to collect information relating to the factors the Board is required to consider under the BHC Act. The Board is required to consider whether the notificant's performance of the activities can reasonably be expected to produce benefits to the public (such as greater convenience, increased competition, and gains in efficiency) that outweigh possible adverse effects (such as undue concentration of resources, decreased or unfair competition, conflicts of interests, unsound banking practices, and risk to the stability of the United States banking or financial system). Consideration of the above factors includes an evaluation of the financial and managerial resources of the notificant, including its subsidiaries, and any company to be acquired; the effect of the proposed transaction on those resources; and the management expertise, internal control and risk-management systems, and capital of the entity conducting the activity. In acting on a notice to acquire a savings association, the Board also reviews the records of performance of the insured depository institutions involved in the proposal under the Community Reinvestment Act, which requires the Board to take into account a relevant institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the institution, in evaluating such an acquisition proposal. 12 U.S.C. 2903.

Procedures for Meeting

Testimony at the public meetings will be presented to a panel consisting of a Presiding Officer and other panel members appointed by the Presiding Officer. The Presiding Officer will have the authority and discretion to ensure that the meetings proceed in a fair and orderly manner. In contrast to a formal administrative hearing, the rules for taking evidence in an administrative proceeding will not apply to the public meetings. Panel members may question witnesses, but no cross-examination of witnesses will be permitted. The public meetings will be transcribed, and the transcripts will be posted on the Board's public Web site within several days after each meeting. Information regarding the procedures for obtaining a copy of the transcripts will be announced at the public meetings.

The Presiding Officer will prepare a schedule for persons wishing to testify from the requests received for each meeting and establish the order of presentation. To ensure an opportunity for all interested commenters to present their views, the Presiding Officer may limit the amount of time allotted to each presentation. Persons not listed on the schedule may be permitted to speak at the public meeting, if time permits, at the conclusion of the schedule of witnesses in the discretion of the Presiding Officer. Copies of testimony may, but need not, be filed with the Presiding Officer before a person's presentation.

Request To Testify

Washington, DC: All persons wishing to testify at the public meeting in Washington must submit a written request to Kimberly Zeuli, Vice President and Community Affairs Officer, Federal Reserve Bank of Richmond, 701 East Byrd Street, Richmond, Virginia 23261 (*e-mail: caorichmondfed@rich.frb.org; facsimile:* 804/697–5460) no later than 5 p.m. EDT, September 9, 2011.

Chicago, IL: All persons wishing to testify at the public meeting in Chicago must submit a written request to Alicia Williams, Vice President, Federal Reserve Bank of Chicago, 230 South LaSalle Street, Chicago, Illinois 60604 (*e-mail: ccaevents@chi.frb.gov; facsimile:* 312/913–2626) no later than 5 p.m. CDT, September 15, 2011.

San Francisco, CA: All persons wishing to testify at the public meeting in San Francisco must submit a written request to Scott Turner, Vice President and Community Affairs Officer, Federal Reserve Bank of San Francisco, 101 Market Street, Mail Stop 215, San Francisco, California 94105 (*e-mail: scott.turner@sf.frb.org; facsimile:* 415/393–1920) no later than 5 p.m. PDT, September 23, 2011.

The request to testify must include the following information: (i) The location of the meeting the participant wishes to attend; (ii) a brief statement of the nature of the expected testimony (including whether the testimony will support or oppose the proposed transaction or provide other comment on the proposal) and the estimated time required for the presentation; (iii) the address and telephone number (e-mail address and facsimile number, if available) of the person testifying; and (iv) the identification of any special needs, such translation services, physical disabilities requiring assistance, or presentations requiring visual aids. Translators will be provided to the extent available if noted in the request to testify. Persons interested only in attending a meeting, but not testifying, need not submit a written request to attend.

Board of Governors of the Federal Reserve System, August 29, 2011.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2011–22483 Filed 9–1–11; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies

with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 12, 2011.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President), 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *Capital One Financial Corporation,* McLean, Virginia; to acquire 100 percent of the voting shares of ING Bank, FSB, Wilmington, Delaware, and indirectly acquire voting shares of Sharebuilder Advisors, LLC, and ING Direct Investing, Inc, both in Seattle, Washington, and thereby engage in operating a Federal savings bank, and investment financial advisory and securities brokerage service activities, pursuant to sections 225.28(b)(4)(ii), (b)(6)(i), and (b)(7)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, August 29, 2011.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2011–22484 Filed 9–1–11; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[FMR Bulletin PBS–2011–B2; Docket 2011–0006; Sequence 9]

Federal Management Regulation; FMR Bulletin PBS–2011–B2; Redesignations of Federal Buildings

AGENCY: Public Buildings Service (P), General Services Administration.

ACTION: Notice of a bulletin.

SUMMARY: The attached bulletin announces the designation and redesignation of two Federal buildings.

Expiration Date: This bulletin announcement expires January 31, 2012. The building designation and redesignation remains in effect until canceled or superseded by another bulletin.

FOR FURTHER INFORMATION CONTACT: U.S. General Services Administration, Public Buildings Service (P), Attn: David E. Foley, 1800 F Street, NW., Washington, DC 20405, e-mail at *david.foley@gsa.gov.* (202) 501–1100.

Dated: August 12, 2011.

Martha Johnson,

Administrator of General Services.

U.S. GENERAL SERVICES ADMINISTRATION REDESIGNATIONS OF FEDERAL BUILDINGS

TO: Heads of Federal Agencies

SUBJECT: Redesignations of Federal Buildings

1. *What is the purpose of this bulletin*? This bulletin announces the designation and redesignation of two Federal buildings.

2. *When does this bulletin expire*? This bulletin announcement expires January 31, 2012. The building designation and redesignation remains in effect until canceled or superseded by another bulletin.

3. *Designation.* The name of the designated building under construction is as follows:

John M. Roll United States Courthouse
98 West First Street
Yuma, AZ 85364

4. *Redesignation.* The former and new name of the redesignated building is follows:

Former Name	*New Name*
Federal Building and United States Courthouse, 217 West King Street, Martinsburg, WV 25401.	W. Craig Broadwater Federal Building and United States Courthouse, 217 West King Street, Martinsburg, WV 25401.

4. *Who should we contact for further information regarding designation and redesignation of these Federal buildings*? U.S. General Services Administration, Public Buildings Service (P), Attn: David E. Foley, 1800 F Street, NW, Washington, DC 20405, telephone number: (202) 501–1100, e-mail at *david.foley@gsa.gov.*

Dated: August 12, 2011.

Martha Johnson,

Administrator of General Services.

[FR Doc. 2011–22519 Filed 9–1–11; 8:45 am]

BILLING CODE 6820–23–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Intent To Award Affordable Care Act Funding, Funding Opportunity Announcement CDC–RFA–DP08–805

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice provides notice of CDC's intent to fund continuation cooperative agreement applications under the Nutrition, Physical Activity, and Obesity Program. These applications have been previously received and competed in response to CDC's Funding Opportunity CDC–RFA–DP08–805. It is the intent of CDC to provide continuation funding to sixteen (16) previously received and reviewed applications with the Patient Protection Affordable Care Act (PPACA), Section 4002, appropriations.

Recipient Reporting Requirements Under PPACA

Recipients funded with PPACA appropriations will be required to report project status on an annual basis. Specific reporting requirements will be detailed in the Terms and Conditions of the Notice of Cooperative Agreement Award.

CFDA Number 93.548 is the PPACA specific CFDA number for this initiative. It will replace CFDA Number 93.283 published in the above referenced Nutrition, Physical Activity, and Obesity Program Funding Opportunity Announcement (FOA).

Award Information

Approximate Current Fiscal Year Funding: $10,000,000.

Approximate Number of Awards: 16.

Approximate Average Award: $625,000.

Fiscal Year Funds: FY 2011.

Anticipated Award Date: September 30, 2011.

Budget Period: 12 months.

Project Period: 12 months.

Application Selection Process: Grantees have been selected based on methodology published in the Nutrition, Physical Activity, and Obesity Program CDC–RFA–DP08–805 FOA.

Applications were funded in order by score and rank determined by previously held review panel. In addition, as was referenced in the Nutrition, Physical Activity, and Obesity Program FOA, funding decisions related to awards may include a preference for states that have higher obesity prevalence rates (BRFSS, 2006).

CDC will add the following Authority to that which is reflected in the published Funding Opportunity: Section 4002 of the Patient Protection and Affordable Care Act (Pub. L. 111–148).

DATES: The effective date for this action is September 2, 2011 and remains in effect until the expiration of the one (1) year project period of the PPACA funded applications.

FOR FURTHER INFORMATION CONTACT: Elmira Benson, Deputy Director, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Atlanta, GA 30341, telephone (770) 488–2802, e-mail: *Elmira.Benson@cdc.gov.*

SUPPLEMENTARY INFORMATION: On March 23, 2010, the President signed into law the Patient Protection and Affordable Care Act (PPACA). PPACA is designed to improve and expand the scope of health care coverage for Americans. Cost savings through disease prevention is an important element of this legislation

and PPACA has established a Prevention and Public Health Fund (PPHF) for this purpose. Specifically, the legislation states in Section 4002 that the PPHF is to ''provide for expanded and sustained national investment in prevention and public health programs to improve health and help restrain the rate of growth in private and public sector health care costs''.

PPACA legislation affords an important opportunity to advance public health across the lifespan and to reduce health disparities by supporting intensive state and community approaches to chronic disease prevention and control. Therefore, awarding cooperative agreements with PPACA funds under PPHF to existing grantees to carry out Nutrition, Physical Activity, and Obesity Program objectives is consistent with the purpose of PPHF, as stated above, to provide for the expanded and sustained national investment in prevention and public health programs. Further, the Secretary allocated funds to CDC, pursuant to the PPHF, for the types of activities that the Nutrition, Physical Activity, and Obesity Program initiatives are designed to carry out.

Therefore, the Nutrition, Physical Activity, and Obesity Program activities CDC proposes to fund with PPACA appropriations are authorized by the amendment to the Public Health Services Act which authorized the Prevention and Wellness Program as embodied in CDC–RFA–DP08–805.

Dated: August 24, 2011.

Tanja Popovic,

Deputy Associate Director for Science, Centers for Disease Control and Prevention.

[FR Doc. 2011–22530 Filed 9–1–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Intent To Award Affordable Care Act Funding, Funding Opportunity Announcement CDC–RFA–DP07–707

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice provides notice of CDC's intent to fund continuation cooperative agreement applications under REACH US, Racial and Ethnic Approaches to Community Health Across the U.S. These applications have been previously received and competed in response to CDC Funding Opportunity CDC–RFA–DP07–707. It is the intent of CDC to provide continuation funding to thirty nine (39) previously received and reviewed applications with Patient Protection Affordable Care Act (PPACA), Section 4002, appropriations.

Recipient Reporting Requirements Under PPACA

Recipients funded with PPACA appropriations will be required to report project status on an annual basis. Specific reporting requirements will be detailed in the Terms and Conditions of the Notice of Cooperative Agreement Award.

CFDA Number 93.541 is the PPACA specific CFDA number for this initiative. It will replace CFDA Number 93.283 published in the above referenced REACH US Funding Opportunity Announcement (FOA).

Award Information

Approximate Current Fiscal Year Funding: $23,551,300.

Approximate Number of Awards: 39.

Approximate Average Awards: $547,704.

Fiscal Year Funds: 2011.

Anticipated Award Date: September 30, 2011.

Budget Period: 12 months.

Project Period: 12 months.

Application Selection Process: Grantees have been selected based on methodology published in the REACH US CDC–RFA–DP07–707 FOA.

Applications were funded in order by score and rank determined by previously held review panel. In addition, as was referenced in the REACH FOA, funding decisions were made to ensure:

- Geographic diversity across the United States.
- Inclusion of each racial/ethnic group that is specified in CDC–RFA–DP07–707 is represented.
- Inclusions of each health priority areas that are specified in CDC–RFA–DP07–707 are represented.
- Representation of communities with evident health disparities.
- Communities who currently lack access to health priority area-related resources and/or with high levels of poverty are represented as documented in the application.

CDC will add the following Authority to that which is reflected in the published Funding Opportunity: Section 4002 of the Patient Protection and Affordability Care Act (Pub. L. 111–148).

DATES: The effective date for this action is September 2, 2011 and remains in effect until the expiration of the one (1) year project period of the PPACA funded applications.

FOR FURTHER INFORMATION CONTACT: Elmira Benson, Deputy Director, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Atlanta, GA 30341, telephone: (770) 488–2802, e-mail: *EBenson@cdc.gov.*

SUPPLEMENTARY INFORMATION: On March 23, 2010, the President signed into law the Patient Protection and Affordable Care Act (PPACA). PPACA is designed to improve and expand the scope of health care coverage for Americans. Cost savings through disease prevention is an important element of this legislation and PPACA has established a Prevention and Public Health Fund (PPHF) for this purpose. Specifically, the legislation states in Section 4002 that the PPHF is to ''provide for expanded and sustained national investment in prevention and public health programs to improve health and help restrain the rate of growth in private and public sector health care costs''. PPACA and the Prevention and Public Health Fund make improving public health a priority with investments to improve public health.

The PPHF states that the Secretary shall transfer amounts in the Fund to accounts within the Department of Health and Human Services to increase funding, over the fiscal year 2008 level, for programs authorized by the public Health Services Act, for prevention, wellness and public health activities including prevention research and health screenings, such as the Community Transformation Grant Program, the Education and Outreach Campaign for Preventative Benefits, and Immunization Programs.

REACH US and PPACA legislation affords an important opportunity to advance public health across the lifespan and to reduce health disparities by supporting an intensive community approach to chronic disease prevention and control. Therefore, awarding cooperative agreements with PPACA funds under PPHF to existing grantees to carry out REACH objectives is consistent with the purpose of PPHF, as stated above, to provide for the expanded and sustained national investment in prevention and public health programs. Further, the Secretary allocated funds to CDC, pursuant to the PPHF, for the types of activities that the REACH initiatives are designed to carry out.

Therefore, the REACH program activities CDC proposes to fund with PPACA appropriations are authorized by the amendment to the Public Health Services Act which authorized the Prevention and Wellness Program as embodied in CDC–RFA–DP07–707.

Dated: August 22, 2011.

Tanja Popovic,

Deputy Associate Director for Science, Centers for Disease Control and Prevention.

[FR Doc. 2011–22524 Filed 9–1–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Intent To Award Affordable Care Act Funding, Funding Opportunity Announcement CDC–RFA–DP10–1014

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice provides notice of CDC's intent to fund continuation cooperative agreement applications under REACH CORE, Racial and Ethnic Approaches to Community Health Communities Organized to Respond and Evaluate. These applications have been previously received and competed in response to CDC Funding Opportunity CDC–RFA–DP10–1014. It is the intent of CDC to provide continuation funding to one (1) previously received and reviewed application with Patient Protection Affordable Care Act (PPACA), Section 4002, appropriations.

Recipient Reporting Requirements Under PPACA

Recipients funded with PPACA appropriations will be required to report project status on an annual basis. Specific reporting requirements will be detailed in the Terms and Conditions of the Notice of Cooperative Agreement Award.

CFDA Number 93.541 is the PPACA specific CFDA number for this initiative. It will replace CFDA Number 93.283 published in the above referenced REACH CORE Funding Opportunity Announcement (FOA).

Award Information

Approximate Current Fiscal Year Funding: $199,700.

Approximate Number of Awards: 1.

Approximate Average Awards: $199,700.

Fiscal Year Funds: 2011.

Anticipated Award Date: September 30, 2011.

Budget Period: 12 months.

Project Period: 12 months.

Application Selection Process: Grantees have been selected based on methodology published in the REACH CORE CDC–RFA–DP10–1014 FOA.

Applications were funded in order by score and rank determined by previously held review panel. In addition, as was referenced in the REACH CORE FOA, funding decisions were made to ensure:

- Geographic diversity across the United States.
- Inclusion of each racial/ethnic group that is specified in CDC–RFA–DP10–1014 is represented.
- Inclusions of each health priority areas that are specified in CDC–RFA–DP10–1014 are represented.
- Representation of communities with evident health disparities.
- Communities who currently lack access to health priority area-related resources and/or with high levels of poverty are represented as documented in the application.

CDC will add the following Authority to that which is reflected in the published Funding Opportunity: Section 4002 of the Patient Protection and Affordability Care Act (Pub. L. 111–148).

DATES: The effective date for this action is September 2, 2011 and remains in effect until the expiration of the one (1) year project period of the PPACA funded applications.

FOR FURTHER INFORMATION CONTACT: Elmira Benson, Deputy Director, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Atlanta, GA 30341, telephone: (770)488–2802, e-mail: *EBenson@cdc.gov.*

SUPPLEMENTARY INFORMATION: On March 23, 2010, the President signed into law the Patient Protection and Affordable Care Act (PPACA). PPACA is designed to improve and expand the scope of health care coverage for Americans. Cost savings through disease prevention is an important element of this legislation and PPACA has established a Prevention and Public Health Fund (PPHF) for this purpose. Specifically, the legislation states in Section 4002 that the PPHF is to ''provide for expanded and sustained national investment in prevention and public health programs to improve health and help restrain the rate of growth in private and public sector health care costs''. PPACA and the Prevention and Public Health Fund make improving public health a priority with investments to improve public health.

The PPHF states that the Secretary shall transfer amounts in the Fund to accounts within the Department of Health and Human Services to increase funding, over the fiscal year 2008 level, for programs authorized by the public Health Services Act, for prevention, wellness and public health activities including prevention research and health screenings, such as the Community Transformation Grant Program, the Education and Outreach Campaign for Preventative Benefits, and Immunization Programs.

REACH CORE and PPACA legislation affords an important opportunity to advance public health across the lifespan and to reduce health disparities by supporting an intensive community approach to chronic disease prevention and control. Therefore, awarding cooperative agreements with PPACA funds under PPHF to existing grantees to carry out REACH objectives is consistent with the purpose of PPHF, as stated above, to provide for the expanded and sustained national investment in prevention and public health programs. Further, the Secretary allocated funds to CDC, pursuant to the PPHF, for the types of activities that the REACH initiatives are designed to carry out.

Therefore, the REACH program activities CDC proposes to fund with PPACA appropriations are authorized by the amendment to the Public Health Services Act which authorized the Prevention and Wellness Program as embodied in CDC–RFA–DP10–1014.

Dated: August 22, 2011.

Tanja Popovic,

Deputy Associate Director for Science, Centers for Disease Control and Prevention.

[FR Doc. 2011–22528 Filed 9–1–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Intent To Award Affordable Care Act Funding, Funding Opportunity Announcement CDC–RFA–DP09–905

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice provides notice of CDC's intent to fund continuation cooperative agreement applications under the Racial and Ethnic Approaches to Community Health National

Organizations that Serve Minority Communities, REACH MNO. These applications have been previously received and competed in response to CDC Funding Opportunity CDC–RFA–DP09–905. It is the intent of CDC to provide continuation funding to three (3) previously received and reviewed applications with Patient Protection Affordable Care Act (PPACA), Section 4002, appropriations.

Recipient Reporting Requirements Under PPACA

Recipients funded with PPACA appropriations will be required to report project status on an annual basis. Specific reporting requirements will be detailed in the Terms and Conditions of the Notice of Cooperative Agreement Award.

CFDA Number 93.541 is the PPACA specific CFDA number for this initiative. It will replace CFDA Number 93.283 published in the above referenced REACH MNO Funding Opportunity Announcement (FOA).

Award Information

Approximate Current Fiscal Year Funding: $750,000.

Approximate Number of Awards: 3.

Approximate Average Awards: $250,000.

Fiscal Year Funds: 2011.

Anticipated Award Date: September 30, 2011.

Budget Period: 12 months.

Project Period: 12 months.

Application Selection Process: Grantees have been selected based on methodology published in the REACH MNO CDC–RFA–DP09–905 FOA.

Applications were funded in order by score and rank determined by previously held review panel.

CDC will add the following Authority to that which is reflected in the published Funding Opportunity: Section 4002 of the Patient Protection and Affordability Care Act (Pub. L. 111–148).

DATES: The effective date for this action is September 2, 2011 and remains in effect until the expiration of the one (1) year project period of the PPACA funded applications.

FOR FURTHER INFORMATION CONTACT: Elmira Benson, Deputy Director, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Atlanta, GA 30341, telephone: (770) 488–2802, e-mail: *EBenson@cdc.gov.*

SUPPLEMENTARY INFORMATION: On March 23, 2010, the President signed into law the Patient Protection and Affordable Care Act (PPACA). PPACA is designed to improve and expand the scope of health care coverage for Americans. Cost savings through disease prevention is an important element of this legislation and PPACA has established a Prevention and Public Health Fund (PPHF) for this purpose. Specifically, the legislation states in Section 4002 that the PPHF is to ''provide for expanded and sustained national investment in prevention and public health programs to improve health and help restrain the rate of growth in private and public sector health care costs''. PPACA and the Prevention and Public Health Fund make improving public health a priority with investments to improve public health.

The PPHF states that the Secretary shall transfer amounts in the Fund to accounts within the Department of Health and Human Services to increase funding, over the fiscal year 2008 level, for programs authorized by the public Health Services Act, for prevention, wellness and public health activities including prevention research and health screenings, such as the Community Transformation Grant Program, the Education and Outreach Campaign for Preventative Benefits, and Immunization Programs.

REACH MNO and PPACA legislation affords an important opportunity to advance public health across the lifespan and to reduce health disparities by supporting an intensive community approach to chronic disease prevention and control. Therefore, awarding cooperative agreements with PPACA funds under PPHF to existing grantees to carry out REACH objectives is consistent with the purpose of PPHF, as stated above, to provide for the expanded and sustained national investment in prevention and public health programs. Further, the Secretary allocated funds to CDC, pursuant to the PPHF, for the types of activities that the REACH initiatives are designed to carry out.

Therefore, the REACH program activities CDC proposes to fund with PPACA appropriations are authorized by the amendment to the Public Health Services Act which authorized the Prevention and Wellness Program as embodied in CDC–RFA–DP09–905.

Dated: August 22, 2011.

Tanja Popovic,

Deputy Associate Director for Science, Centers for Disease Control and Prevention.

[FR Doc. 2011–22499 Filed 9–1–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Subcommittee on Procedures Review, Advisory Board on Radiation and Worker Health (ABRWH), National Institute for Occupational Safety and Health (NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting for the aforementioned subcommittee:

Time and Date: 9 a.m.–5 p.m., September 19, 2011.

Place: Cincinnati Airport Marriott, 2395 Progress Drive, Hebron, Kentucky 41018, Telephone: (859) 334–4611, Fax: (859) 334–4619.

Status: Open to the public. In the event an individual wishes to provide comments, written comments must be submitted prior to the meeting. To access by conference call dial the following information: (866) 659–0537, Participant Pass Code 9933701.

Background: The ABRWH was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the compensation program. Key functions of the ABRWH include providing advice on the development of probability of causation guidelines that have been promulgated by the Department of Health and Human Services (HHS) as a final rule; advice on methods of dose reconstruction which have also been promulgated by HHS as a final rule; advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program; and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the ABRWH to HHS, which subsequently delegated this authority to CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, and will expire on August 3, 2013.

Purpose: The ABRWH is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of

dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advising the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is a reasonable likelihood that such radiation doses may have endangered the health of members of this class. The Subcommittee on Procedures Review was established to aid the ABRWH in carrying out its duty to advise the Secretary, HHS, on dose reconstructions. The Subcommittee on Procedures Review is responsible for overseeing, tracking, and participating in the reviews of all procedures used in the dose reconstruction process by the NIOSH Division of Compensation Analysis and Support (DCAS) and its dose reconstruction contractor.

Matters To Be Discussed: The agenda for the Subcommittee meeting includes discussion of the following ORAU and OCAS procedures: ORAUT–RPRT–0044 (''Analysis of Bioassay Data with a Significant Fraction of Less-Than Results''), OCAS TIB–0013 (''Special External Dose Reconstruction Considerations for Mallinckrodt Workers''), OTIB–0019 (''Analysis of Coworker Bioassay Data for Internal Dose Assignment''), OTIB–0021 (External Coworker Dosimetry Data for the X–10 Site), OTIB–0029 (''Internal Dosimetry Coworker Data for Y–12''), OTIB–0047 (''External Radiation Monitoring at the Y–12 Facility During the 1948–1949 Period''), OTIB–0049 (''Estimating Doses for Plutonium Strongly Retained in the Lung''), OTIB–0052 (''Parameters to Consider When Processing Claims for Construction Trade Workers''), OTIB–0054 (''Fission and Activation Product Assignment for Internal Dose-Related Gross Beta and Gross Gamma Analyses''), and OTIB–0070 (''Dose Reconstruction During Residual Radioactivity Periods at Atomic Weapons Employer Facilities''); and a continuation of the comment-resolution process for other dose reconstruction procedures under review by the Subcommittee.

The agenda is subject to change as priorities dictate.

This meeting is open to the public. In the event an individual wishes to provide comments, written comments must be submitted prior to the meeting. Any written comments received will be provided at the meeting and should be submitted to the contact person below in advance of the meeting.

Contact Person for More Information: Theodore Katz, Executive Secretary, NIOSH, CDC, 1600 Clifton Road, Mailstop E–20, Atlanta, Georgia 30333, Telephone: (513) 533–6800, Toll Free: 1 (800) CDC–INFO, E-mail *dcas@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry.

Dated: August 29, 2011.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2011–22501 Filed 9–1–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10390 and 10409]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Hospice Voluntary Quality Data Reporting Program; *Use:* Section 1814(i)(5) of the Social Security Act (Act) added by section 3004 of Patient Protection and Affordable Care Act, Public Law 111–148, enacted on March 23, 2010 (Affordable Care Act), authorizes the Secretary to establish a quality reporting program for hospices. Section 1814(i)(5)(A)(i) of the Act requires that the Secretary, beginning with FY 2014, reduce the market basket update by 2 percentage points for any hospice that does not comply with the quality data submission requirements with respect to that fiscal year.

To meet the quality reporting requirements for hospices, as set forth in the proposed Hospice Wage Index for Fiscal Year 2012 rule, we propose that there shall be a voluntary hospice quality reporting cycle which will consist of data collection cycle beginning on October 1, 2011 and continuing through December 31, 2011. This data shall be reported to CMS by no later than January 31, 2012. There shall be a mandatory hospice quality reporting cycle which will consist of data collected from October 1, 2012 through December 31, 2012. This data shall be reported to CMS by no later than April 1, 2013. Thereafter, it is proposed that all subsequent hospice quality reporting cycles will be based on the calendar-year basis(that is, January 1, 2013 through December 31, 2013 for determination of the Hospice market basket increase factor for each Hospice in FY 2015, *etc.*).

We are requesting an initial approval of a data collection instrument entitled ''Quality Data Submission Form'' that hospice providers will use to submit quality measures data to CMS during the proposed voluntary reporting period of 10/01/2011 through 12/31/2011. This form shall be used by hospices to report quality data pertaining to one structural measure, which is entitled: Participation in a Quality Assessment and Performance Improvement (QAPI) Program that Includes at Least Three Quality Indicators Related to Patient Care. *Form Number:* CMS–10390 (OMB 0938–New); *Frequency:* Occasionally; *Affected Public:* Private Sector: Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 3,531; *Total Annual Responses:* 3,531; *Total Annual Hours:* 883. (For policy questions regarding this collection contact Robin Dowell at 410–786–0060. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Long Term Care Hospital (LCTH) Quality Reporting Program—Pressure Ulcer Measure Data Set; *Use:* Section 3004 of the Affordable Care Act authorizes the establishment of a new quality reporting program for Long Term Care Hospitals (LTCHs). LTCHs that fail to submit quality measure data may be subject to a 2 percentage point reduction in their

annual update to the standard Federal rate for discharges occurring during a rate year, beginning in FY 2014. One of the quality measures LTCHs are required to collect and submit data on is the Percent of Residents with Pressure Ulcers That Are New or Have Worsened.

Currently, there are no mandatory standardized data sets being used in LTCHs. Therefore, we have created a new data set to be used in LTCHs, which incorporates data items contained in other, well known and clinically established pressure ulcer data sets, including but not limited to the Minimum Data Set 3.0 (MDS 3.0) and CARE data set (Continuity Assessment Records & Evaluation).

Beginning on October 1, 2012, LTCHs will begin to use a data collection document entitled the ''LTCH CARE Data Set'' as the vehicle by which to collect the pressure ulcer data for the LTCH quality reporting program. This data set consists of the following components: (1) Pressure ulcer documentation; (2) selected covariates related to pressure ulcers; (3) patient demographic information; and; (4) a provider attestation section. The use of the LTCH CARE Data Set is necessary in order to allow CMS to collect LTCH quality measures data in compliance with Section 3004 of the Affordable Care Act. There are no other reasonable alternatives available to CMS for the collection and submission of pressure ulcer data. *Form Number:* CMS–10409 (OCN: 0938–New); *Frequency:* Occasionally; *Affected Public:* Private Sector: Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 3,531; *Total Annual Responses:* 3,531; *Total Annual Hours:* 883. (For policy questions regarding this collection contact Caroline Gallaher at 410–786–8705. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by *November 1, 2011:*

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, *Attention:* Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: August 30, 2011.

Martique Jones,

Director, Regulations Development Group, Division B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2011–22583 Filed 9–1–11; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0556]

Center for Devices and Radiological Health 510(k) Clearance Process; Recommendations Proposed in Institute of Medicine Report: ''Medical Devices and the Public's Health, The FDA 510(k) Clearance Process at 35 Years''; Public Meeting; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of Friday, August 12, 2011 (76 FR 50230). The document announced a public workshop entitled ''Recommendations Proposed in Institute of Medicine Report: 'Medical Devices and the Public's Health, The FDA 510(k) Clearance Process at 35 Years.' '' The document was published with an outdated address in the section entitled ''Will there be transcripts of the meeting?'' This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Joyce Strong, Office of Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 3208, Silver Spring, MD 20993–0002, 301–796–9148.

SUPPLEMENTARY INFORMATION: In FR Doc. 2011–20575, appearing on page 50230 in the **Federal Register** of Friday, August 12, 2011, the following correction is made:

1. On page 50231, in the second column, under the section entitled ''Will there be transcripts of the meeting?'' the address for the Division of Freedom of Information is corrected to read ''Division of Freedom of Information (ELEM–1029), Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857.''

Dated: August 29, 2011.

Nancy K. Stade,

Deputy Director for Policy, Center for Devices and Radiological Health.

[FR Doc. 2011–22475 Filed 9–1–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0002]

Request for Nominations for Voting Members on a Public Advisory Committee; Tobacco Products Scientific Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for members to serve on the Tobacco Products Scientific Advisory Committee, Center for Tobacco Products.

FDA has a special interest in ensuring that women, minority groups, and individuals with disabilities are adequately represented on advisory committees and, therefore, encourages nominations of qualified candidates from these groups.

DATES: Nominations received on or before November 1, 2011 will be given first consideration for membership on the Tobacco Products Scientific Advisory Committee. Nominations received after November 1, 2011 will be considered for nomination to the committee if nominees are still needed.

ADDRESSES: All nominations for membership should be sent electronically to *cv@oc.fda.gov,* or by mail to Advisory Committee Oversight and Management Staff, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993–0002.

FOR FURTHER INFORMATION CONTACT:

Regarding all nomination questions for membership, the primary contact is:

Caryn Cohen, Office of Science, Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 1–877–287–1373 (choose Option 4), FAX: 240–276–3761, *TPSAC@fda.hhs.gov.*

Information about becoming a member on an FDA advisory committee can also be obtained by visiting FDA's Web site by using the following link: *http://www.fda.gov/AdvisoryCommittees/default.htm.*

SUPPLEMENTARY INFORMATION: FDA is requesting nomination for voting members on the Tobacco Products Scientific Advisory Committee.

I. General Description of the Committee Duties

The Tobacco Products Scientific Advisory Committee (the Committee) advises the Commissioner of Food and Drugs (the Commissioner) or designee in discharging responsibilities as they relate to the regulation of tobacco products. The Committee reviews and evaluates safety, dependence, and health issues relating to tobacco products and provides appropriate advice, information and recommendations to the Commissioner.

II. Criteria for Voting Members

Members and the Chair are selected by the Commissioner or designee from among individuals knowledgeable in the fields of medicine, medical ethics, science, or technology involving the manufacture, evaluation, or use of tobacco products. Members will be invited to serve for terms of up to 4 years. The Committee shall include nine technically qualified voting members, selected by the Commissioner or designee. The nine voting members shall be physicians, dentists, scientists, or health care professionals practicing in the area of oncology, pulmonology, cardiology, toxicology, pharmacology, addiction, or any other relevant specialty.

III. Nomination Procedures

Any interested person may nominate one or more qualified individuals for membership on the advisory committee. Self-nominations are also accepted. Nominations must include a current, complete resume or curriculum vitae for each nominee, including current business address and/or home address, telephone number, and e-mail address if available. Nominations must also specify the advisory committee for which the nominee recommended. Nomination must also acknowledge that the nominee is aware of the nomination unless self-nominated. FDA will ask potential candidates to provide detailed information concerning such matters related to financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflicts of interest.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: August 30, 2011.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2011–22548 Filed 9–1–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Literature Selection Technical Review Committee.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended because the premature disclosure of journals as potential titles to be indexed by the National Library of Medicine and the discussions would likely to significantly frustrate implementation of recommendations.

Name of Committee: Literature Selection Technical Review Committee.

Date: October 27–28, 2011.

Open: October 27, 2011, 9 a.m. to 11 a.m.

Agenda: Administrative.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20894.

Closed: October 27, 2011, 11 a.m. to 5 p.m.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20894.

Closed: October 28, 2011, 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20894.

Contact Person: Sheldon Kotzin, MLS, Associate Director, Division of Library Operations, National Library of Medicine, 8600 Rockville Pike, Building 38, Room 2W06, Bethesda, MD 20892, 301–496–6921, *kotzins@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS).

Dated: August 29, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–22601 Filed 9–1–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group, Musculoskeletal Tissue Engineering Study Section.

Date: September 29–30, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jean D. Sipe, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106,

MSC 7814, Bethesda, MD 20892. 301–435–1743. *smithbf@auburn.edu.*

Name of Committee: Emerging Technologies and Training Neurosciences Integrated Review Group, Molecular Neurogenetics Study Section.

Date: September 29, 2011.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Eugene Carstea, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892. (301) 408–9756. *carsteae@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR10–174: International Research Ethics Education and Curriculum Development.

Date: October 4, 2011.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Monaco Alexandria, 480 King Street, Alexandria, VA 22314.

Contact Person: Karin F. Helmers, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7770, Bethesda, MD 20892. 301–254–9975. *helmersk@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group, Clinical Neuroscience and Neurodegeneration Study Section.

Date: October 5–6, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037.

Contact Person: Samuel C. Edwards, PhD, Chief, Brain Disorders and Clinical Neuroscience, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892. (301) 435–1246. *edwardss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neurotechnology Overflow.

Date: October 5–6, 2011.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037.

Contact Person: Yvonne Bennett, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5199, MSC 7846, Bethesda, MD 20892. 301–379–3793. *bennetty@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Skeletal Muscle and Dermatology.

Date: October 5, 2011.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Aruna K. Behera, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4211, MSC 7814, Bethesda, MD 20892. 301–435–6809. *beheraak@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 29, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–22542 Filed 9–1–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2011–0014; OMB No. 1660–0020]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, Write Your Own (WYO) Program

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the following information collection to the Office of Management and Budget (OMB) for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission describes the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort and resources used by respondents to respond) and cost, and includes the actual data collection instruments FEMA will use.

SUPPLEMENTARY INFORMATION:

Title: Write Your Own (WYO) Program.

OMB Number: 1660–0020.

Abstract: FEMA enters into arrangements with individual private sector insurance companies that are licensed to engage in the business of property insurance. These companies may offer flood insurance coverage to eligible property owners utilizing their customary business practices. WYO Companies are expected to meet the recording and reporting requirements of the WYO Transaction Record Reporting and Processing Plan.

Affected Public: Business or other for-profit.

Number of Respondents: 88.

Estimated Time per Respondent: 0.59 hours.

Estimated Total Annual Burden Hours: 623 hours.

Frequency of Response: Monthly.

Comments: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–6974. Comments must be submitted on or before October 3, 2011.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 500 C Street, SW., Washington, DC 20472, Mail Drop Room 301, 1800 S. Bell Street, Arlington, VA 22202, facsimile number (202) 646–3347, or e-mail address *FEMA-Information-Collections@dhs.gov.*

Lesia M. Banks,

Director, Records Management Division, Office of the Chief Administrative Officer, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2011–22464 Filed 9–1–11; 8:45 am]

BILLING CODE 9111–52–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4014–DR; Docket ID FEMA–2011–0001]

Nebraska; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Nebraska (FEMA–4014–DR), dated August 12, 2011, and related determinations.

DATES: *Effective Date:* August 25, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Nebraska is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of August 12, 2011.

Dundy and Logan Counties for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–22459 Filed 9–1–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1971–DR; Docket ID FEMA–2011–0001]

Alabama; Amendment No. 18 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for State of Alabama (FEMA–1971–DR), dated April 28, 2011 and related determinations.

DATES: *Effective Date:* August 25, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Joe M. Girot, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Michael F. Byrne as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–22462 Filed 9–1–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Foreign Trade Zone Annual Reconciliation Certification and Record Keeping Requirement

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments; Extension of an existing collection of information: 1651–0051.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Petition for Remission or Mitigation of Forfeitures and Penalties Incurred. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Written comments should be received on or before November 1, 2011, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Foreign Trade Zone Annual Reconciliation Certification and Record Keeping Requirement.

OMB Number: 1651–0051.

Form Number: None.

Abstract: In accordance with 19 CFR 146.25 and 146.4, foreign trade zone (FTZ) operators are required to account for zone merchandise admitted, stored, manipulated and removed from FTZs. FTZ operators must prepare a reconciliation report within 90 days after the end of the zone year for a spot check or audit by CBP. In addition, within 10 working days after the annual reconciliation, FTZ operators must submit to the CBP port director a letter signed by the operator certifying that the annual reconciliation has been prepared and is available for CBP review and is accurate. These requirements are authorized by Foreign Trade Zones Act, as amended (Title 19 U.S.C. 81a).

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses or other for-profit institutions.

Estimated Number of Respondents: 260.

Estimated Time per Respondent: 45 minutes.

Estimated Total Annual Burden Hours: 195.

Dated: August 30, 2011.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2011–22587 Filed 9–1–11; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5477–N–35]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Ritta, Division of Property Management, Program Support Center, HHS, Room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Air Force:* Mr. Robert Moore, Air Force Real Property Agency, 143 Billy Mitchell Blvd., San Antonio, TX 78226, (210) 925–3047; *COE:* Mr. Scott Whiteford, Army Corps of Engineers, Real Estate, CEMP–CR, 441 G Street, NW., Washington, DC 20314; (202) 761–5542; *DoD:* Ms. Julie L. Jones-Conte, Department of Defense, Real Property Assets Management, Washington Headquarters Services, Room 5D325 Pentagon, Washington, DC 20315; (703) 697–0044; *Energy:* Mr. Mark Price, Department of Energy, Office of Engineering & Construction Management, MA–50, 1000 Independence Ave, SW., Washington, DC 20585: (202) 586–5422; *GSA:* Mr. John E.B. Smith, General Services Administration, Office of Real Property Utilization and Disposal, 1800 F Street NW., Room 7040 Washington, DC 20405; (202) 501–0084; *Navy:* Mr. Albert Johnson, Department of the Navy, Asset Management Division, Naval Facilities Engineering Command, Washington Navy Yard, 1330 Patterson Ave., SW., Suite 1000, Washington, DC 20374; (202) 685–9305; (These are not toll-free numbers).

Dated: August 25, 2011.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

Title V, Federal Surplus Property Program Federal Register Report for 09/02/2011

Suitable/Available Properties

Land

Massachusetts

Land/Tract #A101,
McDill Rd.,
Bedford MA 07131,
Landholding Agency: Air Force,
Property Number: 18201130003,
Status: Unutilized.
Comments: 5.35 acres, recent use: AF trailer court, property limitation: Local Bedford Zoning By-Laws (Industrial Park District A–IP).

Texas

Parcel 2,
Camp Bowie,
Brownwood TX 76801,
Landholding Agency: GSA,
Property Number: 54201130001,
Status: Surplus,
GSA Number: 7–D–TX–0589.
Comments: 22.58 acres, two storage units on land approx. 600 sq. ft., recent use: Storage,

legal constraints: access easement, 10% of property in floodway.

Unsuitable Properties

Building

California

10 Bldgs.,
Lawrence Berkeley Nat'l Lab,
Berkeley CA 94720,
Landholding Agency: Energy,
Property Number: 41201130004,
Status: Excess,
Directions: 90B, 90C, 90F, 90G, 90H, 90J, 90K, 90P, 90Q, 90R.
Reasons: Contamination, Extensive deterioration, Secured Area.

Bldg. 1533,
Marine Air Guard,
Twenty-nine Palms CA,
Landholding Agency: Navy,
Property Number: 77201130013,
Status: Excess,
Reasons: Extensive deterioration.

Georgia

9 Bldgs.,
MCLB,
Albany GA,
Landholding Agency: Navy,
Property Number: 77201130014,
Status: Unutilized,
Directions: 1550, 7103, 7105, 7107, 7109, 7111, 7113, 7115, 9201AB.
Reasons: Secured Area, Contamination.

Illinois

Trailers 116, 124, 134,
Fermi Nat'l Accelerator Lab,
Fermilab IL 60510,
Landholding Agency: Energy,
Property Number: 41201130003,
Status: Excess,
Reasons: Extensive deterioration.

New York

Bldg. 0463A,
Brookhaven Nat'l Lab,
Upton NY 11973,
Landholding Agency: Energy,
Property Number: 41201130001,
Status: Excess,
Reasons: Extensive deterioration.

Floyd Wknd Trng Site,
Koenig Rd.,
Floyd NY,
Landholding Agency: GSA,
Property Number: 54201120001,
Status: Excess,
GSA Number: 1–D–NY–0958.
Directions: 1300, 1302, 1303, 1304, 1305, 1306 w/shed, 1307 w/shed.
Comments: Land and bldgs. was previously reported and published in the **Federal Register** as two separate unsuitability determinations; however, bldgs. and land has been reclassified as one parcel.
Reasons: Extensive deterioration.

North Dakota

Stanley Mickelsen,
10509 County 26,
Nekoma ND 58355,
Landholding Agency: GSA,
Property Number: 54201130003,
Status: Surplus,
GSA Number: 7–D–ND–0499,
Reasons: Secured Area.

Ohio

Facility 20040,
2330 K. Street,
WPAFB OH 45433,
Landholding Agency: Air Force,
Property Number: 18201130030,
Status: Unutilized,
Reasons: Secured Area.

Oklahoma

9 Bldgs.,
Hugo Lake,
Sawyer OK 74756,
Landholding Agency: COE,
Property Number: 31201130004,
Status: Underutilized,
Directions: 43842, 43808, 43813, 43812, 43765, 43783, 43784, 43790, 43791.
Reasons: Extensive deterioration.

Oregon

Bldg. 6977,
Foster Lake,
Sweet Home OR,
Landholding Agency: COE,
Property Number: 31201130003,
Status: Unutilized,
Reasons: Extensive deterioration.

7 Bldgs.,
Cougar Lake,
Eugene OR,
Landholding Agency: COE,
Property Number: 31201130005,
Status: Unutilized,
Directions: 8450, 6378, 6381, 7513, 7514, 7515, 8449.
Reasons: Extensive deterioration, Contamination.

Fern Ridge Lake,
Richardson Park Marina,
Junction City OR 97448,
Landholding Agency: COE,
Property Number: 31201130006,
Status: Underutilized,
Reasons: Secured Area.

Pennsylvania

Guard Tower Bldg,
NSA Activity,
Mechanicsburg PA 17055,
Landholding Agency: Navy,
Property Number: 77201130015,
Status: Excess,
Reasons: Secured Area.

Texas

3 Portable Bldgs.,
Pantex Plant,
Amarillo TX,
Landholding Agency: Energy,
Property Number: 41201130002,
Status: Unutilized,
Directions: 09–054, 09–098, and 12–093.
Reasons: Extensive deterioration, Within 2000 ft. of flammable or explosive material, Secured Area.

Virginia

11 Bldgs.,
WHS,
Arlington VA,
Landholding Agency: DOD,
Property Number: 34201130001,
Status: Excess,
Reasons: Secured Area.

Washington

Boat House,
3015 NW., 54th Street,
Seattle WA 98107,
Landholding Agency: COE,
Property Number: 31201130002,
Status: Unutilized,
Reasons: Extensive deterioration.

[FR Doc. 2011–22191 Filed 9–1–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

The Bureau of Ocean Energy Management, Regulation and Enforcement

Environmental Documents Prepared for Proposed Oil, Gas, and Mineral Operations by the Gulf of Mexico Outer Continental Shelf (OCS) Region

AGENCY: The Bureau of Ocean Energy Management, Regulation and Enforcement, Interior.

ACTION: Notice of the Availability of Environmental Documents Prepared for OCS Mineral Proposals by the Gulf of Mexico OCS Region.

SUMMARY: The Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), in accordance with Federal Regulations that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Site-Specific Environmental Assessments (SEA) and Findings of No Significant Impact (FONSI), prepared by BOEMRE for the following oil-, gas-, and mineral-related activities proposed on the Gulf of Mexico.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section at the number below. Bureau of Ocean Energy Management, Regulation and Enforcement, Gulf of Mexico OCS Region, Attention: Public Information Office (MS 5034), 1201 Elmwood Park Boulevard, Room 250, New Orleans, Louisiana 70123–2394, or by calling 1–800–200–GULF.

SUPPLEMENTARY INFORMATION: The BOEMRE prepares SEAs and FONSIs for proposals that relate to exploration, development, production, and transport of oil, gas, and mineral resources on the Federal OCS. These SEAs examine the potential environmental effects of activities described in the proposals and present BOEMRE conclusions regarding the significance of those effects. Environmental Assessments are used as a basis for determining whether or not approval of the proposals constitutes a major Federal action that significantly affects the quality of the human

environment in accordance with NEPA Section 102(2)(C). A FONSI is prepared in those instances where BOEMRE finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the SEA. This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Activity/Operator	Location	Date
Marathon Oil Company, Exploration Plan, SEA R–5149	Ewing Bank Areas, Blocks 873, 917, 961 & 1005, respectively, located south of Louisiana in the Central Planning Area of the Gulf of Mexico.	4/4/2011
TGS–NOPEC, Geophysical Company, Geological & Geophysical Survey, SEA L10–050.	Located in the Central Planning Area of the Gulf of Mexico	4/4/2011
Shell Exploration and Production Company, Exploration Plan, SEA R–5140.	Located in the Central Planning Area of the Gulf of Mexico	4/4/2011
Apex Oil & Gas, Inc., Structure Removal, SEA ES/SR 11–086	Vermilion, Block 69, Lease OCS–G 21591, located 20 miles from the nearest Louisiana shoreline.	4/5/2011
Remington Oil and Gas Corporation, Structure Removal, SEA ES/SR 11–026.	Vermilion, Block 83, Lease OCS–G 23667, located 24 miles from the nearest Louisiana shoreline.	4/5/2011
NCX Company, Inc., Structure Removal, SEA ES/SR 10–121	Eugene Island, Block 349, Lease OCS–G 02322, located 82 miles from the nearest Louisiana shoreline.	4/7/2011
Apache Corporation, Structure Removal, SEA ES/SR 06–077A	East Cameron, Block 171, Lease OCS–G 12836, located 53 miles from the nearest Louisiana shoreline.	4/8/2011
Maritech Resources, Inc., Structure Removal, SEA ES/SR 11–057.	Eugene Island, Block 116, Lease OCS–G 00478, located 30 miles from the nearest Louisiana shoreline.	4/11/2011
Hilcorp Energy GOM, LLC, Geological & Geophysical Survey, SEA L11–001.	Located in the Central Planning Area of the Gulf of Mexico	4/13/2011
Shell Offshore, Inc., Geological & Geophysical Survey, SEA L11–002.	Located in the Central Planning Area of the Gulf of Mexico	4/13/2011
TGS–NOPEC Geophysical Company, Geological & Geophysical Survey, SEA L11–007.	Located in the Central Planning Area of the Gulf of Mexico	4/13/2011
EMGS Americas Inc., Geological & Geophysical Survey, SEA M09–013.	Located in the Eastern Planning Area of the Gulf of Mexico	4/13/2011
SPN Resources, LLC, Structure Removal, SEA ES/SR 07–161A	Mobile, Block 861, Lease OCS–G 05062, located 7 miles from the nearest Alabama shoreline.	4/18/2011
Mariner Gulf of Mexico LLC, Structure Removal, SEA ES/SR 11–096.	High Island, Block 175, Lease OCS–G 17150, located 28 miles from the nearest Texas shoreline.	4/20/2011
Mariner Energy, Inc., Structure Removal, SEA ES/SR 11–084 & 11–085.	High Island, Block 469A, Lease OCS–G 02689, located 95 miles from the nearest Texas shoreline.	4/20/2011
Maritech Resources, Inc., Structure Removal, SEA ES/SR 11–087.	Eugene Island, Block 128, Lease OCS–G 00053, located 30 miles from the nearest Louisiana shoreline.	4/21/2011
McMoRan Oil & Gas LLC, Structure Removal, SEA ES/SR 11–090.	West Cameron, Block 617, Lease OCS–G 13852, located 90 miles from the nearest Louisiana shoreline.	4/21/2011
Maritech Resources, Inc., Structure Removal, SEA ES/SR 11–106.	Brazos, Block 397, Lease OCS–G 09012, located 16 miles from the nearest Texas shoreline.	4/25/2011
XTO Offshore Inc., Structure Removal, SEA ES/SR 11–094	South Timbalier, Block 254, Lease OCS–G 23936, located 55 miles from the nearest Louisiana shoreline.	4/25/2011
Energy Partners, Ltd., Structure Removal, SEA ES/SR 11–093	South Timbalier, Block 46, Lease OCS–G 24955, located 12 miles from the nearest Louisiana shoreline.	4/25/2011
Apache Corporation, Structure Removal, SEA ES/SR 11–095	West Cameron, Block 71, Lease OCS–G 00244, located 11 miles from the nearest Louisiana shoreline.	4/25/2011
Maritech Resources, Inc., Structure Removal, SEA ES/SR 11–082.	Eugene Island, Block 129, Lease OCS–G 30029, located 30 miles from the nearest Louisiana shoreline.	5/3/2011
Merit Energy Company, LLC, Structure Removal, SEA ES/SR 11–083.	Vermilion, Block 386, Lease OCS–G 02278, located 103 miles from the nearest Louisiana shoreline.	5/3/2011
Maritech Resources, Inc., Structure Removal, SEA ES/SR 11–105.	Brazos, Block 396, Lease OCS–G 10213, located 17 miles from the nearest Texas shoreline.	5/4/2011
Mariner Energy, Inc., Structure Removal, SEA ES/SR 11–034	High Island, Block A287, Lease OCS–G 25601, located 93 miles from the nearest Texas shoreline.	5/4/2011
McMoRan Oil & Gas LLC, Structure Removal, SEA ES/SR 11–089.	Eugene Island, Block 352, Lease OCS–G 03410, located 90 miles from the nearest Louisiana shoreline.	5/5/2011
Mariner Energy, Inc., Structure Removal, SEA ES/SR 11–112	High Island, Block 46, Lease OCS–G 24404, located 26 miles from the nearest Texas shoreline.	5/5/2011
CGGVeritas, Geological & Geophysical Survey, SEA L11–003	Located in the Central and Western Planning Areas of the Gulf of Mexico.	5/5/2011
Stone Energy Corporation, Structure Removal, SEA ES/SR 11–114.	South Pelto, Block 15, Lease OCS–G 9652, located 10 miles from the nearest Louisiana shoreline.	5/5/2011
Energy Partners, Ltd., Structure Removal, SEA ES/SR 11–113	Vermilion, Block 101, Lease OCS–G 27061, located 27 miles from the nearest Louisiana shoreline.	5/5/2011
GOM Shelf LLC, Structure Removal, SEA ES/SR 11–109	Grand Isle, Block 43, Lease OCS–G 00175, located 21 miles from the nearest Louisiana shoreline.	5/6/2011
Mariner Energy, Inc., Structure Removal, SEA ES/SR 11–118	High Island, Block A416, Lease OCS–G 15794, located 71 miles from the nearest Louisiana shoreline.	5/6/2011
Mariner Gulf of Mexico LLC, Structure Removal, SEA ES/SR 11–124.	High Island, Block A7, Lease OCS–G 15781, located 28 miles from the nearest Louisiana shoreline.	5/6/2011
CGGVeritas, Geological & Geophysical Survey, SEA L11–004	Located in the Central and Eastern Planning Areas of the Gulf of Mexico.	5/6/2011

Activity/Operator	Location	Date
Union Oil Company of California, Structure Removal, SEA ES/SR 11–131.	Mobile, Block 917, Lease OCS–G 05754, located 8 miles from the nearest Mississippi shoreline.	5/6/2011
Chevron U.S.A. Inc., Structure Removal, SEA ES/SR 11–129 ...	West Cameron, Block 54, Lease OCS–G 22501, located 4 miles from the nearest Louisiana shoreline.	5/6/2011
GOM Shelf LLC, Structure Removal, SEA ES/SR 11–111	West Delta, Block 70, Lease OCS–G 00182, located 23 miles from the nearest Louisiana shoreline.	5/6/2011
Forest Oil Corporation, Structure Removal, SEA ES/SR 11–119	East Cameron, Block 14, Lease OCS–G 13572, located 6 miles from the nearest Louisiana shoreline.	5/9/2011
Forest Oil Corporation, Structure Removal, SEA ES/SR 11–117	Matagorda Island, Block 566, Lease OCS–G 23654, located 77 miles from the nearest Texas shoreline.	5/9/2011
Apache Corporation, Structure Removal, SEA ES/SR 11–125, 11–126 & 11–127.	South Marsh Island, Block 33, Lease OCS–G 00780, located 43 miles from the nearest Louisiana shoreline.	5/9/2011
LLOG Exploration Offshore, L.L.C., Structure Removal, SEA ES/SR 11–138.	Eugene Island, Block 113B, Lease OCS–G 22662, located 34 miles from the nearest Louisiana shoreline.	5/10/2011
ATP Oil & Gas Corporation, Structure Removal, SEA ES/SR 11–147.	South Timbalier, Block 48, Lease OCS–G 14518, located 100 miles from the nearest Louisiana shoreline.	5/10/2011
Forest Oil Corporation, Structure Removal, SEA ES/SR 11–128	Eugene Island, Block 255, Lease OCS–G 10742, located 46 miles from the nearest Louisiana shoreline.	5/11/2011
Apache Corporation, Structure Removal, SEA ES/SR 11–123 ...	Eugene Island, Block 43, Lease OCS–G 17958, located 10 miles from the nearest Louisiana shoreline.	5/11/2011
GOM Shelf LLC, Structure Removal, SEA ES/SR 11–110	Grand Isle, Block 47, Lease OCS 00133, located 18 miles from the nearest Louisiana shoreline.	5/11/2011
Chevron U.S.A. Inc., Structure Removal, SEA ES/SR 11–130 ...	Main Pass, Block 40, Lease OCS 00373, located 15 miles from the nearest Louisiana shoreline.	5/11/2011
Apache Corporation, Structure Removal, SEA ES/SR 11–116 ...	South Marsh Island, Block 81, Lease OCS–G 19774, located 76 miles from the nearest Louisiana shoreline.	5/11/2011
LLOG Exploration Offshore, L.L.C., Structure Removal, SEA ES/SR 11–137.	Breton Sound, Block 41, Lease OCS–G 21142, located 24 miles from the nearest Louisiana shoreline.	5/12/2011
Walter Oil & Gas Corporation, Structure Removal, SEA ES/SR 11–136.	High Island, Block A–539, Lease OCS–G 22262, located 95 miles from the nearest Texas shoreline.	5/12/2011
Chevron U.S.A. Inc., Structure Removal, SEA ES/SR 11–132, 11–133, 11–134 & 11–135.	South Marsh Island, Block 218, Lease OCS 00310, located 8 miles from the nearest Louisiana shoreline.	5/12/2011
McMoRan Oil & Gas LLC, Structure Removal, SEA ES/SR 11–088.	West Cameron, Block 618, Lease OCS–G 30063, located 120 miles from the nearest Louisiana shoreline.	5/12/2011
HC Resources, LLC, Structure Removal, SEA ES/SR 10–86A & 10–87A.	Chandeleur, Block 116, Lease OCS–G 10917, located 35 miles from the nearest Louisiana shoreline.	5/13/2011
Energy Resource Technology GOM, Inc., Structure Removal, SEA ES/SR 11–153.	South Marsh Island, Block 107, Lease OCS–G 02130, located 73 miles from the nearest Louisiana shoreline.	5/13/2011
Mariner Energy, Inc., Structure Removal, SEA ES/SR 11–097 ...	West Cameron, Block 111, Lease OCS–G 21535, located 18 miles from the nearest Louisiana shoreline.	5/13/2011
Apache Corporation, Structure Removal, SEA ES/SR 11–120, 11–121 & 11–122.	West Cameron, Block 205, Lease OCS–G 23635, located 33 miles from the nearest Louisiana shoreline.	5/13/2011
Maritech Resources, Inc., Structure Removal, SEA ES/SR 11–115 & 95–072A.	Eugene Island, Block 116, Lease 00478, located 30 miles from the nearest Louisiana shoreline.	5/17/2011
Dynamic Offshore Resources, LLC, Structure Removal, SEA ES/SR 11–149 & 11–150.	Mobile, Block 864, Lease OCS–G 05064, located 7 miles from the nearest Alabama shoreline.	5/17/2011
LLOG Exploration Offshore, L.L.C., Structure Removal, SEA ES/SR 11–151.	Vermilion, Block 344, Lease OCS–G 25995, located 91 miles from the nearest Louisiana shoreline.	5/17/2011
Apache Corporation, Structure Removal, SEA ES/SR 10–024A	Eugene Island, Block 380, Lease OCS–G 02327, located 95 miles from the nearest Louisiana shoreline.	5/24/2011
Walter Oil & Gas Corporation, Structure Removal, SEA ES/SR 11–155.	South Timbalier, Block 260, Lease OCS–G 12037, located 45 miles from the nearest Louisiana shoreline.	5/24/2011
Cobalt International Energy, LP, Exploration Plan, SEA R–5081	Green Canyon, Block 813, located 130 miles from the nearest Louisiana shoreline, south of Morgan City, Louisiana.	5/26/2011
Nippon Oil Exploration U.S.A. Limited, Structure Removal, SEA ES/SR 11–013.	West Cameron, Block 587, Lease OCS–G 02021, located 109 miles from the nearest Louisiana shoreline.	5/26/2011
Nippon Oil Exploration U.S.A. Limited, Structure Removal, SEA ES/SR 11–014.	West Cameron, Block 587, Lease OCS–G 02021, located 109 miles from the nearest Louisiana shoreline.	5/26/2011
EOG Resources, Inc., Structure Removal, SEA ES/SR 11–173	Eugene Island, Block 135, Lease OCS–G 14467, located 33 miles from the nearest Louisiana shoreline.	5/27/2011
Northstar Interests, L.C., Structure Removal, SEA ES/SR 11–145 & 11–146.	Eugene Island, Block 58, Lease OCS–G 02895, located 5 miles from the nearest Louisiana shoreline.	5/27/2011
BHP Billiton Petroleum (GOM) Inc., Development Operations Coordination Document, SEA R–5124.	Located south of Port Fourchon, Louisiana	5/27/2011
Petsec Energy Inc., Structure Removal, SEA ES/SR 11–166	Mobile, Block 952, Lease OCS–G 30026, located 9 miles from the nearest Alabama shoreline.	5/27/2011
Merit Energy Company, LLC, Structure Removal, SEA ES/SR 11–059.	Matagorda Island, Block 487, Lease OCS–G 07194, located 12 miles from the nearest Texas shoreline.	5/31/2011
Mariner Energy, Inc., Structure Removal, SEA ES/SR 11–175 ...	Vermilion, Block 144, Lease OCS–G 23819, located 20 miles from the nearest Louisiana shoreline.	5/31/2011
Newfield Exploration Company, Exploration Plan, SEA R–5104	Mississippi Canyon, Block 390, located in the Central Planning Area, south of Mobile, Alabama, 65 miles from the nearest shoreline.	6/2/2011

Activity/Operator	Location	Date
Petsec Energy Inc., Structure Removal, SEA ES/SR 11–167 & 11–168.	Mobile, Block 953, Lease OCS–G 05756, located 23 miles from the Mississippi shoreline.	6/2/2011
Apache Corporation, Structure Removal, SEA ES/SR 11–163 ...	South Pass, Block 52, RUE Lease OCS–G 23698, located 10 miles from the nearest Louisiana shoreline.	6/2/2011
Chevron U.S.A. Inc., Structure Removal, SEA ES/SR 07–056B	South Timbalier, Block 151, Lease 00463, located 32 miles from the nearest Louisiana shoreline.	6/2/2011
GOM Shelf LLC, Structure Removal, SEA ES/SR 11–108	West Delta, Block 71, Lease OCS–G 00838, located 23 miles from the nearest Louisiana shoreline.	6/2/2011
Hess Corporation, Exploration Plan, SEA S–7438	Green Canyon, Block 507, located south of Port Fourchon, Louisiana, 117 miles from the nearest Louisiana shoreline.	6/3/2011
Nexen Petroleum U.S.A., Inc., Exploration Plan, SEA R–5155 ...	Green Canyon, Block 872, Lease OCS–G 31762, located south of Port Fourchon, Louisiana, 134 miles from the nearest Louisiana shoreline.	6/7/2011
Hess Corporation, Exploration Plan, SEA N–9557	Green Canyon, Block 69, 25 & 70, Lease OCS–G 33217, 28040 & 33218, respectively, located south of Isle Denieries, Louisiana, 80 miles from the nearest Louisiana shoreline.	6/8/2011
Marathon Oil Company, Geological & Geophysical Survey, SEA L11–005.	Located in the Central Planning Area of the Gulf of Mexico	6/8/2011
Nexen Petroleum U.S.A. Inc., Exploration Plan, SEA R–5083	Green Canyon, Block 504, Lease OCS–G 22968, located 108 miles from the nearest Louisiana shoreline, southwest of Port Fourchon, Louisiana.	6/9/2011
W & T Offshore, Inc., Structure Removal, SEA ES/SR 11–182 ..	Main Pass, Block 70, Lease OCS–G 09703, located 12 miles from the nearest Louisiana shoreline.	6/9/2011
Legacy Resources Co., L.P., Structure Removal, SEA ES/SR 11–180.	Main Pass, Block 92, Lease OCS–G 27198, located 30 miles from the nearest Louisiana shoreline.	6/9/2011
Nexen Petroleum U.S.A. Inc., Exploration Plan, SEA N–9520	Green Canyon, Block 327 & 370, Lease OCS–G 26305 & 22944, respectively, located 97 miles from the nearest Louisiana shoreline, southwest of Port Fourchon, Louisiana.	6/10/2011
Chevron U.S.A. Inc., Exploration Plan, SEA R–5200	Keathley Canyon, Block 785, located south of Louisiana in the Central Planning Area.	6/14/2011
Nexen Petroleum U.S.A., Inc., Exploration Plan, SEA S–7423 ...	Green Canyon, Block 243, Lease OCS–G 20051, located 90 miles from the nearest Louisiana shoreline, southwest of Port Fourchon, Louisiana.	6/15/2011
Chevron U.S.A. Inc., Exploration Plan, SEA R–5084	Walker Ridge, Block 143, Lease OCS–G 21849, located 156 miles from the nearest Louisiana shoreline, southwest of Port Fourchon, Louisiana.	6/15/2011
McMoRan Oil & Gas LLC, Structure Removal, SEA ES/SR 10–098A.	East Cameron, Block 330, Lease OCS–G 03540, located 102 miles from the nearest Louisiana shoreline.	6/16/2011
Nexen Petroleum U.S.A. Inc., Exploration Plan, SEA N–9525	Green Canyon, Block 460, Lease OCS–G 22961, located 105 miles from the nearest Louisiana shoreline, southwest of Port Fourchon, Louisiana.	6/16/2011
Nexen Petroleum U.S.A. Inc., Exploration Plan, SEA N–9523	Green Canyon, Block 549, Lease OCS–G 22977, located 110 miles from the nearest Louisiana shoreline, southwest of Port Fourchon, Louisiana.	6/16/2011
Petsec Energy Inc., Structure Removal, SEA ES/SR 11–190 & 11–191.	Main Pass, Block 20, Lease OCS–G 27195, located 26 miles from the nearest Louisiana shoreline.	6/16/2011
Maritech Resources, Inc., Structure Removal, SEA ES/SR 11–186.	South Timbalier, Block 277, Lease OCS–G 10853, located 54 miles from the nearest Louisiana shoreline.	6/16/2011
Nippon Oil Exploration U.S.A. Limited, Structure Removal, SEA ES/SR 11–016A.	West Cameron, Block 534, Lease OCS–G 02226, located 96 miles from the nearest Louisiana shoreline.	6/16/2011
Nippon Oil Exploration U.S.A. Limited, Structure Removal, SEA ES/SR 11–014A.	West Cameron, Block 587, Lease OCS–G 02021, located 109 miles from the nearest Louisiana shoreline.	6/16/2011
Fairways Offshore Exploration, Inc., Structure Removal, SEA ES/SR 11–179.	Galveston, Block 319, Lease RUE G 22060, located 26 miles from the nearest Texas shoreline.	6/17/2011
McMoRan Oil & Gas LLC, Structure Removal, SEA ES/SR 11–174.	High Island, South Addition, Block A536, Lease OCS–G 02697, located 80 miles from the nearest Texas shoreline.	6/17/2011
U.S. Army Corps of Engineers Willimington District, Geological & Geophysical Survey, SEA E11–002.	Located in the New River Inlet Area, 4 miles from the nearest shoreline, off the coast of North Carolina.	6/17/2011
SPN Resources, LLC, Structure Removal, SEA ES/SR 11–176	Mobile, Block 861, Lease OCS–G 05062, located 7 miles from the nearest Alabama shoreline.	6/17/2011
ATP Oil & Gas Corporation, Structure Removal, SEA ES/SR 08–001A.	Ship Shoal, Block 105, Lease OCS–G 09614, located 33 miles from the nearest Louisiana shoreline.	6/17/2011
Rooster Petroleum, LLC, Structure Removal, SEA ES/SR 04–153.	South Timbalier, Block 112, Lease OCS–G 10828, located 35 miles from the nearest Louisiana shoreline.	6/17/2011
Magnum Hunter Production, Inc., Structure Removal, SEA ES/SR 11–102 & 11–103.	South Timbalier, Block 264, Lease OCS–G 19832, located 51 miles from the nearest Louisiana shoreline.	6/17/2011
Rooster Petroleum, LLC, Structure Removal, SEA ES/SR 04–152.	South Timbalier, Block 99, Lease OCS–G 10825, located 35 miles from the nearest Louisiana shoreline.	6/17/2011
Rooster Petroleum, LLC, Structure Removal, SEA ES/SR 11–178.	Vermilion, Block 175, Lease OCS–G 07684, located 50 miles from the nearest Louisiana shoreline.	6/17/2011
Mariner Energy Resources, Inc., Structure Removal, SEA ES/SR 11–181.	Vermilion, Block 36, Lease OCS–G 01357, located 8 miles from the nearest Louisiana shoreline.	6/17/2011
Mariner Energy, Inc., Structure Removal, SEA ES/SR 11–104 ...	High Island, Block 197, Lease OCS–G 22238, located 26 miles from the nearest Louisiana shoreline.	6/20/2011

Activity/Operator	Location	Date
McMoRan Oil & Gas LLC, Structure Removal, SEA ES/SR 11–193.	South Marsh Island, Block 49, Lease OCS–G 00787, located 45 miles from the nearest Louisiana shoreline.	6/20/2011
Nippon Oil Exploration U.S.A. Limited, Structure Removal, SEA ES/SR 11–050.	West Cameron, Block 536, Lease OCS–G 04773, located 97 miles from the nearest Louisiana shoreline.	6/20/2011
Dynamic Offshore Resources, LLC, Structure Removal, SEA ES/SR 11–195.	Ship Shoal, Block 167, Lease OCS–G 00818, located 27 miles from the nearest Louisiana shoreline.	6/21/2011
Nexen Petroleum U.S.A. Inc., Structure Removal, SEA ES/SR 11–183 & 11–184.	West Delta, Block 45, Lease OCS 00138, located 20 miles from the nearest Louisiana shoreline.	6/21/2011
Northstar Offshore Energy Partners, LLC, Structure Removal, SEA ES/SR 11–139, 11–140, 11–141, 11–142, 11–143 & 11–144.	Eugene Island, Block 57, Lease OCS–G 02601, located 5 miles from the nearest Louisiana shoreline.	6/22/2011
Chevron U.S.A. Inc., Exploration Plan, SEA R–5111	Garden Banks, Block 973, Lease OCS–G 32911, located 185 miles from the nearest Louisiana shoreline, southwest of Port Fourchon, Louisiana.	6/22/2011
Chevron U.S.A., Inc., Exploration Plan, SEA R–5108	Walker Ridge, Blocks 758, 715 & 759, Lease OCS–G 17015, 17010 & G 17016, respectively, located 195 miles from the nearest Louisiana shoreline, south of Morgan City, Louisiana.	6/22/2011
Union Oil Company of California, Exploration Plan, SEA R–5109	Walker Ridge, Block 634 & 677, Lease OCS–G 18745 & 18753, respectively, located 182 miles from the nearest Louisiana shoreline, southwest of Port Fourchon, Louisiana.	6/23/2011
Apache Deepwater LLC, Exploration Plan, SEA N–9549	Atwater Valley, Blocks 76 & 120, Lease OCS–G 33866 & 33867, respectively, located 80 miles from the nearest Louisiana shoreline, southwest of Venice, Louisiana.	6/24/2011
Pisces Energy LLC, Structure Removal, SEA ES/SR 11–098, 11–099 & 11–100.	Eugene Island, Block 042, Lease OCS–G 04858, located 15 miles from the nearest Louisiana shoreline.	6/24/2011
Arena Offshore, LP, Structure Removal, SEA ES/SR 11–198	Grand Isle, Block 34, Lease OCS–G 21686, located 11 miles from the nearest Louisiana shoreline.	6/24/2011
Merit Energy Company, LLC, Structure Removal, SEA ES/SR 11–148.	High Island, Block A340, Lease OCS–G 02426, located 100 miles from the nearest Louisiana shoreline.	6/24/2011
Carteret County Shore Protection Office North Carolina, Geological & Geophysical Survey, SEA E11–001.	Located in the Beaufort Inlet Area, 4 miles from the nearest shoreline, off the coast of North Carolina.	6/24/2011
Merit Energy Company, LLC, Structure Removal, SEA ES/SR 11–204 & 11–205.	South Marsh Island, Block 253, Lease OCS–G 08690, located 17 miles from the nearest Louisiana shoreline.	6/24/2011
Maritech Resources, Inc., Structure Removal, SEA ES/SR 11–187.	Vermilion, Block 252, Lease OCS–G 05431, located 78 miles from the nearest Louisiana shoreline.	6/24/2011
Statoil Gulf of Mexico LLC, Exploration Plan, SEA R–5112	Walker Ridge, Block 969 & 925, Lease OCS–G 26419 & 26416, respectively, located 217 miles from the nearest Louisiana shoreline, south of Morgan City, Louisiana.	6/24/2011
Apache Corporation, Structure Removal, SEA ES/SR 11–156, 11–157 & 11–158.	West Cameron, Block 102, Lease OCS–G 00247, located 14 miles from the nearest Louisiana shoreline.	6/24/2011
Merit Energy Company, LLC, Structure Removal, SEA ES/SR 11–202.	Mustang Island, Block 858, Lease OCS–G 12421, located 11 miles from the nearest Texas shoreline.	6/27/2011
EOG Resources, Inc., Structure Removal, SEA ES/SR 11–172	Mustang Island, Block 759, Lease OCS–G 14103, located 28 miles from the nearest Texas shoreline.	6/28/2011
Anglo-Suisse Offshore Partners, LLC, Structure Removal, SEA ES/SR 06–115A.	West Delta, Block 117, Lease OCS–G 01101, located 34 miles from the nearest Louisiana shoreline.	6/28/2011
Merit Energy Company, LLC, Structure Removal, SEA ES/SR 11–199, 11–200 & 11–201.	East Cameron, Block 57, Lease OCS–G 03289, located 13 miles from the nearest Louisiana shoreline.	6/30/2011
McMoRan Oil & Gas LLC, Structure Removal, SEA ES/SR 11–194.	Eugene Island, Block 179, RUE Lease OCS–G 30072, located 45 miles from the nearest Louisiana shoreline.	6/30/2011
Chevron U.S.A. Inc., Structure Removal, SEA ES/SR 99–092A	South Marsh Island, Block 218, Lease OCS–G 00310, located 8 miles from the nearest Louisiana shoreline.	6/30/2011
The Houston Exploration Company, Structure Removal, SEA ES/SR 07–100A.	South Marsh Island, Block 252, Lease OCS–G 02598, located 14 miles from the nearest Louisiana shoreline.	6/30/2011
Nexen Petroleum U.S.A. Inc., Structure Removal, SEA ES/SR 11–047.	Vermilion, Block 302, Lease OCS–G 03138, located 110 miles from the nearest Louisiana shoreline.	6/30/2011
Hilcorp Energy GOM, LLC, Structure Removal, SEA ES/SR 11–169 & 11–170.	West Cameron, Block 643, Lease OCS–G 02241, located 128 miles from the nearest Louisiana shoreline.	6/30/2011

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about SEAs and FONSIs prepared by the Gulf of Mexico OCS Region are encouraged to contact BOEMRE at the address or telephone listed in the **FOR FURTHER INFORMATION CONTACT** section.

Dated: August 4, 2011.

Lars Herbst,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 2011–22592 Filed 9–1–11; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management, Regulation and Enforcement

Outer Continental Shelf Official Protraction Diagram, Lease Maps, and Supplemental Official Outer Continental Shelf Block Diagrams

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

ACTION: Availability of revised North American Datum of 1927 (NAD 27) Outer Continental Shelf Official Protraction Diagram, Lease Maps, and Supplemental Official Outer Continental Shelf Block Diagrams.

SUMMARY: Notice is hereby given that effective with this publication, the following NAD 27-based Outer Continental Shelf (OCS) Official Protraction Diagram (OPD), Lease Maps, and Supplemental Official OCS Block Diagrams (SOBDs) located in the Gulf of Mexico with revision date as indicated, are now available. BOEMRE in accordance with its authority and responsibility under Title 43, Code of Federal Regulations, is updating the basic records used for the description of renewable energy, mineral, and oil and gas lease sales in the geographic areas they represent. An audit of BOEMRE financial statements from 2007 identified an apparent state revenue distribution error under Section 8(g) of the OCS Lands Act. In response, BOEMRE initiated a review of all 8(g) leases issued to date and discovered more errors. The two sources of the past errors are: (1) Movement of the Submerged Lands Act boundary required acreage recalculations of certain lease blocks, but the recalculations were not performed; and (2) newly prescribed mapping methods for determining equal revenue distribution amongst adjacent coastal states were not implemented. The OPD, Lease Maps, and SOBDs that required boundary and acreage adjustments were corrected in 2008. As a final correction, these documents are now revised to identify the specific action taken to resolve revenue disbursement errors.

Specific Revisions: All of the maps listed below have been revised to reflect the new Agency name (BOEMRE). Those specific SOBDs for lease blocks that experienced revenue adjustments include one or more descriptive notes as follows.

The ''Note'' for SOBDs that are offshore of the States of Texas, Mississippi, and Alabama specifies: ''For the purposes of revenue disbursement, revisions are made effective retroactively to April 14, 1986, the date of the 8(g) lease escrow settlement.''

The ''Note'' for SOBDs that are offshore of the State of Louisiana specifies: ''For the purposes of revenue disbursement, revisions are made effective retroactively to October 1, 1986, the date of the 8(g) lease escrow settlement.''

The ''Note'' for SOBDs in the vicinity of the Texas-Louisiana ''wraparound'' specifies: ''For the purposes of revenue disbursement, revisions are made effective retroactively to May 30, 1997, the date that the 'wraparound' was erroneously removed.''

The date of 8(g) lease escrow settlement is noted because all state claims to 8(g) funds were settled before that date.

Outer Continental Shelf Official Protraction Diagram in the Gulf of Mexico

Description/Date

NH16–04 (Mobile)—7/01/2011.

Lease Maps in the Gulf of Mexico

Description/Date

LA1 (West Cameron Area)—7/01/2011.

LA12 (Sabine Pass Area)—7/01/2011.

Supplemental Official Outer Continental Shelf Block Diagrams in the Gulf of Mexico Located Within Official Protraction Diagram NH16–04 (Mobile)

Date/Block Numbers

7/01/2011: 765, 809, 810, 818, 819, 820, 853, 854, 861, 862, 863, 864, 897, 898, 906 and 907.

Supplemental Official Outer Continental Shelf Block Diagram in the Gulf of Mexico Located Within Lease Map LA1 (West Cameron Area)

Date/Block Number

7/01/2011: 53.

Supplemental Official Outer Continental Shelf Block Diagrams in the Gulf of Mexico Located Within Lease Map LA12 (Sabine Pass Area)

Date/Block Numbers

7/01/2011: 3, 5, 6, 7, 8, 9, 10 and 11.

FOR FURTHER INFORMATION CONTACT: Steven Textoris, Acting Chief, Leasing Division at (703) 787–1223 or via e-mail at *Steven.Textoris@boemre.gov.* Copies of the revised OPD, Lease Maps, and SOBDs are available for download in *.pdf* format from *http://www.boemre.gov/homepg/pubinfo/MapsandSpatialData.html.*

Dated: July 5, 2011.

Robert P. LaBelle,

Acting Associate Director for Offshore Energy and Minerals Management.

[FR Doc. 2011–22606 Filed 9–1–11; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–19148–16, F–19148–35; LLAK965000–L14100000–KC0000–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that the Bureau of Land Management (BLM) will issue an appealable decision to Arctic Slope Regional Corporation. The decision approves conveyance of the surface and subsurface estates in the lands described below pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*). The lands are in the vicinity of Point Hope, Alaska, and are located in:

Kateel River Meridian, Alaska

T. 31 N., R. 31 W.,
Secs. 3 and 4;
Secs. 9 and 10.
Containing 1,930 acres.
T. 32 N., R. 31 W.,
Secs. 1 to 11, inclusive;
Secs. 14 to 23, inclusive;
Secs. 26 to 30, inclusive;
Secs. 33, 34, and 35.
Containing 18,304 acres.
T. 32 N., R. 32 W.,
Secs. 12, 13, and 14.
Containing 1,920 acres.
Aggregating 22,154 acres.

Notice of the decision will also be published four times in the *Fairbanks Daily News-Miner.*

DATES: Any party claiming a property interest in the lands affected by the

decision may appeal the decision within the following time limits:

1. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who fail or refuse to sign their return receipt, and parties who receive a copy of the decision by regular mail which is not certified, return receipt requested, shall have until October 3, 2011 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

3. Notices of appeal transmitted by electronic means, such as facsimile or e-mail, will not be accepted as timely filed.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The BLM by phone at 907–271–5960 or by e-mail at *ak.blm.conveyance@blm.gov.* 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 BLM during normal business hours. In addition, the FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the BLM. The BLM will reply during normal business hours.

Joe J. Labay,

Land Transfer Resolution Specialist, Land Transfer Adjudication II Branch.

[FR Doc. 2011–22529 Filed 9–1–11; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ORS04000.63320000.DD0000; HAG11–0253]

Notice of Permanent Closure of Public Lands in Clackamas and Multnomah Counties, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that in response to the Little Sandy River Protection Act of 2001, a closure to public entry is in effect on public lands administered by the Bureau of Land Management (BLM) Salem District that are within the Bull Run Watershed Management Unit. Exempt from this order are BLM employees, authorized permittees, and other Federal, State, and county employees while on official business of their respective agencies, including associated vehicle use for administrative and emergency purposes.

DATES: This closure will be in effect from December 2, 2011 until further notice.

FOR FURTHER INFORMATION CONTACT: Cindy Enstrom, BLM Salem District, Cascades Resource Area Field Manager, 1717 Fabry Road, SE., Salem, Oregon 97306; e-mail: *cindy_enstrom@blm.gov* or 503–315–5969. 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 individuals 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 individuals. You will receive a reply during normal hours.

SUPPLEMENTARY INFORMATION: This permanent closure affects public lands in sections 13, 14, 15, and 16, T. 2 S., R. 6 E., Willamette Meridian, Oregon, and section 13, T. 1 S., R. 5 E., Willamette Meridian, Oregon; and within the boundary of the Bull Run Watershed Management Unit (BRWMU) in Clackamas and Multnomah Counties, Oregon. The public lands affected total approximately 658 acres.

The closure is in response to the Little Sandy River Protection Act of 2001 (Pub. L. 107–30) and provides for further water quality protection. The BRWMU is the main source of drinking water for the city of Portland, Oregon. The majority of the BRWMU is under the joint management of the U.S. Forest Service, Mount Hood National Forest, and the Portland Water Bureau. Federal regulations and City of Portland ordinances prohibit public entry onto other portions of the BRWMU. This rule will provide consistency between public lands and surrounding lands managed by other agencies.

Under the authority of Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)), 43 CFR 8360.0–7, and 43 CFR 8364.1, the BLM will enforce the following rule:

> You must not enter public lands within the Bull Run Watershed Management Unit by any means of travel including, but not limited to, vehicles, off-highway vehicles, bicycles, and foot.

The following persons are exempt from this order: Federal, State, and local officers and employees in the performance of their official duties; Federal, State, and local government permittees and contractors conducting authorized activities; members of organized rescue or fire-fighting forces in the performance of their official duties; and persons with written authorization from the BLM.

Any person who violates this permanent public closure may be tried before a United States Magistrate and fined no more than $1,000, imprisoned for no more than 12 months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

The BLM will post closure signs at main entry points to this area and take steps to install physical barriers at the BRWMU boundary. The affected lands will be represented as closed to public entry in maps, brochures, and other forms of visitor information. Maps of the affected area and other documents associated with this closure are available at the Salem District Office, 1717 Fabry Rd., SE., Salem, Oregon 97306. These documents include the Little Sandy River Protection Act and the Sandy River Basin Integrated Management Plan.

Definitions: (a) ''Public lands'' means any lands or interests in lands owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management; (b) ''Administrative purposes'' means any use by an employee or designated representative of the Federal government or one of its agents or contractors in the course of their employment or representation; and (c) ''Emergency purposes'' means actions related to fire, rescue, or law enforcement activities.

Authority: 43 CFR 8364.1.

Cindy Enstrom,

Cascades Resource Area Field Manager, BLM Salem District.

[FR Doc. 2011–22531 Filed 9–1–11; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing

its intention to request approval for the collection of information for its Subsidence insurance program grants. This collection request has been forwarded to the Office of Management and Budget (OMB) for review and comment. The information collection request describes the nature of the information collection and the expected burden and cost.

DATES: OMB has up to 60 days to approve or disapprove the information collections but may respond after 30 days. Therefore, public comments should be submitted to OMB by October 3, 2011, in order to be assured of consideration.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, *Attention:* Department of Interior Desk Officer, by telefax at (202) 395–5806 or via e-mail to *OIRA_Docket@omb.eop.gov.* Also, please send a copy of your comments to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Room 203—SIB, Washington, DC 20240, or electronically to *jtrelease@osmre.gov.*

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request contact John Trelease at (202) 208–2783, or electronically at *jtrelease@osmre.gov.* You may also review this collection by going to *http://www.reginfo.gov* (Information Collection Review, Currently Under Review, Agency is Department of the Interior, DOI–OSMRE).

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. OSM has submitted a request to OMB to renew its approval of the collection of information contained in 30 CFR 887—Subsidence insurance program grants. OSM is requesting a 3-year term of approval for each information collection activity.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection is 1029–0107. Regulatory authorities are required to respond to this collection to obtain a benefit.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on this collection of information was published on June 22, 2011 (76 FR 36574). One comment was received, but was not pertinent to this collection. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: 30 CFR 887—Subsidence insurance program grants.

OMB Control Number: 1029–0107.

SUMMARY: States and Indian tribes having an approved reclamation plan may establish, administer and operate self-sustaining State and Indian Tribe-administered programs to insure private property against damages caused by land subsidence resulting from underground mining. States and Indian tribes interested in requesting monies for their insurance programs would apply to the Director of OSM.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: States and Indian tribes with approved coal reclamation plans.

Total Annual Responses: 1.

Total Annual Burden Hours: 8.

Total Annual Non-Wage Costs: $0.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information, to the addresses listed under **ADDRESSES**. Please refer to the appropriate OMB control number 1029–0107 in your correspondence.

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.

Dated: August 26, 2011.

Stephen M. Sheffield,

Acting Chief, Division of Regulatory Support.

[FR Doc. 2011–22406 Filed 9–1–11; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1091 (Review)]

Artists' Canvas From China; Scheduling of an Expedited Five-Year Review Concerning the Antidumping Duty Order Investigation on Artists' Canvas From China

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on artists' canvas from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* August 5, 2011.

FOR FURTHER INFORMATION CONTACT: Joanna Lo (202–205–1888), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On August 5, 2011, the Commission determined that the domestic interested party group response to its notice of institution (76 FR 24516, May 2, 2011) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly,

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any

Continued

the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

Staff report.—A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on September 22, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before September 27 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by September 27. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 Fed. Reg. 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: August 30, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–22526 Filed 9–1–11; 8:45 am]

BILLING CODE 7020–02–P

individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

[2] The Commission has found the responses submitted by Tara Materials, Inc., Arkwright Advanced Coating, Inc., BF Inkjet Media, Inc., Duro Art Industries, Inc., and Intelicoat Technologies to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1189 Preliminary]

Large Power Transformers From Korea

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Korea of large power transformers, provided for in subheadings 8504.23.00 and 8504.90.95 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).[2]

Commencement of Final Phase Investigation

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigation. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of an affirmative preliminary determination in the investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in that investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigation need not enter a separate appearance for the final phase of the investigation. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioner Daniel R. Pearson did not participate in this investigation.

Background

On July 14, 2011, a petition was filed with the Commission and Commerce by ABB Inc., Cary, NC; Delta Star Inc., Lynchburg, VA; and Pennsylvania Transformer Technology Inc., Canonsburg, PA, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of large power transformers from Korea. Accordingly, effective July 14, 2011, the Commission instituted antidumping duty investigation No. 731–TA–1189 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of July 20, 2011 (76 FR 43343). The conference was held in Washington, DC, on August 4, 2011, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on August 29, 2011. The views of the Commission are contained in USITC Publication 4526 (September 2011), entitled *Large Power Transformers from Korea: Investigation No. 731–TA–1189 (Preliminary).*

By order of the Commission.

Issued: August 29, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–22486 Filed 9–1–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–459; Third Review]

Polyethylene Terephthalate (PET) Film From Korea

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty order on polyethylene terephthalate (PET) film from Korea would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on September 1, 2010 (75 FR 53711) and determined on February 8, 2011 that it would conduct a full review (76 FR 8770, February 15, 2011). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on February 15, 2011 (76 FR 8770). The hearing was held in Washington, DC, on June 28, 2011, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this review to the Secretary of Commerce on August 29, 2011. The views of the Commission are contained in USITC Publication 4254 (August 2011), entitled *Polyethylene Terephthalate (PET) Film from Korea: Investigation No. 731–TA–459 (Third Review*).

By order of the Commission.

Issued: August 29, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–22485 Filed 9–1–11; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

INTERNATIONAL TRADE COMMISSION

[USITC SE–11–024]

Government In the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: September 9, 2011 at 11 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

Matters To Be Considered

1. Agendas for future meetings: none.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 731–TA–847 and 849 (Second Review) (Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Japan and Romania). The Commission is currently scheduled to transmit its determinations and Commissioners' opinions to the Secretary of Commerce on or before September 21, 2011.)
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: August 31, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011–22633 Filed 8–31–11; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on August 23, 2011, the United States, on behalf of the U.S. Environmental Protection Agency (''EPA'') filed a Complaint and lodged a proposed Consent Decree in *United States* v. *The Santos/Alviso Partnership, L.P., et al.,* Case No. CV 11–04139 HRL (N.D. Cal.), relating to the South Bay Asbestos Superfund Site in San Jose, Santa Clara County, California (the ''Site''). The Complaint asserts claims against defendants Santos/Alviso Partnership, L.P. (the current owner of a parcel of property at the Site formerly used as part of the Santos Landfill), Santos Management, L.L.C. (the general partner of the Santos/Alviso Partnership), the Estate of Dorothy Santos (a former owner of the landfill property at the time of disposal of hazardous substances), and five Trusts that owned fractional interests in the landfill property at times when EPA incurred response costs there. The Complaint seeks injunctive relief for the performance of response actions, reimbursement of response costs incurred by EPA at the Site, and the entry of a declaratory judgment with respect to EPA's future response costs under Sections 106(a), 107(a), and 113(g) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9606(a), 9607(a), and 9613(g).

The proposed Consent Decree resolves claims in the Complaint. Under the proposed Consent Decree, the defendants agree to provide EPA with access to the landfill property, to inspect and maintain an existing cap on the landfill property, and to execute and record a ''Covenant to Restrict Use of Property—Environmental Restriction'' to protect the existing cap. The execution and recordation of this Covenant will bring to completion the remedial action at the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *The Santos/Alviso Partnership, L.P., et al.,* Case No. CV 11–04139 HRL (N.D. Cal.), D.J. Ref. 90–11–2–353/2.

The Consent Decree may be examined at the U.S. Environmental Protection Agency, Region 9, Office of Regional Counsel, 75 Hawthorne Street, San Francisco, California 94105. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax number (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $13.50 (.25 cents per page reproduction cost) payable to the U.S. Treasury, or if by e-mail or fax,

forward a check in that amount to the Consent Decree Library at the stated address.

Henry Friedman,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2011–22545 Filed 9–1–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for the Workforce Investment Act Streamlined Performance Reporting (WISPR) Data Collection System; Extension With Revisions

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 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 Employment and Training Administration (ETA) is soliciting comments concerning the WISPR system. The current expiration date is October 31, 2011. A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before November 1, 2011.

ADDRESSES: Submit written comments to the U.S. Department of Labor, Employment and Training Administration, Office of Policy Development and Research, 200 Constitution Avenue NW., Room N–5641, Washington, DC 20210, Attention: Karen A. Staha. Telephone number: (202) 693–2917 (this is not a toll-free number). Fax: (202)693–2766. E-mail: *Staha.Karen@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In July 2004, ETA solicited comments from the general public on the establishment of a single, streamlined reporting and recordkeeping system, formally called the ETA Management Information and Longitudinal Evaluation (EMILE) reporting system. The notice of 60-day public comment on the proposed EMILE reporting system was published in the **Federal Register** on July 16, 2004 (69 FR 42777). The proposed EMILE reporting system was designed to streamline 12 ETA program reporting systems into one comprehensive reporting structure that would allow for consistent, comparable analysis across ETA funded employment and training programs, using the definitions for a set of common performance measures initially specified in Training and Employment Guidance Letter (TEGL) 15–03, *Common Measures Policy,* and subsequently revised by TEGL 17–05, (note TEGLs 17–05 change 1, and 17–05 Change 2 provide additional revisions), *Common Measures Policy for the Employment and Training Administration's (ETA) Performance Accountability System and Related Performance Issues.*

ETA received comments from 161 unique entities, including State workforce agencies and boards, local workforce investment areas, non-profit organizations and national associations, Native American and other Tribal organizations, public interest and advocacy groups, and other private citizens and stakeholders. Due to the large volume of comments submitted by each entity, ETA worked during calendar year 2005 to organize and analyze the public comments, make appropriate revisions to agency policy guidance on the common measures, and assess the feasibility of implementing the proposed EMILE reporting requirements in several States.

ETA reconciled the public comments and made appropriate revisions to the original EMILE proposal, which was re-named the WISPR System. This system replaced the existing quarterly reporting requirements for the following seven ETA activities: Wagner-Peyser Act, Jobs for Veterans' State Grants, the Workforce Investment Act (WIA) Adult, WIA Dislocated Worker, WIA Youth, Trade Adjustment Assistance Act programs, and National Emergency Grants.

The WISPR system was piloted in two States (Pennsylvania and Texas) and both States have successfully implemented WISPR. At its foundation, the WISPR system organizes customer information, which is maintained by States in order to run their day-to-day operations. It includes the minimum level of information collection necessary to comply with Equal Opportunity requirements, hold States and grantees appropriately accountable for the Federal funds they receive, and allow the Department to fulfill its oversight and management responsibilities.

The WISPR system features a set of aggregate quarterly reports for capturing services to employer and job seeker customers, including a special aggregate report on services to the nation's eligible veterans and transitioning service members. A standardized set of participant data that includes information on demographics, types of services received, and performance outcomes based on a set of common measures defined consistently across programs is a key component of this reporting system. The WISPR system also incorporates provisions to ensure the integrity of reported data and resolve data collection and reliability issues raised by the Office of the Inspector General and the Government Accountability Office regarding the Department's ability to accurately evaluate program performance.

The implementation of WISPR was put on hold in March 2009 as ETA focused its available resources on implementing the American Recovery and Reinvestment Act. The current request for information seeks to obtain comments regarding the extension of the current WISPR system. To date, the system has been fully implemented in Pennsylvania and Texas but could potentially be implemented in additional States.

II. Review Focus

The Department is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions

Type of Review: Extension with changes.

Title: Workforce Investment Act Streamlined Performance Reporting (WISPR) data collection system.

OMB Number: 1205–0469.

Affected Public: State, local and Tribal government entities and private non-profit organizations.

Form(s): ETA–9131, ETA–9132, ETA 9133, WISRD Record Layout, WISPR Data Preparation and Reporting Handbook 2011.

Total Annual Respondents: 254.

Annual Frequency: Quarterly.

Total Annual Responses: 864 (4 responses for each of the 54 States/ territories on a quarterly basis)

Average Time per Response: 1,120 hours.

Estimated Total Annual Burden Hours: 968,438.

Total Annual Burden Cost for Respondents: $0.

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

Dated: August 29, 2011.

Jane Oates,

Assistant Secretary for Employment and Training.

[FR Doc. 2011–22577 Filed 9–1–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–75,125, TA–W–75,125A]

Westpoint Home, Inc., Manufacturing Division, Including On-Site Leased Workers from Manpower, Greenville, AL; Westpoint Home, Inc., Distribution Center, Including On-Site Leased Workers from Manpower, Greenville, AL; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 12, 2011, applicable to workers of WestPoint Home, Inc., Manufacturing Division, Greenville, Alabama and WestPoint Home, Inc., Distribution Center, Greenville, Alabama. The workers at the Manufacturing Division and the Distribution Center are engaged in employment related to the production of bedding products. The notice was published in the **Federal Register** on May 2, 2011 (76 FR 24536).

At the request of a petitioner, the Department reviewed the certification for workers of the subject firm. The company reports that workers leased from Manpower were employed on-site at the Manufacturing Division and the Distribution Center of WestPoint Home, Inc., Greenville, Alabama. The Department has determined that these workers were sufficiently under the control of WestPoint Home, Inc. to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Manpower working on-site at the Manufacturing Division and the Distribution Center, Greenville, Alabama location of WestPoint Home, Inc.

The amended notice applicable to TA–W–75,125 is hereby issued as follows:

All workers of WestPoint Home, Inc., Manufacturing Division, including on-site leased workers from Manpower, Greenville, Alabama (TA–W–75,125) and WestPoint Home, Inc., Distribution Center, including on-site leased workers from Manpower, Greenville, Alabama (TA–W–75,125A), who became totally or partially separated from employment on or after January 19, 2010 through April 12, 2013, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC this 19th day of August, 2011.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–22563 Filed 9–1–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–71,572, TA–W–71,572A; TA–W–71,572B; TA–W–71,572C]

Amended Revised Determination on Reconsideration

TA–W–71,572, Severstal Wheeling, Inc., a Subsidiary of Severstal North America, Inc., Currently Known as RG Steel Wheeling, LLC, Martins Ferry, Ohio;

TA–W–71,572A, Severstal Wheeling, Inc., a Subsidiary of Severstal North America, Inc., Currently Known as RG Steel Wheeling, LLC, Yorkville, Ohio;

TA–W–71,572B, Severstal Wheeling, Inc., a Subsidiary of Severstal North America, Inc., Currently Known as RG Steel Wheeling, LLC, ≤Mingo Junction, Ohio;

TA–W–71,572C, Severstal Wheeling, Inc., a Subsidiary of Severstal North America, Inc. Currently Known as RG Steel Wheeling, LLC, Steubenville, Ohio

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Notice of Revised Determination on Reconsideration on May 6, 2011, applicable to workers of Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., Martins Ferry, Ohio; Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., Yorkville, Ohio (TA–W–71,572A); Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., Mingo Junction, Ohio (TA–W–71,572B); and Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., Steubenville, Ohio (TA–W–71,572C). The workers produce a variety of steel coils. The Revised Determination was published in the **Federal Register** on May 20, 2011 (76 FR 29276–29277). The Revised Determination was amended on June 6, 2011 to include workers whose wages reported under a separate unemployment insurance (UI) tax account under the name RG Steel Wheeling, LLC. The Revised Determination was published in the **Federal Register** on June 15, 2011 (76 FR 35030–35031).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that on July 12, 2007, a certification of eligibility to apply for adjustment assistance was issued for all workers of Wheeling-Pittsburgh Steel, Mingo Junction, Ohio, separated from employment on or after May 31, 2006 through July 12, 2009. The notice was published in the **Federal Register** on July 26, 2007 (72 FR 41087).

In order to avoid an overlay in worker group coverage, the Department is amending the June 17, 2008 impact date established for the Mingo Junction, Ohio location, TA–W–71,572B, to read July 13, 2009.

Accordingly, the Department is amending this certification to properly reflect this matter.

The amended notice applicable to TA–W–71,572, TA–W–71,572A, TA–W–71,572B, and TA–W–71,572C are hereby issued as follows:

All workers of Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., currently known as RG Steel Wheeling, LLC, Martins Ferry, Ohio (TA–W–71,572); Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., currently known as RG Steel Wheeling, LLC, Yorkville, Ohio (TA–W–71,572A); and Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., currently known as RG Steel Wheeling, LLC, Steubenville, Ohio (TA–W–71,572C), who became totally or partially separated from employment on or after June 17, 2008, through May 6, 2013, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended and

All workers of Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., currently known as RG Steel Wheeling, LLC, Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., currently known as RG Steel Wheeling, LLC, Mingo Junction, Ohio (TA–W–71,572B), who became totally or partially separated from employment on or after July 13, 2009, through May 6, 2013, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC this 23rd day of August, 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–22561 Filed 9–1–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–70,989; TA–W–70,989A; TA–W–70,989B]

Klaussner Furniture Industries, Inc., Plant #3, Asheboro, NC; Klaussner Furniture Industries, Inc., Plant #33, Asheboro, NC; Klaussner Corporate Services, Inc., Also Known as Klaussner of Iowa, a Division of Klaussner Furniture Industries, Inc., Milford, IA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 26, 2009, applicable to workers of Klaussner Furniture Industries, Inc., Plant #3, Asheboro, North Carolina (TA–W–70,989) and Klaussner Furniture Industries, Inc., Plant #33, Asheboro, North Carolina (TA–W–70,989A). The Department's Notice was published in the **Federal Register** on November 5, 2009 (74 FR 57340).

At the request of a company official, the Department reviewed the certification for workers of the subject firm.

New information shows that the Milford, Iowa facility operates in conjunction with the Asheboro, North Carolina facilities. The Asheboro, North Carolina facilities supplied component parts for the Milford, Iowa facility in the assembly of furniture produced by the subject firm. Further, all workers at the Milford, Iowa facility experienced separations (total or partial), or the threat of such separations, and the subject firm's sales and production were impacted by an increase in imports of upholstered household goods.

Accordingly, the Department is amending the certification to include workers of the Milford, Iowa facility of Klaussner Furniture Industries, Inc.

The amended notice applicable to TA–W–70,989 is hereby issued as follows:

''All workers of Klaussner Furniture Industries, Inc., Plant #3, Asheboro, North Carolina (TA–W–70,989), who became totally or partially separated from employment on or after February 14, 2009, through two years from the date of certification, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended;'' and

''All workers of Klaussner Furniture Industries, Plant #33, Asheboro, North Carolina (TA–W–70,989A), and Klaussner Corporate Services, Inc., also known as Klaussner of Iowa, a division of Furniture Industries, Inc., Milford, Iowa (TA–W–70,989B) who became totally or partially separated from employment on or after June 2, 2009, through two years from the date of certification, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.''

Signed in Washington, DC this 26th day of August, 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–22560 Filed 9–1–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of August 15, 2011 through August 19, 2011.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the

articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) the workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (*i.e.,* conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–80,159; Creganna Tactx Medical, Marlborough, MA: June 3, 2010.

TA–W–80,202; J. Kinderman & Sons, Inc., Philadelphia, PA: February 27, 2011.

TA–W–80,285; JK Products and Services, Inc., Indianapolis, IN: July 13, 2010.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–80,162; AEES, L.P., (Dixie Wire Facility), Nashville, TN: December 13, 2010.

TA–W–80,162A; Leased Workers from ICOM, Nashville, TN: May 5, 2010.

TA–W–80,174; Delphi Corp., Auburn Hills, MI: November 18, 2010.

TA–W–80,174A; Delphi Corp., Henrietta, NY: May 10, 2010.

TA–W–80,244; STMicroelectronics Coppell, TX: June 17, 2010.

TA–W–80,244A; STMicroelectronics, Carrollton, TX: August 6, 2011.

TA–W–80,245; Kavlico Corp., Moorpark, CA: August 26, 2010.

TA–W–80,298; SimplexGrinnell LP, Westminster, MA: August 29, 2011.

TA–W–80,338; Thermal Dynamics Corp., West Lebanon, NH: August 2, 2010.

TA–W–80,348; The ESAB Group, Inc., Ashtabula, OH: August 5, 2010.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

TA–W–80,172; Burner Systems International, Chattanooga, TN.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–80,047; Cenveo, Inc., Springfield, MA.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–80,179; MOL Information Technology America (MOL–IT America, Edison, NJ.

TA–W–80,280; Client Services, Inc., Denison, TX.

TA–W–80,341; Hartford Financial Services, Inc., Hartford, CT.

TA–W–80,355; Pacific Northwest Marine Services, LLC, Gig Harbor, WA.

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W–80,332; Chute Chemical Co., Bangor, ME.

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA–W–80,339; Leased Workers From Manpower, Greenville, AL.

I hereby certify that the aforementioned determinations were issued during the period of August 15, 2011 through August 19, 2011. Copies of these determinations may be requested under the Freedom of Information Act. Requests may be submitted by fax, courier services, or mail to FOIA Disclosure Officer, Office of Trade Adjustment Assistance (ETA), U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 or *tofoiarequest@dol.gov.* These determinations also are available on the Department's Web site at *http://www.doleta.gov/tradeact* under the searchable listing of determinations.

Dated: August 25, 2011.

Michael W. Jaffe,

Certifying Officer, Office, Trade Adjustment Assistance.

[FR Doc. 2011–22559 Filed 9–1–11; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of *August 8, 2011 through August 12, 2011.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–80,217; Intelicoat Technologies, LLC, Portland, Oregon: July 17, 2010.

TA–W–80,261; Fritch Forest Products, Inc., Snohomish, Washington: June 22, 2010.

TA–W–80,282; GH Metal Solutions, Inc., Fort Payne, Alabama: June 16, 2010.

TA–W–80,308; Roseburg Forest Products, Orangeburg, South Carolina: July 21, 2010.

TA–W–80,308A; Roseburg Forest Products, Russellville, South Carolina: July 21, 2010.

TA–W—80,318; Roseburg Forest Products, Riddle, Oregon: July 5, 2010.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–80,003; Electronic Arts, Inc., Playa Vista, California: February 15, 2010.

TA–W–80,121; Nexergy, Inc., Escondido, California: April 19, 2010.

TA–W–80,132; Winchester Electronics Corp., Wallingford, Connecticut: February 7, 2010.

TA–W–80,132A; Winchester Electronics Corp., Wallingford, Connecticut: April 21, 2010.

TA–W–80,132B; Winchester Electronics Corp., Wallingford, Connecticut: April 21, 2010.

TA–W–80,294; Rockwell Collins, Inc., Irvine, California: July 15, 2010.

TA–W–80,317; Baldwin Hardware Corp., Reading, Pennsylvania: July 25, 2010.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–80,191; Tegrant Corp., New Brighton, Pennsylvania: May 19, 2010.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–80,086; Eastman Kodak Company, Rochester, New York.

TA–W–80,145; Truelove Dental Laboratory, Inc., Norman, Oklahoma.

TA–W–80,146; International Business Machines (IBM), Armonk,New York.

TA–W–80,249; Staples, Inc., Broomfield, Colorado.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–80,021; Pitney Bowes Mail Services Management Sales, Purchase, New York.

TA–W–80,114; Ceva Logistics, East Liberty, Ohio.

TA–W–80,114A; Ceva Logistics, Van Wert, Ohio.

TA–W–80,167; SunGard Business Systems, LLC, Birmingham, Alabama.

TA–W–80,228; Continental Casualty Company, Chicago, Illinois.

TA–W–80,279; Paris Accessories, Inc., Yellville, Arkansas.

TA–W–80,290; MGM Resorts International Operations, Inc., Las Vegas, Nevada.

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W–80,157; Cognis Corp., Cincinnati, Ohio.

TA–W–80,157A; Cognis Corp., Cincinnati, Ohio.

TA–W–80,345; Pet Are Remembered, Mount Vernon, Indiana.

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA–W–80,062; Ericsson Services, Inc., Kansas City, Missouri.

I hereby certify that the aforementioned determinations were issued during the period of *August 8, 2011 through August 12, 2011.* Copies of these determinations may be requested under the Freedom of Information Act. Requests may be submitted by fax, courier services, or mail to FOIA Disclosure Officer, Office of Trade Adjustment Assistance (ETA), U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 or *tofoiarequest@dol.gov.* These determinations also are available on the Department's Web site at *http://www.doleta.gov/tradeact* under the searchable listing of determinations.

Dated: August 19, 2011.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–22554 Filed 9–1–11; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 12, 2011.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 12, 2011.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 19th day of August 2011.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

Appendix

43 TAA PETITIONS INSTITUTED BETWEEN 8/1/11 AND 8/12/11

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
80327	Mohawk (Workers)	Laurel Hill, NC	08/01/11	07/28/11
80328	Valley Care Health System Northside Medical Center (State/One-Stop)	Youngstown, OH	08/01/11	07/29/11
80329	DHL Express (State/One-Stop)	Houston, TX	08/01/11	07/29/11
80330	Baker Hughes Enterprise Finance Organization (State/One-Stop)	Houston, TX	08/01/11	07/29/11
80331	BLD Products (Workers)	Holland, MI	08/02/11	07/22/11
80332	Chute Chemical Company (Company)	Bangor, ME	08/02/11	07/21/11

43 TAA PETITIONS INSTITUTED BETWEEN 8/1/11 AND 8/12/11—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
80333	Kimball Electronics Fremont (Workers)	Fremont, CA	08/02/11	08/01/11
80334	RR Donnelley (Workers)	Eldridge, IA	08/02/11	07/15/11
80335	Linear Motion, LLC (Union)	Saginaw, MI	08/02/11	07/21/11
80336	Dell Inc., Dell Financial Services (Workers)	Austin, TX	08/02/11	07/18/11
80337	84 Lumber Company-Forest Grove OR (State/One-Stop)	Forest Grove, OR	08/03/11	08/02/11
80338	Thermal Dynamics Corporation (Thermadyne) (Company)	West Lebanon, NH	08/03/11	08/02/11
80339	West Point Home (Company)	Greenville, AL	08/04/11	07/27/11
80340	Bush Industries, Inc.—Allen Street (Company)	Jamestown, NY	08/04/11	08/02/11
80341	Hartford Financial Services Group, Inc. (Workers)	Hartford, CT	08/05/11	07/27/11
80342	Motorola Mobility Inc. (Workers)	Libertyville, IL	08/05/11	08/01/11
80343	Jostens State College (Company)	State College, PA	08/05/11	08/03/11
80344	Flextronics (Workers)	San Diego, CA	08/08/11	08/03/11
80345	Pets Are Remembered (Company)	Mount Vernon, IN	08/08/11	08/05/11
80346	Graceway Pharmaceuticals, LLC (Company)	Exton, PA	08/08/11	08/05/11
80347	Pension Systems Corporation (Company)	Sherman Oaks, CA	08/08/11	08/06/11
80348	THE ESAB GROUP, INC. (Union)	Ashtabula, OH	08/08/11	08/05/11
80349	Philips Lighting Company (Union)	Bath, NY	08/08/11	08/05/11
80350	Baby Bliss Inc. (Company)	Middleville, MI	08/09/11	08/08/11
80351	Neapco Components, LLC (Company)	Pottstown, PA	08/09/11	08/08/11
80352	Penske-Delphi Packard Wiring Harness Division (State/One-Stop)	El Paso, TX	08/09/11	08/09/11
80353	The HON Company (State/One-Stop)	Owensboro, KY	08/10/11	08/09/11
80354	Avery Dennison (Workers)	Greensboro, NC	08/10/11	07/29/11
80355	Pacific Northwest Marine Services, LLC (Company)	Gig Harbor, WA	08/10/11	08/09/11
80356	Zebra Technologies (Company)	Camarillo, CA	08/11/11	08/09/11
80357	Sykes (Company)	Chavies, KY	08/11/11	08/10/11
80358	Wipro Technologies (Company)	Alpharetta, GA	08/11/11	07/15/11
80359	Perfect Fit Industries, LLC (Company)	Monroe, NC	08/11/11	08/09/11
80360	Pepsico (Company)	Deerfield Beach, FL	08/11/11	08/08/11
80361	Bank Of America (Workers)	Scranton, PA	08/11/11	08/10/11
80362	Rock Tenn (Williamsport, PA Plant) (Union)	Williamsport, PA	08/11/11	08/09/11
80363	Hutchinson Technology, Inc. (State/One-Stop)	Hutchinson, MN	08/11/11	08/09/11
80364	Gray Interplant Systems, Inc. (Workers)	Peoria, IL	08/11/11	08/08/11
80365	Lineal Veneer & Components, LLC. (Company)	Caldwell, ID	08/11/11	08/10/11
80366	Technicolor (Workers)	Greenwood Village, CO	08/12/11	08/10/11
80367	Fidelity Information Services (Workers)	St. Petersburg, FL	08/12/11	08/08/11

43 TAA PETITIONS INSTITUTED BETWEEN 8/1/11 AND 8/12/11—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
80368	Hartford Financial Services Group, Inc. (Company)	Hartford, CT	08/12/11	08/11/11
80369	St. Louis Post-Dispatch (State/One-Stop)	St Louis, MO	08/12/11	08/11/11

[FR Doc. 2011–22553 Filed 9–1–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–75,135]

Flowserve Corporation, Albuquerque, NM; Notice of Negative Determination on Reconsideration

On April 6, 2011, the Department of Labor (Department) issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of Flowserve Corporation, Albuquerque, New Mexico (subject firm). The Notice was published in the **Federal Register** on April 14, 2011 (76 FR 21040). Workers at the subject firm manufactured industrial pumps. The petitioner (a State of New Mexico workforce agent) alleged that the subject firm shifted production to a foreign country.

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The initial investigation resulted in a negative determination based on the findings that Section 222(a) of the Trade Act of 1974, as amended, was not met because no workers were totally or partially separated, or threatened with such separation, during the one year period before the petition date (January 21, 2011).

In request for reconsideration, the State of New Mexico workforce agent asserted that ''at least 4 workers were separated during the one year period prior to the petition date'' and provided four support documents (''Separation Agreement and Release'' related to Louis Reynolds; ''Notice to Employees'' which is part of the ''Separation Agreement and Release''; ''Signatures'' which is part of the ''Separation Agreement and Release''; and ''Support Documentation'') provided by Louis Reynolds.

The ''Separation Agreement and Release'' document established that Louis Reynolds was separated from employment with Flowserve Corporation (Flowserve) on January 25, 2010.

The ''Notice to Employees'' document identifies four individuals in the ''Charlotte, NC facility'' selected for separation and has a handwritten note that Louis Reynolds is one of the individuals.

The ''Signatures'' document shows that Louis Reynolds signed the ''Separation Agreement and Release'' on March 4, 2010.

The fourth document is a narrative by Mr. Reynolds about the closure of the Albuquerque, New Mexico facility on March 31, 2009; his reassignment to Vernon, California in October 2009; his weekly commute to and from Albuquerque, New Mexico and Vernon, California during October 2009 through January 2010; and his separation from employment with Flowserve on January 25, 2010.

During the reconsideration investigation, the Department contacted the State of New Mexico workforce agent who filed both the petition and the request for reconsideration for clarification. The Department also contacted Flowserve for clarification of previously-submitted information and additional information.

The State of New Mexico workforce agent confirmed that his intent in filing the Trade Adjustment Assistance petition and the request for reconsideration was to assist Mr. Reynolds.

Flowserve confirmed that production at the Albuquerque, New Mexico facility ceased in May 2009, that all production employees were separated in July 2009, and that all non-production employees were reassigned to the Vernon, California facility during August–September 2009. Flowserve also confirmed that by January 2010, there were no workers at the Albuquerque, New Mexico facility.

Flowserve also clarified that although Mr. Reynolds was reassigned from Albuquerque, New Mexico to Charlotte, North Carolina in June 2009, he assisted with the closure of the New Mexico facility until the end of July 2009 and worked at Vernon, California from August 2009 until he was separated from Flowserve.

The reconsideration investigation also confirmed that neither the Vernon, California facility nor the Charlotte, North Carolina facility of Flowserve employed workers who are eligible to apply for Trade Adjustment Assistance.

After a careful review of previously-submitted information and additional information obtained by the Department during the reconsideration investigation, the Department determines that there was no worker group at Flowserve Corporation, Albuquerque, New Mexico during the investigation period. Therefore, no workers were totally or partially separated from employment at Flowserve Corporation, Albuquerque, New Mexico, or threatened with such separation. Further, the Department determines that there was no mistake in fact and no misinterpretation of the facts or the law.

Conclusion

After careful consideration of the administrative record, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Flowserve Corporation, Albuquerque, New Mexico.

Signed in Washington, DC, on this 12th day of August, 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–22556 Filed 9–1–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–73,351]

Sandy Alexander, Clifton, NJ; Notice of Negative Determination on Reconsideration

On January 21, 2011, the Department of Labor issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of Sandy Alexander, Clifton, New Jersey (subject firm). The Department's Notice was published in the **Federal Register** on February 2, 2011 (76 FR 5832). The workers are engaged in activities related to the production of printed materials.

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a mis- interpretation of facts or of the law justified reconsideration of the decision.

The initial investigation resulted in a negative determination based on the findings that the petitioning worker group did not meet the eligibility criteria set forth in the Trade Act of 1974, as amended.

In request for reconsideration, the petitioner supplied new information regarding an alleged shift in production to China.

A careful review of the administrative record and additional information obtained by the Department during the reconsideration investigation confirmed that the subject firm did not shift to, nor acquire from, a foreign country articles that are like or directly competitive with articles produced by the subject firm.

Further, during the reconsideration investigation, the Department reviewed previously-submitted information and determined that there was no mistake in fact and no misinterpretation of the facts or the law.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Sandy Alexander, Clifton, New Jersey.

Signed in Washington, DC, on this 11th day of August, 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–22555 Filed 9–1–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–74,554]

International Business Machines (IBM), Software Group Business Unit, Quality Assurance Group, San Jose, California; Notice of Negative Determination on Reconsideration

On January 21, 2011, the Department of Labor (Department) issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of International Business Machines (IBM), Software Group Business Unit, Optim Data Studio Tools QA, San Jose, California (subject firm). The Department's Notice was published in the **Federal Register** on February 2, 2011 (76 FR 5832). The subject worker group supplies acceptance testing services, design consulting services, and call center services.

The negative determination of the Trade Adjustment Assistance petition filed by a State of California workforce agent on behalf of workers at the subject firm was based on the Department's finding that Criterion (1) has not been met because the Department did not find that a significant number or proportion of the workers at IBM, Software Group Business Unit, Optim Data Studio Tools QA, San Jose, California was totally or partially separated, or threatened with separation.

29 CFR 90 defines ''significant number or proportion of the workers'' to mean ''(a) In most cases, the total or partial separations, or both, in a firm or appropriate subdivision thereof, are the equivalent to a total of unemployment of five percent (5 percent) of the workers or 50 workers, whichever is less; or (b) At least three workers in a firm (or appropriate subdivision thereof) with a workforce of fewer than 50 workers.''

In his request for reconsideration, a worker stated that ''I was an employee of Information Management Group where * * * over 100+ employees have been let go from this particular group * * * In my specific HPU group (High Performance Unload tooling group) I was the only full time employee working in the U.S.A. validating the quality of this produce running Acceptance testing.'' The request for reconsideration included a diagram that shows that ''HPU tooling'' is a group within ''Information Management,'' which is a unit within the ''Software Division'' of IBM.

New information obtained from the subject firm during the reconsideration investigation shows that the Optim Data Studio Tools QA unit is a subset of the Quality Assurance Group, which is part of the Software Group Business Unit of IBM, and that the HPU Tooling Group is a project handled by members of the Quality Assurance Group rather than a distinct subgroup of IBM. As such, the Department determines that the subject worker group consists of workers of IBM, Software Group Business Unit, Quality Assurance Group, San Jose, California.

During the reconsideration investigation, the Department received information that there was only one worker separation within the subject worker group and that no workers of the subject worker group was threatened with separation (partial or total), as defined by 29 CFR 90. Rather, the new information obtained during the reconsideration investigation revealed that employment within the Quality Assurance Group (San Jose, California facility) increased in 2010 from 2009 levels.

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

After careful review of the administrative record and new information collected during the reconsideration investigation, the Department determines that, in light of the new information, the determination complained of is not erroneous; that the determination complained of is not based on a mistake in the determination of facts not previously considered; and that there has not been a misinterpretation of facts or of the law.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for

worker adjustment assistance for workers and former workers of International Business Machines (IBM), Software Group Business Unit, Quality Assurance Group, San Jose, California.

Signed in Washington, DC on this 22nd day of August, 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–22562 Filed 9–1–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–80,213]

Healthlink, a Wellpoint, Inc. Company, Accounts Receivable and Collections Division, St. Louis, MO; Notice of Negative Determination Regarding Application for Reconsideration

By application received July 14, 2011, a worker requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers HealthLink, a Wellpoint, Inc. Company, Accounts Receivable and Collections Division, St. Louis, Missouri (HealthLink-Accounts Receivable Collections Division). The negative determination was issued on June 21, 2011. The Department's Notice of Determination was published in the **Federal Register** on July 8, 2011 (76 FR 40402). The workers of HealthLink-Accounts Receivable Collections Division are engaged in activities related to the supply of health insurance services: Accounts payable and collections services.

The petition was filed on behalf of ''finance'' workers at HealthLink, St. Louis, Missouri (HealthLink). The petition states that the service supplied by HealthLink is a ''network of providers through contracts to payors—insurers and third party administrators'' and that ''production has been/is being sent to India and services are being outsourced to India.''

The negative determination was based on the Department's findings that HealthLink does not produce an article within the meaning of Section 222(a) or Section 222(b) of the Act. In order to be considered eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, the worker group seeking certification (or on whose behalf certification is being sought) must work for a ''firm'' or appropriate subdivision that produces an article.

In the request for reconsideration, the petitioner asserts that subject worker group separations were due to a shift to India and stated that ''other Wellpoint petitions for several other locations of Financial Operation departments'' have worker groups eligible to apply for TAA.

The determinations referenced in the request for reconsideration are Wellpoint, Inc., Financial Operations Recovery Department (TA–W–74,661 through TA–W–74,661H; issued on January 7, 2011).

Workers covered by TA–W–74,661 were eligible to apply for worker adjustment assistance because the worker group eligibility requirements of the Trade and Globalization Adjustment Assistance Act of 2009 (Trade Act of 2009) was satisfied. Specifically, the Department determined that there was a shift by the workers' firm to a foreign country in the supply of services like or directly competitive with those supplied by the workers' firm and that the shift of services abroad contributed importantly to worker group separations.

Pursuant to 29 CFR 90.18(c), administrative reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

After the Trade Act of 2009 expired in February 2011, petitions for TAA were instituted under the Trade Adjustment Assistance Reform Act of 2002 (Trade Act of 2002). Therefore, the statute applicable to TA–W–80,213 is the Trade Act of 2002. The applicable regulation is codified in 29 CFR 90, subpart B.

Section 222 of the Trade Act of 2002 establishes the worker group eligibility requirements. The requirements include either ''imports of articles like or directly competitive with articles produced by such firm or subdivision have increased'' or ''a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision.''

The request for reconsideration asserts that workers separated at the HealthLink, St. Louis, Missouri facility are similar to workers covered by ''other locations of Financial Operation departments that have been approved.''

The certification for TA–W–74,661 was issued based on the Department's findings that the workers' firm supplied a service and that the supply of services was shifted to a foreign country. The shift of services that was the basis for certification under the Trade Act of 2009 cannot be the basis for certification under the Trade Act of 2002 because the two statutes have different worker group eligibility criteria.

After careful review of the request for reconsideration, previously submitted materials, the applicable statute, and relevant regulation, the Department determines that there is no new information, mistake in fact, or misinterpretation of the facts or of the law.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 18th day of August, 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–22552 Filed 9–1–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–75,183]

Reynolds Food Packaging LLC, a Subsidiary of Reynolds Group Holding Limited, Grove City, PA; Notice of Revised Determination on Reconsideration

On June 6, 2011, the Department of Labor (Department) issued a Notice of Affirmative Determination Regarding Application for Reconsideration to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of Reynolds Food Packaging LLC, a subsidiary of Reynolds Group Holding Limited, Grove City, Pennsylvania (subject firm). Workers at the subject firm are engaged in employment related to the production of disposable food service containers and bulk sheet.

During the reconsideration investigation, the Department received new information that revealed that there

has been a shift in a portion of production of disposable food service containers and bulk sheet by the subject firm to a foreign country.

Criterion I has been met because a significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated.

Criterion II has been met because there has been a shift in production of disposable food service containers and bulk sheet by the subject firm to a foreign country.

Criterion III has been met because the shift in production to a foreign country contributed importantly to worker group separations at the subject firm.

Conclusion

After careful review of the additional facts obtained on reconsideration, I determine that workers and former workers of the subject firm, who are engaged in employment related to the production of disposable food service containers or bulk sheet, meet the worker group certification criteria under Section 222(a) of the Act, 19 U.S.C. 2272(a). In accordance with Section 223 of the Act, 19 U.S.C. 2273, I make the following certification:

All workers of Reynolds Food Packaging LLC, a subsidiary of Reynolds Group Holding Limited, Grove City, Pennsylvania, who became totally or partially separated from employment on or after January 26, 2010, through two years from the date of this revised certification, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 26th day of August, 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–22558 Filed 9–1–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–75,181]

Sony Music Holdings, Inc., D/B/A Sony DADC Americas a Subsidiary of Sony Corporation of America Including On-Site Leased Workers From Employment Plus, Aerotek, and Robert Half Pitman, NJ; Notice of Revised Determination on Reconsideration

On June 28, 2011, the Department of Labor (Department) issued a Notice of Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of Sony Music Holdings, Inc. (''SMHI''), d/b/a Sony DADC Americas, a subsidiary of Sony Corporation of America, including on-site leased workers from Employment Plus, Aerotek, and Robert Half, Pitman, New Jersey (subject firm) to apply for Trade Adjustment Assistance. The Department's Notice was published in the **Federal Register** on July 8, 2011 (76 FR 40400). Workers at the subject firm were engaged in activities related to the production of optical discs containing content.

During the reconsideration investigation, the Department received new information that revealed that the subject firm shifted to a foreign country a portion of the production of articles like or directly competitive with the articles produced by the subject firm workers.

Criterion I has been met because a significant number or proportion of workers at the subject firm have become totally or partially separated or are threatened with such separation.

Criterion II has been met because the subject firm shifted to a foreign country a portion of the production of articles like or directly competitive with the articles produced by the subject firm workers.

Criterion III has been met because the shift in production contributed importantly to the workers' separation or threat of separation at the subject firm.

Conclusion

After careful review of the additional facts obtained on reconsideration, I determine that workers and former workers of the subject firm, who are engaged in employment related to the production of optical discs containing content, meet the worker group certification criteria under Section 222(a) of the Act, 19 U.S.C. 2272(a). In accordance with Section 223 of the Act, 19 U.S.C. 2273, I make the following certification:

All workers of Sony Music Holdings, Inc. (''SMHI''), d/b/a Sony DADC Americas, a subsidiary of Sony Corporation of America, including on-site leased workers from Employment Plus, Aerotek, and Robert Half, Pitman, New Jersey, who became totally or partially separated from employment on or after February 7, 2010, through two years from the date of this revised certification, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 18th day of August, 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–22557 Filed 9–1–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below to modify the application of existing mandatory safety standards codified in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before October 3, 2011.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.
2. *Facsimile:* 202–693–9441.
3. *Regular Mail:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939, Attention: Roslyn B. Fontaine, Acting Director, Office of Standards, Regulations and Variances.

4. *Hand-Delivery or Courier:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939, Attention: Roslyn B. Fontaine, Acting Director, Office of Standards, Regulations and Variances.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments. Individuals who submit comments by hand-delivery are required to check in at the receptionist's desk on the 21st floor.

Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (E-mail), or 202–693–9441 (Facsimile). [These are not toll-free numbers].

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that: (1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or (2) That the application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Numbers: M–2011–024–C, M–2011–025–C, and M–2011–026–C.

Petitioner: Amfire Mining Company, LLC, One Energy Place, Latrobe, Pennsylvania 15650. .

Mines: Ondo Mine, MSHA Mine I.D. No. 36–09005, located in Indiana County, Pennsylvania; Dora 8 Mine, MSHA I.D. No. 36–08704, located in Jefferson County, Pennsylvania; and Madison Mine, MSHA I.D. No. 36–09127, located in Cambria County, Pennsylvania.

Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment; maintenance) and 30 CFR 18.35(a)(5)(i) (Portable (trailing) cables and cords).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of extended trailing cables on the Mobile Bridge Conveyors, Dual Boom Roof Bolters, Continuous Miners, and Shuttle Cars. The petitioner states that these petitions will apply to: (1) Trailing cables that supply 995-Volt 3-Phase AC Current to Continuous Miners and Mobile Bridge Conveyors. Cable will have a 90 degree insulation rating; and (2) trailing cables that supply 480-Volt 3-Phase AC Current to Roof Bolters and Shuttle Cars. Additionally, the petitioner states that: (1) Extended length Trailing Cables used on Shuttle Cars and Roof Bolters will be 3-Conductor Round Cable, Type G–GC, Type G or Type G & GC. When a Type G–GC or Type G & GC Round Cable is used with wireless ground wire monitoring, the Ground Check Conductor will be connected as a Ground Conductor; (2) the maximum cable length of the Miner, Mobile Bridge Conveyors, Roof Bolters and Shuttle Cars will not exceed 1,000 feet. The trailing cable for the Miner will not be smaller than #2/0 American Wire Gauge (AWG). The trailing cable for the Roof Bolter and Shuttle Car will not be smaller than a #4 AWG, and the trailing cable for the Haulage unit will not be smaller than #2 AWG; (3) all circuit breakers used to protect the #4 AWG trailing cables exceeding the 600 feet in length will have Instantaneous Trip Units calibrated to trip at 500 amperes (Amps). The trip settings of these breakers will either be sealed or the breaker trip units will not be larger than 500 Amps. These circuit breakers will have permanent legible labels attached. The label will identify the circuit breaker as being suitable for protecting #4 AWG cables; (4) replacement breakers and/or Instantaneous Trip Units used to protect #4 AWG Cables will be calibrated to trip at 500 Amps and this setting will be sealed or Trip Units will not be larger than 500 Amps; (5) all circuit breakers used to protect #2 AWG cables exceeding 700 feet in length will have instantaneous trip units calibrated to trip at 800 Amps. The trip settings of these circuit breakers will be sealed and these circuit breakers will have permanent legible labels. The label will identify the circuit breaker as being suitable for protecting #2 AWG cables; (6) replacement circuit breakers and/or instantaneous trip units used to protect #2 AWG trailing cables will be calibrated to trip at 800 Amps and this setting will be sealed; (7) all circuit breakers used to protect #2/0 AWG trailing cables exceeding 850 feet in length will have instantaneous trip units calibrated to trip at 1500 Amps. The trip setting of these circuit breakers will be sealed or the maximum available setting on the trip units will not be greater than 1500 Amps. These circuit breakers will have permanent legible labels. The label will identify the circuit breaker as being suitable for protecting #2/0 AWG cables; (8) replacement breakers and/or instantaneous trip units used to protect #2/0 AWG trailing cables will be calibrated to trip at 1500 Amps and this setting will be sealed or the maximum size of the trip unit will be 1500 Amps; (9) all components that provide short circuit protection will have a sufficient interruption rating in accordance with the maximum calculated fault currents available; (10) during each production day, persons designated by the operator will visually examine the trailing cables to ensure the cables are in safe operating condition and that the instantaneous settings of the specially calibrated breakers do not have seals removed or tampered with and they do not exceed 500, 800 or 1500 Amps respectively; (11) any trailing cable that is not in a safe operating condition will be removed from service immediately and repaired or replaced; (12) each splice or repair in the trailing cables to the Miner, Mobile Bridge Conveyor, Roof Bolter or Shuttle Car will be made in a workmanlike manner and in accordance with the instructions of the manufacturer of the splice or repair materials. The splice or repair will comply with 30 CFR 75.603 and 75.604; (13) permanent warning labels will be installed and maintained on the cover or covers of the power center identifying the location of each sealed short circuit protective drive. These labels will warn miners not to change or alter these sealed short circuit settings; (14) in the event the mining methods or operating procedures cause or contribute to the damage of any trailing cable, the cable will be removed from service immediately and repaired or replaced. Additional precautions will be taken to ensure that haulage roads and trailing cable storage areas are situated to minimize contact of the trailing cable with the Continuous Miner, Mobile Bridge Conveyor, Shuttles Cars and Roof Bolters. Trailing cables, anchors or cable reel equipment will be of the permanent type that minimizes the tensile forces on the trailing cables; (15) where the method of mining would require that trailing cables cross roadways or haulage ways, the cables will be securely supported from the mine roof or a substantial bridge for equipment to pass over the cables will be provided and used; (16) excess cable will be

stored behind the anchor or anchors on equipment that use cable reels to prevent the cables from overheating; (17) this change will not be implemented until this petition for modification is approved and all miners who will be responsible for examining the cables and associated electrical components have been trained on the contents and precautions included in the petition; and (18) proposed revisions for the approved Part 48 training plan will specify task training and will be submitted to the District Manager for the areas for which the mines are located. The training will include: (a) The hazards of setting the short circuit interrupting device or devices too high to adequately protect the trailing cables; (b) how to verify that the circuit interrupting devices protecting the trailing cables are properly set and maintained; (c) mining methods and operating procedures that will protect the trailing cables from damage; (d) how to protect the trailing cables against damage caused by overheating cables due to excessive cable stored on reels and adjusting stored cable behind cable anchors as tramming distances change; and (e) proper procedures for examining the trailing cable to ensure the cables are in safe operating condition by a visual inspection of the entire cable, observing the insulation, the integrity of splices, and nicks and abrasions. The petitioner further states that if regulations are subsequently promulgated that supersede the requirements of 30 CFR 75.503 and 18.35(a)(5)(i), the revised standard will be applied at the mine unless it is determined by the Secretary or his representative that the alternative method contained in the petition will at all times guarantee no less than the same measure of protection afforded the subsequent revised standard. The petitioner asserts that the proposed alternative method will provide for a level of safety equal to or greater than the statute in place.

Docket Number: M–2011–027–C.

Petitioner: Midland Trail Energy, LLC, 3301 Point Lick Drive, Charleston, West Virginia 25306.

Mine: Blue Creek No. 1 Deep Mine, MSHA Mine I.D. No. 46–09297, located in Kanawha County, West Virginia.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

Modification Request: The petitioner requests a modification of the existing standard to plug and subsequently encroach within the 300-foot safety barrier, as dictated in the statute, up to and including mining through the gas and/or oil well. The petitioner proposes to use the following procedures for plugging oil and gas wells: (1) A safety barrier of 300 feet in diameter (150 feet in radius from the center of the well casing on the surface) will be maintained around all oil and gas wells until written approval to proceed within this barrier has been obtained from the District Manager (DM). The petitioner will make clear in each application to mine within the safety barrier whether the well has been plugged or not as well as whether or not the mining process intends to intercept the well. This plugging process will be utilized when encroachment on a well is greater than would normally be approved by the DM. (2) A diligent effort will be made to clean the wellbore to the original total depth. If this depth cannot be reached, the borehole will be cleaned out to a depth that would permit the placement of at least 200 feet of expanding cement below the base of the lowest mineable coal bed. A mineable coal bed is defined as having a thickness of at least 24 inches of coal. During the clean out process, a diligent effort will be made to remove as much extraneous material such as sediment, rust, trash, and hydrocarbon residue as practical. With respect to the outer walls of the wellbore, directing high pressure water jets at such will satisfy this requirement. (3) When cleaning out the borehole, a diligent effort will be made to remove all casing within the borehole. If it is not possible to remove all casing, the remaining casing will be perforated or ripped in such a manner and at such intervals as to permit expanding cement slurry to infiltrate the annulus between the casing and the wellbore wall for a distance of at least 200 feet below the base of the lowest mineable coal seam. From 10 feet below to 10 feet above the lowest mineable coal seam, any casing that remains in the borehole will be continuously perforated or ripped. A continuous perforation will be defined as a minimum of 4 shots at intervals no greater than 12 inches apart. Excluding the zone within the proximity of the lowest mineable coal seam, any casing that remains will be perforated or ripped at intervals not to exceed 50 feet from at least 200 feet below the lowest mineable coal seam to not less than 100 feet above the highest coal seam or the surface, whichever is less. When remaining casing is perforated, a minimum of 4 shots will be detonated at each location. Where ripping is performed, a minimum of one 3-foot long rip will be made at each location. As an alternative, a casing bonding log may be performed to demonstrate that all annuli are adequately sealed with cement to a depth of at least 200 feet below the lowest mineable coal seam. If the casing bonding log does not continue to the original total depth of the wellbore, the casing will be continuously perforated for a distance of at least 20 feet beginning at the deepest point of the casing bonding log and continuing towards the surface. Wherein multiple casing and tubing strings exist within a wellbore, each string will be perforated or ripped or, as an alternative, have an acceptable casing bonding log performed demonstrating each annulus within the borehole has been adequately sealed with cement. (4) A suite of logs, including geophysical, caliper, and directional deviation survey, will be performed on the borehole to a depth not less than was attainable during the cleanout process. These logs will be suitable for determining the top and bottom elevations of mineable coal seams as well as potential hydrocarbon producing stratum. These logs may be completed before or after the removal of the casing based on the condition of the wellbore prior to the removal of the casing and the anticipated condition of the wellbore after removal provided the geophysical instrumentation used can accurately detect the aforementioned stratum through the casing. The information gained from these logs will be used to determine the location for placement of the mechanical bridge plug or its alternative. (5) Pursuant to the cleanout of the well, a mechanical bridge plug will be installed in the borehole at a depth of not less than 200 feet below the base of the lowest mineable coal seam. The plug will be set in competent stratum and above the top of the uppermost hydrocarbon-producing stratum. Wherein casing remains in the well, the plug will be installed in a section of competent casing that has not been perforated or ripped. If it is not possible to set a mechanical bridge plug, a packer or substantial brush plug may be used in place of the mechanical bridge plug. (6) If the top of the uppermost hydrocarbon-producing stratum is within 200 feet of the base of the lowest mineable coal seam, an initial mechanical bridge plug or alternative will be placed at a depth of no less than 200 feet below the base of the lowest mineable coal seam. The borehole will then be filled with an expanding cement plug to the top of the uppermost hydrocarbon-producing stratum wherein a second mechanical bridge plug or alternative will be installed. The remaining portion of the borehole from the top of the second mechanical bridge plug to the base of the lowest mineable

coal seam will then be filled with expanding cement. No less than 200 feet of expanding cement will be placed in the borehole below the lowest mineable coal seam. (7) The wellbore will be completely filled and circulated with a gel that inhibits the flow of gas, supports the walls of the borehole, and increases the density of the expanding cement. This gel will be pumped through tubing that extends to within 20 feet above the bottom of the cleaned out area of the bridge plug. (8) An expanding cement plug will be set in the wellbore by pumping expanding cement slurry down the tubing such that it displaces the gel towards the surface. This expanding cement plug will extend from a minimum of 200 feet below the lowest mineable coal seam to at least 100 feet above the lowest mineable coal seam. From 100 feet above the lowest mineable coal seam to the surface, the borehole may be filled with either expanding cement slurry, Portland cement, or a Portland cement-fly ash mixture. When Portland cement or a Portland cement-fly ash mixture is substituted for the portion of the borehole between 100 feet above the lowest mineable coal seam and the surface, the expanding cement plug will be allowed to cure for at least 24 hours prior to placement of the alternative above it to the surface. (9) Upon plugging the well to the surface, a small quantity of steel turnings or other magnetic particles will be embedded in the cement to serve as a permanent magnetic monument. Other identification methods may be used provided that relocation of the well by magnetic methods is not compromised. (10) A diligent effort will be made to provide at least 14 days written notice to the DM, the appropriate State agency, and where applicable, the miners' representative, of the petitioner's intent to mine within the safety barrier at a distance less than would normally be approved by the DM under the existing standard or to mine through a plugged well. When events happen that may affect the mining process, a minimum of 48 hours of written notice will be provided by the petitioner so that each party will have the opportunity to have a representative present. (11) A representative of the operator, a representative of the miners (where applicable), the appropriate State agency, or the DM or designee may request that a conference be conducted prior to mining through any plugged well. (12) Mining through a plugged well will be done on a shift approved by the DM or designee. (13) Drivage sights or ''spads'' will be installed no greater than 50 feet from the projected intersection of the well. The section foreman and continuous miner operator will be provided a map at a scale no greater than 1 inch = 50 feet indicating the proximity of the well at the coal seam elevation with respect to the projected workings. (14) A continuous centerline will be painted on the mine roof extending from the drivage sights to the face prior to mining within 50 feet of a plugged well. This centerline will be maintained in all entries and crosscuts within 50 feet of the well until the well has been intersected or mining is no longer occurring within 50 feet of the plugged well, whichever comes first. (15) Prior to mining within 50 feet of a plugged well, the active section will be thoroughly rock-dusted such that at least 80 percent incombustible material is achieved. This will be maintained within 20 feet of the active face and reestablished after each cut has been taken until the well has been intercepted or mining is no longer occurring within 50 feet of the well. The active working place will be kept free from accumulations of coal dust and coal spillage until mining within this zone has been completed or the well has been mined through. (16) A minimum of two 20-pound fire extinguishers and 240 pounds of rock dust will be maintained in the area of mining when mining within 50 feet of a plugged well. An independent fire hose sufficient in length to reach the working face will be maintained in the last open crosscut or room. All fire hoses will be connected to a water supply and fully charged and ready for operation. (17) Sufficient supplies of roof support and ventilation materials will be available and located in the last open crosscut or room. At least two emergency plugs and two 100-ton or greater roof jacks conforming to the seam height will be made available in the immediate area of mining. (18) When mining within 50 feet of a plugged well and during the mine-through of a well, at least 9,000 cubic feet of air per minute or as required by the approved mine ventilation plan, whichever is greater, will be delivered to the working place. (19) All equipment operated within 50 feet of a plugged well, including mining through a well, will be checked for permissibility and serviced on the shift prior to operating within the 50-foot zone. Methane detectors on continuous mining machines operating within the 50-foot radius of a plugged well will be calibrated on the shift prior to operating in this zone. (20) When mining within 50 feet of a well, tests for methane will be made at least every 10 minutes while continuous mining and roof bolting activities are being conducted. These tests for methane will be made prior to the start of any continuous mining or roof bolting activity within this zone until the mine-through is complete or continuous mining and/or roof bolting activity is being performed greater than 50 feet from the well. (21) When the wellbore has been intercepted, all equipment in the working place will be deenergized and the place thoroughly examined and determined safe before mining is resumed. If it is determined that the working place is safe and casing is present, equipment will be reenergized so that the working face can be squared up sufficient to facilitate bolting of the roof as close as possible to the wellbore without disturbing the casing. Subsequent to roof bolting, temporary brattice will be installed so that sufficient airflow is moving across the casing. All well casing in the mined cavity will be removed and no open flame will be permitted in the working place until the temporary brattice and sufficient ventilation have been established. (22) After the borehole has been intercepted, the working area has been determined safe, and, where applicable, casing has been removed, mining may continue inby the well at a distance sufficient to permit adequate ventilation around the area of the wellbore. (23) When mining within 50 feet of a plugged well or during a mine-through, no persons except those actively engaged in the operation, company personnel, representatives of the miners (where applicable), MSHA personnel, and personnel from the appropriate State agency will be permitted in the active mining area. (24) All operations conducted within 50 feet of a plugged well, including the mine-through process itself, will be conducted under the supervision of a certified official. Instructions issued during mining operations in this zone will be issued only by the certified official. (25) A plugging affidavit will be filed with MSHA and where applicable, the appropriate State agency. The affidavit will detail the persons who participated in the plugging of the well, a description of the plugging work including the methods and materials used, and a certification by a Professional Engineer that the well has been plugged. The petitioner further states that within 60 days of this plan being approved, proposed revisions to its Part 48 training plan will be submitted to the DM. The proposed revisions will detail initial and annual refresher training regarding the details of this plan. In addition, the petitioner

asserts that the proposed alternative method will provide no less than the degree of safety than would be afforded the miners under the existing standard.

Dated: August 29, 2011.

Patricia W. Silvey,

Certifying Officer.

[FR Doc. 2011–22489 Filed 9–1–11; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0007]

Maritime Advisory Committee for Occupational Safety and Health (MACOSH)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of MACOSH Meeting.

SUMMARY: The Maritime Advisory Committee for Occupational Safety and Health (MACOSH) was established under Section 7 of the Occupational Safety and Health (OSH) Act of 1970 to advise the Secretary of Labor, through the Assistant Secretary of Labor for Occupational Safety and Health, on issues relating to occupational safety and health in the maritime industries. The purpose of this **Federal Register** notice is to announce that the Committee and workgroups will meet on September 20–21, 2011, in Portland, ME.

DATES: *MACOSH meeting:* MACOSH will meet from 9:00 a.m. to 5:00 p.m. on September 20 and 21, 2011.

Submission of written statements, requests to speak, and requests for special accommodations: Written statements, requests to speak at the Committee meeting, and requests for special accommodations for the Committee and workgroup meetings must be submitted (postmarked, sent, transmitted) by September 14, 2011.

ADDRESSES: *MACOSH meeting:* MACOSH will meet at the Eastland Park Hotel, 157 High Street, Portland, ME 04101–2814. *http://www.eastlandparkhotel.com/.*

Submissions of written statements and requests to speak: You may submit written statements and requests to speak at the full Committee meeting, identified by the docket number for this **Federal Register** notice (Docket No. OSHA–2011–0007), by one of the following methods:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using one of these methods, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2011–0007, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Requests for special accommodations: Submit requests for special accommodations to attend the MACOSH and its workgroup meetings by hard copy, telephone, or e-mail to: Ms. Veneta Chatmon, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–1999; e-mail *chatmon.veneta@dol.gov.*

Instructions: All submissions must include the Agency name and docket number for this **Federal Register** notice (Docket No. OSHA–2011–0007). Because of security-related procedures, submissions by regular mail may result in a significant delay in receipt. Please contact the OSHA Docket Office for information about security procedures for making submissions by hand delivery, express delivery, messenger, or courier service.

Written statements and requests to speak, including personal information provided, will be placed in the public docket and may be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates.

Docket: To read or download documents in the public docket for this MACOSH meeting, go to *http://www.regulations.gov.* All documents in the public docket are listed in the index; however, some documents (*e.g.,* copyrighted material) are not publicly available to read or download through *http://www.regulations.gov.* All submissions are available for inspection and, where permitted, copying at the OSHA Docket Office at the address above. For information on using *http://www.regulations.gov* to make submissions or to access the docket, click on the ''Help'' tab at the top of the Home page. Contact the OSHA Docket Office for information about materials not available through that Web site and for assistance in using the Internet to locate submissions and other documents in the docket. Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, is also available on the OSHA Web page at *http://www.osha.gov.*

FOR FURTHER INFORMATION CONTACT: *For press inquiries:* Frank Meilinger, OSHA's Office of Communications, U.S. Department of Labor, Room N–3647, 200 Constitution Avenue, NW., Washington, DC 20210; telephone:(202) 693–1999.

For general information about MACOSH and this meeting: Mr. Joseph V. Daddura, Director of the Office of Maritime Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2080; e-mail *Daddura.Joseph@dol.gov.*

SUPPLEMENTARY INFORMATION:

All MACOSH Committee and workgroup meetings are open to the public. All interested persons are invited to attend the full MACOSH Committee and its workgroup meetings at the time and place listed above. The tentative agenda will include discussions on: person in water (man overboard); cargo-handling equipment; confined space ventilation; selection of welding-shade protection; safe entry and cleaning practices in vessel sewage tanks; best practices for eye injury reduction; toxic materials; and injury and illness prevention programs.

The workgroups will meet from 9 a.m. until 5 p.m. on September 20, 2011 (rooms to be determined upon arrival). The workgroups will discuss topics on which they may focus for the duration of the current Committee charter. The full MACOSH Committee will meet September 21, 2011 (room to be determined upon arrival).

Public Participation: Interested parties may submit a request to make an oral presentation to MACOSH by any one of the methods listed in the **ADDRESSES** section above. The request must state the amount of time requested to speak, the interest represented (*e.g.,* organization name), if any, and a brief outline of the presentation. Requests to address MACOSH may be granted as time permits and at the discretion of the MACOSH Chair.

Interested parties may also submit written statements, including data and other information, using any one of the methods listed in the **ADDRESSES** section above. OSHA will provide all submissions to MACOSH members prior to the meeting. Individuals who need special accommodations to attend the MACOSH meeting should contact Ms. Chatmon by one of the methods listed in the **ADDRESSES** section.

Authority and Signature

David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice under the authority granted by Sections 6(b)(1) and 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 656), the Federal Advisory Committee Act (5 U.S.C. App. 2), Secretary of Labor's Order No. 4–2010 (75 FR 55355), and 29 CFR part 1912.

Signed at Washington, DC, on August 30, 2011.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2011–22582 Filed 9–1–11; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Notice of Proposed Information Collection: IMLS Museum Web Database: MuseumsCount.gov

AGENCY: Institute of Museum and Library Services, National Foundation for the Arts and the Humanities.

ACTION: Notice, request for comments, collection of information.

SUMMARY: The Institute of Museum and Library Services (IMLS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35). This pre-clearance consultation 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. By this notice, IMLS is soliciting comments concerning a primary reference source of reliable, comprehensive data on the museum sector and to provide the public, policy makers, researchers and the museum field itself with quality data for strategic decision-making.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before November 2, 2011. IMLS is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques, or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

ADDRESSES: Send comments to: Kim Miller, Management Analyst, Institute of Museum and Library Services, 1800 M St., NW., Washington, DC 20036. *Telephone:* 202–653–4762, *Fax:* 202–653–4600 or by e-mail at *kmiller@imls.gov* or by *teletype* (TTY/TDD) for persons with hearing difficulty at 202/653–4614.

SUPPLEMENTARY INFORMATION:

I. Background

The Institute of Museum and Library Services (IMLS) is an independent Federal grant-making agency and is the primary source of Federal support for the Nation's 123,000 libraries and 17,500 museums. IMLS provides a variety of grant programs to assist the Nation's museums and libraries in improving their operations and enhancing their services to the public. IMLS is responsible for identifying national needs for, and trends of, museum and library services funded by IMLS; reporting on the impact and effectiveness of programs conducted with funds made available by IMLS in addressing such needs; and identifying, and disseminating information on, the best practices of such programs. (20 U.S.C. Chapter 72, 20 U.S.C. 9108)

II. Current Actions

The purpose of the information collection is to develop a searchable museum portal for use by museums, libraries, museum and library professionals, IMLS, policy makers, researchers, and the general public. Information such as name, address, phone, e-mail, Web site, congressional district, and geographic location would be collected. The proposed information collection, which is the subject of this notice, would establish a comprehensive, reliable database about the size, distribution and scope of the museum sector in the U.S.

Agency: Institute of Museum and Library Services.

Title: IMLS Museum Web Database, MuseumsCount.gov.

OMB Number: To be determined.

Agency Number: 3137.

Frequency: Annually.

Affected Public: General public, museums, museum professional associations, museum professionals, and museum organizations associated with Indian Tribes (including any Alaska native village, regional corporation, or village corporation), and organizations that primarily serve and represent Native Hawaiians.

Number of Respondents: To be determined.

Estimated Time per Respondent: To be determined.

Total Burden Hours: To be determined.

Total Annualized Capital/Startup Costs: To be determined.

Total Annual Costs: To be determined.

FOR FURTHER INFORMATION CONTACT: Kim Miller, Management Analysis, Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC 20036. *Telephone:* 202/653–4762. *E-mail: kmiller@imls.gov.*

Dated: August 29, 2011.

Kim A. Miller,

Management Analyst, Institute of Museum & Library Services.

[FR Doc. 2011–22480 Filed 9–1–11; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Endowment for the Arts; Annual Arts Benchmarking Survey

Submission of OMB Review: Comment Request

The National Endowment for the Arts (NEA) has submitted the following public information collection request

(ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 [Pub. L. 104–13, 44 U.S.C. chapter 35]. Copies of the ICR, with applicable supporting documentation, may be obtained by contacting Sunil Iyengar via telephone at 202–682–5654 (this is not a toll-free number) or e-mail at *research@arts.endow.gov.* Individuals who use a telecommunications device for the deaf (TTY/TDD) may call 202–682–5496 between 10 a.m. and 4 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the National Endowment for the Arts, Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316, within 30 days from the date of this publication in the **Federal Register**.

The Office of Management and Budget (OMB) is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: National Endowment for the Arts.

Title: Annual Arts Benchmarking Survey.

OMB Number: New.

Frequency: Annually, in years the Survey of Public Participation in the Arts is not conducted.

Affected Public: American adults.

Estimated Number of Respondents: 36,000.

Estimated Time per Respondent: 4.0 minutes.

Total Burden Hours: 2,000 hours.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (Operating/Maintaining Systems or Purchasing Services): 0.

This request is for clearance of the Annual Arts Benchmarking Survey (AABS) to be conducted by the U.S. Census Bureau as a supplement to the Bureau of Labor Statistic's Current Population Survey. The AABS would be conducted for the first time in February 2013, and annually thereafter in years that the National Endowment's Survey of Public Participation in the Arts (SPPA) is not conducted. One of the strengths of the AABS survey is that it will both complement and supplement the information collected in the SPPA. The SPPA is the field's premiere repeated cross-sectional survey of individual attendance and involvement in arts and cultural activity, and conducted approximately every five years. The AABS questionnaire will be much shorter than the SPPA, consisting of ten to twelve questions that will be used to track arts participation over time. As with the SPPA, the AABS data will be circulated to interested researchers and will be the basis for a range of NEA reports and independent research publications. The AABS will provide annual primary knowledge on the extent and nature of participation in the arts in the United States.

Addresses: Sunil Iyengar, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Room 616, Washington, DC 20506–0001, telephone (202) 682–5654 (this is not a toll-free number), fax (202) 682–5677.

Kathleen Edwards,

Support Services Supervisor, Administrative Services, National Endowment for the Arts.

[FR Doc. 2011–22481 Filed 9–1–11; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2011–0009]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on June 9, 2011.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR part 72, Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste and Reactor-Related Greater than Class C Waste.

3. *Current OMB approval number:* 3150–0132.

4. *The form number if applicable:* N/A.

5. *How often the collection is required:* Required reports are collected and evaluated on a continuing basis as events occur; submittal of reports varies from less than one per year under some rule sections to up to an average of about 80 per year under other rule sections. Applications for new licenses, certificates of compliance (CoCs), and amendments may be submitted at anytime; applications for renewal of licenses are required every 40 years for an Independent Spent Fuel Storage Installation (ISFSI) or CoC effective May 21, 2011, and every 40 years for a Monitored Retrievable Storage (MRS) facility.

6. *Who will be required or asked to report:* Certificate holders and applicants for a CoC for spent fuel storage casks; licensees and applicants for a license to possess power reactor spent fuel and other radioactive materials associated with spent fuel storage in an ISFSI; and the Department of Energy for licenses to receive, transfer, package and possess power reactor spent fuel, high-level waste, and other radioactive materials associated with spent fuel and high-level waste storage in an MRS.

7. *An estimate of the number of annual responses:* 481 (260 reporting responses + 153 third party disclosure responses + 68 recordkeepers).

8. *The estimated number of annual respondents:* 68.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 62,692 hours (26,106 reporting + 33,416 recordkeeping + 3,170 third party disclosure).

10. *Abstract:* 10 CFR part 72 establishes mandatory requirements, procedures, and criteria for the issuance of licenses to receive, transfer, and possess power reactor spent fuel and other radioactive materials associated with spent fuel storage in an ISFSI, as

well as requirements for the issuance of licenses to the Department of Energy to receive, transfer, package, and possess power reactor spent fuel and high-level radioactive waste, and other associated radioactive materials in an MRS. The information in the applications, reports, and records is used by NRC to make licensing and other regulatory determinations.

The public may examine and have copied for a fee publicly available documents, including the final supporting statement, at the NRC's Public Document Room, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. OMB clearance requests are available at the NRC Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by October 3, 2011. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Chad Whiteman, Desk Officer, Office of Information and Regulatory Affairs (3150–0132), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *CWhiteman@omb.eop.gov* or submitted by telephone at 202–395–4718.

The NRC Clearance Officer is Tremaine Donnell, 301–415–6258.

Dated at Rockville, Maryland, this 26th day of August, 2011.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2011–22550 Filed 9–1–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2011–0114]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on June 6, 2011.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR part 61, Licensing Requirements for Land Disposal of Radioactive Waste.

3. *Current OMB approval number:* 3150–0135.

4. *The form number if applicable:* N/A.

5. *How often the collection is required:* Applications for licenses are submitted as needed. Other reports are submitted annually and as other events require.

6. *Who will be required or asked to report:* Applicants for and holders of an NRC license (to include Agreement State licensees) for land disposal of low-level radioactive waste; and all generators, collectors, and processors of low-level waste intended for disposal at a low-level waste facility.

7. *An estimate of the number of annual responses:* 16.

8. *The estimated number of annual respondents:* 4.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 5,412 hours (56 hours for reporting [approximately 4.6 hours per response] and 5,356 hours for recordkeeping [approximately 1,339 hours per recordkeeper]).

10. *Abstract:* 10 CFR Part 61 establishes the procedures, criteria, and license terms and conditions for the land disposal of low-level radioactive waste. The reporting and recordkeeping requirements are mandatory and, in the case of application submittals, are required to obtain a benefit. The information collected in the applications, reports, and records is evaluated by the NRC to ensure that the licensee's or applicant's disposal facility, equipment, organization, training, experience, procedures, and plans provide an adequate level of protection of public health and safety, common defense and security, and the environment.

The public may examine and have copied for a fee publicly available documents, including the final supporting statement, at the NRC's Public Document Room, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. OMB clearance requests are available at the NRC Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by October 3, 2011. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Chad Whiteman, Desk Officer, Office of Information and Regulatory Affairs (3150–0135), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *CWhiteman@omb.eop.gov* or submitted by telephone at 202–395–4718.

The NRC Clearance Officer is Tremaine Donnell, 301–415–6258.

Dated at Rockville, Maryland, this 26th day of August, 2011.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2011–22549 Filed 9–1–11; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Standard Form 1153: Claim for Unpaid Compensation of Deceased Civilian Employee

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: Merit System Audit and Compliance, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an existing information collection request (ICR) 3206–0234, Standard Form 1153, Claim for Unpaid Compensation of Deceased Civilian Employee. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget is particularly interested in comments that:

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

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until November 1, 2011. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to Classification and Pay Claims Program Manager, U.S. Office of Personnel Management, Merit System Audit and Compliance, Room 6484, 1900 E Street, NW., Washington, DC 20415, or sent via electronic mail to *robert.hendler@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting Classification and Pay Claims Program Manager, U.S. Office of Personnel Management, Merit System Audit and Compliance, Room 6484, 1900 E Street, NW., Washington, DC 20415, or sent via electronic mail to *robert.hendler@opm.gov.*

SUPPLEMENTARY INFORMATION: Standard Form 1153, Claim for Unpaid Compensation of Deceased Civilian Employee, is used to collect information from individuals who have been designated as beneficiaries of the unpaid compensation of a deceased Federal employee or who believe that their relationship to the deceased entitles them to receive the unpaid compensation of the deceased Federal employee. OPM needs this information to adjudicate the claim and properly assign a deceased Federal employee's unpaid compensation to the appropriate individual(s). The proposed revision to the expiring ICR responds to suggestions received from users. Part B, 1. Is changed to clarify that a beneficiary may include a legal entity or estate as provided for in 5 CFR 178.203© and to provide instructions if more room is needed to list designated beneficiaries.

Analysis

Agency: Merit System Audit and Compliance, Office of Personnel Management.

Title: Standard Form 1153, Claim for Unpaid Compensation of Deceased Civilian Employee.

OMB Number: 3206–0234.

Frequency: Annually.

Affected Public: Individuals.

Number of Respondents: 3,000.

Estimated Time Per Respondent: 15 minutes.

Total Burden Hours: 750 hours.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2011–22471 Filed 9–1–11; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: 3206–0215, Verification of Full-Time School Attendance, RI 25–49

AGENCY: U.S. Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on a revised information collection request (ICR) 3206–0215, Verification of Full-Time School Attendance. As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on May 23, 2011 at Volume 76 FR 29805 allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

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

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until October 3, 2011. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: RI 25–49, Verification of Full-Time School Attendance, is used to verify that adult student annuitants are entitled to payment. The Office of Personnel Management must confirm that a full-time enrollment has been maintained.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Verification of Full-Time School Attendance.

OMB Number: 3206–0215.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 10,000.

Estimated Time per Respondent: 60 minutes.

Total Burden Hours: 10,000.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2011–22473 Filed 9–1–11; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: 3206–0121, Application for Deferred Retirement (For Persons Separated on or After October 1, 1956), OPM 1496A

AGENCY: U.S. Office of Personnel Management.

ACTION: 60–Day Notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a revised information collection request (ICR) 3206–0121, Application for Deferred Retirement (For persons separated on or after October 1, 1956). As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until November 1, 2011. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the U.S. Office of Personnel Management, Linda Bradford (Acting), Deputy Associate Director, Retirement Operations, Retirement Services, 1900 E Street, NW., Room 3305, Washington, DC 20415–3500 or sent via electronic mail to *Martha.Moore@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street, NW., Room 4332, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

SUPPLEMENTARY INFORMATION: OPM 1496A, is used by eligible former Federal employees to apply for a deferred Civil Service annuity.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Application for Deferred Retirement (For persons separated on or after October 1, 1956).

OMB Number: 3206–0121.

Frequency: On occasion.

Affected Public: Individuals or households.

Number of Respondents: 2,800.

Estimated Time per Respondent: 1 hour.

Total Burden Hours: 2,800.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2011–22472 Filed 9–1–11; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Hispanic Council on Federal Employment

AGENCY: Office of Personnel Management.

ACTION: Scheduling of council meeting.

SUMMARY: The Hispanic Council on Federal Employment will hold its third meeting on Friday, September 30, 2011, at the time and location shown below. The Council is an advisory committee composed of representatives from Hispanic organizations and senior government officials. Along with its other responsibilities, the Council shall advise the Director of the Office of Personnel Management on matters involving the recruitment, hiring, and advancement of Hispanics in the Federal workforce. The Council is co-chaired by the Chief of Staff of the Office of Personnel Management and the Assistant Secretary for Human Resources and Administration at the Department of Veterans Affairs.

The meeting is open to the public. Please contact the Office of Personnel Management at the address shown below if you wish to present material to the Council at the meeting. The manner and time prescribed for presentations may be limited, depending upon the number of parties that express interest in presenting information.

DATES: September 30th, 2011 from 1–5 p.m.

LOCATION: U.S. Office of Personnel Management, Room 1350, Theodore Roosevelt Building, 1900 E St., NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Veronica E. Villalobos, Director for the Office of Diversity and Inclusion, Office of Personnel Management, 1900 E St., NW., Suite 5H35, Washington, DC 20415. Phone (202) 606–2984 FAX (202) 606–2183 or e-mail at *Edgar.Gonzalez@opm.gov.*

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2011–22532 Filed 9–1–11; 8:45 am]

BILLING CODE 6325–46–P

POSTAL REGULATORY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, September 14, 2011, at 11 a.m.

PLACE: Commission hearing room, 901 New York Avenue, NW., Suite 200, Washington, DC 20268–0001.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public. The open part of the meeting will be audiocast. The audiocast can be accessed via the Commission's Web site at *http://www.prc.gov.*

MATTERS TO BE CONSIDERED: The agenda for the Commission's September 2011 meeting includes the items identified below.

Portions Open to the Public

1. Synopsis of the legislative review completed pursuant to section 701 of the Postal Accountability and Enhancement Act.
2. Review of postal-related Congressional activity.
3. Report on Post Office appeals filed with the Commission.
4. Report on status of pending dockets.
5. Report on international activity.
6. Report on the status of the Joint Periodicals Task Force report.
7. Report on studies to quantify the social value of the postal system.
8. Report on the status of the Docket Section modernization project.
9. Discussion and approval of the FY2012 budget.

Portion Closed to the Public

10. Discussion of contractual matters involving sensitive business information—lease issues.

CONTACT PERSON FOR MORE INFORMATION: Stephen L. Sharfman, General Counsel, Postal Regulatory Commission, 901 New York Avenue, NW., Suite 200, Washington, DC 20268–0001, at 202–789–6820 (for agenda-related inquiries) and Shoshana M. Grove, Secretary of the Commission, at 202–789–6800 or *shoshana.grove@prc.gov* (for inquiries related to meeting location, access for handicapped or disabled persons, the audiocast, or similar matters).

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2011–22718 Filed 8–31–11; 4:15 pm]

BILLING CODE 7710–FW–P

RAILROAD RETIREMENT BOARD

Proposed Collections; Comment Request

Summary: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) publishes periodic summaries of proposed data collections.

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

1. Title and Purpose of Information Collection

Railroad Service and Compensation Reports/System Access Application; OMB 3220–0008. Under Section 9 of the Railroad Retirement Act (RRA) and Section 6 of the Railroad Unemployment Insurance Act (RUIA) the Railroad Retirement Board (RRB) maintains for each railroad employee a record of compensation paid to that employee by all railroad employers for whom the employee worked after 1936. This record, which is used by the RRB to determine eligibility for, and amount of, benefits due under the laws it administers, is conclusive as to the amount of compensation paid to an employee during such period(s) covered by the report(s) of the compensation by the employee's railroad employer(s), except in cases when an employee files a protest pertaining to his or her reported compensation within the statue of limitations cited in Section 9 of the RRA and Section 6 of the RUIA.

To enable the RRB to establish and maintain the record of compensation, employers are required to file with the RRB, in such manner and form and at such times as the RRB prescribes, reports of compensation of employees. Railroad Employers' Reports and Responsibilities are prescribed in 20 CFR 209. The RRB currently utilizes Form BA–3, *Annual Report of Compensation* and Form BA–4, *Report of Creditable Compensation Adjustments,* to secure required information from railroad employers. Form BA–3 provides the RRB with information regarding annual creditable service and compensation for each individual who worked for a railroad employer covered by the RRA and RUIA in a given year. Form BA–4 provides for the adjustment of any previously submitted reports and also the opportunity to provide any service and compensation that had been previously omitted. Requirements specific to Forms BA–3 and BA–4 are prescribed in 20 CFR 209.8 and 209.9.

Employers currently have the option of submitting the reports on the aforementioned forms, electronically by File Transfer Protocol (FTP), secure E-mail or via the Internet utilizing the RRB's Employer Reporting System (ERS) (for Form BA–4), or in like format on magnetic tape cartridges, and CD–ROMs. The RRB proposes the implementation of an Internet equivalent version of Form BA–3 that can be submitted through the ERS which will include the option to file a ''negative report''. Minor non-burden impacting changes are proposed to Form BA–4.

The information collection also includes RRB Form BA–12, Application for Employer Reporting Internet Access and Form G–440, Report Specifications Sheet. Form BA–12 is completed by railroad employers to obtain system access to the RRB's Employer Reporting System (ERS). Once access is obtained, authorized employees may submit reporting forms to the RRB via the Internet. The form determines what degree of access (view/only, data entry/modification or approval/submission) is appropriate for that employee. It is also used to terminate an employee's access to ERS. Form G–440, Report Specifications Sheet, serves as a certification document for various RRB employer reporting forms (Forms BA–3, BA–4, Form BA–6a, BA–6, Address Report (OMB 3220–0005), BA–9, Report of Separation Allowance or Severance Pay (OMB 3220–0173) and BA–11, Report of Gross Earnings (OMB 3220–0132). It records the type of medium the report was submitted on, and serves as a summary recapitulation sheet for reports filed on paper. The RRB proposes minor non-burden impacting changes to Form BA–12 and G–440.

The estimated completion times for Form(s) BA–3, BA–4, BA–12 and G–440 vary, depending on circumstances and the method of submission. The completion time for Form BA–3 is estimated at 46 hours and 15 minutes per response for electronic submissions (including the proposed Internet equivalent BA–3) to 116 hours and 51 minutes for manual responses. The completion time for Form BA–4 is estimated at 20 minutes for an ERS Internet-based response, 60 minutes for an electronic submission (magnetic tape cartridge, CD–ROM, secure E-mail, FTP) and 75 minutes for a manual response. The completion time for form BA–12 is estimated at 10 minutes when used to terminate system access and 20 minutes when used to obtain system access. The completion time for Form G–440 is estimated at 15 minutes when submitted with a paper form and/or used to file a ''zero'' or ''no employees'' certification, 30 minutes when used as an electronic medium reporting/certification form, and 1 hour and 15 minutes when used as a certification and recapitulation form. Submission of Form BA–3, BA–4, and G–440 is mandatory. Completion of Form BA–12 is voluntary. It is completed only if an employer wants to submit reports via the Internet. One response is requested of each respondent for all of the forms in the collection. Depending on circumstances and method of submission chosen, multiple responses will be received from a respondent for Form BA–4 and G–440. The annual respondent burden for the information collection is estimated at 6,841 responses and 31,014 hours.

2. Title and Purpose of Information Collection

Gross Earnings Report; OMB 3220–0132. In order to carry out the financial interchange provisions of section 7(c)(2) of the Railroad Retirement Act (RRA), the RRB obtains annually from railroad employer's the gross earnings for their employees on a one-percent basis, i.e., 1% of each employer's railroad employees. The gross earnings sample is

based on the earnings of employees whose social security numbers end with the digits ''30.'' The gross earnings are used to compute payroll taxes under the financial interchange.

The gross earnings information is essential in determining the tax amounts involved in the financial interchange with the Social Security Administration and Centers for Medicare and Medicaid Services. Besides being necessary for current financial interchange calculations, the gross earnings file tabulations are also an integral part of the data needed to estimate future tax income and corresponding financial interchange amounts. These estimates are made for internal use and to satisfy requests from other government agencies and interested groups. In addition, cash flow projections of the social security equivalent benefit account, railroad retirement account and cost estimates made for proposed amendments to laws administered by the RRB are dependent on input developed from the information collection.

The RRB utilizes Form BA–11 or its electronic equivalent(s) to obtain gross earnings information from railroad employers. Employers currently have the option of preparing and submitting BA–11 reports on paper, (or in like format) on magnetic tape cartridges, File Transfer Protocol (FTP) or secure E-mail. Completion is mandatory. One response is requested of each respondent. The RRB proposes no changes to Form BA–11. However, the RRB does propose the implementation of an Internet equivalent version of Form BA–11 that can be submitted through the Employer Reporting System. The Internet equivalent BA–11 will include the option to file a ''negative report'' (no employees, or no employees with the digits ''30'').

The RRB estimates the completion time for BA–11 information as follows: 5 hours for BA–11 responses submitted via magnetic tape or FTP, and 30 minutes for paper, CD–ROM, secure E-mail, and the Internet-based ERS system (proposed). ''Negative'' reports of gross earnings information (no employees, or no employees with social security numbers ending with the digits ''30''), filed through the ERS system are estimated to take an average of 15 minutes to complete. The annual respondent burden for the information collection is estimated at 327 responses and 164 hours.

Additional Information or Comments: To request more information regarding any of the information collections listed above or to obtain copies of the information collection justifications, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363 or send an e-mail request to *Charles.Mierzwa@RRB.GOV.* Comments regarding the information collections should be sent to Patricia A. Henaghan, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or via e-mail to *Patricia.Henaghan@RRB.GOV.* Comments should be received within 60 days of this notice.

Charles Mierzwa,

Clearance Officer.

[FR Doc. 2011–22498 Filed 9–1–11; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 17f–1, SEC File No. 270–236, OMB Control No. 3235–0222.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17f–1 (17 CFR 270.17f–1) under the Investment Company Act of 1940 (the ''Act'') (15 U.S.C. 80a) is entitled: ''Custody of Securities with Members of National Securities Exchanges.'' Rule 17f–1 provides that any registered management investment company (''fund'') that wishes to place its assets in the custody of a national securities exchange member may do so only under a written contract that must be ratified initially and approved annually by a majority of the fund's board of directors. The written contract also must contain certain specified provisions. In addition, the rule requires an independent public accountant to examine the fund's assets in the custody of the exchange member at least three times during the fund's fiscal year. The rule requires the written contract and the certificate of each examination to be transmitted to the Commission. The purpose of the rule is to ensure the safekeeping of fund assets.

Commission staff estimates that each fund makes 1 response and spends an average of 3.5 hours annually in complying with the rule's requirements. Commission staff estimates that on an annual basis it takes: (i) 0.5 hours for the board of directors [1] to review and ratify the custodial contracts; and (ii) 3 hours for the fund's controller to assist the fund's independent public auditors in verifying the fund's assets. Approximately 5 funds rely on the rule annually, with a total of 5 responses.[2] Thus, the total annual hour burden for rule 17f–1 is approximately 17.5 hours.[3]

Funds that rely on rule 17f–1 generally use outside counsel to prepare the custodial contract for the board's review and to transmit the contract to the Commission. Commission staff estimates the cost of outside counsel to perform these tasks for a fund each year is $800.[4] Funds also must have an independent public accountant verify the fund's assets three times each year and prepare the certificate of examination. Commission staff estimates the annual cost for an independent public accountant to perform this service is $8000.[5] Therefore, the total annual cost burden for a fund that relies on rule 17f–1 would be approximately $8800.[6] As noted above, the staff estimates that 5 funds rely on rule 17f–1 each year, for an estimated total annualized cost burden of $44,000.[7]

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even

[1] Estimates of the number of hours are based on conversations with representatives of mutual funds that comply with the rule. The actual number of hours may vary significantly depending on individual fund assets. The hour burden for rule 17f–1 does not include preparing the custody contract because that would be part of customary and usual business practice.

[2] Based on a review of Form N–17f–1 filings in over the last three years, the Commission staff estimates that an average of 5 funds rely on rule 17f–1 each year.

[3] This estimate is based on the following calculation: (5 respondents × 3.5 hours = 17.5 hours). The annual burden for rule 17f–1 does not include time spent preparing Form N–17f–1. The burden for Form N–17f–1 is included in a separate collection of information.

[4] This estimate is based on the following calculation: (2 hours of outside counsel time × $400 = $800). The staff has estimated the average cost of outside counsel at $400 per hour, based on information received from funds, fund intermediaries, and their counsel.

[5] This estimate is based on information received from fund representatives estimating the aggregate annual cost of an independent public accountant's periodic verification of assets and preparation of the certificate of examination.

[6] This estimate is based on the following calculation: ($800 + $8000 = $8800).

[7] This estimate is based on the following calculation: (5 funds × $8800 = $44,000).

a representative survey or study of the costs of Commission rules. Compliance with the collections of information required by rule 17f–1 is mandatory for funds that place their assets in the custody of a national securities exchange member. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

The Commission requests written comments on: (a) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: August 29, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–22572 Filed 9–1–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 30b2–1, SEC File No. 270–213, OMB Control No. 3235–0220.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit the existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 30b2–1 (17 CFR 270.30b2–1) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (the ''Investment Company Act'') requires a registered investment company (''fund'') to (1) File a report with the Commission on Form N–CSR (17 CFR 249.331 and 274.128) not later than 10 days after the transmission of any report required to be transmitted to shareholders under rule 30e–1 under the Investment Company Act, and (2) file with the Commission a copy of every periodic or interim report or similar communication containing financial statements that is transmitted by or on behalf of such fund to any class of such fund's security holders and that is not required to be filed with the Commission under (1), not later than 10 days after the transmission to security holders. The purpose of the collection of information required by rule 30b2–1 is to meet the disclosure requirements of the Investment Company Act and certification requirements of the Sarbanes-Oxley Act of 2002 (Pub. L. 107–204, 116 Stat. 745 (2002)), and to provide investors with information necessary to evaluate an interest in the fund.

The Commission estimates that there are 2,520 funds, with a total of 9,250 portfolios, that are governed by the rule. For purposes of this analysis, the burden associated with the requirements of rule 30b2–1 has been included in the collection of information requirements of rule 30e–1 and Form N–CSR, rather than the rule. The Commission has, however, requested a one hour burden for administrative purposes.

The collection of information under rule 30b2–1 is mandatory. The information provided under rule 30b2–1 is not kept confidential. 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.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas A. Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: August 29, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–22574 Filed 9–1–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 498, SEC File No. 270–574, OMB Control No. 3235–0648.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995,[1] the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 498 under the Securities Act of 1933 (''Securities Act'')[2] permits open-end management investment companies (''funds'') to satisfy their prospectus delivery obligations under the Securities Act by sending or giving key information directly to investors in the form of a summary prospectus (''Summary Prospectus'') and providing the statutory prospectus on a Web site. Upon an investor's request, funds are also required to send the statutory prospectus to the investor. In addition, under rule 498, a fund that relies on the rule to meet its statutory prospectus delivery obligations must make available, free of charge, the fund's current Summary Prospectus, statutory prospectus, statement of additional information, and most recent annual and semi-annual reports to shareholders at the Web site address specified in the required Summary Prospectus legend. A Summary Prospectus that complies with

[1] 44 U.S.C. 3501 *et seq.*

[2] 17 CFR 230.498.

rule 498 is deemed to be a prospectus that is authorized under Section 10(b) of the Securities Act [3] and Section 24(g) of the Investment Company Act of 1940.[4]

The purpose of rule 498 is to enable a fund to provide investors with a Summary Prospectus containing key information necessary to evaluate an investment in the fund. Unlike many other Federal information collections, which are primarily for the use and benefit of the collecting agency, this information collection is primarily for the use and benefit of investors. The information filed with the Commission also permits the verification of compliance with securities law requirements and assures the public availability and dissemination of the information.

The current approved annual internal hour burden for filing and updating Summary Prospectuses and posting the required disclosure documents on a Web site pursuant to rule 498 is 63,014 hours. Based on staff review of Summary Prospectuses filed with the Commission, the Commission now estimates that approximately 6,250 portfolios are using a Summary Prospectus. Therefore, the Commission estimates that the total annual internal burden for filing and updating Summary Prospectuses and posting the required disclosure documents to a Web site pursuant to rule 498 will therefore be approximately 9,375 hours, representing a decrease of 53,639 hours.

The current approved total annual cost burden is $106,200,000 or approximately $15,200 per portfolio. Adjusting the total annual cost burden per portfolio for the effects of inflation, the Commission now estimates the total annual cost burden per portfolio to be $15,900, for a total annual cost burden of approximately $99,375,000. This represents a decrease in the total annual cost burden of approximately $6,825,000.

Estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. 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.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proposed performance of the functions of the agency, including whether information will have 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 collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*.

Dated: August 29, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–22576 Filed 9–1–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 34b–1, SEC File No. 270–305, OMB Control No. 3235–0346.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 34b–1 under the Investment Company Act (17 CFR 270.34b–1) governs sales material that accompanies or follows the delivery of a statutory prospectus (''sales literature''). Rule 34b–1 deems to be materially misleading any investment company (''fund'') sales literature required to be filed with the Securities and Exchange Commission (''Commission'') by Section 24(b) of the Investment Company Act (15 U.S.C. 80a–24(b)) that includes performance data, unless the sales literature also includes the appropriate uniformly computed data and the legend disclosure required in investment company advertisements by rule 482 under the Securities Act of 1933 (17 CFR 230.482). Requiring the inclusion of such standardized performance data in sales literature is designed to prevent misleading performance claims by funds and to enable investors to make meaningful comparisons among funds.

The Commission estimates that on average 3,525 respondents file approximately 12,433 responses with the Commission that include the information required by rule 34b–1 each year. The burden from rule 34b–1 is estimated to be 2.41 hours per response. The total annual burden hours for rule 34b–1 is 29,964 hours per year in the aggregate (12,443 responses x 2.41 hours per response).

The collection of information under rule 34b–1 is mandatory. The information provided under rule 34b–1 is not kept confidential. The Commission 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.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proposed performance of the functions of the agency, including whether information will have 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 collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: August 29, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–22575 Filed 9–1–11; 8:45 am]

BILLING CODE 8011–01–P

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[3] 15 U.S.C. 77j. A ''prospectus,'' as defined by the Securities Act, is any prospectus, notice, circular, advertisement, letter, or communication, written or by radio or television, which offers any security for sale or confirms the sale of any security, with certain exceptions. 15 U.S.C. 77b(a)(10).

[4] 15 U.S.C. 80a–24(g).

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:
Rule 11a–3, SEC File No. 270–321, OMB Control No. 3235–0358.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Section 11(a) of the Investment Company Act of 1940 (''Act'') (15 U.S.C. 80a–11(a)) provides that it is unlawful for a registered open-end investment company (''fund'') or its underwriter to make an offer to the fund's shareholders or the shareholders of any other fund to exchange the fund's securities for securities of the same or another fund on any basis other than the relative net asset values (''NAVs'') of the respective securities to be exchanged, ''unless the terms of the offer have first been submitted to and approved by the Commission or are in accordance with such rules and regulations as the Commission may have prescribed in respect of such offers.'' Section 11(a) was designed to prevent ''switching,'' the practice of inducing shareholders of one fund to exchange their shares for the shares of another fund for the purpose of exacting additional sales charges.

Rule 11a–3 (17 CFR 270.11a–3) under the Act is an exemptive rule that permits open-end investment companies (''funds''), other than insurance company separate accounts, and funds' principal underwriters, to make certain exchange offers to fund shareholders and shareholders of other funds in the same group of investment companies. The rule requires a fund, among other things, (i) to disclose in its prospectus and advertising literature the amount of any administrative or redemption fee imposed on an exchange transaction, (ii) if the fund imposes an administrative fee on exchange transactions, other than a nominal one, to maintain and preserve records with respect to the actual costs incurred in connection with exchanges for at least six years, and (iii) give the fund's shareholders a sixty day notice of a termination of an exchange offer or any material amendment to the terms of an exchange offer (unless the only material effect of an amendment is to reduce or eliminate an administrative fee, sales load or redemption fee payable at the time of an exchange).

The rule's requirements are designed to protect investors against abuses associated with exchange offers, provide fund shareholders with information necessary to evaluate exchange offers and certain material changes in the terms of exchange offers, and enable the Commission staff to monitor funds' use of administrative fees charged in connection with exchange transactions.

The staff estimates that there are approximately 1790 active open-end investment companies registered with the Commission as of June 2011. The staff estimates that 25 percent (or 448) of these funds impose a non-nominal administrative fee on exchange transactions. The staff estimates that the recordkeeping requirement of the rule requires approximately 1 hour annually of clerical time per fund, for a total of 448 hours for all funds.[1]

The staff estimates that 5 percent of these 1790 funds (or 90) terminate an exchange offer or make a material change to the terms of their exchange offer each year, requiring the fund to comply with the notice requirement of the rule. The staff estimates that complying with the notice requirement of the rule requires approximately 1 hour of attorney time and 2 hours of clerical time per fund, for a total of approximately 270 hours for all funds to comply with the notice requirement.[2] The recordkeeping and notice requirements together therefore impose a total burden of 718 hours on all funds.[3] The total number of respondents is 538, each responding once a year.[4] The burdens associated with the disclosure requirement of the rule are accounted for in the burdens associated with the Form N–1A registration statement for funds.

[1] This estimate is based on the following calculations: (1790 funds × 0.25% = 448 funds); (448 × 1 (clerical hour) = 448 clerical hours).

[2] This estimate is based on the following calculations: (1790 (funds) × 0.05% = 90 funds); (90 × 1 (attorney hour) = 90 total attorney hours); (90 (funds) × 2 (clerical hours) = 180 total clerical hours); (90 (attorney hours) + 180 (clerical hours) = 270 total hours).

[3] This estimate is based on the following calculations: (270 (notice hours) + 448 (recordkeeping hours) = 718 total hours).

[4] This estimate is based on the following calculation: (448 funds responding to recordkeeping requirement + 90 funds responding to notice requirement = 538 total respondents).

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are requested on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden(s) of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov* .

Dated: August 29, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–22570 Filed 9–1–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:
Rule 0–1, SEC File No. 270–472, OMB Control No. 3235–0531.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') plans to submit to the Office of Management and Budget a request for extension of the previous approved collection of information discussed below.

The Investment Company Act of 1940 (the ''Act'')[1] establishes a comprehensive framework for regulating the organization and operation of investment companies (''funds''). A principal objective of the Act is to protect fund investors by addressing the conflicts of interest that exist between funds and their investment advisers and other affiliated persons. The Act places significant responsibility on the fund board of directors in overseeing the operations of the fund and policing the relevant conflicts of interest.[2]

In one of its first releases, the Commission exercised its rulemaking authority pursuant to sections 38(a) and 40(b) of the Act by adopting rule 0–1 (17 CFR 270.0–1).[3] Rule 0–1, as subsequently amended on numerous occasions, provides definitions for the terms used by the Commission in the rules and regulations it has adopted pursuant to the Act. The rule also contains a number of rules of construction for terms that are defined either in the Act itself or elsewhere in the Commission's rules and regulations. Finally, rule 0–1 defines terms that serve as conditions to the availability of certain of the Commission's exemptive rules. More specifically, the term ''independent legal counsel,'' as defined in rule 0–1, sets out conditions that funds must meet in order to rely on any of ten exemptive rules (''exemptive rules'') under the Act.[4]

The Commission amended rule 0–1 to include the definition of the term ''independent legal counsel'' in 2001.[5] This amendment was designed to enhance the effectiveness of fund boards of directors and to better enable investors to assess the independence of those directors. The Commission also amended the exemptive rules to require that any person who serves as legal counsel to the independent directors of any fund that relies on any of the exemptive rules must be an ''independent legal counsel.'' This requirement was added because independent directors can better perform the responsibilities assigned to them under the Act and the rules if they have the assistance of truly independent legal counsel.

If the board's counsel has represented the fund's investment adviser, principal underwriter, administrator (collectively, ''management organizations'') or their ''control persons''[6] during the past two years, rule 0–1 requires that the board's independent directors make a determination about the adequacy of the counsel's independence. A majority of the board's independent directors are required to reasonably determine, in the exercise of their judgment, that the counsel's prior or current representation of the management organizations or their control persons was sufficiently limited to conclude that it is unlikely to adversely affect the counsel's professional judgment and legal representation. Rule 0–1 also requires that a record for the basis of this determination is made in the minutes of the directors' meeting. In addition, the independent directors must have obtained an undertaking from the counsel to provide them with the information necessary to make their determination and to update promptly that information when the person begins to represent a management organization or control person, or when he or she materially increases his or her representation. Generally, the independent directors must re-evaluate their determination no less frequently than annually.

Any fund that relies on one of the exemptive rules must comply with the requirements in the definition of ''independent legal counsel'' under rule 0–1. We assume that approximately 3796 funds rely on at least one of the exemptive rules annually.[7] We further assume that the independent directors of approximately one-third (1265) of those funds would need to make the required determination in order for their counsel to meet the definition of independent legal counsel.[8] We estimate that each of these 1265 funds would be required to spend, on average, 0.75 hours annually to comply with the recordkeeping requirement associated with this determination, for a total annual burden of approximately 949 hours. Based on this estimate, the total annual cost for all funds' compliance with this rule is approximately $169,927. To calculate this total annual cost, the Commission staff assumed that approximately two-thirds of the total annual hour burden (633 hours) would be incurred by compliance staff with an average hourly wage rate of $235 per hour,[9] and one-third of the annual hour burden (316 hours) would be incurred by clerical staff with an average hourly wage rate of $67 per hour.[10]

These burden hour estimates are based upon the Commission staff's experience and discussions with the fund industry. The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. These estimates are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burdens of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way,

[1] 15 U.S.C. 80a.

[2] For example, fund directors must approve investment advisory and distribution contracts. *See* 15 U.S.C. 80a–15(a), (b), and (c).

[3] Investment Company Act Release No. 4 (Oct. 29, 1940) (5 FR 4316 (Oct. 31, 1940)). Note that rule 0–1 was originally adopted as rule N–1.

[4] The relevant exemptive rules are: Rule 10f–3 (17 CFR 270.10f–3), rule 12b–1 (17 CFR 270.12b–1), rule 15a–4(b)(2) (17 CFR 270.15a–4(b)(2)), rule 17a–7 (17 CFR 270.17a–7), rule 17a–8 (17 CFR 270.17a–8), rule 17d–1(d)(7) (17 CFR 270.17d–1(d)(7)), rule 17e–1(c) (17 CFR 270.17e–1(c)), rule 17g–1 (17 CFR 270.17g–1), rule 18f–3 (17 CFR 270.18f–3), and rule 23c–3 (17 CFR 270.23c–3).

[5] *See* Role of Independent Directors of Investment Companies, Investment Company Act Release No. 24816 (Jan. 2, 2001) (66 FR 3735 (Jan. 16, 2001)).

[6] A ''control person'' is any person—other than a fund—directly or indirectly controlling, controlled by, or under common control, with any of the fund's management organizations. *See* 17 CFR 270.01(a)(6)(iv)(B).

[7] Based on statistics compiled by Commission staff, we estimate that there are approximately 4218 funds that could rely on one or more of the exemptive rules. Of those funds, we assume that approximately 90 percent (3796) actually rely on at least one exemptive rules annually.

[8] We assume that the independent directors of the remaining two-thirds of those funds will choose not to have counsel, or will rely on counsel who has not recently represented the fund's management organizations or control persons. In both circumstances, it would not be necessary for the fund's independent directors to make a determination about their counsel's independence.

[9] The estimated hourly wages used in this PRA analysis were derived from reports prepared by the Securities Industry and Financial Markets Association. *See* Securities Industry and Financial Markets Association, Report on Management and Professional Earnings in the Securities Industry—2010 (2010), modified to account for an 1800-hour work year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead; and Securities Industry and Financial Markets Association, Office Salaries in the Securities Industry—2010 (2010), modified to account for an 1800-hour work year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead.

[10] (633 × $235/hour) + (316 × $67/hour) = $169,927.

Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov* .

Dated: August 29, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–22568 Filed 9–1–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form N–6F, SEC File No. 270–185, OMB Control No. 3235–0238.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

The title for the collection of information is ''Form N–6F (17 CFR 274.15), Notice of Intent to Elect to be Subject to Sections 55 through 65 of the Investment Company Act of 1940.'' The purpose of Form N–6F is to notify the Commission of a company's intent to file a notification of election to become subject to Sections 55 through 65 of the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''1940 Act''). Certain companies may have to make a filing with the Commission before they are ready to elect to be regulated as a business development company.[1] A company that is excluded from the definition of ''investment company'' by Section 3(c)(1) because it has fewer than one hundred shareholders and is not making a public offering of its securities may lose such an exclusion solely because it proposes to make a public offering of securities as a business development company. Such company, under certain conditions, would not lose its exclusion if it notifies the Commission on Form N–6F of its intent to make an election to be regulated as a business development company. The company only has to file a Form N–6F once.

The Commission estimates that on average approximately thirteen companies file these notifications each year. Each of those companies need only make a single filing of Form N–6F. The Commission further estimates that this information collection imposes burden of 0.5 hours, resulting in a total annual PRA burden of 6.5 hours. Based on the estimated wage rate, the total cost to the industry of the hour burden for complying with Form N–6F would be approximately $2,080.

The collection of information under Form N–6F is mandatory. The information provided under the form is not kept confidential. 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.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: August 29, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–22581 Filed 9–1–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form N–54C, SEC File No. 270–184, OMB Control No. 3235–0236.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (the ''PRA''), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (the ''Investment Company Act''), certain investment companies can elect to be regulated as business development companies, as defined in Section 2(a)(48) of the Investment Company Act (15 U.S.C. 80a–2(a)(48)). Under Section 54(a) of the Investment Company Act (15 U.S.C. 80a–53(a)), any company defined in Section 2(a)(48)(A) and (B) of the Investment Company Act (15 U.S.C. 80a–2(a)(48)), may if it meets certain enumerated eligibility requirements elect to be subject to the provisions of Sections 55 through 65 of the Investment Company Act (15 U.S.C. 80a–54 to 80a–64) by filing with the Commission a notification of election on Form N–54A (17 CFR 274.53). Under Section 54(c) of the Investment Company Act (15 U.S.C. 80a–53(c)), any business development company may voluntarily withdraw its election under Section 54(a) of the Investment Company Act (15 U.S.C. 80a–53(a)) by filing a notice of withdrawal of election with the Commission. The Commission has adopted Form N–54C (17 CFR 274.54) as the form for notification of withdrawal of election to be subject to Sections 55 through 65 of the Investment Company Act.

The purpose of Form N–54C is to notify the Commission that the business development company withdraws its election to be subject to Sections 55 through 65 of the Investment Company Act, enabling the Commission to administer those provisions of the Investment Company Act to such companies.

The Commission estimates that on average approximately 10 business development companies file these notifications each year. Each of those business development companies need only make a single filing of Form N–54C. The Commission further estimates that this information collection imposes a burden of one hour, resulting in a total annual PRA burden of 10 hours. Based on the estimated wage rate, the total cost to the business development industry of the hour burden for complying with

[1] A company might not be prepared to elect to be subject to Sections 55 through 65 of the 1940 Act because its capital structure or management compensation plan is not yet in compliance with the requirements of those sections.

Form N–54C would be approximately $3,200.

The collection of information under Form N–54C is mandatory. The information provided by the form is not kept confidential. 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.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: August 29, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–22580 Filed 9–1–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form N–17f–1, SEC File No. 270–316, OMB Control No. 3235–0359.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form N–17f–1 (17 CFR 274.219) is entitled ''Certificate of Accounting of Securities and Similar Investments of a Management Investment Company in the Custody of Members of National Securities Exchanges.'' The form serves as a cover sheet to the accountant's certificate that is required to be filed periodically with the Commission pursuant to rule 17f–1 (17 CFR 270.17f–1) under the Act, entitled ''Custody of Securities with Members of National Securities Exchanges,'' which sets forth the conditions under which a fund may place its assets in the custody of a member of a national securities exchange. Rule 17f–1 requires, among other things, that an independent public accountant verify the fund's assets at the end of every annual and semi-annual fiscal period, and at least one other time during the fiscal year as chosen by the independent accountant. Requiring an independent accountant to examine the fund's assets in the custody of a member of a national securities exchange assists Commission staff in its inspection program and helps to ensure that the fund assets are subject to proper auditing procedures. The accountant's certificate stating that it has made an examination, and describing the nature and the extent of the examination, must be attached to Form N–17f–1 and filed with the Commission promptly after each examination. The form facilitates the filing of the accountant's certificates, and increases the accessibility of the certificates to both Commission staff and interested investors. Commission staff estimates that on an annual basis it takes: (i) 1 hour of clerical time to prepare and file Form N–17f–1; and (ii) 0.5 hour for the fund's chief compliance officer to review Form N–17f–1 prior to filing with the Commission, for a total of 1.5 hours. Each fund is required to make 3 filings annually, for a total annual burden per fund of approximately 4.5 hours.[1] Commission staff estimates that an average of 5 funds currently file Form N–17f–1 with the Commission 3 times each year, for a total of 15 responses annually.[2] The total annual hour burden for Form N–17f–1 is therefore estimated to be approximately 22.5 hours.[3]

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Compliance with the collections of information required by Form N–17f–1 is mandatory for funds that place their assets in the custody of a national securities exchange member. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

The Commission requests written comments on: (a) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: August 29, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–22579 Filed 9–1–11; 8:45 am]

BILLING CODE 8011–01–P

[1] This estimate is based on the following calculation: (1.5 hours × 3 responses annually = 4.5 hours).

[2] This estimate is based on a review of Form N–17f–1 filings made with the Commission over the last three years.

[3] This estimate is based on the following calculations: (4.5 hours × 5 funds = 22.5 total hours).

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form 24F–2; SEC File No. 270–399; OMB Control No. 3235–0456.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission

plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 24f–2 (17 CFR 270.24f–2) under the Investment Company Act of 1940 (15 U.S.C. 80a) requires any open-end management companies (''mutual funds''), unit investment trusts (''UITs'') or face-amount certificate companies (collectively, ''funds'') deemed to have registered an indefinite amount of securities to file, not later than 90 days after the end of any fiscal year in which it has publicly offered such securities, Form 24F–2 (17 CFR 274.24) with the Commission. Form 24F–2 is the annual notice of securities sold by funds that accompanies the payment of registration fees with respect to the securities sold during the fiscal year.

The Commission estimates that 6120 funds file Form 24F–2 on the required annual basis. The average annual burden per respondent for Form 24F–2 is estimated to be two hours. The total annual burden for all respondents to Form 24F–2 is estimated to be 12,240 hours.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

Compliance with the collection of information required by Form 24F–2 is mandatory. The Form 24F–2 filing that must be made to the Commission is available to the public. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The Commission requests written comments on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: August 29, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–22578 Filed 9–1–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 18f–3, SEC File No. 270–385, OMB Control No. 3235–0441.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Section 18(f)(1) [1] of the Investment Company Act of 1940 [2] (the ''Investment Company Act'' or ''Act'') prohibits registered open-end management investment companies (''funds'') from issuing any senior security. Rule 18f–3 under the Act [3] exempts from section 18(f)(1) a fund that issues multiple classes of shares representing interests in the same portfolio of securities (a ''multiple class fund'') if the fund satisfies the conditions of the rule. In general, each class must differ in its arrangement for shareholder services or distribution or both, and must pay the related expenses of that different arrangement.

The rule includes one requirement for the collection of information. A multiple class fund must prepare, and fund directors must approve, a written plan setting forth the separate arrangement and expense allocation of each class, and any related conversion features or exchange privileges (''rule 18f–3 plan'').[4] Approval of the plan must occur before the fund issues any shares of multiple classes and whenever the fund materially amends the plan. In approving the plan, a majority of the fund board, including a majority of the fund's independent directors, must determine that the plan is in the best interests of each class and the fund as a whole.

The requirement that the fund prepare and directors approve a written rule 18f–3 plan is intended to ensure that the fund compiles information relevant to the fairness of the separate arrangement and expense allocation for each class, and that directors review and approve the information. Without a blueprint that highlights material differences among classes, directors might not perceive potential conflicts of interests when they determine whether the plan is in the best interests of each class and the fund. In addition, the plan may be useful to Commission staff in reviewing the fund's compliance with the rule.

There are approximately 5655 multiple class funds offered by 1020 registrants.[5] Based on a review of typical rule 18f–3 plans, the Commission's staff estimates that the 1020 registrants together make an average of 510 responses each year to prepare and approve a written rule 18f–3 plan, requiring approximately 8 hours per response and a total of 4080 burden hours per year in the aggregate.[6] The staff estimates that preparation of the rule 18f–3 plan may require 5 hours of the services of an attorney employed by the fund, at a cost of approximately $354 per hour for professional time,[7] and approval of the plan may require 3 hours of the services of the board of directors, at a cost of approximately $4000 per hour.[8] The staff therefore estimates that the aggregate annual cost of complying with the paperwork requirements of the rule is approximately $7,022,700 ((5 hours ×

[1] 15 U.S.C. 80a–18(f)(1).

[2] 15 U.S.C. 80a.

[3] 17 CFR 270.18f–3.

[4] Rule 18f–3(d).

[5] This estimate is based on data from Form N–SAR, the semi-annual report that funds file with the Commission. In previous years, the staff estimated that each multiple class fund prepared and approved a rule 18f–3 plan. However, the staff has revised this estimate to reflect its belief that most registrants prepare and approve a single rule 18f–3 plan for all series funds offered by the registrants.

[6] The estimate reflects the assumption that each registrant prepares and approves a rule 18f–3 plan every two years when issuing a new fund or new class or amending a plan (or that 510 of all 1020 registrants prepare and approve a plan each year). The estimate assumes that the time required to prepare a plan is 5 hours per plan (or 2550 hours for 510 registrants annually), and the time required to approve a plan is an additional 3 hours per plan (or 1530 hours for 510 registrants annually).

[7] This hourly rate estimate is derived from annual salaries reported in: Securities Industry and Financial Markets Association, *Management and Professional Earnings in the Securities Industry* (2010), modified by Commission staff to account for an 1800-hour work year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

[8] This hourly rate estimate is derived from fund representatives.

510 responses × $354 = $902,700) + (3 hours × 510 responses × $4000 = $6,120,000)).

The estimated annual burden of 4080 hours represents a decrease of 1520 hours from the prior estimate of 5600 hours. The decrease in burden hours is attributable to changes in the estimates of the average hour burden per response and the number of responses that are submitted pursuant to the rule.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Complying with this collection of information requirement is mandatory. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burdens of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: August 29, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–22573 Filed 9–1–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 17a–7, SEC File No. 270–238, OMB Control No. 3235–0214.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit the existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17a–7 (17 CFR 270.17a–7) (the ''rule'') under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (the ''Act'') is entitled ''Exemption of certain purchase or sale transactions between an investment company and certain affiliated persons thereof.'' It provides an exemption from section 17(a) of the Act for purchases and sales of securities between registered investment companies (''funds''), that are affiliated persons (''first-tier affiliates'') or affiliated persons of affiliated persons (''second-tier affiliates''), or between a fund and a first- or second-tier affiliate other than another fund, when the affiliation arises solely because of a common investment adviser, director, or officer. Rule 17a–7 requires funds to keep various records in connection with purchase or sale transactions effected in reliance on the rule. The rule requires the fund's board of directors to establish procedures reasonably designed to ensure that the rule's conditions have been satisfied. The board is also required to determine, at least on a quarterly basis, that all affiliated transactions effected during the preceding quarter in reliance on the rule were made in compliance with these established procedures. If a fund enters into a purchase or sale transaction with an affiliated person, the rule requires the fund to compile and maintain written records of the transaction.[1] The Commission's examination staff uses these records to evaluate for compliance with the rule.

While most funds do not commonly engage in transactions covered by rule 17a–7, the Commission staff estimates that nearly all funds have adopted procedures for complying with the rule.[2] Of the approximately 3318 currently active funds, the staff estimates that virtually all have already adopted procedures for compliance with rule 17a–7. This is a one-time burden, and the staff therefore does not estimate an ongoing burden related to the policies and procedures requirement of the rule for funds.[3] The staff estimates that there are approximately 150 new funds that register each year, and that each of these funds adopts the relevant policies and procedures. The staff estimates that it takes approximately 4 hours to develop and adopt these policies and procedures. Therefore, the total annual burden related to developing and adopting these policies and procedures would be approximately 600 hours.[4]

Of the 3318 existing funds, the staff assumes that approximately 25%, (or 830) enter into transactions affected by rule 17a–7 each year (either by the fund directly or through one of the fund's series), and that the same percentage (25%, or 38 funds) of the estimated 150 funds that newly register each year will also enter into these transactions, for a total of 868[5] companies that are affected by the recordkeeping requirements of rule 17a–7. These funds must keep records of each of these transactions, and the board of directors must quarterly determine that all relevant transactions were made in compliance with the company's policies and procedures. The rule generally imposes a minimal burden of collecting and storing records already generated for other purposes.[6] The staff estimates that the burden related to making these records and for the board to review all transactions would be 3 hours annually for each respondent, (2 hours spent by compliance attorneys and 1 hour spent

[1] The written records are required to set forth a description of the security purchased or sold, the identity of the person on the other side of the transaction, and the information or materials upon which the board of directors' determination that the transaction was in compliance with the procedures was made.

[2] Unless stated otherwise, these estimates are based on conversations with the examination and inspections staff of the Commission and fund representatives.

[3] Based on our reviews and conversations with fund representatives, we understand that funds rarely, if ever, need to make changes to these policies and procedures once adopted, and therefore we do not estimate a paperwork burden for such updates.

[4] This estimate is based on the following calculations: (4 hours × 150 new funds = 600 hours).

[5] This estimate is based on the following calculation: (830 + 38 = 868).

[6] Commission staff believes that rule 17a–7 does not impose any costs associated with record preservation in addition to the costs that funds already incur to comply with the record preservation requirements of rule 31a–2 under the Act. Rule 31a–2 requires companies to preserve certain records for specified periods of time.

by the board of directors)[7] or 2604 total hours each year.[8]

Based on these estimates, the staff estimates the combined total annual burden hours associated with rule 17a–7 is 3204 hours.[9] The staff also estimates that there are approximately 1018 respondents and 7094 total responses.[10]

The estimates of burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. The collection of information required by rule 17a–7 is necessary to obtain the benefits of the rule. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burdens of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*.

[7] The staff estimates that funds that rely on rule 17a–7 annually enter into an average of 8 rule 17a–7 transactions each year. The staff estimates that the compliance attorneys of the companies spend approximately 15 minutes per transaction on this recordkeeping, and the board of directors spends a total of 1 hour annually in determining that all transactions made that year were done in compliance with the company's policies and procedures.

[8] This estimate is based on the following calculation: (3 hours × 868 companies = 2604 hours).

[9] This estimate is based on the following calculation: (600 hours + 2604 hours = 3204 total hours).

[10] This estimate is based on the following calculations: (150 newly registered funds + 868 funds that engage in rule 17a–7 transactions = 1018); (868 funds that engage in rule 17a–7 transactions × 8 times per year = 6944); (6944 + 150 = 7094 responses).

Dated: August 29, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–22571 Filed 9–1–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 3a–8; SEC File No. 270–516; OMB Control No. 3235–0574.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit the existing collection of information to the Office of Management and Budget for extension and approval.

Rule 3a–8 (17 CFR 270.3a–8) of the Investment Company Act of 1940 (15 U.S.C. 80a) (the ''Act''), serves as a nonexclusive safe harbor from investment company status for certain research and development companies (''R&D companies'').

The rule requires that the board of directors of an R&D company seeking to rely on the safe harbor adopt an appropriate resolution evidencing that the company is primarily engaged in a non-investment business and record that resolution contemporaneously in its minute books or comparable documents.[1] An R&D company seeking to rely on the safe harbor must retain these records only as long as such records must be maintained in accordance with state law.

Rule 3a–8 contains an additional requirement that is also a collection of information within the meaning of the PRA. The board of directors of a company that relies on the safe harbor under rule 3a–8 must adopt a written policy with respect to the company's capital preservation investments. We expect that the board of directors will base its decision to adopt the resolution discussed above, in part, on investment guidelines that the company will follow to ensure its investment portfolio is in compliance with the rule's requirements.

The collection of information imposed by rule 3a–8 is voluntary because the rule is an exemptive safe harbor, and therefore, R&D companies may choose whether or not to rely on it. The purposes of the information collection requirements in rule 3a–8 are to ensure that: (i) The board of directors of an R&D company is involved in determining whether the company should be considered an investment company and subject to regulation under the Act, and (ii) adequate records are available for Commission review, if necessary. Rule 3a–8 would not require the reporting of any information or the filing of any documents with the Commission.

Commission staff estimates that there is no annual recordkeeping burden associated with the rule's requirements. Nevertheless, the Commission requests authorization to maintain an inventory of one burden hour for administrative purposes.

Commission staff estimates that approximately 1851 R&D companies may rely on rule 3a–8. Given that the board resolutions and investment guidelines will generally need to be adopted only once (unless relevant circumstances change),[2] the Commission believes that all the companies that rely on rule 3a–8 adopted their board resolutions and established written investment guidelines in 2003 when the rule was adopted. We expect that newly formed R&D companies would adopt the board resolution and investment guidelines simultaneously with their formation documents in the ordinary course of business.[3] Therefore, we estimate that rule 3a–8 will not create additional time burdens.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to

[1] Rule 3a–8(a)(6) (17 CFR 270.3a–8(6)).

[2] In the event of changed circumstances, the Commission believes that the board resolution and investment guidelines will be amended and recorded in the ordinary course of business and would not create additional time burdens.

[3] In order for these companies to raise sufficient capital to fund their product development stage, we believe they will need to present potential investors with investment guidelines. Investors would want to be assured that the company's funds are invested consistent with the goals of capital preservation and liquidity.

minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*.

Dated: August 29, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–22569 Filed 9–1–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–29770]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

August 26, 2011.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of August 2011. A copy of each application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 20, 2011, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus at (202) 551–6810, SEC, Division of Investment Management, Office of Investment Company Regulation, 100 F Street, NE., Washington, DC 20549–8010.

UBS Tamarack International Fund, LLC [File No. 811–10341]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On March 30, 2011, applicant made a final liquidating distribution to its shareholders, based on net asset value. Expenses of $21,000 incurred in connection with the liquidation were paid by applicant.

Filing Dates: The application was filed on June 24, 2011 and amended on August 5, 2011.

Applicant's Address: c/o UBS Alternative and Quantitative Investments LLC, 677 Washington Blvd., Stamford, CT 06901.

Nicholas-Applegate Institutional Funds [File No. 811–7384]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On March 26, 2010, applicant's Nicholas-Applegate International Systematic Fund series made a liquidating distribution to its shareholders, based on net asset value. On March 19, 2010 and April 9, 2010, applicant's remaining eleven series transferred their assets to corresponding series of either Allianz Funds or Allianz Funds Multi-Strategy Trust, based on net asset value. Expenses of $184,981 incurred in connection with the liquidation and reorganization were paid by Nicholas-Applegate Capital Management LLC, applicant's investment adviser, and Allianz Global Investors Fund Management LLC, investment adviser and administrator of the surviving funds.

Filing Dates: The application was filed on December 10, 2010, and amended on August 19, 2011.

Applicant's Address: 600 West Broadway, 30th Floor, San Diego, CA 92101.

Fort Pitt Capital Funds [File No. 811–10495]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On July 15, 2011, applicant transferred its assets to a corresponding shell portfolio of Advisors Series Trust, based on net asset value. Expenses of $176,733 incurred in connection with the reorganization were paid by Fort Pitt Capital Group, Inc., applicant's investment adviser.

Filing Date: The application was filed on August 11, 2011.

Applicant's Address: 680 Anderson Dr., Foster Plaza Ten, Pittsburgh, PA 15220.

Barrett Funds [File No. 811–9035]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On March 31, 2010, applicant transferred its assets to Barrett Growth Fund, a series of Trust for Professional Managers, based on net asset value. Expenses of approximately $92,867 incurred in connection with the reorganization were paid by Barrett Associates, Inc., applicant's investment adviser.

Filing Date: The application was filed on August 9, 2011.

Applicant's Address: 90 Park Ave., New York, NY 10016.

Pacific Capital Funds [File No. 811–7454]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 22, 2010, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $25,577 incurred in connection with the liquidation were paid by Bank of Hawaii, applicant's investment adviser.

Filing Dates: The application was filed on August 30, 2010 and amended on April 13, 2011.

Applicant's Address: 3435 Stelzer Rd., Columbus, OH 43219.

FS Variable Annuity Account Nine [File No. 811–21230]

Summary: Applicant, a unit investment trust registered under the Investment Company Act of 1940, seeks an order declaring that it has ceased to be an investment company. Applicant requests deregistration based on abandonment of registration. Applicant states that it has no contractowners and no outstanding contracts that allocate premiums and contract value to the Separate Account. Applicant also states that the contract was registered on Form N–4 and offered out of the Separate Account (File No. 333–118225) and that the last remaining contract was surrendered on August 13, 2010.

Because the Depositor has decided to discontinue sales of the variable annuity contract and has no plans to develop any other variable annuity contracts that would be supported by the Separate Account, and because there are currently no assets in the Separate Account or its subaccounts, the Depositor has determined that it will not use the Separate Account as a funding medium to support future sales of any other variable annuity contract

and that the Separate Account should be deregistered.

Filing Dates: The application was filed on March 17, 2011, and amended and restated on June 24, 2011.

Applicant's Address: One World Financial Center, 200 Liberty Street, New York, New York 10281.

Hartford International Opportunities HLS Fund Inc. [File No. 811–6059]

Hartford Stock HLS Fund Inc. [File No. 811–2630]

Hartford Small Co HLS Fund Inc. [File No. 811–7557]

Hartford Mortgage Securities HLS Fund Inc. [File No. 811–4201]

Hartford Money Market HLS Fund Inc. [File No. 811–3662]

Hartford Midcap HLS Fund Inc. [File No. 811–8185]

Hartford Index HLS Fund Inc. [le No. 811–5045]

Hartford Global Advisers HLS Fund Inc. [File No. 811–8804]

Hartford Dividend & Growth HLS Fund Inc. [File No. 811–8186]

Hartford Capital Appreciation HLS Fund Inc. [File No. 811–4005]

Hartford Bond HLS Fund Inc. [File No. 811–3660]

Hartford Advisors HLS Fund Inc. [File No. 811–3659]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On April 30, 2002, applicants' Board of Directors approved the merger of the applicants with a corresponding series of Hartford Series Fund, Inc. On July 16, 2002, applicants' shareholders approved the decision to engage in a merger. On August 28, 2002, each applicant transferred its assets to a corresponding series of the Hartford Series Fund, Inc. at net asset value. Applicants incurred no expenses with regard to the merger.

Filing Dates: The applications were filed on July 9, 2008, and amended on September 30, 2008.

Applicants' Address: 200 Hopmeadow Street, Simsbury, CT 06089.

Presidential Variable Account One [811–5474]

Summary: The Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company based on abandonment of registration. The Applicant has no contract owners or shareholders and no outstanding contracts. Presidential Life Insurance Company, as the Applicant's depositor, has determined that the Applicant should be deregistered inasmuch as it is not engaged in or intending to engage in any business activities other than those necessary for winding up its affairs.

Filing Dates: The application was filed on May 19, 2009, and amended on October 1, 2009, and June 25, 2010.

Applicant's Address: Presidential Variable Account One, Presidential Life Insurance Company, 69 Lydecker Street, Nyack, New York 10960.

Federal Life Trust [File No. 811–22145]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant requests deregistration based on abandonment of registration. Applicant intends to deregister but to continue operations with the general account of Federal Life Insurance Company (Mutual) as its only remaining holder.

Filing Dates: The application was filed on June 30, 2011, and amended on July 28, 2011.

Applicant's Address: 3750 West Deerfield Road, Riverwoods, IL 60015.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–22536 Filed 9–1–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65213; File No. SR–FICC–2011–05]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Amend the Rules Regarding the GCF Repo Service To Adopt Changes Recommended by the Tri-Party Repo Infrastructure Reform Task Force

August 29, 2011.

I. Introduction

On July 12, 2011, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–FICC–2011–05 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] The proposed rule change was published for comment in the **Federal Register** on July 29, 2011.[2] The Commission received no comment letters. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

This rule change will make certain changes to its GCF Repo®[3] service in order to comply with the recommendations made by the Tri-Party Repo Infrastructure Reform Task Force (''TPR''), an industry group formed and sponsored by the Federal Reserve Bank of New York.[4] Because the GCF Repo service operates as a tri-party repo mechanism, FICC is incorporating changes to the GCF Repo service to align the service with the other TPR recommended changes for the overall tri-party repo market.

FICC will initially implement the changes described herein in a pilot program (''Pilot Program''). FICC will run the Pilot Program for one year starting from the date of this Commission approval. If FICC wishes to extend the Pilot Program or to implement the changes in the Pilot Program permanently, FICC shall submit a proposed rule change filing to the Commission for that purpose.

A. Background: Description of the GCF Repo Service and History

(1) Creation of the GCF Repo Service

The GCF Repo service allows GSD dealer members to trade general collateral repos[5] throughout the day without requiring intra-day, trade-for-trade settlement on a delivery-versus-payment (DVP) basis. The service allows the dealers to trade such general collateral repos, based on rate and term, throughout the day with inter-dealer broker netting members on a blind basis. Standardized, generic CUSIP numbers have been established exclusively for GCF Repo processing and are used to specify the acceptable type of underlying Fedwire book-entry eligible collateral, which includes Treasuries,

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 34–64955 (July 25, 2011), 76 FR 45638 (July 29, 2011).

[3] GCF Repo is a registered trademark of FICC/DTCC.

[4] The main purpose of the TPR is to develop recommendations to address the risk presented by tri-party repo transactions due to the current morning reversal or ''unwind'' process and to move to a process by which tri-party repo transactions are collateralized all day. Currently, tri-party repo transactions unwind in the morning between 7 a.m. and 8 a.m. E.S.T. The GSD Schedule of GCF Timeframes provides that the unwind of GCF Repo transactions (both overnight and term) must be accomplished by 7:30 a.m. The TPR has mandated that the collateral used in tri-party repo and GCF Repo transactions be ''locked up'' until 3:30 p.m. E.S.T. This would serve to reduce the intraday exposure to the dealers that the clearing banks currently face with the start of daily unwind.

[5] A general collateral repo is a repo in which the underlying securities collateral is nonspecific, general collateral whose identification is at the option of the seller. This is in contrast to a specific collateral repo.

Agencies and certain mortgage-backed securities.[6]

The GCF Repo service was developed as part of a collaborative effort among the Government Securities Clearing Corporation (''GSCC'') (FICC's predecessor), its two clearing banks (The Bank of New York Mellon (''BNY'') and JPMorgan Chase Bank, National Association (''Chase'')), and industry representatives. GSCC introduced the GCF Repo service on an intra-clearing bank basis in 1998.[7] Under the intrabank service, dealers could only engage in GCF Repo transactions with other dealers that cleared at the same clearing bank.

(2) Creation of the Interbank Version of the GCF Repo Service

In 1999, GSCC expanded the GCF Repo service to permit dealer participants to engage in GCF Repo trading on an interbank basis, meaning that dealers using different clearing banks could enter into GCF Repo transactions (on a blind brokered basis).[8] Because dealer members that participate in the GCF Repo service do not all clear at the same clearing bank, introducing the service as an interbank service necessitated the establishment of a mechanism to permit after-hours movements of securities between the two clearing banks to deal with the fact that GSCC would likely have unbalanced net GCF securities and cash positions within each clearing bank (that is, it is likely that at the end of GCF Repo processing each business day, the dealers in one clearing bank will be net funds borrowers, while the dealers at the other clearing bank will be net funds lenders). To address this issue, GSCC and its clearing banks established, and the Commission approved, a legal mechanism by which securities would ''move'' across the clearing banks without the use of the Fedwire Securities Service (''Fedwire Securities'').[9] (Movements of cash do not present the same issue because the Fedwire Funds Service (''Fedwire Funds'') is open later than Fedwire Securities). Therefore, at the end of the day, after the GCF net results are produced, securities are pledged via a tri-party-like mechanism and the interbank cash component is moved via Fedwire Funds. In the morning, the pledges are unwound; that is, funds are returned to the net funds lenders and securities are returned to the net funds borrowers.

(3) Issues With Morning Unwind Process

In 2003, FICC shifted the GCF Repo service back to intrabank status only.[10] By that time, the service had grown significantly in participation and volume. However, with the increase in use of the interbank service, certain payments systems risk issues arose from the interbank funds settlements related to the service, namely, the large interbank funds movement in the morning. FICC shifted the service back to intrabank status to enable management to study the issues presented and identify a satisfactory solution for bringing the service back to interbank status.

(4) The NFE Filing and Restoration of Service to Interbank Status

In 2007, FICC submitted to the Commission a proposed rule change to address the issues raised by the interbank morning funds movement and return the GCF Repo service to interbank status (''2007 NFE Filing'').[11] The 2007 NFE Filing addressed these issues by using a hold against a dealer's ''net free equity'' (''NFE'') at the clearing bank to collateralize its GCF Repo cash obligation to FICC on an intraday basis.[12]

The 2007 NFE Filing replaced the Day 2 morning unwind process with an alternate process, which is currently in effect. Specifically, in lieu of making funds payments, the interbank dealers grant to FICC a security interest in their NFE-related collateral equal to their prorated share of the total interbank funds amount. FICC, in turn, grants to the other clearing bank (that was due to receive the funds) a security interest in the NFE-related collateral to support the debit in the FICC account at the clearing bank. The debit in the FICC account occurs because the dealers who are due to receive funds in the morning must receive those funds at that time in return for their release of collateral. The debit in the FICC account at the clearing bank gets satisfied during the end of day GCF Repo settlement process. Specifically, that day's new activity yields a new interbank funds amount that will move at end of day—however, this amount gets netted with the amount that would have been due in the morning, thus further reducing the interbank funds movement. The NFE holds are released when the interbank funds movement is made at end of day. The 2007 NFE Filing did not involve any changes to the after-hours movement of securities occurring at the end of the day on Day 1.

As part of the 2007 NFE Filing, FICC imposed certain additional risk management measures with respect to the GCF Repo service. First, FICC imposed a collateral premium (''GCF Premium Charge'') on the GCF Repo portion of the Clearing Fund deposits of all GCF participants to further protect FICC in the event of an intra-day default of a GCF Repo participant. FICC requires GCF Repo participants to submit a quarterly ''snapshot'' of their holdings by asset type to enable risk management staff to determine the appropriate GCF Premium Charge. As with all other instances of late submissions of required information, members who do not submit this required information by the deadlines established by FICC are subject to a fine and an increased Clearing Fund premium.

Second, the 2007 NFE Filing addressed the situation where FICC becomes concerned about the volume of interbank GCF Repo activity. Such a concern might arise, for example, if market events were to cause dealers to turn to the GCF Repo service for increased funding at levels beyond normal processing. The 2007 NFE Filing provides FICC with the discretion to institute risk mitigation and appropriate disincentive measures in order to bring GCF Repo levels to a comfortable level from a risk management perspective.[13]

[6] In 2009, the Commission approved FICC rule filing 2009–04 to add debt securities issued under the Debt Guaranty Program component of the Federal Deposit Insurance Corporation's (the ''FDIC's'') Temporary Liquidity Guarantee Program (the ''TLGP'') to the GCF Repo service. *See* Securities Exchange Act Release No. 34–58696 (September, 30, 2008), 73 FR 58698 (October 7, 2008). The TLGP, one of the steps taken by the U.S. Government to stabilize the credit markets and stimulate lending, was designed to allow banks to issue FDIC-insured debt, ensuring that the banks would be able to roll over any debt coming due in the coming months. The guarantee consists of timely payment of principal and interest. The expiration of the FDIC's guarantee is the earlier of either the maturity date of the issued debt or June 2012.

[7] *See* Securities Exchange Act Release No. 34–40623 (October 30, 1998), 63 FR 59831 (November 5, 1998).

[8] *See* Securities Exchange Act Release No. 34–41303 (April 16, 1999), 64 FR 20346 (April 26, 1999).

[9] *See Id.* for a detailed description of the clearing bank and FICC accounts needed to effect the after-hour movement of securities.

[10] *See* Securities Exchange Act Release No. 34–48006 (June 10, 2003), 68 FR 35745 (June 16, 2003).

[11] *See* Securities Exchange Act Release No. 34–57652 (April 11, 2008), 73 FR 20999 (April 17, 2008).

[12] NFE is a methodology that clearing banks use to determine whether an account holder (such as a dealer) has sufficient collateral to enter into a specific transaction. NFE allows the clearing bank to place a limit on its customer's activity by calculating a value on the customer's balances at the bank. Bank customers have the ability to monitor their NFE balance throughout the day.

[13] Specifically, the 2007 NFE Filing introduced the term ''GCF Repo Event,'' which will be declared

Continued

B. Changes to the GCF Repo Service To Implement the TPR's Recommendations

FICC is adopting the following rule changes with respect to the GCF Repo service to address the TPR's Recommendations:

(1)(a) To move the Day 2 unwind from 7:30 a.m. to 3:30 p.m.; (b) to move the NFE process [14] from morning to a time established by FICC as announced by notice to all members; [15] (c) to move the cut-off time of GCF Repo submissions from 3:35 p.m. to 3 p.m.; and (d) to move the cut-off time for dealer affirmation or disaffirmation from 3:45 p.m. to 3 p.m.; and

(2) To establish rules for intraday GCF Repo collateral substitutions.[16]

(1) Change Regarding the Morning Unwind and Related Rule Changes

The TPR has recommended that the Day 2 unwind for all tri-party transactions are moved from the morning to 3:30 p.m. The TPR has made this recommendation in order to reduce the clearing banks' intraday exposure to the dealers. As previously stated, because the GCF Repo service is essentially a tri-party repo mechanism, FICC has also been requested by the TPR to accommodate this time change. For the GSD rules, this necessitates a change to the GSD's ''Schedule of GCF Timeframes'' (''Schedule''). Specifically, the 7:30 a.m. time in the Schedule is deleted and the language therein is moved to a new time of 3:30 p.m.

The change to the time of the intrabank unwind also necessitates a change to the cut-off time for GCF Repo trade submissions, which is currently 3:35 p.m. in the Schedule. FICC is amending the Schedule to change the cut-off time to 3:00 p.m. to allow FICC to submit files to the clearing banks which, in turn, will provide files to the dealers by 3:30 p.m. As a result, dealers should have a complete picture of their positions as the unwind occurs at 3:30 p.m. The 3:45 p.m. cutoff for dealer affirmation or disaffirmation is moved to 3 p.m. so that the new 3 p.m. cutoff for submissions is also the cutoff for dealer affirmations and disaffirmations.[17]

Because the Day 2 unwind is moving from the morning to 3:30 p.m. and because the NFE process established by the 2007 NFE Filing is tied to the moment of the interbank unwind, the NFE process will also move to the time established by FICC as announced by notice to all members. This range will be between 8 a.m. and 1 p.m. Because the NFE process is a legal process and not an operational process, it is not reflected on the Schedule. FICC is deleting the reference to the ''morning'' timeframe on Day 2 with respect to the NFE process in Section 3 of Rule 20 and adding language referencing ''at the time established by the Corporation.''

(2) Change Regarding Intraday GCF Repo Securities Collateral Substitutions

As a result of the time change of the unwind (*i.e.,* the reversal on Day 2 of collateral allocations established by FICC for each netting member's GCF net funds borrower positions and GCF net funds lender positions on Day 1 to 3:30 p.m., the provider of GCF Repo securities collateral in a GCF Repo transaction on Day 1 will no longer have access to such securities at the beginning of Day 2. Therefore, during Day 2 prior to the unwind of the Day 1 collateral allocations, the provider of GCF Repo securities collateral needs a substitution mechanism for the return of its posted GCF Repo securities collateral in order to utilize such securities in its business activities. FICC is establishing a substitution process for this purpose in conjunction with its clearing banks. The language for the substitution mechanism is being added to Section 3 of GSD Rule 20. The rule change provides that all requests for substitution for the GCF Repo securities collateral must be submitted by the provider of the GCF Repo securities collateral by the applicable deadline on Day 2 (''Substitution Deadline'').[18]

(3) Substitutions on Intrabank GCF Repos

If the GCF Repo transaction is between dealer counterparties effecting the transaction through the same clearing bank, on Day 2 such clearing bank will process each substitution request of the provider of GCF Repo securities collateral submitted prior to the substitution deadline promptly upon receipt of such request. The return of the GCF Repo securities collateral in exchange for cash and/or eligible securities of equivalent value can be accomplished by simple debits and credits to the accounts of the GCF Repo dealer counterparties at the clearing bank. Eligible securities for this purpose will be the same as those currently permitted under the GSD rules for collateral allocations, namely, (i) Comparable Securities,[19] (ii) Other Acceptable Securities,[20] or (iii) U.S. Treasury bills, notes or bonds maturing in a time frame no greater than that of the securities that have been traded (except where such traded securities are U.S. Treasury bills, substitution may be with Comparable Securities and/or cash only).

(4) Substitutions on Interbank GCF Repos

For a GCF Repo that was processed on an interbank basis and to accommodate a potential substitution request, FICC will initiate a debit of the securities in the account of the lender through the FICC GCF Repo accounts at the clearing bank of the lender and the FICC GCF Repo account at the clearing bank of the borrower (''Interbank Movement''). This Interbank Movement is being done so that a borrower who elects to substitute

by FICC if either of the following occurs: (i) The GCF interbank funds amount exceeds five times the average interbank funds amount over the previous ninety days for three consecutive days; or (ii) the GCF interbank funds amount exceeds fifty percent of the amount of GCF Repo collateral pledged for three consecutive days. FICC reviews these figures on a semi-annual basis to determine whether they remain adequate. FICC also has the right to declare a GCF Repo Event in any other circumstances where it is concerned about GCF Repo volumes and believes it is necessary to declare a GCF Repo Event in order to protect itself and its members. FICC will inform its members about the declaration of the GCF Repo Event via important notice. FICC will also inform the Commission about the declaration of the GCF Repo Event.

[14] No other changes are being made to the NFE process that was in place by the 2007 NFE Filing; the risk management measures that were put in place by the 2007 NFE Filing remain in place.

[15] The time range initially is between 8 a.m. and 1 p.m.

[16] Only cash substitutions will be permitted for interbank GCF Repo transactions, as discussed in more detail below.

[17] This change updates the current Schedule to provide that the cutoff for submissions and dealer affirmations/disaffirmations is at the same time, which is consistent with. current practice.

[18] FICC will establish such deadline prior to the implementation of the changes to this service in conjunction with the clearing banks and the Federal Reserve in light of market circumstances. The initial substitution deadline is anticipated to be 1 p.m.; however, this will be finalized with the Federal Reserve and the clearing banks. The time range will be between 8 a.m. and 1 p.m. FICC will provide members advanced notice of the substitution deadline and any future changes thereto by important notice.

[19] GSD Rule 1 defines ''Comparable Securities'' as follows: The term ''Comparable Securities'' means, with respect to a security or securities that are represented by a particular Generic CUSIP Number, any other security or securities that are represented by the same Generic CUSIP Number. Fixed Income Clearing Corporation, Government Securities Division Rulebook, Rule 1—Definitions.

[20] GSD Rule 1 defines ''Other Acceptable Securities'' as follows:

The term ''Other Acceptable Securities'' means, with respect to:

(an) adjustable-rate mortgage-backed security or securities issued by Ginnie Mae, any fixed-rate mortgage-backed security or securities issued by Ginnie Mae, or (an) adjustable-rate mortgage-backed security or securities issued by either Fannie Mae or Freddie Mac: (a) Any fixed-rate mortgage-backed security or securities issued by Fannie Mae and Freddie Mac, (b) any fixed-rate mortgage-backed security or securities issued by Ginnie Mae, or (c) any adjustable-rate mortgage-backed security or securities issued by Ginnie Mae. Fixed Income Clearing Corporation, Government Securities Division Rulebook, Rule 1—Definitions.

collateral will have access to the collateral for which it is substituting. The Interbank Movement is expected to occur in the morning, though the clearing banks and FICC have the capability to have the Interbank Movement occur at any point during the day up until 2:30 p.m. The agreed upon final timeframe will be determined as between FICC and the clearing banks prior to the implementation date of the Pilot Program. During the Pilot Program, FICC and the clearing banks will unwind the intrabank GCF Repo transactions at 3:30 p.m. FICC and the clearing banks will determine the most appropriate timeframe for the Interbank Movement process to occur.

On Day 2, GCF Repo securities collateral will be debited from the securities account of the receiver of the collateral at its clearing bank, and from a FICC account at the same clearing bank. If a substitution request is received by the clearing bank of the provider of GCF Repo securities collateral prior to the substitution deadline at a time specified in FICC's procedures,[21] that clearing bank will process the substitution request by releasing the GCF Repo securities collateral from the FICC GCF Repo account at such clearing bank and crediting it to the account of the provider of GCF Repo securities collateral. All cash substituted for the GCF Repo securities collateral being released will be credited to FICC's GCF Repo account at the clearing bank of the provider of GCF Repo securities collateral.

Simultaneously, with the debit of the GCF Repo securities collateral from the account at the clearing bank of the original receiver of GCF Repo securities collateral, such clearing bank will effect a cash debit equal to the value of the securities collateral in FICC's GCF Repo account at such clearing bank and will credit the account of the original receiver of securities collateral at such clearing bank with such cash amount in order to make payment to the original receiver of securities collateral. (This is because when the original receiver of securities collateral is debited the securities, it must receive the funds.) In order to secure FICC's obligation to repay the balance in FICC's GCF Repo account at the clearing bank of the original receiver of GCF Repo securities collateral, FICC will grant to such clearing bank a security interest in the cash substituted for the GCF securities collateral in FICC's GCF repo account at the other clearing bank.

For substitutions that occur with respect to GCF Repo transactions that were processed on an interbank basis, FICC and the clearing banks will initially only permit cash substitutions in order to accommodate current processing systems. In the future, as systems are upgraded, FICC may permit securities substitutions in the same way as described above for GCF Repo transactions occurring on the intra-bank basis. If interbank securities substitutions are permitted, FICC will announce this to members by important notice.

C. Other rule changes

FICC is also making technical changes to Section 7 of GSD Rule 20, which relate to the GCF Repo collateral process. Specifically, FICC is changing reference to the defined term ''Security'' to ''security'' to conform to the use of ''security'' throughout the rule. The rule change also introduces a term that previously had not been included in the rules inadvertently, ''GCF Collateral Excess Account.'' This term is defined as ''the account established by a GCF Custodian Bank in the name of the Corporation to hold securities it credits to the GCF Securities Account the Corporation establishes for another GCF Clearing Bank.''

III. Discussion

Section 17A(b)(3)(F) of the Act[22] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of security transactions and assure the safeguarding of securities and funds which are in the custody or control of such clearing agency or for which it is responsible.

Because the proposed rule change aligns the GCF Repo service with recommendations being made by the TPR to address risks in the overall tri-party repo market, it will promote the prompt and accurate clearance and settlement of security transactions and assure the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible, and therefore is consistent with the requirements of Section 17A(b)(3)(F) of the Act. The proposed rule change is not inconsistent with the existing rules of FICC, including any other rules proposed to be amended.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[23] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change (File No. SR–FICC–2011–05) be, and hereby is, approved.[25]

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[26]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–22490 Filed 9–1–11; 8:45 am]

BILLING CODE 8011–01–P

[21] This timeframe will also be established in consultation with the clearing banks and the Federal Reserve. The parties are considering whether to have the substitution process be accomplished in two batches during the day depending upon the time of submission of the notifications for substitution. In any event, substitution requests will be subject to the substitution deadline. The details of the batches, if applied, will be announced to members by important notice. The deadline for submission of GCF Repo substitution requests will be the same for intrabank and interbank processing.

[22] 15 U.S.C. 78q–1(b)(3)(F).

[23] 15 U.S.C. 78q–1.

[24] 15 U.S.C. 78s(b)(2).

[25] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65206; File No. SR–Phlx–2011–124]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ OMX PHLX LLC Relating to Rebates and Fees for Adding and Removing Liquidity in Select Symbols

August 26, 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 August 24, 2011, NASDAQ OMX PHLX LLC (''Phlx'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section I of the Exchange's Fee

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Schedule titled ''Rebates and Fees for Adding and Removing Liquidity in Select Symbols,'' specifically to amend the Select Symbols.[3]

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on September 1, 2011.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqtrader.com/micro.aspx?id=PHLXfilings,* at the principal office of the Exchange, 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 amend the list of Select Symbols in Section I of the Exchange's Fee Schedule, entitled ''Rebates and Fees for Adding and Removing Liquidity in Select Symbols'' in order to attract additional order flow to the Exchange.

The Exchange displays a list of Select Symbols in its Fee Schedule at Section I, ''Rebates and Fees for Adding and Removing Liquidity in Select Symbols,'' that are subject to the rebates and fees in that section. Among those Select Symbols are: (i) iShares Dow Jones U.S. Real Estate Index Fund (''IYR''); and (ii) ProShares UltraShort QQQ ETF (''QID''), which the Exchange is proposing to remove from the list of Select Symbols. The Exchange is also proposing to add: (i) Procter & Gamble Co. (''PG''); and (ii) SPDR S&P Oil & Gas Exploration & Production ETF (''XOP'') to the list of Select Symbols in Section I.

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on September 1, 2011.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[4] in general, and furthers the objectives of Section 6(b)(4) of the Act[5] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

The Exchange believes that it is reasonable to remove IYR and QID from its list of Select Symbols and add PG and XOP to its list of Select Symbols to attract additional order flow to the Exchange. The Exchange anticipates that the addition of PG and XOP to Section I of the Fee Schedule would attract market participants to transact equity options at the Exchange because of the available rebates. In addition, the Exchange believes that applying the fees in Section II, entitled ''Equity Options Fees''[6] to IYR and QID, including the opportunity to receive payment for order flow, will also attract order flow to the Exchange.

The Exchange believes that it is equitable and not unfairly discriminatory to amend its list of Select Symbols by removing IYR and QID and adding PG and XOP because the list of Select Symbols would apply uniformly to all categories of participants in the same manner. All market participants who trade the Select Symbols would be subject to the rebates and fees in Section I of the Fee Schedule. Also, all market participants would be uniformly subject to the fees in Section II.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[7] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2011–124 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2011–124. 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

[3] The term ''Select Symbols'' refers to the symbols which are subject to the Rebates and Fees for Adding and Removing Liquidity in Section I of the Exchange's Fee Schedule.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

[6] Section II includes options overlying equities, ETFs, ETNs, indexes, and HOLDRS which are Multiply Listed.

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2011–124 and should be submitted on or before September 23, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–22535 Filed 9–1–11; 8:45 am]

BILLING CODE 8011–01–P

[8] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 7551]

Advisory Committee On International Postal and Delivery Services

AGENCY: Department of State.

ACTION: Notice; advisory committee meeting announcement.

SUMMARY: As required by the Federal Advisory Committee Act, Public Law 92–463, the Department of State gives notice of a meeting of the Advisory Committee on International Postal and Delivery Services. This Committee has been formed in fulfillment of the provisions of the 2006 Postal Accountability and Enhancement Act (Pub. L. 109–435) and in accordance with the Federal Advisory Committee Act.

DATES: September 29, 2011 from 10 a.m. to about 1 p.m. (open to the public).

Location: The American Institute of Architects (Boardroom), 1735 New York Ave., NW., Washington, DC 20006

Meeting agenda: The agenda of the meeting will include a review of the results of the April 2011 UPU Postal Operations Council, the major issues to arise at the October 2011 UPU Council of Administration, U.S. strategy for the UPU, developing U.S. proposals for the 2012 UPU Congress, and other subjects related to international postal and delivery services that are of interest to Advisory Committee members and the public.

Public input: Any member of the public interested in providing public input to the meeting should contact Mr. Mohammed Nauage, whose contact information is listed below. Each individual providing oral input is requested to limit his or her comments to five minutes. Requests to be added to the speaker list must be received in writing (letter, e-mail or fax) prior to the close of business on September 23, 2011; written comments from members of the public for distribution at this meeting must reach Mr. Nauage by letter, e-mail or fax by this same date. A member of the public requesting reasonable accommodation should make the request to Mr. Nauage by that same date.

For further information, please contact Mohammed Nauage, Office of Global Systems (IO/GS), Bureau of International Organization Affairs, U.S. Department of State, at (202) 647–1044, *NauageM@state.govmailto:*

Dated: August 23, 2011.

Dennis M. Delehanty,

Designated Federal Officer, Advisory Committee on International Postal and Delivery Services.

Dated: August 23, 2011.

Dennis M. Delehanty,

Foreign Affairs Officer, Department of State.

[FR Doc. 2011–22597 Filed 9–1–11; 8:45 am]

BILLING CODE 4710–19–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

[DOT Docket No. DOT–OST–2010–0074]

The First Semi-Annual Aviation Workforce Management Conference

AGENCY: Office of the Secretary of Transportation (DOT), U.S. Department of Transportation.

ACTION: Notice of Conference.

SUMMARY: The Department of Transportation, Office of the Secretary of Transportation, announces the First Semi-Annual Aviation Workforce Management Conference which will be held in Washington DC. The Conference will be co-hosted by the Secretary of Transportation Ray LaHood, Secretary of Labor Hilda L. Solis and Secretary of Education Arne Duncan. The Federal Aviation Administrator J. Randolph (Randy) Babbitt will also participate in the Conference. This will be the first semi-annual conference recommended by the Subcommittee on Labor and World-Class Workforce of the former Future of Aviation Advisory Committee (FAAC).

DATES: The Conference will be held on September 21, 2011, from 9:30 a.m. to 12:30 p.m. (EDT).

ADDRESSES: The Conference will be held at the Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, in the West Building Atrium.

FOR FURTHER INFORMATION CONTACT: Bonnie M. Gray, Conference Coordinator at 202–267–8712 or by e-mail at *FAAC@faa.gov.*

SUPPLEMENTARY INFORMATION: *Agenda:* The agenda will include aviation workforce development issues that focus on the need for a future workforce with solid foundations in the science, technology, engineering, and mathematics disciplines, and best practices for addressing labor/management issues. The Conference implements Recommendation 17 of FAAC, ''The Secretary of Transportation should endorse and implement a semi-annual Aviation Industry Workforce-Management Conference beginning in September 2011. The mandate of the conference would be to bridge the gap of information and understanding that generally exists today between the aviation workforce and its management, with the ultimate goal of a healthier industry for all.'' A copy of the agenda will be posted at *http://www.dot.gov/faac* when finalized.

Public Access: Members of the public and all members of the aviation community are invited to attend. Pre-registration is required of all attendees. (See below for registration instructions).

Registration Instructions: Space for the Conference is limited. Registration will be available on a first-come, first-serve basis. Once the maximum number of 300 registrants has been reached, registration will close. Requests to attend the meeting must be received by close of business on September 6, 2011.

- All foreign nationals must register and provide their date of birth, passport number, and country of issue by August 26, 2011.
- Persons with disabilities who require special assistance should advise the Department of their anticipated special need(s) at the time of registration, under the subject line ''Special Assistance,''.
- To register: Send an e-mail to *FAAC@faa.gov* with ''Registration'' in the subject line including the following information:
  - Last name, First name;
  - Title (if any);
  - Company or affiliation (if any);
  - Address;
  - Phone number;
  - US Citizen (Y/N);

○ E-mail address for confirmation of registration.

- The DOT Headquarters Building is a secure Federal facility.
- An e-mail will be sent confirming your registration along with details on security procedures for entering the DOT Headquarters Building.
- There will be no Internet access at the Conference. Bringing computers into the building requires additional security screening.
- Pre-registration for the Conference will be by e-mail only.

Entering the DOT Headquarters Building

- Admission to the Conference site will be at the New Jersey Avenue entrance only.
- A valid form of government issued ID with an expiration date is required for all attendees.
- Only pre-registered attendees may attend the conference.
- Check-in will be from 7:30 to 9:15 a.m. on September 21, 2011. Please arrive early to allow ample time for security clearance and an escort to take you to the Conference room.
- All attendees must be screened and pass through a metal detector.
- No firearms are allowed in the building, including with protection details.
- Special accessibility requirements should be noted in your e-mail registration.
- There will be no parking available at DOT headquarters and public parking in the area is limited. Car-pooling, taxis, or public transportation are recommended.
- Public Transportation information: The Navy Yard Metro stop on the Green Line (at M Street and New Jersey Ave., SE.) is across the street from DOT's New Jersey Ave entrance. Navy Yard is also serviced by the A9, A42, A46, A48, P1, P2, V7, V8, V9, 903, CIRC, and PRTC buses. Additional trip planning information can be found at *http://www.wmata.com.*

Issued on: August 26, 2011.

Ray LaHood,

Secretary of Transportation.

[FR Doc. 2011–22594 Filed 9–1–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2010–0387]

Identification of Interstate Motor Vehicles: The Port Authority of New York and New Jersey's Drayage Truck Registry Sticker Display Requirements; Petition for Determination

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

ACTION: Notice; Denial of petition for determination.

SUMMARY: FMCSA denies the New Jersey Motor Truck Association's (NJMTA) petition requesting that FMCSA determine the Port Authority of New York and New Jersey's (Port Authority) Drayage Truck Registry (DTR) sticker display program is preempted by Federal law. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) prohibits States and their political subdivisions from requiring motor carriers to display in or on commercial motor vehicles (CMVs) any form of identification other than forms required by the Secretary of Transportation (Secretary), with certain exceptions. FMCSA determines that the Port Authority's sticker display program is not preempted.

DATES: This decision is effective September 2, 2011.

FOR FURTHER INFORMATION CONTACT: Genevieve D. Sapir, Office of the Chief Counsel, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366–7056; e-mail *Genevieve.Sapir@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Port Authority amended its marine tariff (PAMT FMC No. 10) to require trucks entering marine terminal facilities to display a sticker showing compliance with its new DTR. In response, by letter dated September 2, 2010, NJMTA petitioned the Secretary for a determination that the Port Authority's sticker display requirement is preempted by Federal law. Effective October 15, 2010, and in response to the NJMTA's petition, the Port Authority amended its tariff to clarify that the compliance stickers are a voluntary way to demonstrate compliance with the DTR and that no truck will be denied access to marine terminal facilities for failure to display a sticker.

The NJMTA is a non-profit trade association that represents over 500 trucking companies with operations in New Jersey. NJMTA states that its mission is to foster and promote sound, economical, and efficient service by motor carrier transportation; to promote safety and courtesy in highway transportation; to foster and support beneficial laws and regulations affecting the motor carrier industry and highway transportation; to promote and encourage the construction and maintenance of an adequate system of safely engineered highways; to foster and promote sound and reasonable taxation at the State and Federal levels on highway users; and to engage in any and all activities that will advance the interests of highway transportation and highway users generally.

The Port Authority is a bi-State entity established by interstate compact with the consent of Congress (42 Stat. 174, Aug. 23, 1921). It conceives, builds, operates, and maintains infrastructure critical to the New York/New Jersey region's trade and transportation network. These facilities include the New York/New Jersey airport system, marine terminals and ports, the PATH rail transit system, six tunnels and bridges between New York and New Jersey, the Port Authority Bus Terminal in Manhattan, and the World Trade Center.

In an effort to reduce port-related diesel and greenhouse gas emissions, the Port Authority is implementing a truck phase-out plan that will deny old drayage trucks access to its marine terminal facilities. Under this plan, the Port Authority began denying drayage trucks with pre-1994 model year engines access to Port Authority marine terminal facilities effective January 1, 2011. Effective January 1, 2017, the Port Authority will deny drayage trucks equipped with engines that fail to meet or exceed 2007 model year Federal heavy-duty, diesel-fueled, on-road engine emission standards access to marine terminal facilities. In order to implement the truck phase-out plan, the Port Authority will require drayage trucks accessing Port Authority marine terminal facilities to be registered in the DTR. The Port Authority will issue compliance stickers to drayage trucks that are compliant with the phase-out plan to facilitate and expedite transit of those trucks onto, through, and out of marine terminal facilities. As noted above, the Port Authority has amended its tariff to clarify that the compliance stickers are a voluntary way to demonstrate compliance with the DTR, that no truck is required to display a compliance sticker, and that no truck

will be denied access to marine terminal facilities for failure to display a sticker.

Section 4306(a) of SAFETEA–LU, codified at 49 U.S.C. 14506(a), prohibits States, political subdivisions of States, interstate agencies, or other political agencies of two or more States from requiring motor carriers to display in or on CMVs any form of identification other than forms required by the Secretary. Section 14506(b), as amended, however, establishes several exceptions to this prohibition:

(b) Exception.—Notwithstanding subsection (a), a State may continue to require display of credentials that are required—

(1) under the International Registration Plan under section 31704 [of title 49, United States Code];

(2) under the International Fuel Tax Agreement under section 31705 [of title 49, United States Code] or under an applicable State law if, on October 1, 2006, the State has a form of highway use taxation not subject to collection through the International Fuel Tax Agreement;

(3) under a State law regarding motor vehicle license plates or other displays that the Secretary determines are appropriate;

(4) in connection with Federal requirements for hazardous materials transportation under section 5103 [of title 49, United States Code]; or

(5) in connection with the Federal vehicle inspection standards under section 31136 [of title 49, United States Code].

The exception relevant to NJMTA's petition is § 14506(b)(3), which provides that ''a State may continue to require display of credentials that are required * * * under a State law regarding motor vehicle license plates or other displays that the Secretary determines are appropriate.'' [1] The Secretary's authority under § 14506 is delegated to FMCSA by 49 CFR 1.73(a)(7).

Through a notice published in the **Federal Register** on December 3, 2010 (75 FR 75540), FMCSA sought comment on whether the Port Authority's sticker display requirement is preempted by Federal law. Specifically, the Agency sought comment on whether the Port Authority's sticker display requirement should qualify for the exception in 49 U.S.C. 14506(b)(3).

Discussion of Comments

In response to the December 3, 2010 notice, FMCSA received ten comments, of which five were from trade associations, two were from individuals, one was from a motor carrier, one was from a coalition, one was from the Commercial Vehicle Safety Alliance (CVSA), and one was from the Port Authority. All commenters except for the coalition and the Port Authority supported preemption.

The American Trucking Associations (ATA) commented that the Port Authority's credential display requirement does not differ significantly from other displays FMCSA recently preempted (Identification of Interstate Motor Vehicles: New York City, Cook County, and New Jersey Tax Identification Requirements; Petition for Determination, (75 FR 64779, Oct. 20, 2010)). ATA also commented that, based on FMCSA's previous decision on tax credential displays in Oregon (72 FR 9996, Mar. 6, 2007), the Port Authority's display should not be eligible for the exception at 49 U.S.C. 14506(b)(3). ATA further commented that it is not determinative that the requirement is voluntary.

The National Solid Wastes Management Association (NSWMA) commented that the exception at 49 U.S.C. 14506(b)(3) should be interpreted narrowly so as not to interfere with Congress's intent to preempt credential display requirements. NSWMA also commented that if FMCSA does not grant NJMTA's petition, numerous State and local governments will enact similar, burdensome requirements. Finally, NSWMA commented that if Congress had intended for there to be an exception for displays designed to reduce emissions, then it would have written one in 49 U.S.C. 14506(b).

The Owner-Operator Independent Drivers Association (OOIDA) commented in support of NJMTA's petition. OOIDA does not believe that the Port Authority's requirement is voluntary because trucks that opt out would be subject to additional delays in the port. OOIDA also commented that, following the canon of statutory construction *ejusdem generis,* FMCSA should interpret the exception at 49 U.S.C. 14506(b)(3) to be limited to matters related to motor vehicle licensing.

The Truck Renting and Leasing Association (TRALA) commented in support of NJMTA's petition, strongly objecting to the Port Authority's credential display requirement. The TRALA also commented that many carriers lease CMVs and trailers and that the requirement would be burdensome not only to carriers, but to lessors whose equipment may be used in several multi-modal operations during their lifetimes. Finally, TRALA disagreed that it would be appropriate for FMCSA to exercise its delegated discretion under 49 U.S.C. 14506(b)(3) in this matter.

In support of its own petition, NJMTA commented that it is not relevant whether the Port Authority's requirement is voluntary because 49 U.S.C. 14506(b) does not contain an exception for voluntariness. In addition, NJMTA disputed that the Port Authority's display requirement is voluntary because trucks that do not display the sticker will be subjected to lengthy stops and inspection. NJMTA further commented that this lengthy stop and inspection process will cause delays and traffic jams, inhibit operators' ability to make multiple trips, and increase pollution.

One individual commented that the Port Authority's credential display requirement should be preempted because it is similar to other credential displays that FMCSA recently preempted. Another individual commented that ports currently have too many credential requirements.

United Parcel Service (UPS) stated that it agreed with the comments NJMTA and ATA filed in this docket. UPS specifically agreed that characterizing the requirement as voluntary does not make it any less mandatory because carriers that do not participate will be subjected to inspections and delays at the port.

The Coalition for Healthy Ports (Coalition) commented that NJMTA's and ATA's comments are inconsistent with the positions they have taken with respect to other programs including the Port of Los Angeles's drayage truck program, which is currently the subject of litigation. The Coalition also commented that without the sticker program, the Port Authority would be unable to enforce the DTR. Finally, the Coalition commented that invalidating the Port Authority's program would place other ports' programs in jeopardy.

CVSA commented that it believes that the Port Authority's credential display requirement is preempted and not eligible for any of the exceptions in 49 U.S.C. 14506(b). CVSA commented that instead of stickers, the Port Authority should use existing identifiers to meet its needs as well as build technological capabilities and ''back office infrastructure'' to manage the DTR program.

The Port Authority commented that its credential display requirement does not violate 49 U.S.C. 14506 because it is voluntary. Alternatively, the Port Authority commented that the requirement is not preempted because it promotes public health and safety.

[1] FMCSA previously concluded that for the purposes of the exceptions at 49 U.S.C. 14506(b), ''State'' means a State, political subdivision of a State, interstate agency, or other political agency of two or more States (75 FR 64779, Oct. 20, 2010). Because it is a political agency of two or more States, the Port Authority is a ''State'' for the purposes of § 14506(b).

FMCSA Decision

Section 14506(a) Does Not Preempt the Port Authority's Sticker Display Program

Section 14506(a) preempts State requirements that mandate motor carriers to display in or on CMVs any form of identification other than forms required by the Secretary. The Port Authority's DTR sticker display program is not preempted because it does not require trucks to display the compliance sticker. Accordingly, FMCSA denies the NJMTA's petition for preemption.

According to the Port Authority, all vehicles servicing the marine terminal must register with the DTR. Vehicles that do not meet the DTR's requirements are denied registration. The Port Authority issues all registered vehicles a set of stickers, at no cost to the registrant, that demonstrate compliance with the registration requirements. Trucks are briefly stopped so the Port Authority can determine whether they are displaying a compliance sticker. Motor carriers that choose not to display the sticker are subject to a short wait while a Port Authority Police officer checks the truck's license plate against the DTR database.

Section 14506(a) states that:

> No State, political subdivision of a State, interstate agency, or other political agency of two or more States may enact or enforce any law, rule, regulation standard, or other provision having the force and effect of law that *requires* a motor carrier, motor private carrier, freight forwarder, or leasing company to display any form of identification on or in a commercial motor vehicle (as defined in section 14504a [of title 49, United States Code]), other than forms of identification required by the Secretary of Transportation under section 390.21 of title 49, Code of Federal Regulations. (emphasis added).

The preemption language of this provision turns on a State's *requirement* that a motor carrier display some kind of identification, such as a compliance sticker. In this case, however, the Port Authority does not require motor carriers to display the compliance sticker. Instead, motor carriers have the option of either displaying the sticker or having Port Authority officers verify compliance with the DTR through a license plate check. No vehicle will be issued a citation if it is properly registered, but not displaying a compliance sticker.

Several commenters correctly noted that given the choice between displaying a no-cost compliance sticker or being subjected to delays during a license plate check, most carriers would choose to display the sticker. That does not change the fact that the Port Authority does not mandate their display. Nor is the alternative option (license plate check) so onerous that it acts as a penalty to drivers choosing not to display the sticker. While it might take more time to run the license plate check than verify the existence of a sticker, the few extra minutes the Port Authority asserts this would take is a reasonable and minimally-burdensome alternative for motor carriers who object to using the stickers. Accordingly, FMCSA finds that the Port Authority's sticker display program is not preempted.

The Port Authority's Sticker Display Program Is Appropriate

Even if the Port Authority's display program were mandatory, FMCSA would nonetheless determine that the program is appropriate, in accordance with FMCSA's delegated discretion to make such a determination pursuant to 49 U.S.C. 14506(b)(3). The U.S. Department of Transportation generally supports initiatives designed to reduce emissions at port facilities. The sticker display aspect of the DTR is a minimally-burdensome method of achieving the goals of the DTR without causing undue burden on interstate commerce at the Port Authority's marine terminals.

Even though the burden of stopping trucks to verify registration with a license plate check is minimal, it requires both motor carriers and the Port Authority to expend additional resources. Each stop would require trucks to spend more time at the marine terminal, delaying motor carriers, however briefly, and increasing emissions from a potentially long line of idling trucks. The Port Authority's alternative, a no-cost sticker, would help reduce emissions and expedite traffic through marine terminal. FMCSA does not agree with the NJMTA that the sticker program would have the opposite effect: Increasing pollution and delays at the port. To the contrary, in this particular case, FMCSA believes that not using the stickers would increase pollution due to idling and would create a greater burden on commerce moving in and out of the port.

FMCSA does not agree with commenters that believe the sticker display requirement would create a burden on carriers by making them responsible for maintaining a patchwork of stickers from multiple jurisdictions. First, this determination applies only to the Port Authority's DTR program. FMCSA does not extend this determination to any other jurisdiction's credential display requirement. Second, there is a discrete population of trucks entering the marine terminals on a daily basis. The vast majority of drayage trucks coming through a port are dedicated to serving that particular port. While some trucks service other ports as well, the effect on these motor carriers would be minimal. The nominal burden of placing a sticker on a truck that visits the same port over and over again is greatly outweighed by the benefits of expedited access through the port.

FMCSA disagrees with NSWMA's assertions that Congress did not intend for FMCSA to exercise its authority in this manner. The statute grants FMCSA the authority to except those requirements it deems appropriate. There is no additional language limiting this authority. The more reasonable interpretation is that Congress granted this broad discretion so that FMCSA could have the flexibility to except those requirements, such as the Port Authority's, that serve important national policy objectives.

NSWMA also contends that FMCSA's analysis should be governed by the principle of statutory construction that exceptions to general rules should be construed narrowly. FMCSA does not believe that this principle prohibits it from determining that the Port Authority's sticker program is appropriate. FMCSA's decision not to preempt the Port Authority's sticker program does not grant a sweeping exception for State credential displays. To the contrary, FMCSA's decision is limited to the specific circumstances presented by the Port Authority's program and is based on having balanced important policy objectives with the minimal effect the sticker program will have on interstate commerce. Notably, the discretion Congress granted at § 14506(b)(3) does not mandate FMCSA except State displays; nor does it entitle States to enact requirements that otherwise conflict with § 14506. It simply grants FMCSA the discretion to determine whether display requirements are appropriate. In the absence of such a determination, display requirements are presumed to be preempted.

FMCSA also disagrees with OOIDA's assertion that application of *ejusdem generis* precludes FMCSA from determining that the Port Authority's program is not preempted. *Ejusdem generis* is a ''canon of construction holding that when a general word or phrase follows a list of specifics, the general word or phrase will be interpreted to include only items of the same class as those listed.'' [Black's Law Dictionary 9th ed. 2009]. The concept, however, is only used to ascertain the

correct meaning of words when there is uncertainty, *Garcia* v. *United States,* 469 U.S. 70, 74–75 (1985), and the Agency finds no uncertainty warranting its application. If the meaning is clear from the language of the statute, there is no need to resort to legislative history or other extraneous source. *Robinson* v. *Shell Oil Co.,* 519 U.S. 337, 340–41 (1997). The plain language of § 14506(b)(3) excepts ''other displays that the Secretary determines are appropriate.'' FMCSA rejects any attempt to insert ambiguity into this straightforward provision.

Even if the provision were ambiguous, moreover, it would nonetheless be inappropriate to apply the rule of *ejusdem generis. Ejusdem generis* is relevant when there is a list of specific terms with a particular attribute or character followed by a more general or catchall phrase or term. *CSX Transp., Inc.* v. *Ala. Dep't of Revenue,* 131 S. Ct. 1101, 1113 (2011). ''The absence of a list of specific items undercuts the inference embodied in *ejusdem generis* that Congress remained focused on the common attribute when it used the catchall phrase.'' *Ali* v. *Fed. Bureau of Prisons,* 552 U.S. 214, 225 (2008). More important, without a list of specific items, it is not apparent what common attribute connects the specific and general categories. *Id.*

Section 14506(b)(3) contains only two categories of exceptions under State law: Motor vehicle license plates and other displays that the Secretary determines are appropriate. Although the phrase ''other displays that the Secretary determines are appropriate'' is something of a catchall, no list of specific items precedes it. Without a list of specific items, *ejusdem generis* does not apply because it would not be possible to determine what common attribute, if any, Congress may have intended to ascribe to the catchall phrase.

This matter is distinguished from FMCSA's previous decisions regarding credential displays in Oregon (72 FR 9996, Mar. 6, 2007), and Cook County, New York City, and New Jersey (75 FR 64779, Oct. 20, 2010). In those cases, motor carriers were subject to penalty for failure to display certain credentials, regardless of whether they had complied with the substance of the law requiring registration or payment of a fee. Here, the Port Authority assesses no penalty on motor carriers for failure to display the sticker credential. It uses the sticker as a tool for expediting verification of compliance with the DTR and offers an alternative method for demonstrating compliance. No carrier is cited for failing to display credentials; the Port Authority only issues citations for failing to comply with the substantive requirements of the DTR.

Furthermore, in FMCSA's previous decisions, the entities enforcing the credential display requirements failed to identify important policy reasons that would support FMCSA's determination that their requirements were appropriate. In the most recent decision involving credential displays in Cook County, IL, New York City, and New Jersey, FMCSA specifically requested that these jurisdictions justify or present reasons that could support a determination that the display requirement would be appropriate under the exception at 49 U.S.C. 14506(b)(3). Cook County responded, conceding preemption, but neither of the other jurisdictions made any effort to justify their requirements.

In a previous credential display decision, Oregon petitioned the FMCSA for a declaration that its weight-mile tax credentials were appropriate. Oregon's principal argument in support of its display requirement was that eliminating it would increase its enforcement burden. However, the increased burden on enforcement efforts did not present a compelling policy reason, especially in the absence of exploring other solutions to enforcement.

In this case, the Port Authority identified two important policy reasons to support use of credential display stickers: Facilitating movement through the port and reducing emissions. In addition, the stickers present a less burdensome method for *motor carriers* (as opposed to the Port Authority) for proving compliance with the DTR. These factors present compelling policy reasons justifying FMCSA's determination that the Port Authority's sticker program is appropriate.

Conclusion

In consideration of the above, FMCSA denies the petition submitted by the NJMTA. The Port Authority is not preempted from implementing its credential display program.

Issued on: August 29, 2011.

Anne S. Ferro,

Administrator.

[FR Doc. 2011–22477 Filed 9–1–11; 8:45 am]

BILLING CODE 4910–EX–P

FEDERAL REGISTER

Vol. 76 Friday,

No. 171 September 2, 2011

Part II

Department of Labor

Wage and Hour Division

29 CFR Parts 570 and 579

Child Labor Regulations, Orders and Statements of Interpretation; Child Labor Violations; Civil Money Penalties; Proposed Rule

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Parts 570 and 579

RIN 1235–AA06

Child Labor Regulations, Orders and Statements of Interpretation; Child Labor Violations—Civil Money Penalties

AGENCY: Wage and Hour Division, Labor.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Department of Labor (Department or DOL) is proposing to revise the child labor regulations issued pursuant to the Fair Labor Standards Act, which set forth the criteria for the permissible employment of minors under 18 years of age in agricultural and nonagricultural occupations. The proposal would implement specific recommendations made by the National Institute for Occupational Safety and Health, increase parity between the agricultural and nonagricultural child labor provisions, and also address other areas that can be improved, which were identified by the Department's own enforcement actions. The proposed agricultural revisions would impact only hired farm workers and in no way compromise the statutory child labor parental exemption involving children working on farms owned or operated by their parents.

In addition, the Department proposes to revise the exemptions which permit the employment of 14- and 15-year-olds to perform certain agricultural tasks that would otherwise be prohibited to that age group after they have successfully completed certain specified training. The Department is also proposing to update the General Statements of Interpretation to incorporate all the regulatory changes to the agricultural child labor provisions made since they were last revised.

Finally, the Department is proposing to revise its civil money penalty regulations to incorporate into the regulations the processes the Department follows when determining both whether to assess a child labor civil money penalty and the amount of that penalty.

DATES: Comments are due on or before November 1, 2011.

ADDRESSES: You may submit comments, identified by RIN 1235–AA06, by either one of the following methods:

Electronic comments: through the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

Mail: Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, DC 20210.

Instructions: Please submit one copy of your comments by only one method. All submissions received must include the agency name (Wage and Hour Division) and Regulatory Information Number identified above for this rulemaking (1235–AA06). All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Consequently, prior to including any individual's personal information such as Social Security Number, home address, telephone number, e-mail addresses and medical data in a comment, the Department urges commenters carefully to consider that their submissions are a matter of public record and will be publicly accessible on the Internet. It is the commenter's responsibility to safeguard his or her information. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* or to submit them by mail early. For additional information on submitting comments and the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Arthur M. Kerschner, Jr., Division of Enforcement Policy and Procedures, Branch of Child Labor and Special Employment, Wage and Hour Division, U.S. Department of Labor, Room S–3510, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–0072 (this is not a toll free number). Copies of this notice of proposed rulemaking may be obtained in alternative formats (Large Print, Braille, Audio Tape, or Disc), upon request, by calling (202) 693–0023. TTY/TDD callers may dial toll-free (877) 889–5627 to obtain information or request materials in alternative formats.

Questions of interpretation and/or enforcement of regulations issued by this agency or referenced in this notice may be directed to the nearest Wage and Hour Division District Office. Locate the nearest office by calling the Wage and Hour Division's toll-free help line at (866) 4US–WAGE ((866) 487–9243) between 8 a.m. and 5 p.m. in your local time zone, or log onto the Wage and Hour Division's Web site for a nationwide listing of Wage and Hour District and Area Offices at: *http://www.dol.gov/whd/america2.htm.*

SUPPLEMENTARY INFORMATION:

I. Electronic Access and Filing Comments

Public Participation: This notice of proposed rulemaking is available through the **Federal Register** and the *http://www.regulations.gov* Web site. You may also access this document via the Department's Web site at *http://www.dol.gov/federalregister.* To comment electronically on Federal rulemakings, go to the Federal eRulemaking Portal at *http://www.regulations.gov,* which will allow you to find, review, and submit comments on Federal documents that are open for comment and published in the **Federal Register**. Please identify all comments submitted in electronic form by the RIN docket number (1235–AA06). Because of delays in receiving mail in the Washington, DC area, commenters should transmit their comments electronically via the Federal eRulemaking Portal at *http://www.regulations.gov,* or submit them by mail early to ensure timely receipt prior to the close of the comment period. Submit one copy of your comments by only one method.

II. Background

The Department is committed to helping youth enjoy positive and challenging work experiences—both in agricultural and nonagricultural employment—that are so important to their development and transition to adulthood. The Federal child labor provisions were enacted to ensure that when young people work, the work is safe, age appropriate, and does not jeopardize their schooling. This Notice of Proposed Rulemaking continues the Department's tradition of encouraging compliance with the child labor provisions and fostering permissible and appropriate job opportunities for working youth that are healthy, safe, and not detrimental to their education.

A. Child Labor Provisions for Employment in Nonagriculture

The child labor provisions of the Fair Labor Standards Act (FLSA) establish a minimum age of 16 years for employment in nonagricultural occupations, but the Secretary of Labor is authorized to provide by regulation for 14- and 15-year-olds to work in

suitable occupations other than manufacturing or mining, and during periods and under conditions that will not interfere with their schooling or health and well-being. The FLSA provisions permit 16- and 17-year-olds to work in the nonagricultural sector without hours or time limitations, except in certain occupations found and declared by the Secretary to be particularly hazardous, or detrimental to the health or well-being of such workers.

The regulations concerning nonagricultural hazardous occupations are contained in subpart E of 29 CFR part 570 (29 CFR 570.50–.68). These Hazardous Occupations Orders (HOs) apply on either an industry basis, specifying the occupations in a particular industry that are prohibited, or an occupational basis, irrespective of the industry in which the work is performed. The seventeen nonagricultural HOs were adopted individually during the period of 1939 through 1963. Seven of these HOs, specifically HOs 5, 8, 10, 12, 14, 16, and 17, contain limited exemptions that permit the employment of 16- and 17-year-old apprentices and student-learners under particular conditions to perform work otherwise prohibited to that age group. The terms and conditions for employing such apprentices and student-learners are detailed in § 570.50(b) and (c).

Because of changes in the workplace, improved occupational injury surveillance, Wage and Hour Division investigation findings, the introduction of new processes and technologies, the emergence of new types of businesses where young workers may find employment opportunities, the existence of differing Federal and state standards, and divergent views on how best to balance scholastic requirements and work experiences, the Department has long been reviewing the criteria for permissible child labor employment. A detailed discussion of the Department's review was included in the Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on April 17, 2007 (*see* 72 FR 19339). That NPRM led to a Final Rule that was published in the **Federal Register** on May 20, 2010 (*see* 75 FR 28404) and became effective on July 19, 2010.

In furtherance of that review, the Department provided funds to NIOSH in 1998 to conduct a comprehensive review of scientific literature and available data in order to assess current workplace hazards and the adequacy of the current youth employment HOs to address them. This study was commissioned to provide the Secretary with another tool to use in the ongoing review of the child labor provisions, and of the hazardous occupations orders in particular. Its report, entitled *National Institute for Occupational Safety and Health (NIOSH) Recommendations to the U.S. Department of Labor for Changes to Hazardous Orders* (hereinafter referred to as the NIOSH Report or the Report), was issued in July of 2002. The Report makes 35 recommendations concerning the existing nonagricultural HOs, makes 14 recommendations concerning the existing agricultural hazardous occupations orders (Ag H.O.s), and recommends the creation of 17 new HOs. The Department places great value on the information and analysis provided by NIOSH.

As an adjunct to its review of these issues, the Department contracted with a private consulting firm, SiloSmashers, Inc., to construct a model that, using quantitative analysis, would help determine the costs and benefits associated with implementing, or not implementing, each of the Report's recommendations. The SiloSmashers report, *Determination of the Costs and Benefits of Implementing NIOSH Recommendations Relating to Child Labor Hazardous Orders,* was completed in November 2004 and covers 34 of the NIOSH HO recommendations in agricultural and nonagricultural occupations, as well as several occupations or activities not presently addressed by an existing HO. Because of the data limitations and flaws in methodology, the Department does not consider the individual analyses prepared by SiloSmashers to be influential for rulemaking purposes.

Both the NIOSH Report and the SiloSmashers analysis are available for review on the Department's *YouthRules!* Web site at *http://www.youthrules.dol.gov/resources.htm.* A thorough discussion of the history and merits of both the NIOSH Report and the analysis prepared by SiloSmashers was contained in the 2007 NPRM (*see* 72 FR 19340–19341).

In response to the 2002 NIOSH recommendations concerning the nonagricultural HOs, the Department issued a Final Rule in 2004, both a Notice of Proposed Rulemaking (NPRM) and an Advance Notice of Proposed Rulemaking (ANPRM) in 2007, and a Final Rule in 2010. Taken together, these documents addressed all the NIOSH recommendations for the existing nonagricultural HOs. Because very little substantive information was received, the Department withdrew the ANPRM on February 24, 2010, and no proposed rule will result directly from that information collection effort. The comments submitted in response to the ANPRM may be reviewed at the Federal eRulemaking Portal at *http://www.regulations.gov.*

In this NPRM, the Department proposes to create two new nonagricultural HOs, one concerning the employment of youth in certain facilities within farm-product raw materials wholesale trade industries, as recommended by NIOSH in its 2002 Report, and another addressing the use of electronic devices, including communication devices, while operating or assisting to operate certain power-driven equipment, including motor vehicles. As discussed later in this preamble, the high incidence of injuries and deaths experienced by workers employed in the farm-product raw materials wholesale trade industries, or who use electronic devices while operating or assisting to operate certain power-driven equipment, warrant the creation of these new HOs.

B. Child Labor Provisions for Employment in Agriculture

The Fair Labor Standards Act (FLSA), 29 U.S.C. 201 *et seq.,* since its enactment in 1938, has applied child labor standards to the employment of youth in agriculture that differ from those applied to youth employed in nonagricultural occupations. FLSA section 3(f) defines agriculture as including ''farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 1141j(g) of [U.S.C.] Title 12), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.'' The Department's regulations at 29 CFR part 780 explain the meaning of these terms, including a description of what constitutes primary agriculture and secondary agriculture under section 3(f).

FLSA section 3(l) defines the term *oppressive child labor* and establishes a minimum age of 16 years for employment, but authorizes the Secretary of Labor (Secretary) to provide by regulation for 14- and 15-year-olds to work in suitable occupations other than

manufacturing or mining during periods and under conditions that will not interfere with their schooling or health and well-being. The FLSA also permits 16- and 17-year-olds to work, without hours or time limitations, except in certain occupations found and declared by the Secretary to be particularly hazardous or detrimental to the health or well-being of such workers.

FLSA section 3(l) also provides a limited parental exemption, which permits a parent or a person standing in place of a parent to employ his or her child or child in his or her custody under the age of 16 years in any occupation other than manufacturing, mining, or an occupation found by the Secretary to be particularly hazardous or detrimental to the health or well-being of children between the ages of 16 and 18 years (*see* 29 CFR 570.126). These provisions have remained relatively unchanged since the adoption of the FLSA and are still applicable to the employment of young workers in nonagricultural occupations.

The FLSA when enacted, however, also included a broad exemption from the child labor provisions for youth under 16 years of age employed in agriculture. FLSA section 13(c) originally stated that the child labor provisions of the Act ''shall not apply with respect to any employee employed in agriculture while not legally required to attend school.'' Under the original Act, youth of any age could be employed in all phases of agriculture, even hazardous work, whenever the applicable state compulsory school-attendance law did not require the minor to attend school.

The objective of the section 13(c) exemption was to permit agricultural work that otherwise would have been prohibited, only so long as such work did not infringe upon the opportunity of children to obtain an education. But as Secretary of Labor Maurice J. Tobin later reflected in a letter to Congressman Walter Rogers dated November 7, 1951, ''[o]ver ten years' experience with the original provisions proved it to be of little value in achieving this objective.''

Under the exemption, the application of the child labor provisions to agricultural employment varied greatly from state to state depending upon the particular school attendance requirements of each state law. Some states actually amended their school attendance requirements to accommodate the staffing needs of agricultural employers. Other state statutes declared employment in agriculture, in and of itself, a valid excuse for nonattendance of school. In those states, the child labor provisions of the FLSA gave no protection whatsoever to children engaged in such work. In other states, school officials had such wide discretionary powers to excuse children from school that these officials, in practice, determined the extent of the application and effectiveness of the Federal child labor provisions. Other state school-attendance laws were applied only to the children of parents who were legal residents of the state. In those states, there was no minimum age for the employment of children of migrant workers in agriculture.

Thus, under the original child labor provisions of the FLSA, children under 16 were assured the full opportunity to attend school only in those states where the school-attendance laws were so protective that practically all children under 16 were legally required to attend school for the full term.

Congress addressed this issue in 1949 by amending the FLSA and narrowing the exemption contained in FLSA section 13(c) (63 Stat. 917). This amendment modified the exemption from the child labor requirements with respect to the employment of children in agriculture so that it applied only to periods of time that were outside of school hours *for the school district where the children lived while so employed.* The legislative intent of the amendment was to close the loopholes in the original agricultural provision and foster attendance at school.

In addition, the legislative history indicates that Congress had the transient status of the children of migrant agricultural workers in mind when it revised the exemption. As Senator Paul Douglas of Illinois noted, ''[t]his provision permits children to work outside of school hours and during school vacations on any farm, commercial as well as family. But they cannot be hired out to work during school hours for someone who is not their parent. This not only protects the children of migratory laborers from excessive work, but it also encourages states and school districts to get more of the children in school. It thus removes the present discrimination against rural children by giving them the same freedom to attend school which is given to city youngsters'' (*see* Congressional Record, 95th Congress, page 12490, August 30, 1949).

The Department recognized that the scope of permitted agricultural employment of minors under 16 years of age after the amendment largely depended upon the interpretation of the phrase ''school hours for the school district where such employee is living while he is so employed.'' The Department provided guidance, that was eventually incorporated into 29 CFR 570.123, that ''school hours'' must generally be determined by the opening and closing of the school for the district which the child attends or would normally attend and the daily hours it is in session (for example, *see* Secretary of Labor Maurice Tobin's letter of December 20, 1950 to Harold D. Cooley, Chairman of the House of Representatives Committee on Agriculture). It further opined that the phrase ''where such employee is living while he is so employed'' refers to the physical location where the minor lives at the time of the employment irrespective of whether he or she may be living there temporarily or permanently.

The Department also noted that section 13(c) spoke of school hours ''for the school district'' rather than for the individual child. Thus, it did not matter whether the youth was home-schooled, attended a private school, or, for whatever reason, did not attend any school. In addition, the application of the provision did not depend upon the individual student's requirements for attendance at school. For example, if an individual student was excused from his or her studies for a day or a part of a day by the superintendent or school board, the exemption would not apply for that minor if the school was in session during the minor's excused absence (*Id.*). Nor did the application of the exemption depend upon the availability of classroom facilities for an individual or group of minors. The Department determined ''school hours for the school district'' to be those that are maintained for the children in the district generally, regardless of a refusal to enroll specially-situated individuals, such as migrant children (*see* Secretary of Labor Maurice Tobin's letter of December 20, 1950 to Harold D. Cooley, Chairman of the House of Representatives Committee on Agriculture). This guidance provided by the Department in response to the 1949 amendment still applies to the employment of young workers in agriculture today.

Although the 1949 amendment somewhat limited the amount of time hired farm worker youth could be employed, it did nothing to proscribe the types of dangerous or hazardous work such youth could perform when working outside of the hours of the local school district. The hazardous occupations orders (HOs) established by the Secretary pursuant to FLSA section 3(l) only applied to young farm workers when they were already employed illegally—that is, during school hours. In addition, the existing HOs were

specifically designed to address hazards in nonagricultural employment and often had little applicability to farm work.

In 1966, Congress again amended the FLSA and, among other things, authorized the Secretary to create Agricultural Hazardous Occupations Orders (Ag H.O.s) (Pub. L. 89–601, § 203). The newly enacted FLSA section 13(c)(2) stated that ''[t]he provisions of section 12 relating to child labor shall apply to an employee below the age of sixteen employed in agriculture in any occupations that the Secretary of Labor finds and declares to be particularly hazardous for the employment of children below the age of sixteen, except where such employee is employed by his parent or by a person standing in place of his parent on a farm owned or operated by such parent or person.'' It is important to note that the amendment created a minimum age of 16 for the permissible performance of hazardous work in agricultural occupations, although 18 remained the minimum age for the performance of hazardous work in nonagricultural employment. This statutory difference remains to this day.

The Department issued an ''interim'' Hazardous Occupations Order in Agriculture on November 1, 1967, which listed 16 Ag H.O.s (*see* 32 FR 15479). Secretary of Labor Willard Wirtz, in his statement which accompanied the Order, wrote ''[i]n issuing this Order, the Labor Department enters a new field of regulation—safety for youth employed in agriculture. According to the National Safety Council figures, the death rate for agricultural workers is exceeded only by those for miners and construction workers. The agricultural revolution of the past thirty years has mechanized the farm and increased the use of chemicals. Today the farm has many, if not more, hazards than industry.''

The Interim Order was effective from January 1, 1968 to January 1, 1970. The Interim Order was prepared in consultation with farm organizations, farm business groups, farm safety experts, Federal and state government agencies, and agricultural colleges. A public hearing on the Order was held on May 18, 1967 and written and oral comments were received and reviewed.

The Interim Order prohibited the employment of farm workers under 16 years of age in the following activities: handling or using explosives or certain farm chemicals; serving as a flagman for aircraft; driving vehicles on public roads or driving buses; operating, driving, or riding farm tractors or hooking up their power accessories with the motor running; doing certain jobs on specified farm tilling, handling, harvesting, and processing equipment; operating power post-hole diggers and post drivers; working with power-saws; engaging in timbering operations on trees over a 6-inch diameter; working from ladders or scaffolds at more than 20 feet; working in certain gas-tight enclosures or in silos with their top unloaders in the operating position; and performing any work in confined areas with stud horses, dairy bulls, and boars.

The Interim Order noted that minors under 16 who were employed by a parent or by a person acting in place of a parent on a farm owned or operated by such parent or person were exempt from the Ag H.O.s. It also created an exemption for student-learners under the age of 16 who were enrolled in a bona fide cooperative vocational program in agriculture under certain conditions.

On June 6, 1968, the Department modified the Interim Order to permit 14- and 15-year-olds to drive tractors and operate other farm machinery provided they completed a formal training program in the safe use of such equipment coordinated by the U.S. Department of Agriculture's Federal Extension Service and its cooperative units. The modification was published in the **Federal Register** on June 11, 1968 (*see* 33 FR 8542). The Interim Order was again amended on June 27, 1969 to permit 14- and 15-year-old vocational-agricultural students to operate tractors and certain other farm equipment after completing training in the safe use of such equipment. This exemption was requested by the Division of Vocational and Technical Education, Office of Education, U.S. Department of Health, Education, and Welfare. This modification was published in the **Federal Register** on July 4, 1969 (*see* 34 FR 11263).

During the two-year period the Interim Order was in effect, the Department evaluated every activity covered by each of the Ag H.O.s. To assist in this endeavor, the Department hired two nationally recognized experts in the field of agriculture safety and established an Agricultural Advisory Committee of approximately 50 persons representing industry, labor, management, government associations, and youth.

As a result of its extensive review, the Department published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on October 9, 1969 (34 FR 15655) to amend the agricultural child labor provisions which, at that time, were contained in 29 CFR part 1500. Although the NPRM used the Interim Order as a template, it did propose certain changes. The major changes involved a proposed reorganization and recombining of the original 16 Ag H.O.s into a more coherent arrangement and a revision of the exemptions provided for vocational-agriculture students and youth who received training from the Federal Extension Service.

The Department published a final rule in the **Federal Register** on January 7, 1970 (35 FR 221), which became effective on February 6, 1970. The Ag H.O.s established by that final rule have never been revised and are identical to the current Ag H.O.s now contained in 29 CFR 570.71. Unlike their nonagricultural counterparts contained in Subpart E of 29 CFR 570, the Ag H.O.s have traditionally been referenced by their regulatory citation, and not by a numbering system such as HO 1, HO 2, *etc.*

The Ag H.O.s prohibit the employment of otherwise nonexempt hired youth under the age of 16 years in the following agricultural occupations:

(1) Operating a tractor of over 20 power take-off (PTO) horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor (§ 570.71(a)(1)).

(2) Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines: corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, mobile pea viner, feed grinder, crop dryer, forage blower, auger conveyor, the unloading mechanism of a nongravity-type self-unloading wagon or trailer, power post-hole digger, power post driver, or nonwalking type rotary tiller (§ 570.71(a)(2)).

(3) Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines: trencher or earthmoving equipment, fork lift, potato combine, or power-driven circular, band, or chain saw (§ 570.71(a)(3)).

(4) Working on a farm in a yard, pen, or stall occupied by a bull, boar, stud horse maintained for breeding purposes, sow with suckling pigs, or cow with newborn calf (with umbilical cord present) (§ 570.71(a)(4)).

(5) Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than six inches (§ 570.71(a)(5)).

(6) Working from a ladder or scaffold (painting, repairing, or building

structures, pruning trees, picking fruit, *etc.*) at a height of over 20 feet (§ 570.71(a)(6)).

(7) Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper (§ 570.71(a)(7)).

(8) Working inside a fruit, forage, or grain storage designed to retain an oxygen deficient or toxic atmosphere; an upright silo within two weeks after silage has been added or when a top unloading device is in operating position; a manure pit; or a horizontal silo while operating a tractor for packing purposes (§ 570.71(a)(8)).

(9) Handling or applying (including cleaning or decontaminating equipment, disposal or return of empty containers, or serving as a flagman for aircraft applying) agricultural chemicals classified under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 *et seq.*) as Category I of toxicity, identified by the word ''poison'' and the ''skull and crossbones'' on the label; or Category II of toxicity, identified by the word ''warning'' on the label (§ 570.71(a)(9)).

(10) Handling or using a blasting agent, including but not limited to, dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord (§ 570.71(a)(10)).

(11) Transporting, transferring, or applying anhydrous ammonia (§ 570.71(a)(11)).

Section 570.71(b) states that in applying machinery, equipment, or facility terms used in § 570.71(1), the Wage and Hour Division (WHD) will be guided by the definitions contained in the current edition of *Agricultural Engineering,* a dictionary and handbook (Interstate Printers and Publishers, Danville, Il). Although the regulations state that copies of this dictionary and handbook are available for examination in Regional Offices of the WHD, this document has been out of publication since at least 1972.

The 1970 Final Rule also expanded and clarified the exemptions to the Ag H.O.s that were established by the Interim Rules. Section 570.72 allowed certain youth to perform work otherwise prohibited by the Ag H.O.s when enrolled in student-learner programs (*see* § 570.72(a)), Federal Extension Service Programs (*see* § 570.72(b)), or vocational agricultural training programs (*see* § 570.72(c)).

A youth enrolled in an agricultural vocational education training program under a recognized state or local educational authority, or in a substantially similar program conducted by a private school, may generally perform limited work otherwise prohibited by § 570.71(a)(1)–(6) (the first six Ag H.O.s). Such student-learner must be employed under a written agreement which provides that the work of the student-learner in the occupations declared particularly hazardous is incidental to his or her training; that such work shall be intermittent, for short periods of time, and under the direct and close supervision of a qualified and experienced person; that safety instruction shall be given by the school and correlated by the employer with on-the-job training; and that a schedule of organized and progressive work processes to be performed on the job have been prepared. It is unknown how many youth qualify for this exemption. This student-learner exemption is similar to the exemption created for 16- and 17-year-olds by § 570.50(c) that applies to certain nonagricultural hazardous occupations orders. Both exemptions require that the student-learner be enrolled in a formal course of training or study and that the youth be employed under a written agreement that not only limits his or her exposure to hazardous work but details a schedule of progressive training, and provides for the student-learner to safely acquire needed skills.

Section 570.72(b) permits a youth who is at least 14 years of age, who has successfully completed specified training under the auspices of the 4–H, to generally perform agricultural work otherwise prohibited by § 570.71(a)(1) and/or (a)(2), the first two Ag H.O.s, which involve the operation of tractors and certain farm machinery. Minors must document their successful completion of the training by passing both a written and practical exam.

4–H reports on its Web site (*http://www.4-h.org/about/youth-development-organization/*) that it is a youth organization that has more than 6 million young people across America learning leadership, citizenship and life skills. 4–H is the nation's largest youth development organization. The 4–H community includes 3,500 staff, 540,000 volunteers and more than 60 million alumni. 4–H operates under the auspices of the U.S. Department of Agriculture's (USDA) National Institute of Food and Agriculture (NIFA) which was formerly the Cooperative State Research, Education, and Extension Service (CSREES).

Employers wishing to take advantage of the exemption made available for the employment of youth properly trained under the 4–H programs must first obtain and keep on file for each youth a copy of the appropriate *Certificate of Training* (WHD Form WH–5). The certificate must be signed by both the leader who conducted the training program and the Extension Agent of the Cooperative Extension Service.

Vocational agriculture training students who are at least 14 years of age and have successfully completed one or more training programs specified in § 570.72(c)(1) or (c)(2) may, under certain conditions, perform work otherwise prohibited by § 570.71(a)(1) and/or (a)(2), the first two Ag H.O.s. Minors document their successful completion of the training by passing both written and practical tests described in the regulations. Employers wishing to take advantage of the exemption made available for the employment of youth who have successfully completed the vocational agriculture training described in § 570.72(c) must first obtain and retain a copy of the *Certificate of Training* (WHD Form WH–5), signed by the vocational agriculture teacher who conducted the program.

WHD created and disseminates the Form WH–5, but does not maintain statistics on the number of youth trained under the auspices of the Federal Extension Service (*see* § 570.72(b)) or as vocational agricultural students (*see* § 570.72(c)). The WHD is not involved in the actual delivery of the training, nor does it audit the quality or effectiveness of the training except during an investigation, and then, it does so on a case-by-case basis.

The three programs by which minors may perform certain agricultural work otherwise prohibited by the Ag H.O.s must comport with all the applicable provisions of § 570.72, but otherwise operate relatively independently of the Department. The Department's role in this process has been limited to the issuance of the Form WH–5, the interpretation of and dissemination of the regulatory requirements, and the conducting of investigations to determine the appropriateness of the use of the exemption by individual agricultural employers on a case-by-case basis.

It is important to note that, unlike the student-learner exemption contained in § 570.72(a), the exemptions created for 14- and 15-year-old farm workers through the Federal Extension Service (§ 570.72(b)) and those who have received vocational agriculture training (§ 570.72(c)) do not require extensive or ongoing training. These two exemptions require only that the youth possess a certificate that documents that the required training has been satisfactorily completed. There are no such avenues to immediate and complete exemption from the nonagricultural hazardous

occupations orders available to 16- and 17-year-olds (*see* § 570.50(b) and (c)).

The same 1966 amendments to the FLSA that authorized the Secretary to issue the Ag H.O.s also clarified the parental exemption, addressed the minimum age standards for employment in agriculture, and brought many agricultural workers under the Act's minimum wage provisions for the first time. Under section 3(l) of the Act, children under the age of 16 who are employed by their parents or person(s) standing in place of their parents may be employed at any time and in any occupation other than manufacturing, mining, or an occupation found by the Secretary to be particularly hazardous for youth between the ages of 16 and 18. Section 13(c) of the Act expanded the parental exemption as it applies to agricultural employment in two ways. First, the parental exemption in 13(c)(1)(A) applies not only to youth who are employed by their parents or persons standing in place thereof on a farm that is owned by such individuals, but to youth who are employed by their parents or persons standing in place thereof on farms that are operated by, but not owned by, those individuals. Youth who are working pursuant to this ''operated by'' exemption must be employed outside of school hours. Second, section 13(c)(2) permits youth who are employed by their parents or persons standing in place thereof on farms owned or operated by those individuals to work in occupations that have been deemed by the Secretary to be hazardous to the employment of children under the age of 16. This exemption is much broader than the parental exemption in nonagricultural employment where the restrictions regarding the employment of youth in the 17 nonagricultural hazardous occupations orders remain until the age of 18.

The parental exemptions in the FLSA, which permit children to be employed by their parents in some otherwise prohibited occupations, were not predicated on the belief that the children of business owners and/or farmers were more physically or mentally advanced, more safety conscious, or in possession of more cautious work habits than their peers. Instead, these exemptions were granted in recognition of, and continue to rely upon, the concept that a parent's natural concern for his or her child's well-being will serve to protect the child. Congress, as evidenced by discussion on the floor of the House of Representatives (*see* Congressional Record, 75th Congress, page 1693, December 16, 1937) intended that the parental exemptions be applied quite narrowly, limiting their application to parents and those standing in place of a parent.

Accordingly, application of the parental exemption in agriculture has been for over forty years limited to the employment of children exclusively by their parent(s) on a farm owned or operated by the parent(s) or person(s) standing in their place. Any other applications would render the parental safeguard ineffective. Only the owner or operator of a farm is in a position to regulate the duties of his or her child and provide guidance. Where the ownership or operation of the farm is vested in persons other than the parent, such as a business entity, corporation or partnership (unless wholly owned by the parent(s)), the child worker is responsible to persons other than, or in addition to, his or her parent, and his or her duties would be regulated by the corporation or partnership, which might not always have the child's best interests at heart. As Solicitor of Labor Richard F. Schubert advised Congressman Walter B. Jones in his letter of September 12, 1972, ''[e]mployment by a partnership or a corporation would not fulfill the [parental] exemption requirement unless the partnership was comprised of the child's parents only or the corporation was solely owned by the parent or parents.''

The Department has, for many years, considered that a relative, such as a grandparent or aunt or uncle, who assumes the duties and responsibilities of the parent to a child regarding all matters relating to the child's safety, rearing, support, health, and well-being, is a ''person standing in the place of'' the child's parent (*see* letter of Charles E. Wilson, Agricultural Safety Officer, Division of Youth Standards of April 7, 1971 to Mr. Floyd Wiedmeier). It does not matter if the assumption of the parental duties is permanent or temporary, such as a period of three months during the summer school vacation during which the youth resides with the relative (*Id.*). This enforcement position does not apply, however, in situations where the youth commutes to his or her relative's farm on a daily or weekend basis, or visits the farm for such short periods of time (usually less than one month) that the parental duties are not truly assumed by that relative. The Department also interprets the term ''parent or person standing in the place of the parent'' to mean a human being and not an institution or facility, such as a corporation, business, partnership, orphanage, school, church, or a farm dedicated to the rehabilitation of delinquent children.

The Department interprets ''operated by'' the parent or person standing in the place of the parent to mean that he or she exerts active and direct control over the operation of the farm or ranch by making day-to-day decisions affecting basic income, work assignments, hiring and firing of employees, and exercising direct supervision of the farm or ranch work. A ranch manager, therefore, who meets these criteria could employ his or her own children under 16 years of age on the ranch he or she operates without regard to the agricultural hazardous occupations orders, even if the ranch is not owned by the parent or a person standing in the place of the parent, provided the work is outside school hours.

It is important to note that a child who is exempt from the Ag H.O.s when employed on his or her parent's farm would generally lose that exempt status (not be exempt) when employed on a farm owned or operated by a neighbor or non-parental relative. This is true even if the youth is operating equipment owned by his or her parent.

None of the revisions proposed in this NPRM in any way change or diminish the statutory child labor parental exemption in agricultural employment contained in FLSA section 13(c)(1). The child labor provisions of the FLSA, just like the Act's minimum wage and overtime provisions, apply only when an employment relationship exists between an employer and a young worker. The concept of an *employment relationship, which is the same for agricultural and nonagricultural employment,* is well established under the FLSA and discussed in detail in Chapter 10 of the WHD Field Operations Handbook (FOH), available at *http://www.dol.gov/whd/FOH/FOH_Ch10.pdf* and in 29 CFR part 776.

The 1974 FLSA amendments also amended section 13(c) to permit the employment of the following *young hired farm workers* (the term used to describe youth under the age of 16 who do not fall within the parental exemption) to work outside of school hours in non-hazardous agricultural occupations: (1) One who is 14 or 15 years of age; (2) one who is 12 or 13 years of age and employed on the same farm as his or her parent or person standing in the place of his or her parent, or with the written consent of his or her parent or person standing in the place of his or her parent; and (3) one who is less than 12 years of age and employed with the consent of his or her parent or person standing in the place of his or her parent on a small farm where no employee is required to be paid the minimum wage because of the

exception provided by FLSA section 13(a)(6)(A). The Department interprets the term *consent* to mean *written consent.* These provisions remain the basic minimum age standards for agricultural employment. Again, it is important to note that the FLSA provides no similar ''take your children to work'' exemption for the children of workers employed in nonagricultural employment. Parents cannot waive the nonagricultural child labor provisions for their children unless the parent is the employer; and then, only certain provisions may be waived.

The Fair Labor Standards Amendments of 1977, Public Law 95–151, § 8, added section 13(c)(4). This section allows the Secretary of Labor to consider granting requests for waivers to employers that would permit local minors 10 and 11 years of age to be employed outside of school hours in the hand harvesting of short season crops under certain conditions. The Department issued regulations at 29 CFR part 575 (*Waiver of Child Labor Provisions for Agricultural Employment of 10 and 11 Year Old Minors in Hand Harvesting of Short Season Crops*) in 1978 and a few waivers were actually granted in the early years. But the Department was enjoined from issuing such waivers in 1980 because of issues involving exposure, or potential exposure, to pesticides (*see National Ass'n of Farmworkers Organizations* v. *Marshall,* 628 F.2d 604 (DC Cir. 1980)). Therefore, no waivers have been granted under FLSA section 13(c)(4) for thirty years.

The Department is committed to ensuring that the agricultural youth employment provisions of the FLSA balance the benefits of employment opportunities with the necessary and appropriate safety protections. Changes in the nature, size, and technology of agricultural workplaces, along with the high incidences of occupational injury and death suffered by agricultural workers of all ages, warrant an ongoing review of the youth employment provisions. Before addressing the changes to the agricultural youth employment provisions the Department is proposing in this NPRM, it is important to discuss the demographics of the young workers impacted by the proposed changes and the occupational safety and health issues they confront.

Because the parental exemption for agricultural employment is so broad, allowing exempt youth to perform any work at any age (except in manufacturing and mining) and at any time of the day, the Federal child labor provisions generally apply only to youth who are hired farm workers. Although articles and studies concerning young hired farm workers have been issued by many diverse groups, including the Department, the USDA, the Government Accountability Office (GAO), the National Institute for Occupational Safety and Health (NIOSH), the Human Rights Watch, the Farmworkers Justice Fund, Inc., and the Census Bureau, there is consensus that estimating the number of young hired farm workers is difficult because of the gaps in available data. Adequate data concerning younger hired farm workers does not exist.

Some surveys, such as the Current Population Survey (CPS) conducted by the Bureau of Labor Statistics and Census Bureau, exclude all children under the age of 15. The National Agricultural Workers Survey (NAWS), conducted by the Department, only surveys crop production workers—excluding those employed in the raising and care of livestock. Differences in findings also result from different methods of counting children who live and work on their family farms.

But it is known that the number of hired farm workers who are under the age of 16, and thereby subject to the prohibitions of the Ag H.O.s, is relatively small. The USDA's National Agricultural Statistics Service (NASS) reported that, in 2006, there were approximately 1.01 million hired farm workers, which made up a third of the three million people employed in agriculture in the United States (*see* USDA, *Profile of Hired Farmworkers, A 2008 Update,* Economic Research Report Number 60). The USDA went on to report that approximately 15.1 percent of those workers, which equates to about 152,500 individuals, were between the ages of 15 and 21 years. Of this number, only a small portion—those under 16 years of age—would be subject to the Federal Ag H.O.s.

The NAWS has reported similar findings which apply only to crop production workers. In addition, NAWS notes that the number of young hired crop workers relative to all hired crop workers is declining. For the period of 1994 through 1997, NAWS reported that 8.62 percent of all hired crop workers were 14 to 17 years of age; that same cohort constituted 3.65 percent of all hired crop workers during the period of 2002 through 2005. Of this number, NAWS reported that only one-quarter were under the age of 16 (*see* NAWS Public Data available at *http://www.doleta.gov/agworker/naws.cfm*). Unpublished NAWS data reflect that for the period of 2006 through 2009, the percentage for the 14 to 17 cohort had fallen to just below three percent. Using an estimated 1.8 million hired crop workers, a figure provided by the NAWS, the data suggest that there were about 54,000 young workers aged 14 to 17 working in crop production during 2006–2009 and that 13,500 were under the age of 16 and, thus, subject to the Ag H.O.s, some of whom could qualify for the limited exemptions under § 570.72.

It is important to recognize certain inherent limitations of NAWS. NAWS is a survey rather than a census and workers under the age of 14 years are not interviewed in the NAWS. In addition, NAWS interviewers are required to obtain the employer's permission to conduct interviews. In recent years, the Department has reported that 65 percent of all growers who employed workers when they were contacted by an interviewer agreed to cooperate with the survey. Information on the demographic characteristics of workers on farms where the growers do not participate is not obtainable. But the data reported by NAWS complements that of the NIOSH Childhood Agriculture Injury Survey (CAIS).

The NIOSH CAIS estimates that, in 2006, there were 14,395 youth under the age of 14 who were directly hired by a farm operator and, of that number, less than 1,800 were reported to have operated a tractor. This number is rather high considering that none of those youth under the current Federal agricultural child labor provisions could legally be employed to operate a tractor unless a parent owned or operated the farm. CAIS also estimates that in 2006, 41,476 youth 14 or 15 years of age were directly hired by a farm operator, and of that number, 7,565 were reported to have operated a tractor as part of their employment. This latter group could legally operate certain tractors only if employed in compliance with the provisions of § 570.72 (this information is unpublished data from the NIOSH 2006 Childhood Agricultural Injury Survey provided by NIOSH and approved by the USDA National Agricultural Statistics Survey on February 26, 2009, available at *http://www.regulations.gov,* docket number WHD–2011–0001). Combining the above two estimates, the data would indicate that there were fewer than 56,000 hired farm workers under the age of 16 in 2006. NIOSH notes that the above estimates do not include contracted farm workers and that they are a head count of youth who did any farm work regardless of the length of employment. The estimates were reported by the farm operator at a single point in time, which could lead to some under-reporting.

Although there is some disagreement as to the numbers of hired farm workers

employed in agriculture, data from a broad variety of sources shows that agricultural work is difficult and dangerous. The National Safety Council's 2009 edition of Injury Facts ranks agriculture as our nation's most dangerous industry with 28.6 deaths per 100,000 adult workers (*see Injury Facts 2009 Edition* available at *http://www.nsc.org*). The agricultural industry is broad in terms of occupational categories; the work is often seasonal, meaning that farm workers perform a wide variety of tasks depending on the production cycle. This wide diversity of tasks does not allow specialization among workers and creates special challenges when training and developing a safe agricultural workforce. Not surprisingly, the agriculture, forestry, and fishing sector, which employed less than two percent of the U.S. workforce, accounted for 13 percent of all fatal occupational injuries between 1996 and 2001 (*see* Loh K, Richardson S [2004]. Foreign-born Workers: Trends in Fatal Occupational Injuries, 1996–2001. Monthly Labor Review (June): 42–53, 2004). NIOSH reports on its Web site that in 2008, 456 farmers and farm workers died doing farm work in the U.S., and that every day about 243 agricultural workers suffer lost-work time injuries. About five percent of the injuries result in permanent impairment (*see http://www.cdc/niosh/topics/aginjury*).

For youth, the hazards are also significant. Agriculture has the second highest fatality rate among young workers (aged 15 to 24) at 21.3 per 100,000 full-time equivalents compared to 3.6 per 100,000 across all industries (*see* Occupational Injuries and Deaths Among Younger Workers—United States, 1998–2007. *Journal of the American Medical Association,* 304(1), 33–35 (2010)).

The Bureau of Labor Statistics (BLS) provides data on occupational fatalities for youth under 18 through its National Census of Fatal Occupational Injuries (CFOI), and on nonfatal injuries and illnesses requiring time off from work for recuperation through its Survey of Occupational Injuries and Illnesses (SOII). NIOSH estimates youth injuries for 14- to 17-year-olds based on the National Electronic Injury Surveillance System (NEISS) maintained by the Consumer Product Safety Commission. Using data from the CFOI, the GAO reported that 613 youths aged 17 and under were killed at work from 1992 to 2000, and during each of those years, between 62 and 73 young workers died from injuries sustained while working (*see* GAO Report 98–193, *Child Labor in Agriculture,* August 1998, pp. 22–23). GAO reported that, during the 1990s, while only about four percent of all working youth were employed in agriculture, they experienced over 40 percent of the youth occupational fatalities. GAO notes that for these data, the agriculture sector includes not only crop production, agricultural services, and livestock, but forestry and fishing as well.

BLS further reported that agricultural workers aged 15 to 17 have a risk of fatality that is 4.4 times as great as the risk for the average 15- to 17-year-old worker. Moreover, the risk of occupational fatality for these young agricultural workers is about the same as for adults aged 25 to 44 working in agriculture, despite the fact that 15-year-olds are not permitted to perform work in any of the hazardous occupations (*see* BLS Report on the Youth Labor Force [2000], p. 60 available at *http://www.bls.gov/opub/rylf/rylfhome.htm*).

In analyzing the characteristics of youth occupational fatalities, approximately three-quarters of all deaths to young workers under the age of 15 occurred in agriculture. Where establishment size was reported, ninety percent of the young farm workers killed while working were employed by an agricultural employer with ten or fewer employees (*see* GAO Report 98–193, *Child Labor in Agriculture,* August 1998, pp. 26–27). In addition, BLS found that fatalities among young people working in agriculture are most likely to occur among the very youngest workers. BLS also reports that about three-fourths of occupational fatalities in self-employed jobs were in agriculture and more than half the deaths in agriculture occurred in family businesses (*see* BLS Report on the Youth Labor Force [2000], p. 58).

The deaths of agricultural workers, both young and adult, occurred primarily in crop production and often involved motor vehicles. NIOSH reports in its Science Blog *Preventing Death and Injury in Tractor Overturns with Roll-Over Protective Structures,* available at *http://www.cdc.gov/niosh/blog/nsb010509_rops.html,* that tractor overturns are the leading cause of occupational agricultural deaths in the United States. ''Between 1992 and 2005, 1,412 workers on farms died from tractor overturns.'' David Hard and John Myers have reported similar findings involving young agricultural workers, noting that machinery and vehicles were the primary sources of fatalities, each accounting for 38% of the deaths. ''However, tractors were the single largest source of fatalities, accounting for 42.9% of the vehicle deaths and 17.6% of all deaths to the youngest of the young agricultural workers'' (*see* Hard D, Myers J, [2006]. Fatal Work-Related Injuries in the Agriculture Production Sector Among Youth in the United States, 1992–2002. Journal of Agromedicine, Vol. 11(2), available at *http://ja.haworthpress.com*).

The most common cause of occupational deaths among young agricultural workers, according to the BLS, was from farm machinery. Nationally, between 1992 and 1997, nearly a third of the deaths of youth in agriculture could be attributed to involvement with tractors—in about half of these cases, the tractor overturned on the youth (*see* BLS Report on the Youth Labor Force [2000], p. 60). These statistics are compelling, given that Department of Labor regulations, with some exceptions, prohibit hired farm workers under the age of 16 from operating a tractor of over 20 horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor.

The data regarding agricultural injuries to young farm workers are just as bleak as those for fatalities. Farm workers experience a high incidence of work-related injuries and these injuries tend to be more severe than those suffered by nonagricultural workers. The SOII reported that the rate of all injuries and illnesses in agriculture in 1997 was 8.4 per 100 workers. This rate was higher than any other industry except manufacturing and construction. In its study of farm injuries to youth, NIOSH estimated that working youth under 20 years of age suffered 14,590 farm injuries in 1998. Of that number, 2,127 were experienced by hired farm workers. NIOSH notes that the leading causes of these injuries were falls, off-road transportation incidents, and being struck by objects (*see* NIOSH publication 2004–172 *Injuries Among Youths on Farms in the United States 1998,* page 10, available at *http://www.cdc.gov/niosh/childag/pdfs/2001154.pdf*).

In addition, the exposure of young workers to pesticides is a serious and widespread concern for young agricultural workers. The health effects of pesticides on children, as opposed to the adult worker population, have not been adequately studied and data is limited. NIOSH cites some studies that suggest children exposed to pesticides may suffer chronic problems relating to stamina, hand-eye coordination, and cognitive ability (*see* NIOSH Report, page 95).

The demographics of hired farm workers under 16 years of age are such that they are relatively few in number, but work in an industry with one of the

highest incidences of occupational fatalities and of injuries and illnesses involving days away from work, according to the BLS (*see* Report on the Youth Labor Force, p. 56). Although these incidences exceed those of experienced young workers employed in nonagricultural sectors, they are significantly fewer than those experienced by their peers who are not hired farm workers but perform work on their families' farms. NIOSH, in its *NIOSH Childhood Agricultural Injury Prevention Initiative, Progress and Proposed Future Activities* [2009], p. 8, available at *http://www.cdc.gov/niosh/review/public/145/*), notes that ''[y]outh living on farms accounted for the most farm injuries in 2006 (approximately 11,800 injuries), followed by visitors (approximately 5,600 injuries), and hired workers (approximately 1,400 injuries).''

As mentioned above, the Department has been conducting an ongoing review of the criteria for permissible child labor employment. Because of changes in agricultural workplaces, the high incidences of occupational injury and death occurring in agriculture, and the introduction of new processes and technologies, the review of the agricultural child labor provisions is of heightened importance. Part of this review includes a comparison of the child labor provisions established for agricultural employment and those established for nonagricultural employment. The Department believes that several of the prohibitions established by Child Labor Regulation No. 3 (Subpart C of 29 CFR 570, §§ 570.31–.37) to ensure the safe employment of youth 14 and 15 years of age in nonagricultural employment could positively impact the employment of hired farm workers of that same age group.

In furtherance of that review, as discussed earlier in this preamble, the Department provided funds to NIOSH in 1998 to conduct a comprehensive review of scientific literature and available data in order to assess current workplace hazards and the adequacy of the current youth employment HOs to address them. The NIOSH Report makes 14 recommendations concerning the existing agricultural hazardous occupations orders (Ag H.O.s). The Department proposes, in this NPRM, to address all 14 of the NIOSH recommendations concerning the Ag H.O.s. The Department is continuing to review all of the remaining NIOSH Report recommendations. Their absence from this current round of rulemaking is not an indication that the Department believes them to be of less importance or that they are not being given the same level of consideration as the recommendations addressed in this NPRM.

C. The Assessment of Child Labor Civil Money Penalties

The Fair Labor Standards Amendments of 1974 (Pub. L. 93–259, 88 Stat. 55) amended section 16 of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 216, to provide for the imposition of civil money penalties for violations of the child labor provisions. The amendments provided that ''[a]ny person who violates the provisions of section 12, relating to child labor, or any regulations issued under that section, shall be subject to a civil money penalty not to exceed $1,000 for each such violation. In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered.'' This process of assessing civil money penalties is the same whether the youth is employed by an agricultural employer or a nonagricultural employer.

Prior to the enactment of these provisions, the Secretary enforced the child labor provisions primarily through actions for injunctive relief and criminal sanctions. Child labor civil money penalties were implemented, as reported by the Supreme Court in *Marshall* v. *Jerrico, Inc.,* 446 U.S. 238, 244 (1980), because Congress, having found injunctive relief ''to be an inadequate or insufficiently flexible remedy for violations of the law,'' amended the FLSA accordingly.

The Department published proposed rules in the **Federal Register** on December 26, 1974 that created the original parts 579 and 580 of Title 29 (*see* 39 FR 44702). Final Rules governing the child labor civil money penalty assessment process were published in the **Federal Register** on June 18, 1975 (*see* 40 FR 25792) and became effective on July 18, 1975.

Part 579 describes the violations for which civil money penalties may be imposed, establishes rules for the issuance of notices of penalty assessments, delineates the factors to be considered by the Secretary or the Secretary's authorized representative in determining the amount of the penalty, and outlines the methods provided by the Act for collection of the civil money penalties after their final determination. In addition to the statutory requirements regarding the size of the business of the person charged and the gravity of the violation, part 579 also lists other related factors that WHD shall consider when determining the amount of the civil money penalty and assessing that penalty.

These other factors, which are detailed in § 579.5(d), include: The investigation history of the person charged and the degree of willfulness involved in the violation; whether the violation is de minimis; whether the person so charged has given credible assurance of future compliance; whether the person so charged had no previous history of child labor violations; whether the violations themselves involved intentional or heedless exposure of any minor to any obvious hazard or detriment to the child's health or well-being; whether the violations were inadvertent; and whether a civil penalty under the circumstances is necessary to achieve the objectives of the FLSA. The Department is not proposing to change any of the above regulatory considerations.

Part 580 sets forth the rules of practice governing administrative proceedings to be conducted when exceptions to notices of penalty are filed. These proceedings, as required by the Act, afford an opportunity for hearing in accordance with section 554 of Title 5, United States Code, before an administrative law judge. This part remains in effect today, although it has been updated over the years to incorporate the Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges established by the Secretary of Labor at 29 CFR part 18, and to accommodate the administrative processing of civil money penalties assessed because of repeated and/or willful violations of FLSA sections 6 and 7. As noted above, the Department's procedures for assessing and processing child labor civil money penalties have also remained the same regardless of whether the violations occurred in agricultural or nonagricultural employment.

Congress has authorized increases in the maximum amounts of child labor civil money penalties that may be assessed under the FLSA three times. The Omnibus Budget Reconciliation Act of 1990, Public Law 101–508, § 3103, increased the amount of the maximum civil money penalty that may be assessed for each child labor violation from $1,000 to $10,000. The Department applied the $10,000 maximum penalty to assessments for violations that occurred after November 5, 1990. Second, the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410), authorized the Department to increase the maximum civil money penalty that may be assessed for each

child labor violation to $11,000, which it did effective January 7, 2002 (*see* 66 FR 63501, December 7, 2001). Third, Congress enacted the Genetic Information Nondiscrimination Act of 2008 (GINA) (Pub. L. 110–233, 122 Stat. 881), which amended FLSA section 16(e) to incorporate into the statute the $11,000 maximum penalty per violation that the Department had administratively adopted in 2002. GINA also allows for a civil money penalty of up to $50,000 for each child labor violation that causes the death or serious injury of any employee under the age of 18, and provides that such penalty may be doubled—up to $100,000—when that violation is determined to be repeated or willful.

When the FLSA was first amended to authorize the assessment of civil money penalties for violations of the Act's child labor provisions in 1974, the Department developed the Child Labor Civil Money Penalty Report (Form WH–266) as a tool for managers to use when determining the initial amount of child labor civil money penalties that could be assessed an employer for violations. This ''grid-like'' document took into consideration both the statutory and regulatory factors contained in § 579.5 that WHD is required to take into account when making assessments. After manually completing the grid, the WHD manager making the assessment conducted a final review of the initial assessment and, if necessary, using his or her discretion, adjusted the initial assessment amount to ensure it comported with both the FLSA and the applicable regulations.

The WH–266 became a part of the investigation file and employers were able to review the document during the administrative procedure authorized by part 580. The WH–266 became an important element of the assessment process that helped to ensure WHD's child labor civil money penalty assessments comported with both the FLSA and the applicable regulations, and it was recognized as such by administrative law judges, the Department's Administrative Review Board (ARB), and Federal courts. For example when affirming a decision of the Department's ARB a Federal district court stated, ''[l]ike the ARB, the Court finds that Form WH–266 incorporates the mandatory regulatory factors into its penalty schedule, and consequently is appropriately utilized to calculate penalties for child labor violations.'' *Thirsty's, Inc.* v. *United States Department of Labor,* 576 F. Supp. 2d 431, 436–37 (S.D. Tex. 1999).

WHD discontinued the manual completion of the WH–266 in 1999 when it implemented a new electronic information management system. Since that implementation, the WHD investigator enters the violation data and investigation findings into the system and the supervising manager then uses the system to generate a condensed version of the WH–266. Thus, WHD continues to apply the principles and mandatory mitigating and/or aggravating factors to determine appropriate amounts of child labor civil money penalties during the assessment process. The initial civil money penalty amounts generated by the ''old'' grid and the new computerized format are identical, and they comport with the requirements of the FLSA and the applicable regulations.

Except for the incorporation of increases in the maximum amounts of civil money penalties WHD was authorized to assess as directed by Congress, and the migration from the manual completion of the WH–266 to an electronic platform, the process WHD uses to determine the amount of the penalties has not varied since 1974. Enactment of GINA, effective May 21, 2008, impacted the assessment of child labor civil money penalties in several ways. First, as noted above, it incorporated into the statute the $11,000 maximum penalty per violation that the Department administratively adopted in 2002. Secondly, GINA allows for a significantly higher civil money penalty for each child labor violation that caused the death or serious injury of any employee under the age of 18, and such penalty may be doubled when that violation is determined to be repeated or willful.

GINA also, for the first time, authorizes the assessment of a civil penalty for a child labor violation that caused the death or serious injury of any employee under 18 years of age—even when the minor who was killed or seriously injured was not the minor whose employment was in violation of the FLSA (29 U.S.C. 216(e)(1)(A)(ii)). For example, if a 16-year-old was illegally employed to drive a truck in violation of Hazardous Occupations Order No. 2 (§ 570.52) (*Occupation of motor-vehicle driver and outside helper*), and was involved in an accident that resulted in the death of his 17-year-old co-worker who was riding in the vehicle as a passenger at that time, WHD could assess a child labor civil money penalty under GINA because the violation involving the employment of the 16-year-old caused the death of an employee under the age of 18. That penalty could be as high as $50,000, and could be doubled, up to $100,000, if WHD determined the violation was repeated or willful. The Department incorporated the statutory provisions of GINA into parts 570 and 579 via a Final Rule published on May 20, 2010 (*see* 75 FR 28444).

Shortly after the enactment of GINA, the WHD amended its child labor civil money penalty process to accommodate GINA. Civil money penalty assessments have been made under this new process for over two years. On January 20, 2010, WHD issued Field Assistance Bulletin (FAB) 2010–1, *Assessment of Child Labor Civil Money Penalties,* to advise the public of WHD's child labor civil money assessment process. This document, which is available on WHD's Web site, at *http://www.dol.gov/whd/FieldBulletins/index.htm,* describes the criteria used by the WHD's electronic information management system and the assessing official to determine the amount of the civil money penalty.

III. Proposed Regulatory Revisions—General

As discussed in Section IV, the Department is proposing the creation of two new nonagricultural hazardous occupations orders: *Occupations in farm-product raw materials wholesale trade industries (HO 18)* and *The use of electronic devices, including communication devices, while operating power-driven equipment (HO 19).*

The Department is also proposing to revise § 570.2(b) to clarify the Department's regulations. Section 570.2(b), as currently written, notes that a minor 12 or 13 years of age may be employed in agriculture to perform nonhazardous work outside of school hours with the written consent of his or her parent or person standing in place of the parent, or may work on a farm where the parent or such person is also employed. That section also states that a minor under 12 years of age may be employed with the consent of a parent or person standing in place of a parent on a farm where all employees are exempt from the minimum wage provisions by virtue of FLSA section 13(a)(6)(A). The Department has always interpreted the term *consent,* as it applies to all hired farm workers under the age of 14 years, to mean *written consent.* This interpretation is supported by § 579.3(b)(3)(ii)(A) and (4)(ii) which, when listing the violations for which child labor civil money penalties may be assessed, requires that the parental consent for all hired farm workers under 14 years of age be in writing. In order to provide clarification, the Department proposes to revise § 570.2(b) by changing *consent* to *written consent.* In addition, the proposal changes the cross-reference

from Subpart E–1 to Subpart F, as discussed below.

The Department is proposing to redesignate the current Subpart E–1—Occupations in Agriculture Particularly Hazardous for the Employment of Children Below the Age of 16—as Subpart F, which is currently *reserved.* The Department is also proposing to redesignate and revise all three sections of the current Subpart E–1: § 570.70, which addresses the purpose and scope of the subpart; § 570.71, which contains the current Ag H.O.s; and § 570.72, which contains the existing exemptions that permit certain 14- and 15-year-old hired farm workers to perform certain otherwise prohibited work. Because the Department proposes to place the section addressing exemptions from the Ag H.O.s before the actual Ag H.O.s, as is done in Subpart E of 29 CFR part 570 dealing with the nonagricultural hazardous occupations orders, the revisions to § 570.72 will be discussed before § 570.71. As all the Ag H.O.s share the identical regulatory inception and history which was discussed earlier in this preamble, the Department will not repeat that history when discussing the proposed revisions to the individual Ag H.O.s. In addition, the Department proposes to number each of the Ag H.O.s in a manner similar to the system used for the nonagricultural hazardous occupations orders.

The Department is also proposing to revise § 570.123 of Subpart G—*General Statements of Interpretation of the Child Labor Provisions of the Fair Labor Standards Act of 1938, as Amended,* to incorporate the changes to the agricultural child labor provisions since the last revision of that subpart.

Finally, the Department is including in this proposed rulemaking revisions to part 579, *Child labor violations—civil money penalties,* to provide additional transparency to its child labor civil money penalty assessment process by incorporating the most significant provisions of the Wage and Hour Division's Field Assistance Bulletin 2010–1.

IV. Proposed Regulatory Revisions—Nonagricultural Hazardous Occupations Orders—29 CFR Part 570

A. Farm-Product Raw Materials Wholesale Trade Industries

The NIOSH Report recommends that the Department establish a new nonagricultural HO prohibiting the employment of youth under 18 years of age in the farm-product raw materials wholesale trade industry, Standard Industrial Code (SIC) 515 (*see* Report, page 112). NIOSH notes that ''[w]orkers in the farm-product raw materials industry have high rates of work-related fatalities. Work in this industry presents a wide range of hazards, including grain entrapments, rail and vehicle accidents, and contact with large animals. Many of the hazardous activities in this industry are equivalent to tasks currently prohibited for youth working in other industry sectors such as agricultural production'' (*see* Report, page 112). NIOSH does not recommend that the Department provide exemptions from this proposed HO for student-learners or apprentices because of the diversity of hazards in these industries.

The farm-product raw materials wholesale trade industry classification (SIC 515) is quite broad and contains three subdivisions or sub-classifications. SIC 5153, *Grain and Field Beans,* covers establishments primarily engaged in the buying and/or marketing of grain (such as corn, wheat, oats, barley, and unpolished rice); dry beans; soy beans, and other inedible beans. Also included in SIC 5153 are country grain elevators primarily engaged in buying or receiving grain from farmers, as well as terminal elevators and other merchants marketing grain.

SIC 5154, *Livestock,* covers establishments primarily engaged in buying and/or marketing cattle, hogs, sheep, and goats. Also included in SIC 5154 are establishments that operate livestock auction markets.

SIC 5159, *Farm-Product Raw Materials, Not Elsewhere Classified,* involves establishments primarily engaged in buying and/or marketing farm products, not contained in the other two sub-classifications.

Not included in SIC 515 are establishments primarily engaged in the wholesale distribution of field and garden seeds, milk, or live poultry.

Since the publication of the NIOSH Report, the Bureau of Labor Statistics (BLS) has shifted away from using Standard Industrial Codes and now uses North American Industry Classification System (NAICS) industry identifiers. Because the SIC and NAICS industry groupings may differ somewhat, comparing industry injury and fatality data compiled using SICs with that using the NAICS is sometimes problematic and often requires explanation.

The NIOSH Report notes (*see* Report, page 112) that the farm-product raw materials wholesale trade industry classification (SIC 515) had a lifetime risk of fatal occupational injuries of 5.7 per 1,000 full-time workers for the years 1990–1991. In its publication entitled *Fatal Injuries to Civilian Workers in the United States, 1980–1995* (available at *http://www.cdc.gov/niosh/docs/2001-129/pdfs/ntof2fbc.pdf*), NIOSH reports that the national incidence rate (per 100,000 workers) of traumatic occupational fatalities in this industry classification was 4.6 in 1990 and 4.5 in 1991. NIOSH also states that the Census of Fatal Occupational Injuries (CFOI) identified 86 fatalities among workers of all ages in the farm-product raw materials industry classification for the years 1992–1997, with an industry fatality rate of 17.5 per 100,000 workers (*see* NIOSH Report, page 112). CFOI reports that the farm-product raw material merchant wholesalers industry—NAICS industry 4245—experienced 14 deaths in 2005, 12 deaths in both 2006 and 2007, and 10 deaths in 2008 (data available at *http://www.bls.gov/iif/oshcfoil.htm*). The most common fatality events for this industry, as noted in the NIOSH Report (*see* Report, page 112), were being caught in or crushed by collapsing materials, most often grain or beans, and highway accidents, usually involving tractor trailers. In a paper presented to the Department on February 10, 2011, Bill Field, Ed.D, and Steve Riedel of Purdue University advised that there were no less than 51 separate grain entrapments in 2010 with 51% of the cases resulting in death. This is the highest number of cases ever recorded in a single year. Six of the incidents (12% of the total) involved youth under the age of 16 (*see* Field B, Riedel S, [2011]. 2010 Summary of Grain Entrapments in the United States available at *http://www.regulations.gov,* docket number WHD–2011–0001). The number of occupational fatalities that occurred in cattle feed lots or feed yards (NAICS industry 112112), as reported by CFOI, was also quite large—totaling 18 for the years 2006–2009 (data available at *http://www.bls.gov/iif/oshcfoi1.htm*).

Workers in the farm-product raw materials wholesale trade industry (SIC 515) also experienced a high level of nonfatal injuries and illnesses requiring days away from work—NIOSH reported an estimated 2,320 of these injuries in 1997 (*see* NIOSH Report, page 112). BLS reports that this industry, as NAICS industry 4245, experienced an incidence of injury and illness rate of 6.4 per 100 full-time workers in 2008. The national rate for all private industry that year was only 3.9 (*see* Incidence rates—detailed industry level—2008 available at *http//www.bls.gov/iif/oshwc/osh/os/ostb2071*).

Livestock auctions are an integral part of NAICS 4245, along with grain elevators and other wholesalers of farm-product raw materials. The NIOSH Report specifically recommended that

youth not be employed in livestock auction operations, noting the hazards associated with contact with large animals.

NIOSH reports that, similar to farmers and farm workers, ''workers in the wholesale trade of farm-product raw materials, such as grains and livestock, are exposed to a variety of organic and inorganic dusts and substances associated with adverse health effects. Grain dust may contain many substances, including vegetable products, insect fragments, animal dander, bird and rodent feces, pesticides, microorganisms, endotoxins, and pollens. The most serious respiratory effects associated with grain handling include farmer's hypersensitivity pneumonitis (farmer's lung), silo filler's disease [], organic dust toxic syndrome, and other inflammatory and asthma-like respiratory disorders'' (*see* NIOSH Report, pages 112–113).

NIOSH also references a review of worker's compensation data in Washington State that found the wholesale trade industry in farm product raw materials to have one of the ten highest incidence rates of occupational skin disorders (*see* NIOSH Report, page 113). NIOSH notes ''[o]ther hazards to workers in this industry include exposures to pesticides. Pesticides, in addition to being used on grain in the field, are also applied to harvested grain during storage and transport. Dust generated by abradement from grain handling operations is composed primarily of the outer layer of the grain kernels, where pesticides have been applied. Grain dust has been shown to have a higher concentration of pesticide residue than is found in bulk grain []. Pesticide exposure is associated with acute and long-term health risks, and developing adolescents may have increased risk of adverse health outcomes'' (*Id.*).

The injury rates for workers in beef cattle ranching and farming, which includes feedlots (NAICS industry 112112), was reported by BLS to be 9.4 per 100 full-time workers in 2006, 8.7 per 100 full-time workers in 2007, and 7.2 per 100 full-time workers in 2008 (data available at *http://www.bls.gov/iif/oshsum.htm#08Summary%20Tables*). These incidence rates are almost twice the national average for all private industry during the sample years. The 2008 injury rate for workers in *support activities for transportation* (NAICS 4889), which includes stockyards primarily involved with the transportation of animals and not the fattening of animals, was 8.9 per 100 full-time workers (data available at *http://www.bls.gov/iif/oshsum.htm#08Summary%20Tables*). This rate is, again, more than twice the national private industry rate of 3.9 per 100 full-time workers.

The enforcement experience of the Department's WHD is consistent with the fatality and injury data discussed above. In 2010, WHD investigated the death of a 14-year-old and a 19-year-old who were employed by a grain elevator enterprise in Illinois. The youth, who were working inside of a large bin used to store corn, died when they were engulfed by corn. In 2009, the WHD investigated an employer that operates large grain elevators in Colorado after the death of a 17-year-old who was engulfed in grain. Since 2000, the WHD has investigated at least 13 such establishments, and several of these investigations were initiated because of the death or injury of a working minor. Investigations of youth employed by feed lots and animal auctions have also been conducted.

The Department most recently has investigated the serious injury of a 15-year-old female who was pressed against a metal corral by a stampeding calf. The minor was employed to herd livestock in and out of pens in preparation for sale and/or transport. The young worker, who was knocked down and then stomped by hooves, suffered a life-threatening laceration of her liver, broken ribs, a cracked femur, and a crushed bile duct. Complications arising from her injuries prolonged her hospital stay to over five weeks. The injured minor's employment by the livestock auction was already prohibited by CL Reg. 3,—which applies to the nonagricultural employment of 14- and 15-year-olds—because such employment is not specifically permitted by the regulations (*see* § 570.32) and because it involved the transportation of property by rail, highway, air, water, pipeline, or other means (*see* § 570.33(n)(1)). The Department, in this NPRM, is proposing to extend these same protections to minors who are 16 or 17 years of age.

WHD's enforcement experience has been that the workforces at many farm-product raw materials wholesale trade industry establishments tend to be small, often seasonal, and therefore, the nature of the work does not encourage specialization of tasks. The few workers at each establishment tend to do all the tasks. This is especially true for livestock auction establishments as reflected in the Census Bureau findings that NAICS Code 42452 (Livestock Merchant Wholesalers) is composed of only 1,100 establishments with approximately 7,841 employees (*see* U.S. Census Bureau Industry Statistics Sampler available at: *http://www.census.gov/econ/census02/data/industry/E424520.HTM*).

With an average workforce of less than 8 workers per establishment, workers in this industry—other than auctioneers and managers—must by necessity perform a variety of tasks. Such tasks include unloading livestock from all types of transportation media, penning the livestock, overseeing the safety of the livestock, separating the livestock for presentation, handling the livestock, loading the livestock onto transportation media. In addition to the obvious risks livestock auction employees face, issues arise from working with and around horses, fork lifts, exposures to biohazards, and increased incidences of sprains/strains and overexertion. As NIOSH noted for all industry segments contained in SIC 515 (*see* NIOSH Report, page 112), livestock auctions combine aspects of two of the most dangerous industries for youth employment—agriculture and transportation.

The fact that employees of this industry routinely perform a variety of tasks is also evidenced by the number and types of child labor violations that the WHD has documented at grain elevators, feed lots, and animal auctions. WHD has found minors employed within the farm-products raw materials wholesale trade industry working on or in proximity to roofs (in violation of HO 16); operating several types of power-driven woodworking machines (in violation of HO 5); operating several types of power-driven hoisting apparatus, such as forklifts, manlifts, skid loaders, and back hoes (in violation of HO 7); and driving automobiles, trucks, and tractor-trailers (in violation of HO 2). In addition, youth under the age of 16 have routinely been found in these establishments performing work that is prohibited by the occupation standards of Child Labor Regulation No. 3.

The Department is proposing the creation of a new § 570.69 entitled *Occupations in farm-product raw materials wholesale trade industries (Order 18).* This proposed HO would prohibit the employment of 16- and 17-year-olds in all occupations in farm-product raw materials wholesale trade industries, and because so many of the occupational injuries and deaths associated with the farm-product raw materials wholesale trade industries are truck and/or transportation related (*see* NIOSH Report, page 112), the Department proposes to define these industries quite broadly.

The term *all occupations in farm-product raw materials wholesale trade*

industries would include all work performed in conjunction with the storing, marketing, and transporting of farm-product raw materials listed in Standard Industrial Codes 5153, 5154 and 5159. The term would include, but not be limited to, occupations performed at such establishments as country grain elevators, grain elevators, grain bins, silos, feed lots, feed yards, stockyards, livestock exchanges, and livestock auctions. The term would not include work performed in packing sheds where employees clean, sort, weigh, package and ship fruits and vegetables for farmers, sales work that does not involve handling or coming in contact with farm-product raw materials, or work performed solely within offices.

It is important to note that in those rare instances when the farm-products raw material trades wholesale industry establishments are *agricultural* in nature—such as when the feed lot or the grain elevator is operated on a farm by a farmer and handles only livestock or grain produced by that farmer—the young employees of those establishments would generally be subject to the agricultural child labor provisions contained in FLSA sections 13(c)(1) and (2) and the agricultural hazardous occupations orders.

The Department is not proposing an exemption from this HO for student-learners or apprentices.

B. The Use of Electronic Devices, Including Communication Devices, While Operating Power-Driven Machinery

The Department is aware of the growing concern among safety and health experts; Federal, state and local governments; representatives of the insurance industry; parents; and youth advocates over the increased use of wireless electronic communication devices by individuals while operating motor vehicles and other power-driven equipment. The National Safety Council estimates that 28% of all motor vehicle crashes—1.6 million crashes per year—can be attributed to cell phone talking and/or texting while driving (*see http://www.nsc.org/safety_road/Distracted_Driving/Pages/distracted_driving.aspx*). The Insurance Institute for Highway Safety notes that ''[l]aboratory, simulator, and test-track experiments have shown that talking on a cell phone reduces a driver's reaction time, thus increasing crash risk'' (*see* Cellphone Use While Driving and Attributable Crash Risk, available at *http://www.iihs.org*). The U.S. Department of Transportation (DOT) has reported that ''the younger, inexperienced drivers under 20 years old have the highest proportion of distraction-related fatal crashes'' (*see http://www.distraction.gov/stats-and-facts*).

Many states are addressing the issue of *distracted driving.* DOT, citing data from the National Council of State Legislatures, reports that as of September 21, 2010, at least 30 states have enacted laws that ban texting while driving, and 26 of those states consider such offenses to be *primary* offenses—actions of sufficient gravity to merit law enforcement intervention (*see http://www.tvworldwide.com/events/rita/100921*).

Although much attention is focused on the use of cell phones while driving automobiles under the banner of *distracted driving,* the problem is much larger, encompassing other types of electronic devices and other power-driven machines. The Department believes that employees, and especially young employees, face similar dangers to their health and well-being when using electronic devices, including communication devices, while operating or assisting in the operation of certain power-driven machinery that is not generally within the classification of *motor vehicle.* Such power-driven equipment as woodworking machines; hoisting machines such as forklifts, backhoes, manlifts, cranes, and work assist platforms; metal forming, punching, and shearing machines; machine tools; and highway construction and excavation equipment all require a level of concentration and continuous safety consciousness that could be compromised by the use of an electronic device. The Department's concerns are echoed in two recent documents issued by warehouse and distribution center trade associations. In an April 2, 2010 press release issued by the Distribution Center entitled *Is It Time for a No-Cell Phones Rule for Warehouse Forklift Drivers? Safety Expert Says, ''Yes'',* distracted forklift drivers are called a distribution center ''accident waiting to happen'' (*see http://www.distributiongroup.com/press040110.php*). In addition, Joseph Hrinik notes in an April 29, 2008 newsletter issued by ForkliftAction that the common problems associated with using a cell phone while driving—reduced tactile dexterity and driver distraction—are even greater hazards in the ''forklift environment'' (*see http://www.forkliftaction.com/news/forklifts_news_international/MaterialsHandling_5558.aspx*).

In addition, workers of all ages are at risk when they drive motor vehicles or operate power-driven equipment when using earphones or earbuds to listen to electronic devices. In an article entitled *Dangers of Driving with Earphones* (available at *http://ezinearticles.com/?Dangers-of-Driving-With-Earphones&id=4886075*), Denise M. McClelland notes that ''driving any vehicle, using earphones, presents many risks, and is illegal in most states. The most obvious reason this is dangerous is that you cannot hear what is happening around you. With headphones on, it becomes very hard to hear emergency vehicles, and other cars that honk to alert you of a pedestrian, another vehicle or potential hazards.'' The Department believes that it is equally important that young workers not wear headphones or earbuds to listen to electronic devices when operating power-driven equipment in order to be aware of their surroundings and maintain an appropriate level of safety consciousness.

The Department is proposing to revise § 570.70 and create a new nonagricultural HO entitled *The use of electronic devices, including communication devices, while operating power-driven equipment (Order 19).* To accommodate this new nonagricultural HO, the Department is proposing to redesignate §§ 570.70–.72 as §§ 570.97–.99 and reserve §§ 570.71–.96. The Department, as discussed later in this preamble, is also proposing similar revisions to the agricultural hazardous occupations orders.

This proposal would prohibit the use of electronic devices, including communication devices, while operating or assisting to operate power-driven equipment. The term *use of electronic devices, including communication devices,* would include, but not be limited to, such things as talking, listening, or participating in a conversation electronically; using or accessing the Internet; sending or receiving messages or updates such as text messages, electronic mail messages, instant messages, ''chats,'' ''status updates,'' or ''tweets;'' playing electronic games; entering data into a navigational device or global positioning system (GPS); performing any administrative functions; or using any applications offered by the communication devices. The Department does not intend to prohibit listening to music or other recorded information on a one-way, non-interactive device such as a radio or iPod™ as long as the device is being operated ''hands free'' without headphones or earbuds. The proposal would not prohibit a minor from glancing at or listening to a navigational device or GPS that is secured in a

commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device or GPS either before driving or when the vehicle is parked. In addition, the Department does not intend to prohibit the use of a cell phone or other device to call 911 in emergencies; nor does it wish to discourage young workers from using appropriate hearing protection when required by the nature of the job and/or Federal or state occupational safety and health rules or regulations.

The term *power-driven equipment* would include any equipment operated by a power source other than human power, that is designed for: (1) The movement or transportation of people, goods, or materials; (2) the cutting, shaping, forming, surfacing, nailing, stapling, stitching, fastening, punching, or otherwise assembling, pressing, or printing of materials; or (3) excavation or demolition operations.

The term *operating power-driven equipment* would include such duties as supervising or controlling the operation of such machines; setting up, adjusting, repairing, oiling, or cleaning the machine; starting and stopping the machine; placing materials into or removing them from the machine; or any other functions directly involved with the operation of the machine. In the case of power-driven equipment used for the moving or transporting of people, goods, or materials, it would not matter if the equipment is operated on public or private property. *Operating power-driven equipment* would not include periods of time when the machine is not being powered (when it is turned off), and in the case of a motor vehicle, is parked.

The Department is not proposing an exemption from this nonagricultural HO for student-learners or apprentices.

V. Proposed Regulatory Revisions—Agricultural Hazardous Occupations Orders—29 CFR Part 570

A. Purpose and Scope (29 CFR 570.70)

As discussed above, the Department is proposing to revise and redesignate the current §§ 570.70, 570.71, and 570.72 as §§ 570.97, 570.98, and 570.99, respectively. It also proposes to create, and mark as *reserved,* §§ 570.71 through and including § 570.96. The Department is proposing to change the title of paragraph (b) of the current § 570.70, which is currently *Exception,* to *Parental Exception* in order to more accurately reflect the content of that paragraph. In subparagraph (c) of that section, the Department proposes to revise the definitions of the terms *agriculture* and *employer* to reflect statutory amendments to the FLSA enacted after the Ag H.O.s were published.

In the proposed definition of *agriculture,* which is taken from section 3(f) of the FLSA, the phrase ''section 15(g) of the Agricultural Marketing Act'' would be replaced by ''section 1141j(f) of [U.S.C.] Title 12'', which is the current citation to the Agricultural Marketing Act's definition of ''agriculture'' as codified in the United States Code. In the definition of *employer,* the Department proposes to revise the definition to include public agencies in accordance with the Fair Labor Standards Act Amendments of 1966, as reflected in section 3(d) of the Act. That definition is proposed to read as follows: ''*Employer* includes any person acting directly or indirectly in the interest of an employer in relation to an employee and includes a public agency, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of an officer or agent of such labor organization.''

B. Exemptions From the Agricultural Hazardous Occupations Orders (29 CFR 570.72)

As discussed earlier, when the Ag H.O.s were originally adopted as an Interim Order in 1967, the Interim Order contained an exemption for 14- and 15-year-old student-learners who were enrolled in a bona fide cooperative vocational program in agriculture. In 1968, the Department modified the Interim Order to permit 14- and 15-year-olds to drive tractors and operate other farm machinery provided they completed a formal training program in the safe use of such equipment coordinated by the U.S. Department of Agriculture's Federal Extension Service. In 1969, the Interim Order was again amended to permit 14- and 15-year-old vocational-agricultural students to operate tractors and certain machinery after completing training in the safe use of such equipment. These three programs were incorporated into the Final Order issued by the Department on January 7, 1970 (*see* 35 FR 221) and have remained unchanged for over forty years. It is important to note that children who are employed on a farm owned or operated by their parents are statutorily exempt from the agricultural hazardous occupations orders and may operate a tractor on a farm owned or operated by their parents without having to meet the requirements of any of the above-mentioned exemptions. The revisions the Department is proposing in this NPRM do not change that statutory exemption in any way.

Questions regarding the appropriateness and effectiveness of these exemption programs have been raised since their inception. Section 570.72(d), part of the original regulation issued in 1970, continues to state: ''The provisions of paragraphs (a), (b), and (c) of this section will be reviewed and reevaluated before January 1, 1972. In addition, determinations will be made as to whether the use of protective frames, crush resistant cabs, and other personal protective devices should be made a condition of these exemptions.'' Such a review, though never completed, is as important and relevant today as it was in 1970.

Changes in the agricultural industry over the last four decades—including such things as the size, ownership, labor needs, and available labor pools of farms; agricultural machinery and processes; the types and uses of fertilizers and pesticides; the development of agri-tourism; and the improvement in the reporting of occupational injuries and deaths—have fueled interest in these exemption programs from parties both inside and outside of the government.

Many individuals and organizations have questioned whether it is prudent to allow 14- and 15-year-old hired farm workers—youth who academically are normally in eighth or ninth grade—to perform tasks that present so many hazards to adult workers of every age and experience level. Among these are the Association of Farmworker Opportunity Programs (*see* letter of March 25, 2003 from David Strauss, Executive Director, available at *http://www.regulations.gov,* docket number WHD–2011–0001) and The National Farm Medicine Center (*see* Proposed Changes in the Hazardous Occupations Orders in Agriculture, National Farm Medicine Center [2003], available at *http://www.regulations.gov,* docket number WHD–2011–0001). They note that much farm machinery is very large and powerful, and that all of it is designed for adult operators. Youth as young as 14 and 15 years of age often have not completed the adolescent growth spurt, placing them at additional risk when they operate or assist in the operation of such machinery or attempt to perform tasks that present ergonomic challenges to their age group. Approximately one-third of all deaths to young agricultural workers can be attributed to tractors, and in about one-half of the cases, the tractor overturned on the youth. BLS Report on the Youth Labor Force [2000], p. 60. Further, involvement with machinery and

vehicles each account for 38% of the deaths of young agricultural workers (see Hard, D., Myers, J., [2006], Fatal Work-Related Injuries in the Agriculture Production Sector Among Youth in the United States, 1992–2002, Journal of Agromedicine, Vol. 11(2), available at *http://ja,haworthpress.com*). Helen Murphy, writing in 2007 as the outreach and education director at the University of Washington Pacific Northwest Agricultural Health and Safety Center, notes that annually, more that 100 children who live on, work on, or visit farms, are killed on U.S. farms, with tractors being responsible for 41 percent of the accidental farm deaths of children under 15 years of age (*see* Tractor Safety Advice Saves Lives, available at *http://depts.washington.edu/trsafety/files/P1_Tractor_Advice_Murphy.pdf*).

The FLSA does not permit such young workers—14 and 15 years of age—to perform hazardous work with power-driven machinery in nonagricultural employment, and the similar exemptions from the nonagricultural hazardous orders do not apply to anyone under 16 years of age, even if the youth is the child of the employer. In fact, section 13(c)(6) of the FLSA, enacted by Congress in 1998, prohibits any youth under the age of 17 employed in nonagricultural work from driving trucks or automobiles on a public road, and puts strict restrictions on the conditions and amounts of time that 17-year-olds may drive. There are no exemptions from the driving restrictions placed on minors below the age of 17 in nonagricultural employment—and that includes youth who are employed by their parents.

In 2003, the National Farm Medicine Center of Marshfield, Wisconsin, in its comments on the recommendations of the NIOSH Report, advised the Department that no exemptions for hired youth operating tractors should be allowed. ''The current 4–H and vocational agriculture tractor and machinery certification programs have not been subjected to sufficient evaluations to confirm their effectiveness in preparing youth to safely operate tractors. Furthermore, state-by-state variability in certification administration makes it inappropriate to base Federal exemptions on this certification'' (*see* Position Statement: Proposed Changes in the Hazardous Occupations Orders in Agriculture, National Farm Medicine Center [2003], available at *http://www.regulations.gov,* docket number WHD–2011–0001).

Questions have also been raised as to whether 14- and 15-year-old hired farm workers in general are capable of possessing and practicing the continuous level of safety awareness that is necessary in such a dangerous occupational environment as agriculture. Many studies have noted that young workers are not ''little adults'' but human beings at their own unique stage of development. It is well established that several characteristics of youth place adolescent workers at increased risk of injury and death. Lack of experience in the workplace and in assessing risks, and developmental factors—physical, cognitive, and psychological—all contribute to the higher rates of occupational injuries and deaths experienced by young workers. Many of the physical and cognitive limitations of young workers cannot be overcome by training or supervision. *See* Sudhinaraset, M., Blum, R., [2010]. The Unique Developmental Considerations of Youth-Related Work Injuries, International Journal of Environmental Health; 16–216–22. *See also* NIOSH Alert *Preventing Deaths, Injuries, and Illnesses of Young Workers,* available at *http://www.cdc.gov/niosh/docs/2003-128/2003128.htm;* NIOSH Report, page 6; Casey B, Getz S, Galvan A, [2007]. The Adolescent Brain, available online at *http://www.sciencedirect.com.* These risks associated with employment are heightened when the youth are working in agriculture because the work itself is more dangerous and the ages of permissible employment are so much lower than in nonagricultural employment. For example, there is no minimum age established for employment on small farms not subject to the minimum wage requirements of the Fair Labor Standards Act (*see* 29 U.S.C. 213(c)(1)).

A study of the effectiveness of tractor certification found that many youth who completed the training in Indiana self-reported that while they felt the training did make them safer operators, they also reported engaging in a number of risky behaviors including not wearing seat belts with roll-over protection structure (ROPS)-equipped tractors and allowing extra riders (*see* Carrabba Jr. JJ, Talbert BA, Field WE, Tormoehlen R [2001]. Effectiveness of the Indiana 4–H Tractor Program: Alumni Perceptions. *Journal of Agricultural Education,* vol. 42, Issue 3). Another study found that some youth working in agriculture, even after acquiring increased safety knowledge, still were dangerous risk takers (*see* Westaby JD, Lee BC [2003]. Antecedents of injury among youth in agricultural settings: A longitudinal examination of safety consciousness, dangerous risk taking, and safety knowledge. *Journal of Safety Research,* 34 [2003] 227–240).

In its Report, NIOSH notes that ''[t]he effectiveness of these tractor safety training programs has not been adequately evaluated nationwide'' (*see* Report, page 70). NIOSH does state that the Carrabba study in Indiana to determine the impact of 4–H tractor safety programs on the behavior and attitudes of young tractor operators found that participants demonstrated a greater level of confidence in operating tractors, and that the program appears to have a positive influence on the safe operating procedures of participants. However, as noted above, the Carrabba study also found that, despite the youths' feelings of confidence, they continued to engage in risky behaviors such as allowing extra riders. NIOSH also mentioned a study in Wisconsin that found that youth who had completed a training program reported an increase in usage of tractors equipped with roll-over protection structures (*see* NIOSH Report, page 71). These few studies demonstrate the need for a much closer and more thorough examination of the effectiveness of tractor safety training for children. In light of the fatality and injury data demonstrating the hazardous nature of working on tractors and other power-driven equipment, until such information is available, the Department must reconsider whether it is consistent with the Secretary's statutory mandate to allow certain 14- and 15-year-olds to operate tractors based on the efficacy of such training.

The Department is concerned that the training and skill sets that youth must complete in order to receive certification under the limited exemptions contained in § 570.72(b) and (c)—which allow 14- and 15-year-old hired farm workers to operate tractors and several types of farm implements and have not been modified since their creation in 1971—are not sufficiently extensive and thorough to ensure the safety of young hired farm workers. The Federal Extension Service tractor certification requirements, as detailed in § 570.72(b)(1), call for only a ten-hour training program, which includes the completion of ''units'' that are no longer available. Upon completion of these ''units'' the minor need only pass a written examination and demonstrate his or her ability to operate a tractor safely with a two-wheeled trailed implement on a course ''similar to one of the 4–H Tractor Operator's Contest Courses.'' Under the regulations at § 570.72(b)(2), the youth need only complete an additional ten hours of course work, pass a written examination on tractor and farm machinery safety,

and demonstrate his or her ability to operate a tractor with a two wheeled trailed implement, again, on a course similar to one used in 4–H Contests, in order to qualify for exemption with regard to other farm machinery. Neither program requires any ongoing or periodic supplemental training or instruction. This may be problematic for many reasons, but especially because of the extremely wide variety of sizes, ages, operation protocols, and types of farm equipment and tractors used on American farms. The Department is concerned that twenty hours of classroom training is insufficient to provide a young hired farm worker with the skills and knowledge he or she would need to safely operate the diverse range of agricultural tractors and equipment in use on today's farms. The Department notes that most state graduated motor vehicle driver licensing programs require considerably more training and operating experience—some as much as 96 hours—and that such training is for youth who are at least 16 years of age and only operating a single piece of equipment (*see* Insurance Institute for Highway Safety *Licensing Systems for Young Drivers* available at *http://www.iihs.org/laws/graduatedlicenseIntro.aspx; see also http://www.mva.maryland.gov/Driver-Safety/Young/safety.htm).* Similar requirements and problems exist in regards to the vocational agricultural training exemption, the requirements of which are contained in § 570.72(c).

The Department is also concerned that there has been almost no monitoring by any government agency to ensure the integrity and effectiveness of these certification programs. In an evaluation of the Wisconsin certification process, the authors note that ''the evaluation and monitoring of these programs for effectiveness has been nearly nonexistent'' (*see* Schuler RT, Skjolaas CA, Purschwitz MA, Wilkinson TL [1994]. Wisconsin youth tractor and machinery certification programs evaluation. *ASAE Paper No. 94–5503.* St. Joseph, MI.). The 2001 article on the Indiana 4–H Tractor Program (*see* Carrabba Jr. JJ, *et al.*) also noted that ''a review of the literature did not uncover any research that has specifically evaluated the effectiveness of the 4–H Tractor Program, as a safety intervention, at either a state or national level.'' The Department believes it would not be consistent with the Secretary's mandate to allow certain 14- and 15-year-olds to operate tractors and farm equipment until the evidence demonstrates that such youth are not at risk and can perform all the associated tasks safely. The Department asks for comment regarding any data or studies relating to the efficacy of these programs and their impact on the ability of 14- and 15-year-olds to operate tractors and farm equipment safely and to perform the associated tasks safely.

In addition, because the actual certification occurs at the local level, the content and quality of the training is often determined by the instructor who conducts the training (*see* Carrabba Jr. JJ, *et al.*). The written examinations are not standardized and large differences have been noted in what constitutes a passing grade. Differences also exist in how youth actually perform the required practical demonstration of safe tractor and machinery operation as well as how their performances are evaluated. The Department has also uncovered at least one instance in which youth were issued certificates without receiving the proper training or completing the required testing.

Finally, the Department is aware of concerns that the certification programs may not be reaching young farm workers who need such training to legally be employed in work that would otherwise be prohibited by certain of the Ag H.O.s. Certification programs are not available in many areas of this country because of the lack of such things as interest, need, qualified and available instructors, and resources. A 2006 article reported that extrapolating from 4–H records and Ohio census data, fewer than 1% of the youth in Ohio who were operating tractors or other hazardous machinery had participated in tractor certification training (*see* Heaney JR, Wilkins III CA, Dellinger W, McGonigle H, Elliot M, Bean TL, Jepsen SD [2006]. Protecting Young Workers in Agriculture: Participation in Tractor Certification Training. *Journal of Agricultural Safety and Health.* 12(3): 181–190). Another study notes that, nationally, the 4–H Tractor program has been one of the smallest 4–H education programs, with less than 21,500 participants enrolled in 1997 (*see* Carrabba, Jr., JJ, Talbert, BA, Field, WE, Tormoehlen, R [2001]. Effectiveness of the Indiana 4–H Tractor Program: Alumni Perceptions. *Journal of Agricultural Education.* 42: 11).

The Department is requesting comments as to whether 14- and 15-year-old hired farm workers are capable of absorbing, and implementing on a continuous basis, the knowledge necessary to ensure their safety and the safety of others while performing tasks otherwise prohibited by the Ag H.O.s. Therefore it is asking for public comment as to whether the child labor provisions should permit any hired farm worker under the age of 16 years to operate or assist in the operation of agricultural tractors or agricultural implements.

But if such youth are capable of mastering the skills necessary for safe tractor and implement operation, it would seem that the training that delivers this knowledge must be extensive, thorough, and have immediate relevance to the tasks the youths will be performing once the training is completed. Given the diversity and seasonality of so many farm activities, it would seem that such training would have greater continuous impact if it were ongoing throughout the youth's employment rather than limited to a single demonstration of a single specific task, such as driving a tractor, which may be completed even before the youth is 14 years of age and eligible for employment.

Accordingly, the Department is proposing to remove the exemption for 14- and 15-year-old hired farm workers who have received certification under the auspices of the Federal Extension Services contained at § 570.72(b). It also proposes to remove the exemption for 14- and 15-year-old hired farm workers who have received vocational agricultural training contained at § 570.72(c). The revocation of these two exemptions is intended to place immediate limitations on the employment of 14- and 15-year-old hired farm workers, even if they had completed their certification prior to the effective date of any final rule implementing this proposal, since the exemptions would no longer exist. Such youth could only continue to perform work prohibited by the Ag H.O.s if they were employed by a parent on a farm owned or operated by that parent in accordance with the parental exemption, or as a student-learner employed under the provisions of the proposed § 570.98(b).

In order to foster the continuous and thorough training it believes is necessary to protect young hired farm workers, the Department proposes to both retain and revise the student-learner exemption currently located at § 570.72(a), and move it to a proposed § 570.98(b). Under the Department's proposal, a student-learner must be enrolled in an ongoing vocational education training program in agriculture operated by a state or local educational authority, or in a substantially similar program conducted by a private school. It is the Department's position that the 14- or 15-year-old student-learner must be properly enrolled and participating in the vocational education training

program throughout his or her agricultural employment in order to take advantage of this exemption. Such a program could not be completed prior to the youth's sixteenth birthday and satisfy the conditions of this exemption.

In order to ensure the student-learner has obtained sufficient safety training and practical knowledge before he or she is permitted to be employed as a hired farm worker performing otherwise prohibited work under this exemption, the student-learner must first successfully complete at least 90 hours of systematic school instruction in agricultural education at or above the eighth grade level. It is important to note that not having the prerequisite 90 hours of systematic school instruction in agricultural education would not preclude the employment of a 14- or 15-year-old as a hired farm worker, but it would prohibit that youth from performing any work prohibited by an Ag H.O.

The Department believes that 90 hours is equivalent to an academic semester and that the curriculum would include a combination of classroom, virtual, and hands-on training appropriate to prepare the youth for agriculture as a vocation. It is anticipated that school systems in areas of high demand for agricultural vocational training would provide such vocational training as a part of the school's curriculum, at no cost to the student, or in the case of a private school, no additional cost to the student. The Department welcomes comments from school boards and school systems on the extent to which such training is already included in their curriculum, the extent to which existing agricultural vocational training programs would need to be modified to meet the requirement and whether an academic semester is an appropriate period given the maturity level of the youth in general.

In addition, when employed as a hired farm worker performing otherwise prohibited work under the exemption, the proposal provides that the student-learner must be employed under a written agreement which provides that: (1) The work of the student-learner in the occupations declared particularly hazardous is incidental to his or her training; (2) the work will be intermittent, for short periods of time, and under the direct and close supervision of a qualified and experienced adult who is at least 18 years of age; (3) safety instruction shall be given by the school and correlated by the employer with on-the-job training; and (4) that a schedule of organized and progressive work processes to be performed on the job has been prepared and implemented. Such written agreement shall contain the name of the student-learner and be signed by the employer, the parent or guardian of the student-learner, and a person authorized to represent the educational authority. Copies of the signed written agreement shall be kept on file by both the educational authority or school and by the employer before the student-learner may be employed to perform work that would otherwise be prohibited by this subpart.

The Department is also proposing to limit the types of otherwise prohibited work which bona fide student-learners may perform under the authority of the exemption. Currently, such student-learners may be employed to perform work otherwise prohibited by § 570.71(a)(1) through (a)(6) (the first six Ag H.O.s). This proposal would limit the student-learner to the first two Ag H.O.s as revised by this NPRM. The application of the student-learner exemption to each of those revised Ag H.O.s will be discussed in those sections of this preamble dealing with each of those Ag H.O.s.

Despite proposing to remove the limited certification exemptions for hired farm workers, the Department believes such training programs provide important training and safety development opportunities to the young farm workers who are the children of and employed by those who own and/or operate farms. These programs may be the only formal training in such skills that these youth ever receive, as they are exempt from the Federal Ag H.O.s by virtue of the parental exemption contained in FLSA section 13(c)(2). These programs also can continue to provide important training to youth who are not student-learners but who wish to seek employment as hired farm workers and will be able to legally operate such equipment, under current law, once they reach their sixteenth birthday.

The Department is aware that the USDA's National Institute of Food and Agriculture (NIFA), formerly the Cooperative State Research, Education and Extension Service (CSREES), shares many of its concerns and has been working diligently over the last several years to implement changes to the certification process to ensure that young agriculture workers can obtain meaningful and effective safety training. Through its Youth Farm Safety Education Certification Program (formerly Hazardous Occupations Safety Training for Agriculture (HOSTA)), NIFA has funded programs in such areas as identifying the skill-sets needed by youth for non-parental farm employment; developing a curriculum for the training; exploring various media for delivering such training; creating a model for the development, implementation, and evaluation of an administrative management system for certification; and management of instructor selection, training, and authentication. The Department appreciates the achievements of NIFA and will continue to work with that agency to assist in its efforts.

C. Operating a Tractor of Over 20 PTO Horsepower, or Connecting or Disconnecting an Implement or any of its Parts to or From Such a Tractor (29 CFR 570.71(a)(1))

The NIOSH Report recommends that the Department retain this Ag H.O., but broaden it to remove the 20 power take-off (PTO) horsepower threshold (*see* page 67). NIOSH also recommends that when a 14- or 15-year-old hired farm worker qualifies for an exemption under the current § 570.72, the tractors operated by such youth must be equipped with rollover protection structures (ROPS) and seat belts, and that the use of seat belts be mandated. In addition, NIOSH recommends that the prohibition against riding on a tractor as a passenger or helper, currently contained in § 570.71(a)(7), not be changed but moved to this Ag H.O. (currently § 570.71(a)(1)).

NIOSH notes that tractor-related incidents are the most common type of agricultural fatality in the U.S., and that tractor roll-overs are the most common event among those fatalities (*see* NIOSH Report, page 67). NIOSH states that available data sources frequently do not include enough detail to determine the horsepower of tractors or PTOs involved in fatal and non-fatal injuries and that available data do not support the notion that a tractor's horsepower (whether engine or PTO) is related to risk of injury. Finally, NIOSH expresses concern that since PTO horsepower differs from tractor engine horsepower, employers, supervisors, young employees, and WHD inspectors may not be able to easily determine the PTO horsepower, making compliance difficult to attain and document (*Id.*).

The data regarding the effectiveness of ROPS in reducing tractor-related deaths and fatalities are compelling. The National Farm Medicine Center, in its review of the NIOSH Report, advised the Department that ''indisputable published evidence demonstrates that ROPS and seat belts prevent fatalities and serious injuries. Under no circumstances should a minor operate a tractor without a ROPS and a seat belt'' (*see* Position Statement: Proposed

Changes in the Hazardous Occupations Orders in Agriculture. National Farm Medicine Center, [2003], available at *http://www.regulations.gov,* docket number WHD–2011–0001). NIOSH reports that ''[r]ollover protective structures have been identified as the best means of preventing deaths from overturns.'' NIOSH (*see* Report, page 71) also reports that ''[a] study in Sweden, which has implemented regulations requiring ROPS on all tractors, has shown a 92% reduction in tractor rollover fatalities following the intervention. The United States has a tractor rollover lost-life rate 24 times higher than Sweden'' (internal citations omitted).

ROPS were first marketed on new tractors in the United States in 1965 (*see* Iowa State University Fact Sheet Pm-1265d: *Use Tractors with ROPS to Save Lives.* April 1992, available at *http://www.regulations.gov,* docket number WHD–2011–0001). In 1985, tractor manufacturers adopted a voluntary standard that required all new factory tractors to be equipped with ROPS. The ROPS may be part of the cab structure and may not be visible, but the protection will be there if the ROPS has been properly manufactured and installed (*Id.*). However, tractors have long operational lives and some older tractors cannot be easily retrofitted to meet current safety standards. It is extremely important that tractor retrofits for ROPS be properly performed or safety will be compromised. This is because ''[a] homemade bar attached to the tractor axle, or simple sun shades, cannot protect the operator if the tractor overturns. Farm operators should not add their own rollover protection devices to tractors manufactured without ROPS. Without proper design and testing, homemade devices offer a false sense of security that can be more dangerous than operating a tractor without ROPS'' (*Id.*). The Marshfield Clinic Research Foundation supported these findings when it noted that ''[d]ue to the dynamic forces which act upon a ROPS during a tractor rollover, it is imperative that a ROPS be properly designed, manufactured and installed. Proper materials and mounting hardware, as well as engineering design, are necessary to ensure safe performance. A ROPS is not something to be fabricated in the farm shop'' (*see* A Guide to Agricultural Tractor Rollover Protective Structures, Marshfield Clinic Research Foundation, 2009, available at *http://www.marshfieldclinic.org/nfmc/default.aspx?page=nfmc_rops_guide*).

The NIOSH Report (*see* page 82) also recommends that the prohibition against youth riding on a tractor as a passenger or helper currently contained in § 570.71(a)(7) be retained and relocated to § 570.71(a)(1). NIOSH notes (*see* Report, page 85) that of the 1,421 tractor-related fatalities to agricultural production workers identified by CFOI for 1992–1997, 12 of the victims were clearly riding as passengers. Nonfatal injuries to youth riding on tractors as passengers have also been reported; in 1998, an estimated 417 injuries were incurred by youth under age 16 while riding as a passenger on a farm tractor (*see* NIOSH Report, pages 85–86). The WHD has conducted investigations of the deaths of young workers riding on tractors. For instance, WHD investigated the death of a 12-year-old in Texas in 2005 who was run over by the tractor upon which he was riding as a passenger. The tractor, which was pulling a shredder, was being driven by a 14-year-old. In addition, in 2002, WHD investigated the death of a 15-year-old on a cotton farm in Mississippi who was killed when he attempted to jump onto a moving tractor being driven by another worker. The minor fell and was run over by the tractor.

The National Farm Medicine Center, in its comments to the Department on the NIOSH Report, also recommended that minors should be required to have a valid motor-vehicle license to operate tractors and other farm machinery on public roads, noting ''the paucity of evidence that a child younger than 16 years has the skills and maturity to operate a tractor on a public road, when that same individual is not permitted to drive an automobile on a public road'' (available at *http://www.regulations.gov,* docket number WHD–2011–0001).

The Department proposes to adopt all three of these NIOSH recommendations, with some modifications. The Department also proposes to adopt the recommendation made by the National Farm Medicine Center concerning the licensing of drivers of tractors and other farm machinery on public roads. The Department proposes to revise (existing) § 570.71(a)(1) and (7) and create a new § 570.99(b)(1) entitled *Occupations involving the operation of agricultural tractors (Ag H.O. 1).* The proposed Ag H.O. 1 would prohibit operating and assisting in the operation of an agricultural tractor, with certain limited exceptions for student-learners. *Operating* includes tending, setting up, adjusting, moving, cleaning, oiling, or repairing the tractor; riding on an agricultural tractor as a passenger or helper; or connecting or disconnecting an implement or any of its parts to or from such a tractor. *Operating* would also include starting, stopping, or any other activity involving physical contact associated with the operation or maintenance of the tractor.

The Department proposes to define the term *agricultural tractor* to reflect the types of tractors in use on farms today. The proposed definition, which is the same definition used by OSHA in 29 CFR 1928.51, states that an *agricultural tractor* shall mean a wheeled or track vehicle which is designed to furnish the power to pull, carry, propel, or drive implements that are designed for agriculture. The term would include all such equipment, regardless of the date it was manufactured or the amount of engine horsepower, although we also request comment on the use of an alternative to the eliminated 20 PTO threshold, such as a 2,000 pound weight restriction. The term *agricultural tractor* also includes *low profile tractors.* A *low profile tractor* means a wheeled tractor that possesses the following characteristics: (1) The front wheel spacing is equal to the rear wheel spacing, as measured from the centerline of each right wheel to the centerline of the corresponding left wheel; (2) the clearance from the bottom of the tractor chassis to the ground does not exceed 18 inches; (3) the highest point of the hood does not exceed 60 inches; and (4) the tractor is designed so that the operator straddles the transmission when seated. However, the term *low profile tractor* shall not include self-propelled implements, nor shall it include garden-type tractors, lawn tractors, or riding mowers designed primarily for lawn mowing and lawn maintenance—all of which are subject to the provisions of (proposed) § 570.99(b)(2) (Ag H.O. 2) that is discussed later in this preamble.

The Department proposes to allow a partial exemption to Ag H.O. 1 for bona fide student-learners as defined in (proposed) § 570.98(b) to operate certain agricultural tractors under certain conditions, but only if all of the following seven criteria are met:

1. Every agricultural tractor operated by a student-learner must be equipped with both a roll-over protection structure (ROPS) and a seat belt. The tractor operation, the ROPS, and the seat belt must meet the requirements of the U.S. Department of Labor's Occupational Safety and Health Administration's (OSHA) standard at 29 CFR 1928.51 established for roll-over protection structures for tractors used in agricultural operations, and the seat belt must be used. These requirements apply to all agricultural tractors operated by a student-learner, even if the tractor is specifically excluded from the requirements by the OSHA standard because of size or date of manufacture.

The Department is aware that this proposal will prevent student-learners from operating certain low-profile tractors, such as those used in green houses and orchards, because such equipment may not be suitable for ROPS retrofitting. The Department believes this prohibition is necessary to protect young farm workers.

By requiring compliance with the OSHA standard, the Department intends to ensure that the operation of the tractor and the ROPS and seat belt—whether factory installed or retrofitted—conform to appropriate safety standards. This standard is widely accepted by industry and easily accessible via OSHA offices and the Internet at *http://www.OSHA.gov.* By going beyond the OSHA standard and requiring ROPS and seatbelts on equipment exempted by that standard when applied to adults, the Department is providing young hired farm workers with the additional safety protection their youth and inexperience demand. It is important to note that the Department's proposal does not require farmers who may otherwise fall outside of OSHA authority to submit to OSHA authority; nor does it require agricultural employers to retrofit tractors with ROPS and seat belts that meet OSHA standards. The provisions of this proposal are relevant only if the employer wishes to employ a 14- or 15-year-old student-learner to operate a tractor or assist in the operation of a tractor. In accordance with its established procedures, WHD may solicit the help of OSHA and/or consult with OSHA when determining an employer's compliance with this provision.

2. When implements, as defined in the proposed § 570.99(b)(2), are being used, both the operation of the implements and the implements themselves must meet the requirements of OSHA's standard at 29 CFR 1928.57 established to prevent hazards associated with moving machinery parts of farm field equipment, farmstead equipment, and cotton gins used in any agricultural operation. As with the operation of tractors discussed above, the Department believes that relying on the OSHA standard for the safe operation of implements and farm field equipment is essential in order to provide safer working environments for all hired farm workers, especially youth. Also, as discussed above, the Department's proposal does not require farmers who may otherwise fall outside of OSHA authority to submit to OSHA authority; nor does it require agricultural employers to retrofit or modify any farm implements to meet OSHA standards. The provisions of this proposal arise only if the employer wishes to employ a 14- or 15-year-old student-learner to operate or assist in the operation of a farm implement. When determining an employer's compliance with this provision, WHD may solicit the help of OSHA and/or consult with OSHA.

3. The employer must have instructed the student-learner in the use of the seat belt and the student-learner must actually use the seat belt at all times while operating the tractor.

4. The student-learner must have successfully completed his or her school's classroom portion of the educational unit on the safe operation of tractors, and if he or she is connecting, operating, and/or disconnecting an implement to the tractor, the student-learner must have also successfully completed his or her school's classroom portion of the educational unit addressing the safe operation of the particular implement being connected, operated, or disconnected by the student. WHD would determine compliance with this provision by reviewing the written agreement between the employer, the school, and the parent or guardian of the student-learner and by consultation with the school, the student-learner, and/or the parent or guardian of the student-learner.

5. If the student-learner operates the tractor on a public road or highway, he or she must hold a state motor vehicle license valid for the class of vehicle being operated. The Department proposes to define the term *public road or highway* in § 570.99(b)(1)(i) to mean a road or way established and adopted (or accepted as a dedication) by the proper authorities for the use of the general public, and over which every person has a right to pass and to use for all purposes of travel or transportation to which it is adapted and devoted. It does not matter whether the road or highway has been constructed at public or private expense. WHD would determine compliance with this provision by consultation with the state motor vehicle licensing authority, the student-learner, and/or the parent or guardian of the student-learner.

6. The student-learner must not operate any tractor upon which a passenger or helper is riding other than a single passenger over the age of 18 years who is engaged in training the student-learner in the safe operation of the tractor. Such passenger must be seated in a proper seat that is fitted with a seat belt that meets the requirements of the U.S. Department of Labor's Occupational Safety and Health Administration's (OSHA) standard at 29 CFR 1928.51 established for roll-over protection structures for tractors used in agricultural operations, and the seat belt must be used. The student-learner may not ride on any tractor as a passenger or helper, even if the tractor is equipped with a seat for a passenger.

7. The employer has instructed the student-learner that the use of electronic devices, including communication devices, while operating the tractor or implement is prohibited and the student-learner in fact does not use any electronic device while operating the tractor or implement. The term *use of electronic devices, including communication devices,* would include, but not be limited to, such things as talking, listening, or participating in a conversation electronically; using or accessing the Internet; sending or receiving messages or updates such as text messages, electronic mail messages, instant messages, ''chats,'' ''status updates,'' or ''tweets;'' playing electronic games; entering data into a navigational device or global positioning system (GPS); performing any administrative functions; or using any applications offered by the communication devices. The Department does not intend to prohibit listening to music or other recorded information on a one-way device such as a radio or iPod™ as long as the device is being operated ''hands free'' without headphones or earbuds. The proposal would not prohibit a minor from glancing at or listening to a navigational device or GPS that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device or GPS either before the tractor or implement is operated or when the tractor or implement is stopped and in park. The proposal similarly does not prohibit youth from glancing at or listening to other similar electronic devices on the vehicle, such as those that monitor moisture or chemical application monitors, provided that the entering of data or other functions are programmed into the device before the tractor or implement is operated, or when it is stopped and in park. In addition, the Department does not intend to prohibit the use of a cell phone or other device to call 911 in emergencies; nor does it wish to discourage young workers from using appropriate hearing protection when required by the nature of the job and/or Federal or state occupational safety and health rules or regulations. This proposal is in keeping with the proposal made for the nonagricultural

employment of youth earlier in this preamble.

The Department notes that many organizations dedicated to keeping agricultural workers of all ages safe have adopted positions that support many of the electronic device safety provisions that are proposed in this NPRM. *See Toolbox Talks* issued by the Office of Occupational Health and Safety, University of Minnesota available at *http://www.ohs.umn.edu/prod/groups/ahc/@pub/@ahc/@ohs/documents/asset/ahc_asset_265063.pdf; see also* Farmsafe issued by Farm Safety Association Inc. and available at *http://www.farmsafety.ca/farmsafe/vol28-no2.pdf;* and *Tractor Safety and Operation Basics,* an Environmental Health and Safety Fact Sheet issued by the Washington State University and available at *http://www.ehs.wsu.edu/Factsheeets/FAQTractorSafety.html.*

D. Operating or Assisting To Operate (Including Starting, Stopping, Adjusting, Feeding, or any Other Activity Involving Physical Contact Associated With the Operation) Several Named Pieces of Power-Driven Machinery (29 CFR 570.71(a)(2), 29 CFR 570.71(a)(3) and 29 CFR 570.71(a)(7))

The current agricultural provisions contained in § 570.71(a)(2) and (3) prohibit youth under 16 years of age from operating certain named pieces of agricultural machinery. Section 570.71(a)(2) specifically bans the operation of the following farm machinery: corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, mobile pea viner, feed grinder, crop dryer, forage blower, auger conveyor, power-post hole digger, power post driver, and nonwalking type rotary tiller. Section 570.71(a)(2)(ii) also prohibits youth from operating or assisting in operating the unloading mechanism of a nongravity-type self-unloading wagon or trailer.

The operation of the following farm machinery is specifically prohibited by § 570.71(a)(3): trencher or earthmoving equipment; fork lift; potato combine; and power-driven circular, band, or chain saws.

The current § 570.71(a)(7) permits hired farm workers under the age of 16 years of age to drive a bus, truck, or automobile when not transporting passengers. NIOSH reports that transportation-related deaths, largely highway incidents, were the most frequently recorded cause of occupational deaths among all youth for the period of 1998 through 2007. ''Transportation events included incidents involving all forms of transportation and powered industrial equipment when the incident resulted in an injury from a collision, loss of vehicle control, sudden vehicle stop, or a pedestrian/worker being struck by a vehicle. Highway incidents occurred on public roadways, shoulders, or surrounding areas (excluding incidents off the highway/street or on industrial, commercial, or farm premises or parking lots.)'' (*see* Occupational Injuries and Deaths Among Younger Workers—United States, 1998–2007, available at *http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5915a2.htm*). Congress, in 1998, enacted the Drive for Teen Employment Act, Public Law 105–334, which generally prohibits youth under 17 years of age from performing any driving when employed in nonagricultural jobs and substantially limits the times and types of driving that 17-year-olds may perform. The current provision at § 570.71(a)(7) not only places young workers at risk by allowing hired farm workers under the age of 16 to drive motor vehicles, but as the NIOSH Report notes, is inconsistent with many state motor vehicle licensing laws (*see* NIOSH Report, page 85).

The segregation of the named equipment into either § 570.71(a)(2) or § 570.71(a)(3) by the Department was intentional. The agricultural child labor provisions permit 14- and 15-year-olds who have met the requirements of the Federal Extension Service exemption contained in § 570.72(b) or the vocational agriculture training requirements of § 570.72(c) to, under specific guidelines, operate equipment named in § 570.71(a)(2) but not that equipment named in § 570.71(a)(3). These lists, as the NIOSH Report notes (*see* page 73), fail to mention several classes of power-driven machines, and under the structure of the Ag H.O.s, their absence generally means hired farm workers of any age could legally, but perhaps not safely, operate and assist to operate that equipment.

In its Report, NIOSH states that work with machinery in agriculture is associated with high numbers of occupational deaths among adults and youth. The current Ag H.O.s ''list specific types of machinery, which are prohibited; this is problematic due to the continuing introduction of new types of machinery in agricultural production.'' NIOSH therefore recommends that the Department combine § 570.71(a)(2) and § 570.71(a)(3), and expand their prohibitions to cover machines by their general functions rather than their specific names (*see* Report, page 72). For example, the equipment would be listed as harvesting and threshing machinery; mowing machinery; plowing, planting, and fertilizing machinery; other agricultural and garden machinery; excavating machinery, loaders; wood processing machinery, such as wood chippers and debarkers; sawing machinery, including chain saws; powered conveyors; and mobile equipment, including forklifts.

NIOSH asserts that combining the two HOs into one inclusive machinery HO based on the function performed by the machine would allow more effective tracking of injuries and comprehensive coverage of new types of machinery that may come onto the market. NIOSH also notes that ''those machines which 14- and 15-year-olds may be certified to operate under the current HO 2 result in more deaths annually than those listed in HO 3 for which certification is unavailable'' (*see* NIOSH Report, page 72).

The Department was also advised by an Extension Safety Specialist who is on the faculty of the College of Agricultural Sciences of Penn State University, in his comments on the NIOSH Report, that in order to reduce injuries to young hired farm workers resulting from falls and machine functions, such youth should be prohibited from riding as passengers on all farm machines being moved on public roads (*see* Comments on NIOSH Recommendations for Changes to the Federal Child Labor Regulations. Dennis J. Murphy, Ph.D., CSP, March 19, 2003, available at *http://www.regulations.gov,* docket number WHD–2011–0001).

NIOSH also states (*see* Report, page 73) that there are a number of types of machines—such as plowing machinery, cultivating machinery, spreaders, front-end loaders and bulldozers—that have contributed to a substantial number of deaths in agriculture, but which do not appear to be encompassed under the existing hazardous occupations orders.

The Department notes that many types of machinery that 14- and 15-year-old hired farm workers may legally operate—either because there is no Ag H.O. prohibiting the operation of the machinery or the operation of such machinery falls under the exemptions contained in § 570.72—generally may not be operated by youth under 18 years of age if employed in nonagricultural occupations. For example, § 570.33(f) prevents minors under 16 years of age from employment as motor vehicle operators or helpers. This prohibition would include cars, trucks, buses, motorcycles, all terrain vehicles, and scooters. Section § 570.52 (HO 2) prohibits youth under 18 years of age from operating tractors and buses on public roads, and it allows 17-year-olds to drive automobiles and trucks on

public roads only under very limited conditions and for very short periods of time. HO 4 (§ 570.54), HO 5 (§ 570.55), and HO 14 (§ 570.65) prohibit youth under 18 years of age from operating power-driven chain saws, and HO 5 also prevents such youth from operating most power-driven woodworking machines. HO 7 (§ 570.58) prohibits workers under 18 years of age from operating power-driven hoisting apparatus, including derricks, cranes, hoists, manlifts, and high-lift trucks, including fork lifts and front-end loaders. HO 8 (§ 570.59) generally prohibits youth under 18 from occupations involved with operating power-driven metal forming, punching, and shearing machines.

In addition, the child labor provisions addressing the employment of 14- and 15-year-olds in nonagricultural occupations—Child Labor Regulations No. 3 (CL Reg. 3) (*see* 29 CFR 570.31–.37)—have, for many years, contained additional restrictions on the types of work and machinery that such youth may operate. The nonagricultural child labor provisions have generally prohibited youth under 16 years of age from operating, tending, setting up, adjusting, cleaning, oiling, or repairing any power-driven machinery, including motor vehicles but excluding office machines, vacuum cleaners, and floor waxers (*see* § 570.33(e) and § 570.33(f)). This provision was implemented because of the high number of injuries experienced by young workers when they operate, assist in the operation of, or clean such machines.

The child labor provisions for nonagricultural employment also prohibit minors under 16 years from operating or assisting in the operation of all hoisting apparatus and conveyors—whether the hoists or conveyors are manually operated, operated by gravity, or power-driven (*see* 29 CFR 570.33(c) and (k)). Certain hand-operated winches and hoists can handle loads of several tons—up to 12 tons for some hoists—placing young workers who operate such equipment at great risks. Likewise, gravity-operated conveyors, such as conveyors consisting of a series of horizontal rollers upon which materials glide, can accommodate items of considerable size and weight. Young workers charged with loading, monitoring, and unloading such equipment are exposed to greater risks than adults from strains and falling items.

These prohibitions of CL Reg. 3 have served youth employed in nonagricultural occupations well over the last seventy years and their positive impact on young worker safety was recently reaffirmed in a Final Rule issued by the Department on May 20, 2010 (*see* 75 FR 28404).

The current agricultural provisions contained in § 570.71(a)(2) and § 570.71(a)(3) do not contain such a complete ban on the operation of power-driven machinery, but rather prohibit youth under 16 years of age from operating only certain named pieces of agricultural machinery. There are numerous other examples where stricter safety standards have been applied to the employment of youth in nonagricultural occupations than those applied to their younger peers employed in agriculture. Injury and fatality data, as well as the Department's own enforcement experience, do not support continuation of these different standards. For instance, in 2008 WHD investigated the death of a 15-year-old farm worker in Idaho who was killed when he was thrown from the bucket of a front-end loader in which he was riding. A similar tragedy occurred in 2006 involving a 9-year-old farm worker who died when he fell out of the bucket of a piece of farm equipment upon which he and another child were riding. The equipment, which was being used to help clear stones from a field, was being operated by a 16-year-old.

The WHD has also investigated injuries involving the use of conveyors and feed grinders. In 2007, WHD investigated the injury of a 9-year-old in Mississippi whose shirt became entangled in a conveyor belt. The minor was employed to clean eggs and place them into cartons. In 2005, the WHD investigated the death of 14-year-old in New York who became entangled in a silo unloader (conveyor-belt). WHD also investigated the death of a 14-year-old farm worker in Ohio who was killed while loading bales into a feed grinder. The minor either slipped or fell into the grinder and died instantly. In 2004, WHD investigated the serious injury of a 15-year-old in South Dakota who lost his right arm, up to his shoulder, when his coat became caught in the rotating shaft of a grain auger.

The Department appreciates the NIOSH recommendations regarding the classification of equipment by function, but believes that adopting general restrictions on the operation of power-driven machinery consistent with those applied to nonagricultural employment, along with revising the student-learner exemption to permit the limited and supervised operation of certain power-driven equipment after proper training has been received, would more adequately protect young hired farm workers.

Accordingly, the Department is proposing to revise and combine § 570.71(a)(2), § 570.71(a)(3), and § 570.71(a)(7) by creating a new § 570.99(b)(2) entitled *Occupations involving the operation of power-driven equipment, other than agricultural tractors (Ag H.O. 2).* This Ag H.O. will prohibit operating and assisting in the operation of power-driven equipment and contain a limited exemption for student-learners as defined in the proposed § 570.98. The term *operating* includes the tending, setting up, adjusting, moving, cleaning, oiling, repairing, feeding or offloading (whether directly or by conveyor) of the equipment; riding on the equipment as a passenger or helper; or connecting or disconnecting an implement or any of its parts to or from such equipment. *Operating* would also include starting, stopping, or any other activity involving physical contact associated with the operation or maintenance of the equipment.

The Department proposes to define the term *power-driven equipment* to include all machines, equipment, implements, vehicles, and/or devices operated by any power source other than human hand or foot power, except for office machines and agricultural *tractors* as defined in (proposed) § 570.99(b)(1)(i). The term includes lawn and garden type tractors, and all power-driven lawn mowers that are used for yard mowing and maintenance in agriculture.[1] Garden and lawn tractors are small, light and simple tractors designed for use in home gardens or on lawns. Such equipment is usually designed primarily for cutting grass, being fitted with horizontal rotary cutting decks. Lawn and garden tractors are generally more sturdily built than riding mowers, with stronger frames, axles and transmissions rated for ground-engaging applications. The engines are generally a 1- or 2-cylinder gasoline engine. Front-engined tractor layout machines designed primarily for cutting grass and light towing are called lawn tractors; and heavier duty tractors of the same overall size, often shaft driven, are called garden tractors. The

[1] Child Labor Regulation No. 3, Subpart C of 29 CFR part 570, has prohibited 14- and 15-year-olds employed in nonagricultural industries from operating most power-driven equipment, including lawn and garden type tractors, all power-driven mowers that are used for yard mowing and maintenance, golf carts, and all-terrain vehicles, for almost fifty years. The Department notes that neither the existing prohibition for youth employed in nonagricultural employment nor the proposed prohibition for youth employed in agricultural employment extends to the use of such equipment for recreational or entrepreneurial purposes, such as the youth who uses his family's lawnmower to mow the neighbor's lawn.

term *implements* includes, but is not limited to, items used in agricultural occupations such as farm field equipment and farmstead equipment. *Farm field equipment* means tractors or implements, including self-propelled implements, or any combination thereof used in agricultural operations. *Farmstead equipment* means agricultural equipment normally used in a stationary manner. This includes, but is not limited to, materials handling equipment and accessories for such equipment whether or not the equipment is an integral part of a building.

The Department's broad proposal to prohibit hired farm workers under the age of 16 from operating or tending any power-driven machinery or equipment comports with the child labor standards long applicable to nonagricultural employment. Equipment operated by any source of energy, such as wind, electricity, fossil fuels, batteries, animals, or water, would all be considered ''power-driven'' under this Ag H.O., as would any farm implement powered or pulled by an animal, a tractor, or other power-driven equipment. The Department also proposes to accept the recommendation that would prohibit all hired farm workers under 16 years of age, including student-workers, from riding as a passenger on any power-driven machinery being moved on a public road, other than certain motor vehicles under specific conditions as discussed later in this preamble.

The Department has always considered the moving of equipment named in § 570.71(a)(3) to be an activity prohibited by the Ag H.O. even when the machine is not ''powered,'' as when farm workers move a grain auger that has been powered-down from one location to another. Such work has been considered to be ''contact associated with the operation'' of such equipment. In 2005, the Department investigated the death of a youth in Montana who was electrocuted while helping three adults move a grain auger from one grain bin to another. The auger was mounted on a rubber-tired chassis which was being pulled by a truck. The auger tipped over, came in contact with an overhead power-line, and the youth was electrocuted. The three adults were injured. There has been some confusion over the violation status of moving such equipment, because the machine was disconnected from its power source and was not ''operating'' while it was being relocated. In order to remove this confusion and increase compliance, the Department is proposing to add the task of ''moving'' equipment to the list of prohibited activities covered by this Ag H.O.

As with the tractor Ag H.O. proposed above, the Department is proposing an exemption to this Ag H.O. that would allow a bona fide student-learner employed in compliance with the requirements of § 570.98(b) to operate and assist in the operation of certain types of power-driven machinery only after he or she has successfully completed his or her school's classroom portion of the educational unit on the safe operation of that specific piece of power driven machinery. In addition, the student-learner would be prohibited from using electronic devices, including communication devices, while operating or assisting to operate the permitted equipment. This proposal contains prohibitions similar to those contained in the proposed nonagricultural HO 19 and the revisions proposed for Ag H.O. 1.

Determinations as to which types of equipment present less risk to student-learners were based on both the NIOSH Report and stakeholder feedback. In addition, the power-driven machinery being operated must meet, and be operated in accordance with, the requirements of OSHA's standard at 29 CFR 1928.57, if the equipment is the type of farm equipment covered by that standard. The Department, as previously discussed, is not requiring employers to modify any existing equipment to meet the OSHA standard, nor is it attempting to bring otherwise exempt employers under OSHA's protective oversight. But if employers wish to take advantage of the student-learner exemption contained in this proposed Ag H.O., the equipment operated by the student-learner must comply with the OSHA standard, as must its operation. WHD would rely on OSHA to help it determine compliance with OSHA standards.

The Department is also proposing that if the student-learner is operating the machinery on a public road or highway, as defined in § 570.99(b)(1)(i), he or she must hold a state driver's license valid for the type of machinery being operated. In addition, the student-learner may ride as a passenger in or on the power-driven equipment only if all the following conditions are satisfied: (1) The vehicle, machinery, or implement is equipped with an approved seat for each minor that includes a seat belt or appropriate similar restraint that comports with OSHA's standard at 29 CFR 1928.51(b)(2); (2) the minor has been instructed to use, and actually uses, the seat belt or similar restraint; (3) the machinery is not being operated on a public road as defined in § 570.99(b)(1)(i); and (4) the operator of the vehicle, or any vehicle pulling, moving or towing the machinery or implement, is at least 16 years of age and holds a state motor vehicle license valid for the vehicle being operated.

The Department is proposing that a bona fide student-learner, employed in compliance with the provisions of § 570.98(b) and the provisions discussed above, be permitted to operate and assist in the operation of only the following power-driven machines: harvesting and threshing machinery, including balers; grain combines; reapers; plowing machinery; planting machinery; spreading machinery; mowing and swathing machinery; power post hole diggers; power post drivers; and nonwalking type rotary tillers. When the machine or equipment is being powered or pulled by a tractor as defined in § 570.99(b)(1)(i), the student-learner must also be employed in accordance with the provisions of § 570.99(b)(1)(ii).

Such student-learners would not be permitted to operate or assist in the operation of any other power-driven machinery. The proposal would specifically prohibit student-learners from operating or assisting in the operation of many types of equipment which are already prohibited for youth under 18 years of age when employed in nonagricultural employment. The proposal would expressly prohibit student-learners from operating the following types of power-driven equipment: automobiles, buses, or trucks, including serving as an outside helper on such motor vehicles; all terrain vehicles, scooters, and motorcycles; trenching or earthmoving equipment, including back hoes and bulldozers; loaders, including skid steer loaders, front end loaders, and Bobcats; milking equipment; potato combines; hoisting equipment, including cranes, derricks, highlift trucks, fork lifts, hoists, and manlifts as defined in § 570.58; woodworking machines as defined in § 570.55; feed grinders; circular, reciprocating, band, and chain saws as defined in § 570.65; wood chippers and abrasive cutting discs as defined in § 570.65; metal forming, punching, and shearing machines as defined in § 570.59; welding equipment; augers; auger conveyors; conveyors; irrigation equipment; rotary tillers, walking type; crop dryers; and the unloading mechanism of a nongravity-type self-unloading wagon or trailer.

In designating the equipment that would fall within or outside of the student-learner exemption, the Department looked to both the historical composition of the agricultural and

nonagricultural hazardous occupations, the classifications recommended by NIOSH, occupational injury and fatality data, and recommendations from experts in the field. For example, a study of 988 worker's compensation claims among dairy farms in Colorado found that milking parlor tasks represented 48% of injuries among dairy workers and indicated the worker was performing a milking activity at the time of the injury (*see* Douphrate D, Rosecrance C, Stallones L, Reynolds S, Gilkey D [2008]. NORA Symposium 2008: Public Market for Ideas and Partnerships; The Use of Workers' Compensation Data to Investigate Livestock-Handling Injuries in Agriculture; available at *http://www.cdc.gov/niosh/nora/symp08/posters/006.html*). ''More specifically, 21% involved the worker being kicked while performing a milking task and 10% involved the worker attaching a milking unit to a cow's udder when he/she was kicked'' (*Id.*). Another 10% of these injuries indicated the worker was stepped on when performing a milking task (*Id.*).

Accordingly, the Department is proposing to prohibit hired farm workers under 16 years of age from operating or assisting in the operation of power-driven milking equipment because of hazards associated with the weight of the machines, the postures required of the young workers when operating such equipment, and the dangers associated with working so closely with large animals. The Department believes that this proposal NPRM will provide much needed safety protection for young farm workers within the confines of the current statutory agricultural child labor provisions while continuing to permit important training and employment opportunities for 14- and 15-year-old student-learners. In addition, the revised format of Ag H.O. 2, as proposed by the Department, also comports with the NIOSH recommendation to classify farm equipment by ''function.'' However, the Department emphasizes that the list of equipment that falls outside the student-learner exemption simply provides examples of the most commonly occurring types of prohibited equipment; the general prohibition against hired farm workers under the age of 16 from operating all power-driven equipment applies unless the requirements for the student-learner exemption have been satisfied for a particular piece of equipment authorized in § 570.99(b)(2)(ii)(A).

It is not the Department's intention that this proposed Ag H.O. prohibit young hired farm workers from riding as passengers inside of all motor vehicles. The Department proposes to provide in § 570.99(b)(2)(ii)(C) that, notwithstanding the definition of *operating* in § 570.99(b)(2)(i), minors under 16 years of age may ride as passengers in automobiles, trucks, and buses, on public roads and private property, *provided* all of the following are met: (1) Each minor riding as a passenger in a motor vehicle must have his or her own seat in the passenger compartment; (2) each seat must be equipped with a seat belt or similar restraining device, the employer must instruct the minors that such belts or other restraining device must be used while riding, and the minor actually uses the seat belt or other restraining device while riding; and (3) each driver transporting the young workers must hold a state driver's license valid for the type of driving involved and, if the driver is under the age of 18, his or her employment must comply with the provisions of § 570.52. Section 570.52, which is nonagricultural HO 2, *Occupations of motor-vehicle driver and outside helper,* prohibits any youth under the age of 17 from driving motor-vehicles on public roads. Seventeen-year-olds may perform limited driving of certain trucks and automobiles (but not buses) under very stringent conditions that govern such things as the size of the vehicle; the time the driving may take place; the purpose, number, frequency, and distances of the trips involved; whether passengers are being transported; and the driving record of the 17-year-old at the time of hire. These provisions of this proposal are similar to those that govern the transporting of 14- and 15-year-old workers employed in nonagricultural occupations (*see* § 570.34(o)).

The Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 *et seq.*), administered by the WHD, protects migrant and seasonal agricultural workers by establishing employment standards related to wages, housing, transportation, disclosures, and recordkeeping. Under MSPA, any non-exempt person who uses, or causes to be used, a vehicle to transport migrant or seasonal agricultural workers must comply with certain vehicle safety standards. Those standards are either the Department's standards or the Department of Transportation (DOT) standards incorporated by the Department into the MSPA regulations (*see* subpart D of 29 CFR part 500). These standards address such issues as state safety inspections; the lighting, fuel, exhaust, ventilation, and braking systems of the vehicles; the tires; the doors; the seats; the windshields and windshield wipers; and the safe loading of the vehicles. Although these standards protect many migrant and seasonal agricultural workers, MSPA exempts certain workers, which may include young hired farm workers, from these transportation safety standards. The Department is specifically seeking comment from the public as to whether the child labor in agricultural provisions discussed in this proposed rule should be revised to require that all vehicles used to transport young hired farm workers meet or exceed the vehicle safety standards imposed by MSPA, even if the employment of the youth is not subject to MSPA.

Because the proposed Ag H.O. 2 addresses only power-driven equipment and would not prevent hired farm workers under the age of 16 from operating non-power-driven hoists and conveyors, the Department is also proposing to create a new Ag H.O. at § 570.99(b)(3) entitled *Occupations involving the operation of non-power-driven hoisting apparatus and conveyors (Ag H.O. 3).* The proposed Ag H.O. would prohibit hired farm workers under 16 years of age from operating and assisting in the operation of hoisting apparatus and conveyors that are not power-driven but run on human power or gravity, including manlifts and boatswain-chair-type devices often used in grain storage operations. The term *operating* includes the tending, setting up, adjusting, moving, cleaning, oiling, repairing, of the equipment; riding on the equipment as a passenger or helper; or connecting or disconnecting an implement or any of its parts to or from such equipment. *Operating* would also include starting, stopping, or any other activity involving physical contact associated with the operation or maintenance of the equipment. The prohibitions of this Ag H.O. would also prevent such minors from serving as ''safety spotters'' directing the operator of the hoisting apparatus or conveyor as to the proper operation of the equipment.

E. Working on a Farm in a Yard, Pen, or Stall Occupied by a: Bull, Boar, or Stud Horse Maintained for Breeding Purposes; or Sow With Suckling Pigs, or Cow With Newborn Calf (With Umbilical Cord Present) (29 CFR 570.71(a)(4))

The NIOSH Report recommends that the Department retain this current Ag H.O. as written. NIOSH cites several studies that demonstrate animals are one of the most common sources of injuries to children on farms and notes that, in 1998, it estimated that 20% of all injuries to youth under the age of 20

occurring on farms were animal-related. NIOSH notes that animal-related farm injuries are a problem for farm workers of all ages, and that the dangers farm animals present are numerous. Livestock-handling injuries are among the most severe of agricultural injuries; they are more costly and result in more time off work than other causes of agricultural injuries (*see* Douphrate D, Rosecrance C, Stallones L, Reynolds S, Gilkey D [2008]. NORA Symposium 2008: Public Market for Ideas and Partnerships; The Use of Workers' Compensation Data to Investigate Livestock-Handling Injuries in Agriculture; available at *http://www.cdc.gov/niosh/nora/symp08/posters/006.html*). Dangerous situations presented by farm animals include: ''territorial protection, maternal instincts, social relationships, or simply an interruption of their normal habits'' (*see* NIOSH Report, page 76). NIOSH has also expressed concerns about the dangers farm workers face when vaccinating animals (*see* NIOSH Update: Recommendations to Prevent Unintended Self-Injection, Other Risks from Animal Antibiotic Micotil 300®, May 17, 2007, available at *http://www.cdc.gov/niosh/updates/upd-05-17-07.html*).

WHD has conducted investigations involving injuries to young farm workers who came in contact with these animals. In 2003, WHD investigated the serious injury of a 14-year-old in Pennsylvania who was unable to work for 30 days when he was knocked down and head-butted by a bull maintained for breeding purposes. Also, in 2007, WHD investigated the serious injury of a 15-year-old farm worker in New York who was gored by a bull. The minor missed 45 days of work.

In its 2003 comments on the NIOSH Report, the National Farm Medicine Center recommended that the language in this Ag H.O. should be modified to be more concise and preclude hired youth from conducting work with large animals with high risk of injury. The National Farm Medicine Center made the following three recommendations (*see* Position Statement: Proposed Changes in the Hazardous Occupations Orders in Agriculture. National Farm Medicine Center, March 19, 2003, available at *http://www.regulations.gov,* docket number WHD–2011–0001):

1. Any activity with an intact (not castrated) male equine, porcine, or bovine older than six months should be prohibited.

2. Youth should be prohibited from engaging, or assisting, in animal husbandry practices that inflict pain upon the animal and/or are likely to result in unpredictable animal behavior. These activities include, but would not be limited to, branding, breeding, dehorning, vaccinating, castrating, and treating sick or injured animals. Youth should also be precluded from handling animals with known dangerous behaviors.

3. Hired youth should be prohibited from herding animals on horseback.

The National Farm Medicine Center noted that past and recent data indicate a significant number of animal-related injuries occur to youth when they are involved in the activities cited in its second recommendation. It also reports that ''[h]orseback herding requires a person to monitor and anticipate the behaviors of two (large) animals simultaneously. No youth development data exists to suggest youth younger than 16 years have the cognitive ability to handle this responsibility.'' A study of worker's compensation data concerning livestock-handling injuries in Colorado found that ''[R]iding horseback, sorting/penning cattle and livestock handling equipment represented higher proportions of livestock-handling injuries among cattle/livestock raisers and cattle dealers'' (*see* Douphrate D, Rosecrance C, Stallones L, Reynolds S, Gilkey D [2008]. NORA Symposium 2008: Public Market for Ideas and Partnerships; The Use of Workers' Compensation Data to Investigate Livestock-Handling Injuries in Agriculture; available at *http://www.cdc.gov/niosh/nora/symp08/posters/006.html*). Concerns have also been expressed to the Department about the dangers to young workers associated with the herding of animals using power-driven machinery such as all terrain vehicles (ATVs), trucks, and similar vehicles, and the herding of animals in confined spaces, such as feed lots and corrals.

The Department agrees with the NIOSH Report that this Ag H.O. should be retained, and proposes to revise the Ag H.O. by incorporating the important and thoughtful recommendations of the National Farm Medicine Center.

In addition, although poultry catching and cooping are not normally classified as agricultural employment and therefore generally not subject to the Ag H.O.s, the Department is also concerned about those rare instances when the catching activities would be agricultural in nature, such as when poultry catchers are employed solely by a farmer on a farm to catch and/or coop poultry raised only by that farmer.

The Department is aware that workers who catch and coop poultry in lots in preparation for transportation or for market are often exposed to a high degree of risk. Working in the dark, with only illumination provided by ''red lights'' which the fowl cannot see, and in poorly ventilated rooms, is not uncommon. These risks are heightened when the workers are young. The Department has long held that the child labor provisions applicable to nonagricultural employment prohibit youth under 16 years of age from performing this dangerous work. In a recently issued Final Rule, the Department incorporated its enforcement position into the Regulations at § 570.33(l) (*see* 75 FR 28449). In order to protect agricultural child poultry catchers to the same extent as nonagricultural poultry catchers, the Department is also proposing to include poultry catching and cooping on the list of prohibited occupations included in this Ag H.O. This prohibition would be applicable to the catching and cooping of all poultry, not just chickens.

Accordingly, the Department proposes to revise § 570.72(b)(4) entitled *Certain occupations involving working with or around animals (Ag H.O. 4)* and redesignate it as § 570.99(b)(4). This Ag H.O. would prohibit working on a farm in a yard, pen, or stall occupied by an intact (not castrated) male equine, porcine, bovine, or bison older than six months, a sow with suckling pigs, or cow with newborn calf (with umbilical cord present); engaging or assisting in animal husbandry practices that inflict pain upon the animal and/or are likely to result in unpredictable animal behavior such as, but not limited to, branding, breeding, dehorning, vaccinating, castrating, and treating sick or injured animals; handling animals with known dangerous behaviors; poultry catching or cooping in preparation for slaughter or market; and herding animals in confined spaces such as feed lots or corrals, or on horseback, or using motorized vehicles such as, but not limited to, trucks or all terrain vehicles. The use of such vehicles would also be banned by the proposed Ag H.O. 2 discussed above.

It is important to note that the Department is not proposing to prohibit hired farm workers from all horseback riding—only that horseback riding associated with the herding of animals. It is also important to note that the Department's proposals, as well as the existing child labor regulations, only apply to the employment of young hired farm workers while they are on the job. Riding horses and all-terrain vehicles are popular recreational activities and the Federal child labor laws do not apply to such activities outside of employment.

The Department does not propose that a student-learner exemption apply to this Ag H.O.

F. Felling, Bucking, Skidding, Loading, or Unloading Timber With Butt Diameter of More Than Six Inches (29 CFR 570.71(a)(5))

The NIOSH Report recommends (*see* Report, page 77) that the Department retain this hazardous occupations order relating to timber, but remove the six inch diameter threshold. NIOSH states that there is no evidence that working with timber with a butt diameter of six inches or less is any safer than working with larger timber. NIOSH also notes that timbering work on farms exposes workers to many of the same risks as in logging operations, which is one of the most hazardous industries in the U.S. Nonagricultural HO 4, (*Forest fire fighting and forest fire prevention occupations, timber tract occupations, forestry service occupations, logging occupations, and occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage stock mill*) has prohibited the employment of youth under 18 years in logging operations for seventy years regardless of the butt diameter of the trees. Further, NIOSH reports the dangers associated with stump removal, citing a 1996 study of 16 rear rollovers that resulted from improper hitching to farm tractors in New York. That study found that 63% of the overturns occurred when operators were pulling logs or removing stumps (*see* NIOSH Report, page 78). The National Farm Medicine Center, in its comments on the recommendations of the NIOSH Report, concurred in this NIOSH recommendation.

The NIOSH Report states that the CFOI identified 97 fatalities from 1992–1997 associated with felling, bucking, skidding, loading, or unloading timber among workers in agricultural production in the U.S., and that almost one-third of these deaths occurred while a worker was using a tractor to push or pull trees or stumps, causing the tractor to overturn (*see* NIOSH Report, page 78).

The Department agrees with the NIOSH recommendation and proposes to modify the existing Ag H.O. to both remove the size limits and to prohibit all work involved in the removal of tree stumps. Thus, it proposes to redesignate current § 570.71(a)(5) as § 570.99(b)(5) and revise it as *Occupations involving timber operations (Ag H.O. 5).* This Ag H.O. would prohibit the felling, bucking, skidding, loading, or unloading of timber and the removal and disposal of tree stumps by other than manual means. No student-learner exemption is being proposed for this Ag H.O. In addition, the Department requests comment on the approach of replacing the six-inch timber threshold with a lower threshold as an alternative to eliminating it.

The term *timber* has been used in the existing Ag H.O., without a stated definition, since its adoption as part of the Interim Order in 1967. Although the term *timber* often has a commercial connotation of trees or large sticks of wood that have been squared or are capable of being squared for use in construction or building, for purposes of this Ag H.O. *timber* means trees, logs, and other similar woody plants. However, this HO would not prohibit a hired farm youth from performing such tasks as carrying firewood or clearing brush.

G. Working From a Ladder or Scaffold (Painting, Repairing, or Building Structures, Pruning Trees, Picking Fruit, etc.) at a Height of Over 20 Feet (29 CFR 570.71(a)(6))

The NIOSH Report recommends (*see* page 79) that the current Ag H.O. retain the prohibitions concerning working from a ladder or scaffold but also be expanded to cover work on: roofs; farm structures including silos, grain bins, windmills, and towers; and vehicles, machines, and implements. NIOSH also recommends that the maximum height at which youth under 16 may work in these settings be reduced from twenty feet to six feet.

NIOSH supports its recommendations by noting that fatality and injury data for the agricultural production industry show that large numbers of worker fatalities and injuries result from falls from elevation. In 1994, there were an estimated 19,008 nonfatal falls from elevation resulting in one-half day or more restricted activity among U.S. farm workers (*see* NIOSH Report, page 81), and the circumstances of these falls are much broader than those proscribed by the current Ag H.O. (*see* NIOSH Report, page 79). According to NIOSH, expanding the Ag H.O. to cover work on roofs, on farm structures, and on vehicles, machines, and implements would cover more of the work situations in which fatal falls have occurred. NIOSH also notes that data for all ages of workers suggest that permitting youth to work at heights up to 20 feet is not sufficiently protective, as the majority of fatal falls among agricultural production workers for which the height of the fall is recorded occurred from a height of 20 feet or less (*see* NIOSH Report, page 79).

NIOSH also reports that lowering the height threshold for youth in agriculture to six feet would make the Ag H.O. more consistent with the occupational safety standards applicable to the construction industry. NIOSH notes that OSHA's occupational safety and health standards applicable to workers of all ages require the use of fall protection for construction industry employees who work six feet or more above a lower level (*see* 29 CFR part 1926, subpart M). None of these standards currently extends to workers in agricultural production, nor do agricultural health and safety standards contain fall protection requirements of any kind.

The Federal child labor provisions for nonagricultural occupations currently prohibit minors under 16 years of age from working from any ladders or scaffolds, regardless of their height (*see* § 570.33(g)). HO 16, also only applicable to nonagricultural work, generally prohibits minors under 18 years of age from working in roofing occupations and on or about a roof (*see* § 570.67). This HO was expanded to prohibit all work ''on or about a roof'' in 2004 because of the number of falls and/or electrocutions being experienced by young workers employed at heights (*see* 69 FR 75397).

Section 570.33(n)(4), addressing nonagricultural employment only, in recognition of the traditionally high incidences of occupational fatalities and injuries experienced by construction workers, prohibits the employment of youth under 16 in any occupation connected with construction, including demolition and repair. Such youth may not be employed in the construction industry to perform any duties at any construction site. This prohibition encompasses all types of construction, including residential, building, heavy, and highway construction. Section 570.33(n)(3) also prohibits the employment of such youth under the age of 16 in occupations in connection with communications and public utilities. In addition, nonagricultural HO 15 prohibits the employment of youth less than 18 years of age in wrecking and demolition (*see* § 570.66), while HO 17 prohibits the employment of youth less than 18 years of age in most occupations involving excavation (*see* § 570.68).

The NIOSH Report also recommends that a new nonagricultural HO be created that would prohibit youth under 18 years of age from employment in the construction industry (*see* NIOSH Report, page 101), and the Department requested comments on that recommendation in an Advance Notice of Proposed Rulemaking (ANPRM) published in the **Federal Register** on April 17, 2007 (*see* 72 FR 19328). Because very little substantive

information was received, the Department withdrew the ANPRM on February 24, 2010. No proposed rule will result directly from that information collection effort. The Department, however, has stated that the topics discussed in the ANPRM may be the subject of future rulemaking (*see* 75 FR 28406).

The Department reiterates its concern that the agricultural child labor provisions have permitted hired farm workers, as evidenced by the discussion above, to perform certain types of work on farms, often at very young ages, that are prohibited to youth under 16 years of age—and sometimes under the age of 18 years—when performed in nonagricultural industries. The Department believes that such protections should be available to all hired youth under 16, whether employed in agricultural or nonagricultural occupations.

The Department is aware that concerns were raised when the NIOSH Report was issued regarding the recommendation that the maximum working height established by this Ag H.O. be lowered from twenty feet to six feet (*see* Comments on NIOSH Recommendations for Changes to the Federal Child Labor Regulations. Dennis J. Murphy, Ph.D., CSP, March 19, 2003, available at *http://www.regulations.gov,* docket number WHD–2011–0001); *see also* Comments Concerning Current Rules and Proposed Revisions Hazardous Orders for Agriculture. Timothy G. Prather, March 19, 2003, University of Tennessee Agricultural Extension Service, available at *http://www.regulations.gov,* docket number WHD–2011–0001). A major concern of some stakeholders was that the recommendation, as proposed by NIOSH, would not allow 14- and 15-year-old farm workers, employed as student-learners under the provisions of proposed § 570.72(b)(1)(ii), to access the operating platforms of many tractors, implements, and farm equipment; nor would they be permitted to operate such equipment because some or all of their bodies would be more than six feet above the ground.

The Department finds merit in the NIOSH recommendations regarding maximum working heights and the types of structures and equipment from which hired farm workers should be permitted to work. Accordingly, the Department proposes to revise § 570.71(a)(6) by bifurcating it into two new Ag H.O.s.

The Department proposes to create a new Ag H.O. at § 570.99(b)(6) entitled *Occupations involving working in construction; in communications; in public utilities; in wrecking and demolition; and in excavation (Ag H.O. 6).* The Department would define *wrecking and demolition* to mean all work, including clean-up and salvage work, performed at the site of the total or partial razing, demolishing, or dismantling of a building, bridge, steeple, tower, chimney, or other structure including but not limited to a barn, silo, or windmill. This definition comports with the definition of *wrecking and demolition* contained in § 570.66 (nonagricultural HO 15). The Department's proposal would prohibit work in excavation occupations in the same way such work is prohibited by § 570.68 (nonagricultural HO 17) for youth under the age of 18 years employed in nonagricultural occupations. Work in all types of construction—building, residential, heavy, and highway—would be prohibited. Occupations in the construction, communications, and public utilities industries, other than office work, would be prohibited by this proposal in the same way such occupations are prohibited in nonagricultural employment (*see* § 570.33(n)).

This proposed Ag H.O. will provide the same protections to young hired farm workers that are afforded to minors employed in nonagricultural occupations. The Department has an extensive enforcement history of injuries and fatalities suffered by young farm workers performing tasks that would be prohibited by its proposal for hired agricultural workers under age 16. For example, in 2008, the WHD investigated the death of a 12-year-old in Montana who was assisting a 15-year-old in the installation of a communications cable. The minor was killed while attempting to throw the cable over the loader the older minor was operating. In 2007, WHD investigated the death of a youth, who was eventually determined to be 17 years of age at the time of his death, who was employed to help demolish, and then reconstruct, a barn. The minor was crushed to death when a concrete and stone wall collapsed.

The Department believes this proposal will complement and reinforce its proposals dealing with the operation of power-driven equipment and fall prevention. The Department is not proposing a limited exemption to this Ag H.O. for 14- and 15-year-old student-learners.

The Department is also proposing to create a new § 570.99(b)(7) to be entitled *Occupations involving work on roofs, scaffolds, and at elevations greater than six feet (Ag H.O. 7).* This Ag H.O. would prohibit working on or about a roof; from a scaffold; and at elevations greater than six feet above another elevation, such as, but not limited to, working on or from a ladder, a farm structure (including, but not limited to silos, towers, grain bins, and windmills), or equipment. This proposal not only preserves the major portions of the existing Ag H.O. but prohibits all work on a scaffold in light of the Department's proposal to prohibit all work in construction. The proposal would also prohibit all work on or about a roof, much like the existing HO 16 that addresses nonagricultural employment. The proposal would define *on or about a roof* by referencing the definition in HO 16 (*see* § 570.67(b)). *On or about a roof* as defined therein would include all work performed upon or in close proximity to a roof, including carpentry and metal work, alterations, additions, maintenance and repair, including painting and coating of existing roofs; the construction of the sheathing or base of roofs (wood or metal), including roof trusses or joists; gutter and downspout work; the installation and servicing of television and communication equipment such as cable and satellite dishes; the installation and servicing of heating, ventilation and air conditioning equipment or similar appliances attached to roofs; and any similar work that is required to be performed on or about roofs.

In addition, the Department's proposal would prohibit hired farm workers under the age of 16 from performing work on or from a ladder, farm structure, or equipment at elevations greater than six feet. The Department proposes to determine when an elevation is greater than six feet by measuring the distance between the minor's feet and the lower elevation above which the minor is working.

The Department shares the previously stated concern that a height limitation of six feet would prevent bona fide student-learners from operating certain tractors and farm equipment otherwise authorized by the student-learner exemptions contained in the proposed Ag H.O. 1 (§ 570.99(b)(1)(ii)) and Ag H.O. 2 (§ 570.99(b)(2)(ii)). The Department believes that the requirements of those exemptions, which include the use of an appropriate restraining device, when coupled with the ongoing training the student-learner will receive from his or her school and employer, will provide the young hired farm worker with sufficient fall protection. Accordingly, the Department is proposing to provide an exemption to this Ag H.O. which would allow a student-learner to operate a tractor and/

or to operate or ride upon power-driven equipment at an elevation greater than six feet when such student-learner is employed in compliance with all the requirements of the applicable exemption—such as the tractor or equipment is equipped with ROPS, when appropriate; that the tractor or equipment is equipped with seatbelts or similar restraining devices; that the student-learner is instructed to use, and actually uses the seat belt or similar restraining device; and that the equipment is operated by a licensed or otherwise qualified driver(s) who is at least 16. The proposed Ag H.O. 7 also would allow legally-employed young farm workers to ride as passengers in cars, trucks, and buses, under certain conditions in accordance with the exemption in proposed § 570.99(b)(2)(ii)(C). In addition, the Department requests comment on setting a maximum height restriction of 10 feet as an alternative to the maximum height restriction of six feet proposed in Ag H.O. 6. Also, the Department requests comment on the possibility of waiving the driving restrictions in Ag H.O. 2 for 14- and 15-year-old student-learners to drive licensed vehicles in states that provide for licensing 14- and 15-year-olds, provided they have passed required tests and examinations and are in possession of a valid driver's license or permit which authorizes them to drive certain motorized vehicles.

H. Working Inside a Fruit, Forage, or Grain Storage Designed To Retain an Oxygen Deficient or Toxic Atmosphere; an Upright Silo Within Two Weeks After Silage Has Been Added or When a Top Unloading Device Is in Operating Position; a Manure Pit; or a Horizontal Silo While Operating a Tractor for Packing Purposes (29 CFR 570.71(a)(8))

The NIOSH Report recommends (*see* Report, page 86) that the Department expand this exemption to prohibit *all* (emphasis in the original) work inside a fruit, forage, or grain storage such as a silo or bin. It also recommends that the Department continue to prohibit *all* work in a manure pit.

NIOSH notes that work in silos and bins presents hazards in many forms, including grain engulfment, exposure to silo gas, and oxygen deficiency. ''Suffocation in flowing grain is the most common cause of death associated with grain storage structures in the U.S. Hazards exist either when the grain is being unloaded or loaded, or when workers fall into an air pocket under a crust of grain. Grain that flows during loading and unloading has characteristics of quicksand and can rapidly induce immersion. A worker can be completely submerged in flowing grain in less than 8 seconds'' (*see* NIOSH Report, page 87).

NIOSH also reports that even though the current Ag H.O. provides for a two-week waiting period to protect youth from entering a storage facility soon after new silage has been added, toxic gases may be present at any time in such facilities. ''Although nitrogen dioxide levels are generally within a safe range after two weeks, dangerous amounts may remain for months if the silo has not been opened'' (*see* NIOSH Report, page 87).

NIOSH notes that similar problems of toxic atmospheres arise from manure pits. ''Manure pits are fermentation plants in which raw animal waste undergoes anaerobic bacterial decay. Manure pits allow for easy cleaning of animal confinement buildings and the efficient underground storage of large amounts of raw manure'' (*see* NIOSH Report, page 87). However, such pits produce considerable amounts of toxic gases, including hydrogen sulfide, methane, ammonia and carbon dioxide. Deaths in manure pits can result from oxygen deficiency—the oxygen being replaced by toxic gases—or from the direct toxic effects of the gases (*see* NIOSH Report, page 88). NIOSH also states that the risks are especially heightened during the summer months—when more youth may be employed in agricultural occupations—because warmer, more humid weather accelerates the production of the toxic gases (*Id.*). In 2000, the WHD investigated the death of a 15-year-old hired farm worker who was suffocated when the tractor he was driving slid into a manure pit. The pit was about 100 feet long, 30 feet wide, and 10 to 12 feet deep.

The NIOSH Report also notes that incidents in silos, bins, or manure pits often result in multiple fatalities when co-workers or others die during attempts to rescue initial victims. ''Often after a worker enters an oxygen-deficient or toxic atmosphere and collapses, co-workers notice the collapsed worker and enter the same atmosphere to attempt rescue; if they do not use proper precautions they also collapse'' (*see* NIOSH Report, page 88). Such a tragedy is the subject of *NIOSH Fatality Assessment and Control Evaluation (FACE) Program Report 1989–46* (available at *http://www.cdc.gov/niosh/face/In-house/full8946.html*) where five individuals, including a 15-year-old, died in a manure pit on a Michigan dairy farm. The young worker and his uncle were replacing the shear pin on the manure pit's agitator shaft when they were overcome by the oxygen deficiency. The other three adult male relatives died while trying to rescue the pair.

NIOSH reports (*see* Report, page 88) that between 1992 and 1997, CFOI identified 91 fatalities in agricultural production associated with entering a silo, grain bin, or manure pit. Sixty-five percent of the deaths were due to grain engulfment, with the rest attributable to asphyxiation either due to oxygen deficiency or a toxic atmosphere. Four of the fatal incidents resulted in multiple deaths when a co-worker attempted a rescue. CFOI also identified eight fatalities in agricultural production to youth under 16 years of age that occurred in a silo, bin, or manure pit (*see* NIOSH Report, pages 88 and 89).

Grain entrapments, unlike many other types of farm-related injuries and fatalities, continue to rise. Representatives of the Department of Agricultural and Biological Engineering of Purdue University reported that there were no less than 51 grain entrapments in 2010, the largest number ever recorded in any year (*see* Field B, Riedel S, [2011], 2010 Summary of Grain Entrapments in the United States available at *http://www.regulations.gov,* docket number WHD–2011–0001). Of the 51 incidents, 12% involved youth under the age of 16 (*Id.*).

WHD has conducted investigations regarding youth working in violation of this Ag H.O. In 2007, WHD investigated the death of a 12-year-old in New York who suffocated after falling into a grain bin. The grain collapsed and killed her. The WHD also investigated the death of a young worker who was crushed to death by soybeans while working in a 50-foot hopper. The minor died at the site.

The Department accepts the NIOSH recommendations and proposes to revise § 570.71(a)(8) by creating two new Ag H.O.s: § 570.99(b)(8) entitled *Occupations involving working inside any fruit, forage, or grain storage silo or bin (Ag H.O. 8),* and § 570.99(b)(9) entitled *Occupations involving working inside a manure pit (Ag H.O. 9).* The Department is not proposing any student-learner exemptions for these Ag H.O.s.

The Department is also considering whether the prohibitions of the proposed Ag H.O. 8 should be expanded to include other confined spaces, such as livestock confinement buildings with or without ventilation systems, and whether such work could safely be performed by student learners. The Department is not proposing specific regulatory language at this time but is asking for comments on whether it

should expand the proposed Ag H.O. 8 to include other types of confined spaces, and if so, for specific data supporting such a provision.

I. Handling or Applying (Including Cleaning or Decontaminating Equipment, Disposal or Return of Empty Containers, or Serving as a Flagman for Aircraft Applying) Agricultural Chemicals Classified Under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) as Category I of Toxicity, Identified by the Word ''Poison'' and the ''Skull and Crossbones'' on the Label; or Category II of Toxicity, Identified by the Word ''Warning'' on the Label (29 CFR 570.71(a)(9))

The NIOSH Report recommends (*see* Report, page 90) that this Ag. H.O. be revised to be consistent with the Environmental Protection Agency (EPA) Worker Protection Standard for pesticides. NIOSH recommends that the revised Ag H.O. use the following language: ''Performing any tasks that would fall under the EPA definition of 'pesticide handler,' in 40 CFR part 170—The Worker Protection Standard.'' NIOSH states that by using its suggested language, any future changes to the EPA standards could automatically be incorporated into the Ag H.O. without additional rulemaking.

NIOSH supports its recommendation by noting that the current Ag H.O. only addresses exposures of farm workers under the age of 16 to Toxicity Category I and II pesticides, which are a concern because of their acute toxicity. The current Ag H.O. provides no protection against other chronic hazards of pesticides ''such as their potential neurotoxicity, reproductive toxicity, endocrine disruption, and carcinogenic effects'' (*see* NIOSH Report, page 90). The Department notes that Child Labor Regulation No. 3 (29 CFR 570.31–.37) already prohibits the nonagricultural employment of 14- and 15-year-olds to perform most of the tasks performed by a *pesticide handler* as defined by the EPA.

NIOSH reports (*see* Report, page 92) that the most recent national estimates of unintentional deaths due to pesticides were in the 1970s, and of the 113 unintentional pesticide-related deaths in the two-year period 1973–1974, 11% were classified as occupational. Citing data from the American Association of Poison Control Centers Toxic Exposure Surveillance System (*see* Report, page 93), NIOSH notes that 86,289 human poison exposure cases due to insecticides, pesticides, or rodenticides occurred in the U.S. in 1998. NIOSH also cites data from a study which examined pesticide poisoning among working children. A total of 531 children under the age of 18 years were identified to have acute occupational pesticide-related illness. It was estimated that 62% of the cases were children employed in agricultural production and services. Of the 81% of cases where the EPA acute Toxicity Category was available, 67% of the illnesses were associated with Toxicity Category III pesticides. Toxicity Category III pesticides are not prohibited by the current Ag H.O. (*see* NIOSH Report, page 93).

The NIOSH Report details the effects of exposure to pesticides and notes that many studies report special risks for young workers. For instance, the National Research Council concluded ''that the toxicity of pesticides can potentially be influenced by the immaturity of biochemical and physiological functions and body composition of developing children and adolescents. There is age-related variation in susceptibility to pesticides, based on different metabolic rates and ability to activate, detoxify and excrete xenobiotic compounds, and both qualitative and quantitative differences in toxicity of pesticides between children and adults'' (*see* NIOSH Report, page 95).

The Department agrees with the NIOSH Report and proposes to revise § 570.71(a)(10) by replacing it with a new § 570.99(b)(9) entitled *Occupations involving the handling of pesticides (Ag H.O. 10).* The Ag H.O. would prevent young hired farm workers from performing any task listed under the EPA definition of a pesticide ''handler'' contained in the EPA's Worker Protection Standard, codified at 40 CFR part 170. NIOSH's recommendation that the Ag H.O. prohibit any tasks that fall under the EPA Worker Protection Standard's definition of pesticide handler is designed to reduce the risks of pesticide-related illness or injury by reducing or eliminating exposure to pesticides. The proposed Ag H.O. would be considerably more protective than the current Ag H.O. The EPA Standard addresses workers' and pesticides handlers' occupational exposures to pesticides used in the production of agricultural plants on farms, or in nurseries, greenhouses, and forests.

The Department will continue to work with EPA to ensure that the safe employment of young farm workers is properly addressed.

The Department proposes to define the term *pesticide* as it is defined in the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136(u). That statutory definition generally defines a pesticide as: (1) Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant, and (3) any nitrogen stabilizer. Under the current EPA Worker Protection Standard at 40 CFR 170.3, the term *pesticide handler* is defined as any person, including a self-employed person, who performs any of the following tasks:

(1) Mixing, loading, transferring, or applying pesticides;

(2) Disposing of pesticides or pesticide containers;

(3) Handling opened containers of pesticides;

(4) Acting as a flagger;

(5) Cleaning, adjusting, handling, or repairing the parts of mixing, loading, or application equipment that may contain pesticide residues;

(6) Assisting with the application of pesticides;

(7) Entering a greenhouse or other enclosed area after the application and before the inhalation exposure level listed in the labeling has been reached or one of the ventilation criteria established by 40 CFR 170.110(c)(3) or in the labeling has been met to operate ventilation equipment, to adjust or remove coverings used in fumigation, or to monitor air levels;

(8) Entering a treated area outdoors after application of any soil fumigant to adjust or remove soil coverings such as tarpaulins;

(9) Performing tasks as a crop advisor during any pesticide application, before the inhalation exposure level listed in the labeling has been reached or one of the ventilation criteria established by 40 CFR 170.110(c)(3) or in the labeling has been met, or during any restricted-entry interval.

The definition of *pesticide handler* does not include any person who is only handling pesticide containers that have been emptied or cleaned according to pesticide product labeling instructions or, in the absence of such instructions, have been subjected to triple-rinsing or its equivalent. The Department is proposing to define *pesticide handler* in proposed § 570.99(b)(9) by adopting the EPA definition in 40 CFR 170.3.

The Department does not propose any student-learner exemptions for this Ag H.O.

J. Handling or Using a Blasting Agent, Including but Not Limited to, Dynamite, Black Powder, Sensitized Ammonium Nitrate, Blasting Caps, and Primer Cord (29 CFR 570.71(a)(10))

The NIOSH Report (page 96) recommends that this Ag H.O. be retained. NIOSH notes that explosives are used in agriculture for a variety of purposes, and their use increases the possibility of catastrophic events, such as fires and explosions. These events often involve multiple victims.

The Department concurs with the NIOSH Recommendation and proposes to move the current Ag H.O. to § 570.99(b)(11) and entitle it *Occupations involving the handling of blasting agents (Ag H.O. 11).* The Ag H.O. would prohibit young hired farm workers from handling or using a blasting agent, including but not limited to, dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord. The Department is not proposing to create a student-learner exemption for this Ag H.O.

K. Transporting, Transferring, or Applying Anhydrous Ammonia (29 CFR 570.71(a)(11))

NIOSH recommends (*see* Report, page 97) that this Ag H.O. be retained. NIOSH notes that anhydrous ammonia (ammonia without water) is an inexpensive chemical used commonly in agriculture as a fertilizer. It requires strict handling, operating, and maintenance procedures to prevent hazardous exposure.

Any exposure to anhydrous ammonia can cause severe burns and death due to its powerful corrosive action on tissue. ''Inhalation of high concentrations causes death due to bronchoconstriction, edema, and inflammation of the airway walls (EPA 2000; Leduc *et al.* 1992; Sharp 1965). Exposure to lower concentrations for longer periods can also be fatal as the gas reaches deeper parts of the lung. Chronic fibrosis of the lung may occur if the victim survives the initial insult. Direct contact with the ammonia in liquid form causes severe burns to skin and mucous membranes. Due to its high water solubility and alkalinity, it causes necrosis of the tissue and can penetrate deeply. Severe corneal burns may result from contact with the eyes. If contact occurs as anhydrous ammonia liquid escapes from a container, vaporization can cause freezing burns of the skin and eyes due to rapid heat loss'' (*see* NIOSH Report, page 97).

The CFOI identified eight fatalities between 1992 and 1997 related to work with anhydrous ammonia. The majority of these cases were due to exposure to anhydrous ammonia gas. NIOSH also notes that, during 1997, injuries and illnesses caused by anhydrous ammonia ''[r]esulted in a median of 20 days away from work'' (*see* Report, page 97). This is indeed a dangerous chemical warranting national standards and procedures for its safe storage, transportation, and handling. As NIOSH notes, ''[y]outh should not be given the heavy responsibility of following these complex procedures which, if not followed, could be fatal or severely debilitating to themselves and any others nearby'' (*see* NIOSH Report, pages 97–98).

The Department agrees with the NIOSH recommendation and proposes to retain the Ag H.O. as written, but rename it *Occupations involving the transporting, transferring, or applying of anhydrous ammonia (Ag H.O. 12),* and move it to a new § 570.99(b)(12). No student-learner exemption is proposed for this Ag H.O.

L. Employment in Tobacco Production and Curing

The Department is proposing to create a new Ag H.O. that would prohibit the employment of young hired farm workers in tobacco production and curing in order to prevent occupational illness due to green tobacco sickness (GTS). GTS is acute nicotine poisoning, unique to tobacco production and the handling of wet tobacco. It is caused by the absorption of nicotine through the skin and into the bloodstream. This illness, which afflicts farm workers of all ages, is characterized by weakness, headache, dizziness, nausea, vomiting, itching, and rashes. Symptoms may also include abdominal cramps, prostration, difficulty breathing, and occasionally fluctuations in blood pressure or heart rate (*see* Arcury TA, Quandt SA. 2006. Health and social impacts of tobacco production. J Agromedicine. 11:71–81). Because nicotine poisoning through the skin is slow acting, workers may not begin to notice symptoms for hours after the initial exposure to wet tobacco. ''GTS is normally a self-limiting condition from which workers recover in 2 or 3 days. However, symptoms are sometimes severe enough to result in dehydration and the need for emergency medical care.'' (*See* Arcury TA, Quandt SA, Preisser JS, Bernert JT, Norton D, Wang J. 2003. High levels of transdermal nicotine exposure produce green tobacco sickness in Latino farm workers. Nicotine Tob Res. 5:315–321). There is no special treatment or cure for GTS. The most important actions a sick farm worker can take to treat GTS are to stay hydrated by drinking lots of water, get adequate rest, and take anti-nausea drugs as needed (*see* North Carolina Farmworker Health Module *Green Tobacco Sickness* available at *http://www.ncfhp.org/module/GTS.pdf*).

Although GTS is not a new problem, there are few published reports detailing the incidence of GTS in the United States. GTS has likely existed as long as workers have been harvesting wet tobacco (*see* NIOSH Update, July 8, 1993, available at *http://www.cdc.gov/niosh/updates/93–115.html*). Increased awareness of the condition, better surveillance, the development of diagnostic criteria, and recognition that the symptoms of GTS could have caused its misdiagnosis as pesticide poising, may all account for the rise in the number of reported cases since 1990 (*Id.*). One study of 304 North Carolina Latino tobacco farm workers conducted in 2005 disclosed that 18.4% of those farm workers met the GTS case definition (*see* Arcury TA, Vallejos QM, Schulz MR, Feldman SR, Fleischer, AB, Verma A, Quandt SA. 2008. Green tobacco sickness and skin integrity among migrant Latino farm workers. Am J Ind Med. 51:195–203). In another study, the Centers for Disease Control and Prevention (CDC) reported in 1992 that the estimated crude two-month incidence rate of hospital-treated GTS among tobacco workers in a five-county study area was 10 per 1,000 workers. Statewide extrapolation of this incidence rate among the approximately 60,000 persons who, at least part time, harvest tobacco annually in Kentucky, suggests as many as 600 persons in that state could have sought emergency department care for the condition in 1992. This is not an insignificant number (*see* Green Tobacco Sickness in Tobacco Harvesters—Kentucky, 1992, MMWR Weekly, April 9, 1993, available at *http://www.cdc.glv/mmwr/preview/mmwrhtml/00020119.htm*). The CDC also notes that this figure may underestimate the true incidence of GTS because many affected persons may not seek hospital treatment (*Id.*). A review of published reports of GTS in children and adolescents identified at least six studies between 1970 and 1996 where children—some as young as seven years of age—were identified as having suffered from the sickness (*see* McKnight RH, Spiller HA. 2005. Public Health Reports 120:602–6).

The potential for GTS exists throughout the tobacco production process. The study of Latino farm workers in North Carolina reported that ''[w]ork activities among the participating farm workers varied across the season, with planting, cultivating, and harvesting tobacco being dominant

activities in the early part of the season, topping tobacco being dominant in the middle season, and harvesting tobacco and barning and baling tobacco being dominant in the later part of the season'' (*see* Arcury TA, Vallejos QM, Schulz MR, Feldman SR, Fleischer, AB, Verma A, Quandt SA. 2008. Am J Ind Med 51:195–203). Two of these tasks, topping and harvesting, particularly raise a farm worker's risk for GTS—and in the United States, children often perform both tasks (*see* McKnight RH, Spiller HA. 2005. Public Health Reports 120:602–6). '''Topping' involves removing the flower from the growing plant to encourage greater root growth, leaf weight, and nicotine content at harvest. To 'top,' workers walk through rows of tobacco plants and snap off the flowers by hand. As one would expect, workers have nearly constant contact with tobacco leaves as they perform this task'' (*Id.*). Harvesting not only requires continuous and complete contact with tobacco plants, but in the United States, generally occurs in late August or early September when the ambient temperature is high. ''The combination of high ambient temperatures and hard physical labor shunts blood to the skin to help lower body temperature. The resultant increase in surface blood flow also significantly increases dermal absorption of nicotine'' (*Id.*).

GTS is preventable. Strategies to help prevent GTS include not working with tobacco that is wet from dew or a recent rain; staying hydrated; wearing protective clothing, long sleeves, long pants, shoes that cover the entire foot, hats, and gloves; and wearing rain gear or waterproof clothing. It is also important that workers change out of clothes immediately upon leaving the field or barn, even if the clothes are dry, as nicotine will remain in the clothing. Work clothes must be washed after each use before being worn again. Upon completion of the work shift, tobacco workers should shower with cool, soapy water to remove residue from the skin (*see* North Carolina Farmworker Health Module *Green Tobacco Sickness* available at *http://www.ncfhp.org/module/GTS.pdf*).

McKnight and Spiller report that children may be especially vulnerable to being afflicted with GTS because ''[t]heir body size is small relative to the dose of nicotine absorbed, they lack tolerance to the effects of nicotine, and they lack knowledge about the risks of harvesting tobacco, especially after a recent rain.'' Young farm workers are often unable to recognize the importance of such strategies as hydration, wearing protective clothing, and the immediate changing of clothes and showering; and they may not be able to identify their own GTS symptoms promptly. In addition, some of the waterproof protective clothing farm workers are encouraged to wear when working with tobacco, such as plastic aprons and rainsuits, may place such workers at increased risk of heat stress caused by wearing impermeable clothing in hot weather (*see* NIOSH Update, July 8, 1993 available at *http://www.cdc.gov/niosh/updates/93-115.html*). In addition, many farm workers, especially young hired farm workers, may not have immediate access to the important preventative measures discussed above. Accordingly, the Department is proposing to create a new Ag H.O. entitled *Occupations involving working in the production and curing of tobacco (Ag H.O. 13)* located at a new § 570.99(b)(13). This Ag H.O. would ban all work in the tobacco production and curing, including, but not limited to such activities as planting, cultivating, topping, harvesting, baling, barning, and curing. The Department is not proposing any student-learner exemption for this Ag H.O.

M. Employment in Agriculture Under Adverse Conditions

The Department is also considering whether to create a new Ag H.O. that would limit the exposure of young hired farm workers to extreme temperatures and/or arduous conditions and is asking for comment on this subject. Workers of all ages are susceptible to occupational illness and injury when they work for prolonged periods of time in extreme temperatures. *See, e.g.,* Centers for Disease Control Report on *Heat-Related Deaths Among Crop Workers—United States, 1992–2006* available at *http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5724a1.htm; see also* National Institute for Occupational Safety and Health Report on *Cold Stress* available at *http://www.cdc.gov/niosh/topics/coldstress.* As Human Rights Watch documented in its May 2010 Report, *Fields of Peril: Child Labor in Agriculture,* pp. 54–55, agricultural work naturally lends itself to occupational exposure to extreme heat and cold. Although the FLSA limits the hours that most youth in agriculture can work to ''outside of school hours,'' children whose hours would normally be restricted when school is in session can work for unlimited hours over the summer months, which in most parts of the country are the hottest of the year.

Heat stress is a recognized hazard for people of all ages, including children. Although preventative measures, such as drinking sufficient amounts of water and alternating work and rest periods, can combat occupational heat stress, it is imperative that each worker is able to recognize the signs and symptoms of heat-related illnesses, such as heat exhaustion and heat stroke (*see, e.g.,* OSHA Fact Sheet No. 95–16, *Protecting Workers in Hot Environments* available at *http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=FACT_SHEETS&p_id=167*). Unlike their older counterparts, young workers may not have the maturity and judgment to recognize the symptoms of heat stress, which can quickly become fatal (*see* EPA/OSHA Publication EPA–750–b–92–001, *A Guide to Heat Stress in Agriculture,* May 1993, pages 1, 21).

Therefore, the Department is asking for comments on whether it should create a new Ag H.O. addressing youths' exposure to extreme temperatures. Such an Ag H.O. could provide that youth under the age of 16 would not be permitted to work in agricultural occupations where the temperatures at which they are working exceed or drop below a certain temperature, factoring in such things as humidity, wind velocity, and the degree and duration of the physical exertion required by the work. It might also require that hours in direct sun be limited, if the temperature reaches certain thresholds for prolonged periods of time, and/or that workers be provided with shade, additional water supplies, more frequent breaks, the use of fans in shaded rest areas, or other options for relieving heat stress in certain circumstances. Comments are also requested about whether the payment of piece rates to young farm workers impacts their prolonged exposure to potentially harmful conditions. The Department seeks input from stakeholders on how best to protect young workers from heat-related illnesses and injury, what the triggers for such requirements should be, and what mechanisms the Department could use, such as using heat index charts or methods like the wet bulb globe temperature index to measure field temperatures, or using medical documentation of heat-related illness, to enforce such a provision.

N. Child Labor Exemptions Applicable to Agricultural Employment (29 CFR 570.123)

The Department proposes to revise this section of subpart G to reflect the statutory changes to the FLSA provisions dealing with child labor employment in agriculture that were made since the last update of the subpart. A similar revision of the subpart addressing nonagricultural

employment was made by the Final Rule published by the Department on May 20, 2010 (*see* 75 FR 28404).

The Department proposes to clarify the parental exemption involving agricultural employment by including information about the exemption discussed in the Background section of this preamble. The proposal provides guidance as to who qualifies as a parent; what determines that a farm is ''operated by'' a parent; and how the Department interprets the extension of this parental exemption to persons standing in the place of a parent as well as a relative who may take temporary custody of a youth and stands in the place of the parent. The revision also notes that the parental exemption—both in terms of working during school hours and performing hazardous occupations normally prohibited by the Ag H.O.s—would not apply to the employment of a child of a farmer when that child is employed on a farm not owned or operated by his or her parent. It also addresses related situations, such as where the farm or its property may be owned by a closely-held corporation or partnership consisting of family members or other close relatives.

The Department also proposes to incorporate the provisions of FLSA sections 13(c)(2) and 13(c)(1)(A) through (C) into § 570.123. These sections were enacted after the last revision to subpart G. Section 13(c)(2) establishes the Secretary's authority to find and declare certain agricultural occupations to be particularly hazardous for the employment of children below the age of 16 and sets the minimum ages for employment in agriculture. Unlike the parental exemption contained in section 3(l) which exempts only the employment of a youth by a parent or person standing in place of a parent in a business/farm solely owned by that parent or person, sections 13(c)(1)(A) and 13(c)(2) expand the parental exemption to include youth who are employed in agriculture by a parent or person standing in place of a parent on a farm *operated* by such parent or person. The parent/operator of the farm must be the employer of the minor for this exemption to apply. Although section 13(c)(2) permits youth working for their parent(s) or person(s) standing in place thereof on a farm operated by such parent(s) or person(s) to perform hazardous work otherwise prohibited by the Ag H.O.s, section 13(c)(1) limits such employment to periods outside of school hours for the school district where the youth is living while so employed.

The Department's proposal retains the current explanation of the term *school hours for the school district where such employee is living while so employed.* The Department is proposing to clarify that interpretation by defining *graduating from high school* as the successful completion of the 12th grade. This would include the successful completion of a high school general equivalency diploma (GED) program. The Department also proposes to revise its guidance concerning the hiring of children who have moved from one to school district to another. The current regulation suggests that employers not hire such youth prior to May 15th, the Department's proposal would change that to June 1st in recognition of the longer school years now in effect in most of the country. In addition, the proposal would update the acceptable evidence regarding school schedules to permit statements by a school official regarding dates for the beginning and end of the school year or school day in the particular district in question, or report cards or other documents which may be provided to the student by the school.

Finally, the Department proposes to revise § 570.123(d) to reflect that the agricultural hazardous occupations orders would now be contained in the proposed subpart F of 29 CFR part 570.

VI. Proposed Regulatory Provisions—Civil Money Penalties—29 CFR Part 579

The Department proposes to revise part 579 to provide additional transparency to its child labor civil money penalty assessment process by incorporating the primary provisions of Wage and Hour Division Field Assistance Bulletin 2010–1 (available at *http://www.dol.gov/whd/FieldBulletins/fab2010_1.pdf*). This proposal will increase the public's understanding of the child labor civil money penalty assessment process while preserving national consistency in its administration.

The proposed revision does not change § 579.1, which the Department revised to incorporate the provisions of GINA in the Final Rule published on May 20, 2010 (*see* 75 FR 28460–61). The Department proposes to revise all other sections of part 579.

The Department proposes to revise and expand the definitions in § 579.2 as necessitated by GINA. Definitions of the terms *caused by a child labor violation, Child Labor Enhanced Penalty Program (CLEPP), CLEPP serious injury, contributed to the death or injury of a minor, death, de minimis, first aid, nonserious injury, repeated violations, serious injury (Non-CLEPP),* and *willful violations* have been added to this section. The term *person* has been clarified to include a parent when he or she is the employer of his or her child and that child's employment is not in compliance with the provisions of part 570 and not otherwise exempt, such as where a parent employs a 16- or 17-year-old child in a nonagricultural hazardous occupation. The Department believes that this proposal will bring clarity to the assessment process.

Section 579.3 addresses *Violations for which child labor civil money penalties may be assessed.* The Department is proposing to renumber the subparagraphs in § 579.3(a) to reuse the previously ''reserved'' subparagraphs (3) and (4) in § 579.3. The current § 579.3(a)(5) and (6) would become § 579.3(a)(3) and (4). The Department also proposes to revise the current § 579.3(a)(6) to note that employers will be subject to a civil money penalty for failing to comply with FLSA sections 12 and 13(c), in addition to a separate penalty for failing to comply with the provisions of 29 CFR part 570. This revision, which because of the ''renumbering'' would be located at § 579.3(a)(4), clarifies the civil money penalty assessment process in light of Congress' amendments to the child labor provisions of the FLSA.

The Department is proposing to revise § 579.3(b)(2)(i) to note that *school hours* are now determined in the same manner for youth engaged in either agricultural or nonagricultural employment. This revision was necessitated by the Final Rule published by the Department on May 20, 2010 which revised § 570.35(b) (*see* 75 FR 28451). The Department is also proposing to switch the order of, but not change the language of, § 579.3(b)(2)(ii) and (iii). The Department believes this reordering brings greater clarity to the regulation.

Finally, the Department is proposing to reformat, but not change the language of, § 579.3(c)(1) and (3). By reformatting these subparagraphs in an outline form, the Department believes it brings both clarity and conformity to the regulation.

Section 579.4 has no content and is currently ''reserved.'' Section 579.5 addresses *Determining the amount of the penalty and assessing the penalty.* The Department proposes to bifurcate this section, creating a new § 579.4 that will address *Determining the initial amount of the penalty for child labor violations that caused the death or serious injury of a minor under the Child Labor Enhanced Penalty Program (CLEPP).* This proposed section, by incorporating provisions of the WHD FAB 2010–1, details the processes the Department uses to determine the initial amounts of child labor civil money

penalties for violations that fall under the provisions of section 16(e)(1)(A)(ii) that were introduced by GINA. Section 579.5 will be revised and titled *Determining the initial amount of the penalty for child labor violations that do not fall under the Child Labor Enhanced Penalty Program (CLEPP).* This proposed section details the processes the Department uses to determine the initial amounts of child labor civil money penalties that do not fall under the provisions of section 16(e)(1)(A)(ii). The proposed revision notes that the initial amount of a civil money penalty for child labor violations that do not fall under GINA is a predetermined amount that has been established for each type of violation based on the relative gravity of the violation when compared to the universe of violations; *i.e.,* the initial penalty amounts are stratified to take into consideration the gravity of each violation when compared to the array of possible violations. The more egregious violations—those that place young workers at greater risk—warrant a higher initial civil money penalty amount. The Department has published this list of predetermined amounts on the WHD Web site at *http://www.dol.gov/whd/childlabor.htm* and may periodically increase the initial penalty amounts in accordance with § 579.1(b) of this part or for other reasons, such as a strategic effort by the Department to increase compliance regarding specific types of violations or within specific types of industries. The Department is also proposing to redesignate § 579.5(e) and (f), which deal with the actual assessment and finality of child labor civil money penalties, as § 579.7(a) and (b).

The Department is proposing to create a new § 579.6 entitled *Determining the amount of the civil money penalty to assess.* The proposed §§ 579.4 and .5 demonstrate how WHD generates initial child labor civil money penalties. The revised § 579.6 discusses how WHD arrives at the actual amount that will be assessed. This section discusses how the Department will, during the child labor civil money penalty assessment process, continue to take into consideration both the statutory and regulatory requirements when arriving at the amounts of the penalties that will be assessed. This process, as noted in the proposed § 579.6(a), includes a review by the WHD assessing official to ensure that both the statutory and regulatory provisions are given due consideration. As previously noted, the Department proposes to create a new § 579.7 entitled *Assessment and finality of the penalty.* This new paragraph would be comprised solely of those subparagraphs previously located at § 579.5(e) and (f).

VII. Paperwork Reduction Act

In accordance with requirements of the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* and its attendant regulations, 5 CFR part 1320, the Department seeks to minimize the paperwork burden for individuals, small businesses, educational and nonprofit institutions, Federal contractors, state, local and Tribal governments, and other persons resulting from the collection of information by or for the agency. The PRA typically requires an agency to provide notice and seek public comments on any proposed collection of information contained in a proposed rule. *See* 44 U.S.C. 3506(c)(2)(B); 5 CFR 1320.8. Persons are not required to respond to the information collection requirements as contained in this proposal unless and until they are approved by the Office of Management and Budget (OMB) under the PRA at the final rule stage.

This ''paperwork burden'' analysis estimates the burdens for the proposed regulations as drafted.

Circumstances Necessitating Collection: The Department is proposing to revise 29 CFR 570.2(b) to clarify the Department's regulations. Under current § 570.2(b), a minor 12 or 13 years of age may be employed in agriculture to perform nonhazardous work outside of school hours with the written consent of his or her parent or person standing in place of the parent, or may work on a farm where the parent or person standing in place of the parent is also employed. The section also allows a minor under 12 years of age to be employed with the consent of a parent or person standing in place of a parent on a farm where all employees are exempt from the minimum wage provisions by section 13(a)(6)(A) of the FLSA. The Department has always interpreted the term consent, as it applies to all hired farm workers under 14 years of age, to mean written consent. In order to provide clarification, the Department proposes to revise § 570.2(b) by changing *consent* to *written consent* for persons employed in agriculture under 12 years of age to make the language consistent with the existing language applicable to minors employed in agriculture at 12 and 13 years of age.

Purpose and Use: Section 11(c) of the FLSA requires employers to make, keep, and preserve records of employees and of their wages, hours, and other conditions and practices of employment in accordance with the regulations prescribed by the Administrator of the U.S. Department of Labor's Wage and Hour Division. The regulations require employees and employers to make and keep the third-party disclosure written parental consent. No particular format of the written parental consent is required.

The recordkeeping requirements are necessary in order for the Department to carry out its statutory obligation under the FLSA to investigate and ensure employer compliance. The Wage and Hour Division uses these records to determine employer compliance.

Information Technology: The proposed regulations prescribe no particular order or form of the written parental consent record. The preservation of records in such forms such as microfilm, photocopies, scans, PDF files, or automated word or data processing is acceptable, provided the employer maintains the information and provides adequate facilities to the DOL for inspection, copying, transcription, or reproduction.

Minimizing Duplication: The proposed change (to make the consent required for minor persons under 12 years of age employed in agriculture with the consent of a parent or person standing in place of a parent on a farm where all employees are exempt from the minimum wage provisions a written consent) does not duplicate other existing information collections.

Agency Need: The Department is assigned a statutory responsibility to ensure employer compliance with the FLSA. Without the third-party disclosure of written parental consent, the Department would have difficulty determining whether the employer has met the exemption from the child labor requirements.

Public Comments: The Department seeks public comments regarding the burdens imposed by information collections in this proposed rule. In particular, the Department seeks 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 estimates of the burden of the proposed collection of information including 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 required to respond. Commenters may send their views about these information collections to the Department in the same way as all other comments (*e.g..* through the regulations.gov Web site). All comments received will be made a

matter of public record, and posted without change to *http://www.regulations.gov,* including any personal information provided.

An agency may not conduct an information collection unless it has a currently valid OMB approval, and the Department has submitted the identified information collections contained in the proposed rule to the OMB for review under the PRA. *See* 44 U.S.C. 3507(d); 5 CFR 1320.11. While much of the information provided to OMB in support of the information collection request appears in this preamble, interested parties may obtain a copy of the full supporting statement by sending a written request to the mail address shown in the **ADDRESSES** section at the beginning of this preamble or by visiting the *http://www.reginfo.gov/public/do/PRAMain* Web site.

In addition to having an opportunity to file comments with the Department, comments about the paperwork implications of the proposed rule may be addressed to OMB. Comments to the OMB should be directed to: Office of Information and Regulatory Affairs, Attention OMB Desk Officer for Wage and Hour, Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316/Fax: 202–395–6974 (these are not toll free numbers).

Confidentiality: The Department makes no assurances of confidentiality to respondents. As a practical matter, the Department would only disclose agency investigation records of materials subject to this collection in accordance with the provisions of the Freedom of Information Act, 5 U.S.C. 552, and the attendant regulations, 29 CFR part 70, and the Privacy Act, 5 U.S.C. 552a, and its attendant regulations, 29 CFR part 71.

Respondent Hours Burden Estimates: Lacking exact data, the Department estimates a total of 338 employers and parents of individual employees under 12 years of age will be burdened by the change in the proposed regulatory language. According to data published by the National Agricultural Workers Survey (NAWS), approximately 13,500 persons under 16 years of age worked in crop production between 2006–2009. (*See* NAWS Public Data available at: *http://www.doleta.gov/agworker/naws.cfm*). The Department divided the total persons under age 16 by the four years of the survey (13,500/4 = 3,375 persons under age 16). The Department further took ten percent of the annual number of persons under age 16 to represent the number of persons under age 12 working in agriculture in a single year (3,375 × 10% = 338 (rounded)).

The Department estimates that the individual or household burden of providing written consent to allow a minor under 12 years of age to be employed with the consent of a parent or person standing in place of a parent on a farm where all employees are exempt from the minimum wage provisions by section 13(a)(6)(A) of the FLSA is approximately one minute per individual, imposing an annual burden of 338 minutes (338 persons × 1 minute per person).

To define the universe, the Department used the NAWS public data (available at *http://www.doleta.gov/agworker/naws.cfm* and cited in the preamble of this NPRM) on minors hired in crop production during the period 2006–2009. The NIOSH Child Agriculture Injury Survey data from 2006 is also mentioned in the preamble of this NPRM. In defining the universe, the Department elected to use the NAWS data as opposed to the NIOSH data because the NAWS data covers a four year period and thereby reduces the risk of outliers. The Department invites comment on whether the use of the NIOSH Child Agriculture Injury Survey data for 2006 is more appropriate than the NAWS public data in making an estimate about the average number of farm workers hired each year under 12 years of age.

The Department further estimates respondent employer burden to file and maintain the record to be one minute per individual under 12 years of age employed. This imposes a burden of approximately 338 minutes (338 employers × 1 minute per individual employed in agriculture under 12 years of age).

There are no Federal burdens or costs associated with this information collection.

TOTAL ANNUAL BURDEN HOURS = 11 HOURS (338 + 338 = 676 minutes).

There is a cost burden imposed on employers who are required to maintain records of parental consent for three years in compliance with the FLSA recordkeeping requirements. As a result, employers will require staff to receive and file the written parental consent. Without the availability of specific data on employers who maintain these parental consent records, the Department has used the January 2011 average hourly rate for production or nonsupervisory workers on nonfarm payrolls of $22.86 to determine respondent costs. In ''The Employment Situation, January 2011'', Bureau of Labor Statistics, Table B–3, *http://www.bls.gov/news.release/pdf/empsit.pdf,* the Department estimates annual respondent costs to be approximately $126 ($22.86 × 5.5 employer respondent burden hours) annually to file and maintain these written parental consent records.

TOTAL ANNUAL COST BURDEN = $126.

VIII. Executive Orders 13563 and 12866; Small Business Regulatory Enforcement Fairness Act; Regulatory Flexibility

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

The Fair Labor Standards Act, in order to curtail oppressive child labor, charges the Secretary of Labor to find and by order declare those nonagricultural occupations that are particularly hazardous for the employment of children between the ages of 16 and 18 years or detrimental to their health or well-being (*see* 29 U.S.C. 203(l)). A similar charge, regarding the employment of youth under 16 years of age in agriculture, is provided in 29 U.S.C. 213(c). Both the nonagricultural Hazardous Occupations Orders (HOs) and the Agricultural Hazardous Occupations Orders (Ag H.O.s) identify the types of occupations and tasks that young workers may not perform in order to reduce occupational injuries and deaths to young workers.

Because of changes in the workplace, improved occupational injury surveillance, Wage and Hour Division investigation findings, the introduction of new processes and technologies, the emergence of new types of businesses where young workers may find employment opportunities, the existence of differing Federal and state standards, and divergent views on how best to balance scholastic requirements and work experiences, the Department has been conducting a continuous review of the Federal child labor provisions with the purpose of refining and improving its regulations. A detailed discussion of the Department's

review was included in the Notice of Proposed Rulemaking (NPRM) relating primarily to the nonagricultural HOs that was published in the **Federal Register** on April 17, 2007 (*see* 72 FR 19339). That NPRM led to a Final Rule that was published in the **Federal Register** on May 20, 2010 (*see* 75 FR 28404), which became effective on July 19, 2010.

An important component of the Department's continuous review includes the aforementioned NIOSH Report. The Department provided funds for NIOSH to develop the report based on a review of the data and the scientific literature. The primary data sources used by NIOSH were the Census of Fatal Occupations Injuries (CFOI), the Survey of Occupational Injuries and Illnesses (SOII), the National Electronic Injury Surveillance System (NEISS), and the Current Population Survey (CPS).

NIOSH made recommendations regarding all the existing hazardous occupations—both agricultural and nonagricultural—and suggested new orders for occupations and tasks not then regulated. The recommendations were driven by information on high-risk activities for all workers, not just patterns of fatalities and serious injuries among young workers. The general rationale for recommending an order was the number of fatalities and the number and severity of nonfatal injuries, as well as research on health effects of workplace exposures (*see* NIOSH Report, page xi).

As discussed earlier, the NIOSH recommendations regarding the nonagricultural HOs were addressed in previous rulemaking efforts (*see* 72 FR 19339, *see also* 72 FR 19328). All the NIOSH recommendations concerning the Ag H.O.s are addressed in this NPRM. The current Ag H.O.s, and the NIOSH Report recommendations addressing them, are as follows:

(1) *Operating a tractor of over 20 PTO horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor* (*see* 29 CFR 570.71(a)(1)). NIOSH recommends that the Department ''(1) Revise to remove the 20 PTO (power-take off) horsepower threshold; (2) Revise exemption for 14- and 15-year-olds with tractor certification to require tractors to be equipped with a rollover protective structure (ROPS) and mandate the use of seatbelts'' (*see* NIOSH Report, page xv).

(2) *Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines: corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, mobile pea viner, feed grinder, crop dryer, forage blower, auger conveyor, the unloading mechanism of a nongravity-type self-unloading wagon or trailer, power post-hole digger, power post driver, or nonwalking type rotary tiller* (*see* 29 CFR 570.71(a)(2)).

(3) *Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines: trencher or earthmoving equipment; fork lift; potato combine; power-driven circular, band, or chain saw* (*see* 29 CFR 570.71(a)(3)).

NIOSH recommends that the Department combine Ag H.O. 2 and Ag H.O. 3 and expand the prohibitions from a list of specific machines to a list of machines organized by function; *e.g.,* harvesting and threshing machinery; mowing machinery; plowing, planting and fertilizing machinery; excavating machinery; *etc.* (*see* NIOSH Report, page xv).

(4) *Working on a farm in a yard, pen, or stall occupied by a bull, boar, or stud horse maintained for breeding purposes; a sow with suckling pigs; or cow with newborn calf (with umbilical cord present)* (*see* 29 CFR 570.71(a)(4)). NIOSH recommends that the Department retain this Ag H.O (*see* NIOSH Report, page xv).

(5) *Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than 6 inches* (*see* 29 CFR 570.71(a)(5)). NIOSH recommends that the Department remove the 6-inch diameter threshold (*see* NIOSH Report, page xv).

(6) *Working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, etc.) at a height of over 20 feet* (*see* 29 CFR 570.71(a)(6)) NIOSH recommends that the Department (1) expand the Ag H.O. to include work on roofs, on farm structures including silos, grain bins, windmills, and towers; and, on vehicles, machines and implements; and (2) reduce the maximum height at which youth may work in these settings from 20 feet to 6 feet (*see* NIOSH Report, page xvi).

(7) *Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper* (*see* 29 CFR 570.71(a)(7)). NIOSH recommends that the Department (1) expand the Ag H.O. to prohibit driving of all motor vehicles and off-road vehicles (including all-terrain vehicles), with or without passengers, on or off the highway; (2) expand the Ag H.O. to prohibit work as an outside helper on a motor vehicle; and (3) retain the provision prohibiting riding on a tractor as a passenger or helper, but move it under the revised Ag. H.O. 1 (*see* NIOSH Report, page xvi).

(8) *Working inside a fruit, forage, or grain storage designed to retain an oxygen deficient or toxic atmosphere; an upright silo within 2 weeks after silage has been added or when a top unloading device is in operating position; a manure pit; or a horizontal silo while operating a tractor for packing purposes* (*see* 29 CFR 570.71(a)(8)). NIOSH recommends that the Department expand the Ag H.O. to prohibit *all* (emphasis in the original) work inside a fruit, forage, or grain storage, such as a silo or bin; and *all* work in a manure pit (*see* NIOSH Report, page xvi).

(9) *Handling or applying (including cleaning or decontaminating equipment, disposal or return of empty containers, or serving as a flagman for aircraft applying) agricultural chemicals classified under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) as Category I of toxicity, identified by the word ''poison'' and the ''skull and crossbones'' on the label; or Category II of toxicity, identified by the word ''warning'' on the label* (*see* 29 CFR 570.71(a)(9)). NIOSH recommends that the Department revise this Ag H.O. to be consistent with the Environmental Protection Agency (EPA) Worker Protection Standard for pesticides, encompassing prohibitions against pesticides with chronic health effects as well as pesticides with recognized acute toxicity (*see* NIOSH Report, page xvi).

(10) *Handling or using a blasting agent, including but not limited to, dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord* (*see* 29 CFR 570.71(a)(10)). NIOSH recommends that the Department retain this Ag H.O. (*see* NIOSH Report, page xvi).

(11) *Transporting, transferring, or applying anhydrous ammonia* (*see* 29 CFR 570.71(a)(11)). NIOSH recommends that the Department retain this Ag H.O. (*see* NIOSH Report, page xvii).

As discussed in the preamble of this NPRM, the Department proposes to accept all of the NIOSH Ag H.O. recommendations and they, along with input from other stakeholders and the Department's own enforcement experiences, serve as the impetus for the revisions being proposed by this NPRM.

The Department considers the issuance of this proposed rule an important and necessary step to reduce occupational injuries and deaths of young workers. This proposal, which,

under the Secretary's FLSA charges must be restrictive in nature, still strives to balance the potential benefits of transitional, staged employment opportunities for youth with the necessary protections for their education, health and safety.

This proposed rule is necessary for many reasons. Many studies have noted that young workers are not ''little adults'' but human beings at their own unique stage of development. It is well established that several characteristics of youth place adolescent workers at increased risk of injury and death. Lack of experience in the workplace and in assessing risks, and developmental factors—physical, cognitive, and psychological—all contribute to the higher rates of occupational injuries and deaths experienced by young workers. Many of the physical and cognitive limitations of young workers cannot be overcome by training or supervision. *See, i.e.,* Sudhinaraset M, Blum R, [2010]. The Unique Developmental Considerations of Youth-Related Work Injuries, International Journal of Environmental Health; 16–216–22. *See also* NIOSH Alert *Preventing Deaths, Injuries, and Illnesses of Young Workers* available at *http://www.cdc.gov/niosh/docs/2003-128/2003128.htm;* NIOSH Report, page 6); Casey B, Getz S, Galvan A, [2007]. The Adolescent Brain, available online at *http://www.sciencedirect.com.* These injury and death risks associated with employment are heightened when the youth are working in agriculture because the work itself is more dangerous and the ages of permissible employment are lower than in nonagricultural employment (*see, i.e.,* Occupational Injuries and Deaths Among Young Workers—United States, 1998–2007, Journal of the American Medical Association, 304(1), 33–35 (2010); *see also,* Hard D, Myers J, [2006]. Fatal Work-Related Injuries in the Agriculture Production Sector Among Youth in the United States, 1992–2002. Journal of Agromedicine, Vol. 11(2), available at *http://ja.haworthpress.com;* BLS Report on the Youth Labor Force [2000], p. 60 available at *http://www.bls.gov/opub/rylf/rylfhome.htm*). The Census of Fatal Occupational Injuries, 2009, reported a fatality rate of 26 per 100,000 full time workers in agriculture, fishing, and hunting, well above the figure for other industries. The risks are heightened when considering that there is no minimum age established for employment on small farms not subject to the minimum wage requirements of the Fair Labor Standards Act (*see* 29 U.S.C. 213 (c)(1)).

Because youth often overcome the effects of those characteristics that initially place them at increased risk of injury and death in the workplace only through the maturation process, the Department has long believed that requiring older workers to perform those tasks that present greater risks to younger workers actually eliminates injuries and deaths—rather than delaying them or transferring them to the older workers. (*see* Sudhinaraset M, Blum R, [2010]. The Unique Development Considerations of Youth-Related Work Injuries, International Journal of Occupational Environmental Health; 16:216–222).

Research has shown that the prefrontal cortex is the last part of the adolescent brain to fully mature and that the process is not completed until the early twenties or beyond. With that maturation, the executive functioning of youth is fine-tuned, improving their ability to understanding future risks and impulsive actions. At maturation, ''young workers are able to better assess and react to risks'' (*Id.*). For example, the states' wide adoption of graduated driver licensing, which has been an important process for reducing automobile crashes among the youngest drivers, is designed to compensate for the lack of judgment of youth and the fact that judgment only comes with maturity (*see* Insurance Institute for Highway Safety *Licensing Systems for Young Drivers* available at *http://www.iihs.org/laws/graduatedlicenseIntro.aspx. See also* Thompson R, [2010]. What's Really Hurting Our Kids? The School Nurse Role in Preventing Teen Vehicle Fatalities, National Association of School Nurses *School Nurse,* 25; 183).

Adoption of this proposed rule is essential to reducing occupational injuries to young workers, especially those employed in agriculture. As noted earlier, the agricultural industry is broad in terms of occupational categories; the work is often seasonal, meaning that farm workers perform a wide variety of tasks depending on the production cycle. This wide diversity of tasks does not allow specialization among workers and creates special challenges when training and developing a safe agricultural workforce.

The number of farm workers affected by this proposal is quite small—there are only approximately 56,000 hired farm workers under the age of 16, as discussed earlier in this preamble. However, the fatality rate for youth aged 15 to 17 between 1992 and 2000 who performed work on farms was four times higher than the risk experienced by their peers in other industries (*see* NIOSH Alert *Preventing Deaths, Injuries, and Illnesses of Young Workers* available at *http://www.cdc.gov/niosh/docs/2003-128/2003-128.htm*).

The Government Accountability Office noted that during the 1990s, while only about four percent of all working youth were employed in the agricultural and forestry sector, they experienced over 40 percent of all workplace youth fatalities. GAO Report 98–193, Child Labor in Agriculture, August 1998, pp. 22–23.

Eliminating injuries and deaths, especially those involving youth, obviously result in considerable benefits in terms of reduced human pain and suffering and increased economic cost savings. As noted earlier, approximately one-third of all deaths to young agricultural workers can be attributed to tractors, and in about one-half of the cases, the tractor overturned on the youth. Helen Murphy, writing in 2007 as the outreach and education director at the University of Washington Pacific Northwest Agricultural Health and Safety Center, noted that annually, more than 100 children—who live on, work on, and/or visit farms—are killed on U.S. farms, with tractors being responsible for 41 percent of the accidental farm deaths of children under 15 years of age (*see* Tractor Safety Advice Saves Lives available at *http://depts.washington.edu/trsafety/files/P1_Tractor_Advice_Murphy.pdf*). NIOSH reports that ''[r]ollover protective structures have been identified as the best means of preventing deaths from overturns.'' NIOSH (*see* Report, page 71) also reports that ''[a] study in Sweden, which has implemented regulations requiring ROPS on all tractors, has shown a 92% reduction in tractor rollover fatalities following the intervention. The United States has a tractor rollover lost-life rate 24 times higher than Sweden'' (internal citations omitted).

The Department's proposal, by prohibiting most youth under 16 years of age from operating tractors, and allowing only bona fide 14- and 15-year-old student-learners to operate such equipment under conditions that include the use of ROPS and seat belts, has the potential for reducing the number of deaths and injuries experienced by young hired farm workers. Timothy W. Kelsey, PhD, surveyed surviving family members of people killed between 1985 and 1987 in New York farm tractor rollovers and found the average expected income lost by each death was $243,615 (*see* Kelsey T, [1992]. The Cost of Farm Tractor Rollover Deaths in New York. *The Journal of Rural Health.* Volume 8, Issue

2, pages 143–146). Although the value of these lost wages pales next to the life of a young farm worker, preventing the accident preserves both the young life and the potential earnings.

Although it might appear that an employer would incur greater labor costs because of the requirement that for certain jobs it hire older workers, most youth occupy entry-level jobs and receive entry-level wages—at or close to the applicable state or Federal minimum wage. Hiring a 19-year-old rather than an 18-year-old for nonagricultural work, or a 16-year-old rather than a 15-year-old in agricultural employment, is unlikely to result in significantly increased labor costs. These labor inputs could be seen as easily substitutable, especially within the ''less than 16 years of age'' category. In addition, hiring a 16-year-old rather than a 15-year-old would allow an agricultural employer to comply with this proposed rule with almost no other change in behavior; such an employer would incur minimal or no additional costs, but such changes would have a potential positive impact in the reduction of occupational injuries and deaths to workers under the age of 16.

Implementing the Department's proposal to revise subpart G of the child labor regulations, *General Statements of Interpretation of the Child Labor Provisions of the Fair Labor Standards Act of 1938, as Amended,* to incorporate all the regulatory changes relevant to agricultural employment that were made since this subpart was revised in 1971—including those contained in this proposal—provides compliance guidance on the youth employment provisions detailed in earlier subparts of 570 and reflects practices in which employers are already engaged. As discussed elsewhere in this section, this revision would not impose any additional economic costs, as subpart G does not impose any independent obligations; it simply sets forth guidance on the requirements set forth in other subparts.

The creation of two new nonagricultural HOs in subpart E dealing with employment in farm-product raw materials wholesale trade industries and the use of electronic devices, including communication devices, while operating or assisting to operate power-driven equipment, along with the revision of several of the Ag H.O.s, in subpart F would (1) implement specific recommendations made by NIOSH or by those who commented on the NIOSH recommendations; (2) bring greater parity between the agricultural child labor provisions and the nonagricultural child labor provisions; and/or (3) implement improved protections as a result of Departmental enforcement experiences. These changes are expected to have little or no direct cost impact but produce benefits related to reduced injuries, deaths, and property damage.

For example, traffic crashes have long been the leading cause of death among youth 16 to 20 years of age, and persons in this age group have the highest fatality and injury rates due to traffic crashes of any age group (*see* NIOSH Report, page 23). The number of drivers aged 15–20 involved in fatal crashes in 2008, according to the Rocky Mountain Insurance Information Association, was 5,864. They accounted for 12% of all drivers involved in fatal crashes (*see* Teen Driving Statistics available at *http://www.rmiia.org/index.asp*). The National Highway Traffic Safety Administration (NHTSA) in its study *The Economic Burden of Traffic Crashes on Employers* (DOT Publication HS 809 682) reports that motor vehicle crash injuries on and off the job cost U.S. employers almost $60 billion annually in 1998–2000. The NHTSA data would include 14- and 15-year-old farm workers driving motor vehicles on farm roads and the prevention of a death of such a worker would reduce the overall costs. A white paper funded by OSHA notes that the average crash costs an employer $16,500—and when a worker has an on-the-job crash that results in an injury, the cost to his or her employer is $74,000. These costs, according to the white paper, can exceed $500,000 when a fatality is involved (*see* Guidelines for Employers to Reduce Motor Vehicle Crashes, available at *http://www.osha.gov/Publications/motor_vehicle_guide.pdf*). The National Safety Council has described these increased costs as including wage and productivity losses, medical expenses, administrative expenses, motor vehicle damage, and employers' uninsured costs (*see* National Safety Council, Arizona Chapter *Estimating the Costs of Unintentional Injuries* available at *http://www.acnsc.org/estimating-the-costs-of-unintentional-injuries.html*). Reductions in the number of teen driving injuries and fatalities attributable to the Department's proposal would result in considerable monetary savings and avoid the substantial emotional pain associated with such tragedies.

These proposals also include revising the first Ag H.O. relating to the operation of agricultural tractors by removing the 20 PTO tolerance, incorporating a prohibition from another Ag H.O. concerning riding on a tractor as a passenger, requiring that the youth hold a valid state driver's license when operating a tractor on a public road, and requiring that all tractors operated under the student-learning exemption associated with this Ag H.O. be equipped with proper rollover protection structures and seat belts. The costs associated with rollover protection structures and seat belts are expected to be outweighed by the savings associated with fatality and injury prevention. Most tractors manufactured and sold in the U.S. in the last twenty-five years have been equipped with these essential safety devices. Manufacturer-provided retrofit kits are available for many older tractors. One study reported that the cost of retrofitting older tractors for roll-over protection structures varied between $676 and $903 (2002 dollars),[2] including three hours of installation time and shipping costs (*see* Tevis C, Adding roll bars saves lives. *Successful Farming.* February 2002, Vol 100, No 2). Another study noted that, in 1993, the material cost of retrofitting rollover protection structures was estimated at $937 per tractor.[3] That same study reported an estimated retrofitting cost of $825,000 per life saved [4] (*see* Myers JR, Snyder KA, Roll-over Protective Structure Use and the Cost of Retrofitting Tractors in the United States, 1993.[5] *Journal of Agricultural Safety and Health.* 1(3):185–197, 1995). It is also important to reiterate that this proposal does not require any agricultural employers to retrofit any tractors with rollover protection structures and seat belts—such equipment only becomes mandatory on a tractor if the employer wishes to employ a hired farm worker under the age of 16 to operate or assist in the operation of that tractor. In addition, little or no costs in the form of increased wages would be incurred and full compliance would be achieved if the

[2] The costs in 2011 dollars would be $845 and $1,129. See *http://www.dol.gov/bls/data/inflation_calculator.htm.*

[3] The cost in 2011 dollars would be $1,458. See *http://www.dol.gov/bls/data/inflation_calculator.htm.*

[4] $1,284.065 in 2011 dollars. See *http://www.dol.gov/bls/data/inflation_calculator.htm.*

[5] Myers and Snyder report that the ROPS retrofitting cost per life saved for these specific tractors was estimated by: (1) Determining how many years would be required to reach the same level of ROPS protection, based on hours of use, if no retrofit program was conducted; (2) estimating the number of lives saved, assuming 100% effectiveness for the retrofit ROPS, over the number of years estimated in step 1; and (3) estimating the cost effectiveness of a ROPS-retrofit program by dividing the total cost of the retrofit program by the estimated number of lives saved by the retrofit program (Jacobs, 1991). It was assumed the cost of retrofitting would occur in a single payment and that all retrofitted tractors would remain in use for the entire time period.

employer chose to employ a 16-year-old worker to drive the tractor rather than a 14- or 15-year-old worker. The Department does not have any data on which to estimate the number of farmers who will choose to retrofit their tractors so they can continue to employ 14- and 15-year-olds as tractor operators. The NIOSH CAIS indicates that only 7,565 such youth operated a tractor in 2006 as part of their employment (this information is unpublished data from the NIOSH 2006 Childhood Agricultural Injury Survey provided by NIOSH and approved by the USDA National Agricultural Statistics Survey on February 26, 2009, available at *http://www.regulations.gov,* docket number WHD–2011–0001). The Department invites commenters to provide data regarding the number of farmers who employ such young workers; the percentage of them who own tractors that do not have ROPS and seat belts; and the percentage of such farmers who will retrofit their tractors.

The proposal would also combine the existing second and third Ag H.O.s into a single Order that prohibits operating, riding in or on, assisting to operate, repairing, or cleaning of all power-driven machinery. This new Order would also incorporate provisions of a current Ag H.O. which addresses the driving of motor vehicles when transporting passengers or working as a helper on such vehicles. The proposed new Ag H.O. would permit student-learners to operate and work with several named pieces of farm machinery, under the provisions of a written training agreement, after specified training has been successfully completed. The Department is not aware of data regarding the number of 14- and 15-year-olds hired to work on machinery that would be newly barred under this proposal. However, as noted above, the Department believes there would be little or no additional wage cost involved with instead hiring a 16-year-old to perform such work. Moreover, given that machinery is a leading cause of death among young farm workers, the Department believes that any costs would be outweighed by the savings resulting from reduced injuries and deaths.

The proposal would also strengthen the prohibitions concerning herding and working with or around certain animals, and remove the six inch butt-diameter tolerance currently associated with the felling, bucking, skidding, loading, or unloading of timber. The proposal would expand the Ag H.O. prohibiting work from scaffolds or ladders at heights in excess of twenty feet by prohibiting work on or about a roof, from a scaffold, or from farm structures and equipment at elevations greater than six feet. As an adjunct to the recommendations concerning working at heights, the proposal would also create a new Ag H.O. prohibiting the employment of youth in construction, communications, public utilities, excavation, and demolition—prohibitions long applicable to nonagricultural employment of youth under 16 years of age. The Department is not aware of any data on the number of youths under 16 years of age performing construction, demolition, or excavation performing work on scaffolds above 6 feet but less than 20 feet or working with timber of less than a six-inch diameter on which to estimate the cost of this proposed provision. However, the Department believes that providing youth employed in agriculture the same protections as youth employed in nonagriculture, to the extent permitted by law, will reduce occupational deaths and injuries and thereby reduce the financial and emotional costs associated with such tragedies.

The proposal would continue the prohibitions regarding working inside a manure pit and expand the prohibitions concerning work in a silo and fruit, forage, or grain storage facility. The proposal also strengthens the current Ag H.O. addressing working with pesticides by prohibiting young farm workers from performing any tasks that would be performed by a pesticide handler under the Environmental Protection Agency's pesticide Worker Protection Standard. The proposal also retains the Ag H.O.s that address the handling of explosive materials and the transporting, transferring, or applying of anhydrous ammonia. The Department is not aware of any data on the number of youths under 16 years of age performing work inside a manure pit or a silo, fruit, forage, or grain storage facility; performing tasks performed by pesticide handlers; handling explosive materials; or transporting, transferring, or applying anhydrous ammonia. However, the Department believes that providing youth employed in agriculture the same protections as youth employed in nonagriculture, to the extent permitted by law, will reduce occupational deaths and injuries and thereby reduce the financial and emotional costs associated with such tragedies. Moreover, as noted above, the Department believes that because employers may achieve compliance by assigning these tasks to 16-year-olds, any increased wage costs will be minimal.

The proposal brings the agricultural youth employment standards more in line with those applicable to nonagricultural employment by eliminating the two certification programs contained in § 570.72(b) and (c). Under the proposal, 14- and 15-year-old hired farm workers would still be able to perform work otherwise prohibited by some of the Ag H.O.s, but only when they are bona fide student-learners enrolled in a detailed and progressive course of study that provides them with important knowledge and safety information before the actual work is performed. The student-learner exemption, as retained in this proposal, continues to mimic the student-learner exemption applicable to 16- and 17-year-olds employed in nonagricultural occupations (*see* § 570.50(c)). The Department is not aware of any data on the number of youths under 16 years of age performing otherwise prohibited agriculture work under the auspices of the existing certification programs. However, the Department believes that providing youth employed in agriculture the same protections as youth employed in nonagriculture, to the extent permitted by law, will reduce occupational deaths and injuries and thereby reduce the financial and emotional costs associated with such tragedies. Nevertheless, the Department invites comments on the number of 14- and 15-year-old hired farm workers who qualify for exemption each year under current § 570.72(b) or (c), because they have completed the existing training programs, and on the number of such youth who are hired to perform duties that require that training.

The Department believes that implementation of the proposed rule would not reduce the overall number of safe, positive, and legal employment opportunities available to young workers. Although, as mentioned above, some employers would be required in most cases to replace younger workers with workers 16 years of age or older *to perform certain tasks* were the Department's proposals implemented, the impact would be minimal as relatively few minors are currently employed to perform these occupations and the wage differential between young hired farm workers and older hired farm workers is minimal. As noted in the preamble of this NPRM, the United States Department of Agriculture's (USDA) National Agricultural Statistics Service (NASS) reported that, in 2006, there were approximately 1.01 million hired farm workers, which made up a third of the three million people employed in agriculture in the United States (*see* USDA, *Profile of Hired Farmworkers, A 2008 Update,* Economic

Research Report Number 60). The USDA went on to report that approximately 15.1 percent of those workers, which equates to about 152,500 individuals, were between the ages of 15 and 21 years. Of this number, only a small portion—those under 16 years of age—would be subject to the Federal Ag H.O.s.

The National Agricultural Workers Survey (NAWS) has reported similar findings which apply only to crop production workers. In addition, NAWS notes that the number of young hired crop workers relative to all hired crop workers is declining. For the period of 1994 through 1997, NAWS reported that 8.62 percent of all hired crop workers were 14 to 17 years of age; that same cohort constituted 3.65 percent of all hired crop workers during the period of 2002 through 2005. Of this number, NAWS reported that only one-quarter were under the age of 16 (*see* NAWS Public Data available at *http://www.doleta.gov/agworker/naws.cfm*). Unpublished NAWS data reflect that for the period of 2006 through 2009, the percentage for the 14 to 17 cohort had fallen to just below three percent. Using an estimated 1.8 million hired crop workers, a figure provided by the NAWS, the data suggest that there were about 54,000 young workers aged 14 to 17 working in crop production during 2006–2009 and that 13,500 were under the age of 16 and, thus, subject to the Ag H.O.s, some of whom could qualify for the limited exemptions under existing § 570.72.

The National Institute for Occupational Health and Safety (NIOSH) Childhood Agriculture Injury Survey (CAIS) estimates that, in 2006, there were 14,395 youth under the age of 14 who were directly hired by a farm operator and, of that number, less than 1,800 were reported to have operated a tractor (this information is unpublished data from the NIOSH 2006 Childhood Agricultural Injury Survey provided by NIOSH and approved by the USDA National Agricultural Statistics Survey on February 26, 2009, available at *http://www.regulations.gov,* docket number WHD–2011–0001). This number is rather high considering that none of those youth under the current Federal agricultural child labor provisions could legally be employed to operate a tractor unless a parent owned or operated the farm. CAIS also estimates that in 2006, 41,476 youth 14 or 15 years of age were directly hired by a farm operator, and of that number, 7,565 were reported to have operated a tractor as part of their employment. This latter group could legally operate certain tractors only if employed in compliance with the provisions of existing § 570.72. Combining the above two estimates, the data would indicate that there were fewer than 56,000 hired farm workers under the age of 16 in 2006. NIOSH notes that the above estimates do not include contracted farm workers and that they are a head count of youth who did any farm work regardless of the length of employment. The estimates were reported by the farm operator at a single point in time, which could lead to some under-reporting.

The Department believes that these proposals will enhance the safety of working youth by prohibiting occupations that are particularly hazardous or detrimental to their health or well-being. Costs that might result from using older employees to perform the previously permitted tasks are likely to be offset by reduced health and productivity costs resulting from accidents and injuries to minors on the job. Ensuring that permissible job opportunities for working youth are safe and healthy as required by the statute produces many positive benefits in addition to fewer occupational injuries and deaths. These benefits include reduced health and productivity costs that employers may otherwise incur because of higher accident and injury rates to young and inexperienced workers.

The increases in the maximum child labor civil money penalties that may be assessed for violations that cause the death or serious injury of a minor that were implemented by GINA have not had a significant impact on the total amount of child labor civil money penalties that the Department has assessed. Fortunately, investigations that involve a death or serious injury of a minor that could fall under the provisions of GINA have traditionally represented less than three percent of all child labor investigations. The amounts of child labor civil money penalties assessed by the Department have remained fairly constant for the year prior to the enactment of GINA ($4.4 million in 2007), the year GINA was enacted ($4.2 million in 2008), and the year after the enactment of GINA ($4.2 million in 2009). In addition, as employers are expected to attain and maintain constant compliance with all applicable provisions of the FLSA, including its child labor provisions, the amount of civil money penalties assessed for violations of the FLSA is not considered as an incremental cost under this Order. The Department has similarly concluded that this proposed rule is not a ''major rule'' requiring approval by the Congress under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*). It would not likely result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule is not expected to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act and the Department has certified to this effect to the Chief Counsel for Advocacy of the U.S. Small Business Administration. Therefore, no Regulatory Flexibility Analysis is required. The factual basis for such a certification is that even though this rule can and does affect small entities, there are not a substantial number of small entities that will be affected, nor, as discussed below, is there a significant economic impact upon those entities that are affected.

As previously discussed, NIOSH's CAIS estimates that in 2006, 41,476 youth 14 or 15 years of age were directly hired by a farm operator, and of that number, 7,565 were reported to have operated a tractor as part of their employment. It is for these youth—and for only these youth—that this proposal would require a farmer to retrofit a tractor with ROPS and a seat belt should the farmer wish to have a 14- or 15-year-old student-learner operate the tractor. This proposal does not require tractor retrofits for a farmer to employ his or her own child on a farm owned or operated by that farmer, because of the statutory parental exemption. Nor would a tractor retrofit as proposed in this NPRM change the Department's longstanding prohibition that no hired farm worker under the age of 14 may operate a tractor under any conditions.

Of the total 2,204,792 farms in the United States,[6] only 5 percent have sales equal to or greater than $500,000 per year. Some of these farms will fall within SBA's definition of small entities, which is $750,000 for the Agriculture, Fishing and Forestry industry. Even if each youth under the age of 16 were employed by a different farm meeting the SBA definition of small entities, only 7,565 small farms (less than ½ of 1 per cent) would be impacted by the tractor provision of this

[6] 2007 U.S. Census of Agriculture—United States Data.

rule because, as NIOSH identified, that was the number of hired 14- and 15-year-old farm workers who drove tractors. Were the Department to assume that *all* 56,000 hired farm workers under the age of 16 were (1) employed by a different small farm entity, and (2) affected by any provision of this proposed rule, approximately only 2.5 percent of all small farm entities would be impacted. Therefore, this proposal does not affect a substantial number of small entities.

The costs associated with retrofitting all the tractors discussed above, even assuming all 7,565 young operators were to drive tractors none of which were equipped with proper ROPS and a seat belt, would not be significant. One study reported that the cost of retrofitting older tractors with ROPS varied between $676 and $903 (2002 dollars), including three hours of installation time and shipping costs (*see* Tevis C, Adding roll bars saves lives. *Successful Farming.* February 2002, Vol 100, No 2). Another study noted that, in 1993, the material cost of retrofitting rollover protection structures was estimated at $937 per tractor. That same study reported an estimated retrofitting cost of $825,000 per life saved (*see* Myers JR, Snyder KA, Roll-over Protective Structure Use and the Cost of Retrofitting Tractors in the United States, 1993. *Journal of Agricultural Safety and Health.* 1(3):185–197, 1995). If all 7,565 14- and 15-year-old hired farm workers identified by NIOSH as having driven tractors drove a different tractor, and none of those tractors already were equipped with proper ROPS and a seat belt, the cost of retrofitting all of those tractors using the maximum estimate of $937 per tractor provided by Myers and Snyder would be less than $7,100,000. Furthermore, for those small farms that employ workers under the age of 16, the cost of compliance with this portion of the proposal can be completely avoided by ensuring no hired farm worker under the age of 16 operates any tractor, although there may be minimal additional wages paid to the 16-year-old youths.

Finally, the proposal would prohibit young farm workers from employment in the production and curing of tobacco. NIOSH calculated the average cost to the work for treatment of GTS in Kentucky in 1993 to be $250 for out-patient treatment, $566 for hospital admission, and $2,041 for intensive care treatment (*see* NIOSH Update, July 8, 1993 available at *http://www.cdc.gov/niosh/updates/93-115.html*). NIOSH notes that these costs can impose an enormous burden on farm families because in many states agricultural workers are not covered by worker's compensation and some tobacco harvesters have no form of health insurance (*Id.*). NIOSH also emphasized that when a worker gets sick during the busy tobacco harvest season, the employer suffers losses because taking the sick worker to medical care ties up another worker and a vehicle; thus harvesting is slowed down by the loss of one or more workers (*Id.*). The Department believes that the proposal may reduce this lost work time because children may be more susceptible to green tobacco sickness in light of their small body size.

IX. Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, this proposed rule does not include any Federal mandate that may result in excess of $100 million in expenditures by state, local and Tribal governments in the aggregate or by the private sector.

X. Executive Order 13132 (Federalism)

The proposed rule does not have federalism implications as outlined in E.O. 13132 regarding federalism. Although states are covered employers under the FLSA, the proposed rule does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

XI. Executive Order 13175, Indian Tribal Governments

This proposed rule was reviewed under the terms of E.O. 13175 and determined not to have ''Tribal implications.'' The proposed rule does not 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.'' As a result, no Tribal summary impact statement has been prepared.

XII. Effects on Families

The undersigned hereby certify that this proposed rule will not adversely affect the well-being of families, as discussed under section 654 of the Treasury and General Government Appropriations Act, 1999.

XIII. Executive Order 13045, Protection of Children

E.O. 13045, dated April 21, 1997 (62 FR 19885), applies to any rule that (1) is determined to be ''economically significant'' as defined in E.O. 12866, and (2) concerns an environmental health or safety risk that the promulgating agency has reason to believe may have a disproportionate effect on children. This proposal is not subject to E.O. 13045 because it is not economically significant as defined in E.O. 12866.

XIV. Environmental Impact Assessment

A review of this proposal in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.;* the regulations of the Council on Environmental Quality, 40 CFR 1500 *et seq.;* and the Departmental NEPA procedures, 29 CFR part 11, indicates that the proposed rule will not have a significant impact on the quality of the human environment. There is, thus, no corresponding environmental assessment or an environmental impact statement.

XV. Executive Order 13211, Energy Supply

This proposed rule is not subject to E.O. 13211. It will not have a significant adverse effect on the supply, distribution or use of energy.

XVI. Executive Order 12630, Constitutionally Protected Property Rights

This proposal is not subject to E.O. 12630, because it does not involve implementation of a policy ''that has takings implications'' or that could impose limitations on private property use.

XVII. Executive Order 12988, Civil Justice Reform Analysis

This proposed rule was drafted and reviewed in accordance with E.O. 12988 and will not unduly burden the Federal court system. The proposed rule was: (1) Reviewed to eliminate drafting errors and ambiguities; (2) written to minimize litigation; and (3) written to provide a clear legal standard for affected conduct and to promote burden reduction.

List of Subjects

29 CFR Part 570

Child labor, Child labor occupations, Employment, Government, Incorporation by reference, Intergovernmental relations, Investigations, Labor, Law enforcement, Minimum age.

29 CFR Part 579

Child labor, Law enforcement, Penalties.

Signed at Washington, DC, this 22nd day of August, 2011.

Nancy J. Leppink,

Deputy Administrator, Wage and Hour Division.

For the reasons set out in the preamble, the DOL proposes to amend Title 29, parts 570 and 579 of the Code of Federal Regulations as follows:

PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

1. The authority citation for part 570, subpart A, continues to read as follows:

Authority: Secs. 3, 11, 12, 52 Stat. 1060, as amended, 1066 as amended, 1067, as amended; 29 U.S.C. 203, 211, 212.

2. Amend § 570.2 by revising paragraph (b) to read as follows:

§ 570.2 Minimum age standards.

* * * * *

(b) *Occupations in agriculture.* The Act sets a 16-year minimum age for employment in agriculture during school hours for the school district in which the employed minor is living at the time, unless the parental exemption in section 3(l) of the Act applies. The Act also sets a 16-year minimum age for employment in any occupation in agriculture that the Secretary of Labor finds and declares to be particularly hazardous except where such employee is employed by his parent or by a person standing in the place of his parent on a farm owned or operated by such parent or person (see Subpart F of this part). There is a minimum age requirement of 14 years generally for employment in agriculture outside school hours for the school district where such employee is living while so employed. However—

(1) A minor 12 or 13 years of age may be so employed with written consent of his parent or person standing in place of his parent, or may work on a farm where such parent or person is also employed; and

(2) A minor under 12 years of age may be employed by his parent or by a person standing in place of his parent on a farm owned or operated by such parent or person, or may be employed with the written consent of such parent or person on a farm where all employees are exempt from the minimum wage provisions by virtue of section 13(a)(6)(A) of the Act.

3. The authority citation for part 570, subpart E, continues to read as follows:

Authority: 29 U.S.C. 203(l), 212, 213(c).

4. Add § 570.69 to subpart E to read as follows:

§ 570.69 Occupations in farm-product raw materials wholesale trade industries (Order 18).

(a) *Finding and declaration of fact.* All occupations in farm-product raw materials wholesale trade industries are particularly hazardous for the employment of minors between 16 and 18 years of age and detrimental to their health and well-being.

(b) *Definition.* The term *all occupations in farm-product raw materials wholesale trade industries* would include all work performed in conjunction with the storing, marketing, and transporting of farm-product raw materials listed in Standard Industrial Codes 5153, 5154, and 5159. The term would include, but not be limited to, occupations performed at such establishments as country grain elevators, grain elevators, grain bins, silos, feed lots, feed yards, stockyards, livestock exchanges, and livestock auctions. The term would not include work performed in packing sheds where employees clean, sort, weigh, package and ship fruits and vegetables for farmers, sales work that does not involve handling or coming in contact with farm-product raw materials, or work performed solely within offices.

5. The authority citation for part 570, subpart E–1, is revised to read as follows:

Authority: 29 U.S.C. 212, 213, 218.

Subpart E–1—[Redesignated as Subpart F]

6. Redesignate subpart E–1, consisting of §§ 570.70 through 570.72, as subpart F.

§§ 570.70 through 570.72 [Redesignated as §§ 570.97 through 570.99]

7. Redesignate §§ 570.70 through 570.72 as §§ 570.97 through 570.99 in newly redesignated subpart F.

8. Add new § 570.70 to subpart E to read as follows:

§ 570.70 The use of electronic devices, including communication devices, while operating power-driven equipment (Order 19).

(a) *Findings and declaration of fact.* The use of electronic devices, including communication devices, while operating or assisting to operate power-driven equipment is particularly hazardous for the employment of minors between 16 and 18 years of age and detrimental to their health and well-being.

(b) *Definitions.*

Operating power-driven equipment includes such duties as supervising or controlling the operation of such machines; setting up, adjusting, repairing, oiling, or cleaning the machine; starting and stopping the machine; placing materials into or removing them from the machine; or any other functions directly involved with the operation of the machine. In the case of power-driven equipment used for the moving or transporting of people, goods, or materials, it does not matter if the equipment is operated on public or private property. *Operating power-driven equipment* does not include periods of time when the machine is not being powered (is turned off), and in the case of a motor vehicle, is legally parked.

Power-driven equipment includes any equipment operated by a power source other than human power, that is designed for:

(1) The movement or transportation of people, goods, or materials;

(2) The cutting, shaping, forming, surfacing, nailing, stapling, stitching, fastening, punching, or otherwise assembling, pressing, or printing of materials; or

(3) Excavation or demolition operations.

Use of electronic devices, including communication devices, would include, but not be limited to, such things as talking, listening, or participating in a conversation electronically; using or accessing the Internet; sending or receiving messages or updates such as text messages, electronic mail messages, instant messages, ''*chats,*'' ''status updates,'' or ''*tweets*''; playing electronic games; entering data into a navigational device or global positioning system (GPS); performing any administrative functions; or using any applications offered by the communication devices. *Use of electronic devices, including communication devices,* does not include listening to music or other recorded information on a one-way, non-interactive device such as a radio or iPod™ as long as the device is being operated ''hands free'' without headphones or earbuds. *Use of electronic devices, including communication devices,* does not include glancing at or listening to a navigational device or GPS that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device or GPS either before driving or when the vehicle is legally parked. In addition, the term does not prohibit the use of a cell phone or other device to call 911 in emergencies.

§§ 570.71 through 570.96 [Reserved]

9. Add reserved §§ 570.71 through 570.96 to newly redesignated subpart F.

10. Revise newly redesignated §§ 570.97 through 570.99 to read as follows:

§ 570.97 Purpose and scope.

(a) *Purpose.* Section 13(c)(2) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 213(c)(2)), states that the provisions of section 12 of the Act relating to child labor shall apply to an employee below the age of 16 employed in agriculture in an occupation that the Secretary of Labor finds and declares to be particularly hazardous for the employment of children below the age of 16, except where such employee is employed by his parent or by a person standing in the place of his parent on a farm owned or operated by such parent or person. The purpose of this subpart is to apply this statutory provision.

(b) *Parental Exception.* This subpart shall not apply to the employment of a child below the age of 16 by his parent or by a person standing in the place of his parent on a farm owned or operated by such parent or person.

(c) *Statutory definitions.* As used in this subpart, the terms *agriculture, employ,* and *employer* have the same meanings as the identical terms contained in section 3 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 203), which are as follows:

Agriculture includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 1141j(f) of [U.S.C.] Title 12), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

Employ includes to suffer or permit to work.

Employer includes any person acting directly or indirectly in the interest of an employer in relation to an employee and includes a public agency, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization.

§ 570.98 General.

(a) *Higher Standards.* Nothing in this subpart shall authorize non-compliance with any Federal or state law, regulation, or municipal ordinance establishing a higher, more protective standard. If more than one standard within this subpart applies to a single activity, the higher standard shall be applicable.

(b) *Student-learners.* Some sections in this subpart contain an exemption for the employment of 14- and 15-year-olds as vocational agricultural student-learners. Such an exemption shall apply only when each of the following requirements is met:

(1) The student-learner is enrolled in an ongoing vocational education training program in agriculture operated by a state or local educational authority, or in a substantially similar program conducted by a private school;

(2) Such student-learner has satisfactorily completed the equivalent of at least 90 hours of systematic school instruction in agricultural education at or above the eighth grade level;

(3) Such student-learner is employed under, and in accordance with, a written agreement which provides:

(i) That the work of the student-learner in the occupations declared particularly hazardous is incidental to his training;

(ii) That such work shall be intermittent, for short periods of time, and under the direct and close supervision of a qualified and experienced adult who is at least 18 years of age;

(iii) That the student-learner has completed at least 90 hours of systematic school instruction in agricultural education at or above the eighth grade level;

(iv) That safety instruction shall be given by the school and correlated by the employer with on-the-job training; and

(v) That a schedule of organized and progressive work processes to be performed on the job have been prepared.

(4) Such written agreement contains the name of the student-learner, and is signed by the employer, the parent or guardian of the student-learner, and by a person authorized to represent the educational authority or school; and

(5) Copies of each such signed agreement shall be kept on file by both the educational authority or school and by the employer before the student-learner may be employed to perform work that would otherwise be prohibited under this subpart.

§ 570.99 Hazardous occupations involved in agriculture.

(a) *Findings and declarations of fact as to specific occupations in agriculture.* The occupations in agriculture listed in paragraph (b) of this section are particularly hazardous for the employment of children below the age of 16.

(b) *The agricultural hazardous occupations orders.* (1) *Occupations involving the operation of agricultural tractors (Ag H.O. 1).* Operating and assisting in the operation of an agricultural tractor.

(i) *Definitions:*

Agricultural tractor shall mean a wheeled or track vehicle which is designed to furnish the power to pull, carry, propel, or drive implements that are designed for agriculture. The term would include all such equipment, regardless of the date it was manufactured or the amount of engine horsepower. The term shall include low profile tractors. The term shall not include self-propelled implements, nor shall it include garden-type tractors, lawn tractors, or riding mowers designed primarily for lawn mowing and lawn maintenance—all of which are subject to the provisions of paragraph (b)(2) of this section.

Low profile tractor means

(*1*) A wheeled tractor that possesses the following characteristics:

(*i*) The front wheel spacing is equal to the rear wheel spacing, as measured from the centerline of each right wheel to the centerline of the corresponding left wheel;

(*ii*) The clearance from the bottom of the tractor chassis to the ground does not exceed 18 inches;

(*iii*) The highest point of the hood does not exceed 60 inches; and

(*iv*) The tractor is designed so that the operator straddles the transmission when seated.

(*2*) The term shall not include self-propelled implements, nor shall it include garden-type tractors, lawn tractors, or riding mowers designed primarily for lawn mowing and lawn maintenance—all of which are subject to the provisions of paragraph (b)(2) of this section.

Operating includes the tending, setting up, adjusting, moving, cleaning, oiling, or repairing of the tractor; riding on an agricultural tractor as a passenger or helper; or connecting or disconnecting an implement or any of its parts to or from such a tractor. *Operating* also includes starting, stopping, or any other activity involving physical contact associated with the operation or maintenance of the tractor.

Public road or highway shall mean a road or way established and adopted (or accepted as a dedication) by the proper authorities for the use of the general public, and over which every person has a right to pass and to use for all purposes of travel or transportation to which it is adapted and devoted. It does not matter whether the road or highway has been constructed at public or private expense.

Use of electronic devices, including communication devices, would include, but not be limited to, such things as talking, listening, or participating in a conversation electronically; using or accessing the Internet; sending or receiving messages or updates such as text messages, electronic mail messages, instant messages, ''chats,'' ''status updates,'' or ''tweets''; playing electronic games; entering data into a navigational device or global positioning system (GPS); performing any administrative functions; or using any applications offered by the communication devices. *Use of electronic devices, including communication devices,* does not include listening to music or other recorded information on a one-way, non-interactive device such as a radio or iPod™ as long as the device is being operated ''hands free'' without headphones or earbuds. *Use of electronic devices, including communication devices,* does not include glancing at or listening to a navigational device or GPS that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device or GPS either before driving or when the vehicle is safely at a complete stop and incapable of moving—such as when the transmission is in ''park'' or when the transmission is in ''neutral'' and the hand brake is set—so that the minor can safely direct his or her attention away from the safe operation of the tractor. The term also does not include glancing at or listening to other similar electronic devices on the tractor, such as moisture monitors or chemical applicator computers, provided that they are programmed either before driving or when the vehicle is safely at a complete stop and incapable of moving. In addition, the term *use of electronic devices, including communication devices,* does not prohibit the use of a cell phone or other device to call 911 in emergencies.

(ii) *Exemption.* A student-learner employed in accordance with the provisions of § 570.98(b) may operate and assist in the operation of an agricultural tractor, including the connecting and disconnecting of an implement or any of its parts to or from the tractor, when all of the following conditions are met:

(A) The tractor is equipped with both a roll-over protection structure and a seat belt, and the tractor operation, the roll-over protection structure, and the seat belt meet all the requirements of the U.S. Department of Labor's Occupational Safety and Health Administration's standard at § 1928.51 of this title established for roll-over protection structures for tractors used in agricultural operations;

(B) When implements are being used, both the operation of the implements and the implements themselves must meet the requirements of the U.S. Department of Labor's Occupational Safety and Health Administration's standard at § 1928.57 of this title established to prevent hazards associated with moving machinery parts of farm field equipment, farmstead equipment, and cotton gins used in any agricultural operation;

(C) The employer must have instructed the student-learner in the use of the seat belt and the student-learner must actually use the seat belt while operating the tractor;

(D) The student-learner must have successfully completed his or her school's classroom-portion of the educational unit on the safe operation of agricultural tractors, and if he or she is connecting, operating, and/or disconnecting an implement to the tractor, the student-learner must have also successfully completed his or her school's classroom-portion of the educational unit addressing the safe operation of the particular implement being connected, operated, or disconnected by the student-learner;

(E) The employer must instruct the employee that the use of electronic devices, including communication devices, while operating the tractor or implement is prohibited and the minor in fact does not use any electronic device while operating the tractor or implement.

(F) If the student-learner operates the tractor on a public road or highway, he or she must hold a state motor vehicle license valid for the class of vehicle being operated;

(G) The student-learner must not operate a tractor upon which a passenger or helper is riding, other than a single passenger over the age of 18 years who is engaged in training the student-learner in the safe operation of the tractor. Such passenger must be seated in an approved passenger seat that is fitted with a seat belt that meets the requirements of the U.S. Department of Labor's Occupational Safety and Health Administration's (OSHA) standard at 29 CFR 1928.51 established for roll-over protection structures for tractors used in agricultural operations, and the seat belt must be used. The student-learner may not ride on any tractor as a passenger or helper, even if the tractor is equipped with a seat for a passenger.

(2) *Occupations involving the operation of power-driven equipment, other than agricultural tractors (Ag H.O. 2).* Operating and assisting in the operation of power-driven equipment.

(i) *Definitions.*

Farm field equipment means implements, including self-propelled implements, or any combination thereof used in agricultural operations. The term does not include agricultural tractors as defined in paragraph (b)(1)(i) of this section.

Farmstead equipment means agricultural equipment normally used in a stationary manner. This includes, but is not limited to, materials handling equipment and accessories for such equipment whether or not the equipment is an integral part of a building.

Garden and lawn tractors shall mean small, light and simple tractors designed for use in home gardens or on lawns. Such equipment is usually designed primarily for cutting grass, being fitted with horizontal rotary cutting decks.

Implements shall include, but not be limited to, power-driven equipment and tools used in agricultural occupations such as farm field equipment and farmstead equipment as defined in this section.

Operating includes the tending, setting up, adjusting, moving, cleaning, oiling, repairing, feeding or offloading (whether directly or by conveyor) of the equipment; riding on the equipment as a passenger or helper; or connecting or disconnecting an implement or any of its parts to or from such equipment. *Operating* also includes starting, stopping, or any other activity involving physical contact associated with the operation or maintenance of the equipment.

Power-driven equipment includes all machines, equipment, implements, vehicles, and/or devices operated by any power source other than human hand or foot power, except for office machines and agricultural tractors as defined in paragraph (b)(1)(i) of this section. The term includes lawn and garden type tractors, and lawn mowers that are used for yard mowing and maintenance.

Use of electronic devices, including communication devices, would include,

but not be limited to, such things as talking, listening, or participating in a conversation electronically; using or accessing the Internet; sending or receiving messages or updates such as text messages, electronic mail messages, instant messages, ''*chats,*'' ''status updates,'' or ''*tweets*''; playing electronic games; entering data into a navigational device or global positioning system (GPS); performing any administrative functions; or using any applications offered by the communication devices. *Use of electronic devices, including communication devices,* does not include listening to music or other recorded information on a one-way, non-interactive device such as a radio or iPod™ as long as the device is being operated ''hands free'' without headphones or earbuds. *Use of electronic devices, including communication devices,* does not include glancing at or listening to a navigational device or GPS that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device or GPS either before driving or when the vehicle and/or implement is safely at a complete stop and incapable of moving—such as when the transmission is in ''park'' or when the transmission is in ''neutral'' and the hand brake is set—so that the minor can safely direct his or her attention away from the safe operation of the tractor and/or implement. The term also does not include glancing at or listening to other similar electronic devices on the implement, such as moisture monitors or chemical applicator computers, provided that they are programmed either before driving or when the vehicle is safely at a complete stop and incapable of moving. In addition, the term does not prohibit the use of a cell phone or other device to call 911 in emergencies.

(ii) *Exemption.* (A) A student-learner employed in accordance with the provisions of § 570.98(b) may operate and assist in the operation of the power-driven machinery named in paragraphs (b)(2)(ii)(A)(1) through (7) of this section if he or she has successfully completed his or her school's classroom-portion of the educational unit on the safe operation of the specific piece of power-driven machinery he or she is operating or assisting to operate. If the minor is operating the machinery on a public road or highway as defined in paragraph (b)(1)(i) of this section, he or she must hold a state motor vehicle license valid for the type of machine being operated. The employer must instruct the student-learner that the use of electronic devices, including communication devices, while operating or assisting in the operation of the power-driven machinery is prohibited and the student-learner in fact does not use any wireless communication device while operating or assisting in the operation of the power-driven machinery. The equipment must meet and be operated in accordance with the requirements of the U.S. Department of Labor's Occupational Safety and Health Administration's standard at § 1928.57 of this title if it is a type of equipment addressed by the standard. If the equipment is being powered or pulled by a tractor, the student-learner must also be employed in accordance with the provisions of paragraph (b)(1)(ii) of this section. The student-learner may ride as an extra passenger in or on the equipment named in paragraphs (b)(2)(ii)(A)(1) through (7) of this section only if the vehicle, machinery, or implement is equipped with an approved passenger seat that includes a seat belt or appropriate similar restraint that comports with the U.S. Department of Labor's Occupational Safety and Health Administration's standard at § 1928.51(b)(2) of this title and the minor actually uses the seat belt or similar restraint, but not when the vehicle, machinery, or implement is being operated by someone under the age of 16 years or on a public road or highway as defined in paragraph (b)(1)(i) of this section.

(*1*) Harvesting and threshing machinery, including balers, grain combines, and reapers, but not including potato combines;

(*2*) Plowing machinery;

(*3*) Planting machinery;

(*4*) Spreading machinery;

(*5*) Mowing and swathing machinery;

(*6*) Power post-hole digger and power post driver machinery; and

(*7*) Nonwalking type rotary tillers.

(B) Student-learners may not operate, as defined in paragraph (b)(2)(i) of this section, the following power-driven equipment under any circumstances:

(*1*) Automobiles, buses, or trucks, including serving as an outside helper on such motor vehicles;

(*2*) All terrain vehicles, scooters, or motorcycles;

(*3*) Trenching or earthmoving equipment, including backhoes and bulldozers;

(*4*) Loaders, including skid steer loaders, front end loaders, and Bobcats;

(*5*) Milking equipment;

(*6*) Potato combines;

(*7*) Hoisting equipment, including cranes, derricks, highlift trucks, fork lifts, hoists, and manlifts as defined in § 570.58;

(*8*) Woodworking machines as defined in § 570.55;

(*9*) Feed grinders;

(*10*) Circular, reciprocating, band, or chain saws as defined in § 570.65;

(*11*) Wood chippers as defined in § 570.65;

(*12*) Abrasive cutting discs as defined in § 570.65;

(*13*) Metal forming, punching, or shearing machines as defined in § 570.59;

(*14*) Welding equipment;

(*15*) Augers, auger conveyors, or conveyors;

(*16*) Irrigation equipment;

(*17*) Rotary tillers, walking type;

(*18*) Crop dryers; and

(*19*) The unloading mechanism of a nongravity-type self-unloading wagon or trailer.

(C) Notwithstanding the definition of *operating* in paragraph (b)(2)(i) of this section, minors under 16 years of age may ride as passengers in automobiles, trucks, and buses, on public roads and private property, *provided* all of the following are met:

(*1*) Each minor riding as a passenger in a motor vehicle must have his or her own seat in the passenger compartment;

(*2*) Each seat must be equipped with a seat belt or similar restraining device; the employer must instruct the minors that such belts or other devices must be used while riding; and the seat belt or similar restraining device is actually used; and

(*3*) Each driver transporting the young workers must hold a state driver's license valid for the type of driving involved and, if the driver is under the age of 18, his or her employment must comply with the provisions of § 570.52.

(3) *Occupations involving the operation of non-power-driven hoisting apparatus and conveyors (Ag H.O. 3).* Operating and assisting in the operation of hoisting apparatus and conveyors that are operated either by hand or by gravity.

(i) *Definitions.*

Non-power-driven hoisting apparatus and conveyors mean hoisting apparatus and conveyors that are operated by human hand, foot, or by gravity. Power-driven hoisting apparatus and conveyors are addressed in paragraph (b)(2) of this section.

Operating includes the tending, setting up, adjusting, moving, cleaning, oiling, repairing, of the equipment; riding on the equipment as a passenger or helper; or connecting or disconnecting an implement or any of its parts to for from such equipment. *Operating* would also include starting,

stopping, or any other activity involving physical contact associated with the operation or maintenance of the equipment. Minors are also prohibited from serving as ''safety spotters'' directing the operator of the hoisting apparatus or conveyor as to the proper operation of the equipment.

(ii) [Reserved]

(4) *Certain occupations involving working with or around animals (Ag H.O. 4).* Working on a farm in a yard, pen, or stall occupied by an intact (not castrated) male equine, porcine, bovine, or bison older than six months, a sow with suckling pigs, or cow with newborn calf (with umbilical cord present); engaging or assisting in animal husbandry practices that inflict pain upon the animal and/or are likely to result in unpredictable animal behavior such as, but not limited to, branding, breeding, dehorning, vaccinating, castrating, and treating sick or injured animals; handling animals with known dangerous behaviors; poultry catching or cooping in preparation for slaughter or market; and herding animals in confined spaces such as feed lots or corrals, or on horseback, or using motorized vehicles such as, but not limited to, trucks or all terrain vehicles.

(5) *Occupations involving timber operations (Ag H.O. 5).* Felling, bucking, skidding, loading, or unloading timber and the removal and disposal of tree stumps by other than manual means.

(6) *Occupations involving work in construction; in communications; in public utilities; in wrecking and demolition; and in excavation (Ag H.O. 6).* (i) *General.* The restrictions concerning employment in the construction, communications, and public utilities industries will be applied in the same manner as in § 570.33(n). Construction occupations include occupations in all types of construction, including building, residential, heavy, and highway construction.

(ii) *Definitions.*

Occupations involved in excavation shall have the same meaning as in § 570.68(a).

Wrecking and demolition shall mean all work, including clean-up and salvage work, performed at the site of the total or partial razing, demolishing, or dismantling of a building, bridge, steeple, tower, chimney, or other structure including but not limited to a barn, silo, or windmill.

(7) *Occupations involving work on roofs, scaffolds, and at elevations greater than six feet (Ag H.O. 7).* Working on or about a roof; from a scaffold; and at elevations greater than six feet above another elevation, such as, but not limited to, working on or from a ladder, a farm structure (including, but not limited to silos, towers, grain bins, and windmills), or equipment.

(i) *Definitions.*

Elevations greater than six feet will be determined by measuring the distance between the minor's feet and the lower elevation above which the minor is working.

On or about a roof shall have the same meaning as in § 570.67(b).

(ii) *Exemption.* The prohibition against working on or from equipment at elevations greater than six feet above another elevation shall not apply to a bona fide student-learner as described in § 570.98(b) employed in compliance with the provisions of § 570.98(b) and paragraphs (b)(1)(ii) and/or (ii) of this section.

(8) *Occupations involving working inside any fruit, forage, or grain storage silo or bin (Ag H.O. 8).*

(9) *Occupations involving working inside a manure pit (Ag H.O. 9).*

(10) *Occupations involving the handling of pesticides (Ag H.O. 10).* Performing any task that may be performed by a pesticide handler.

(i) *Definitions.*

Pesticide shall mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; and any nitrogen stabilizer, except that the term *pesticide* shall not include any article that is a new animal drug within the meaning of section 201(w) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(w)), that has been determined by the Secretary of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article, or that is an animal feed within the meaning of section 201(x) of such Act (21 U.S.C. 321(x)) bearing or containing a new animal drug. The term *pesticide* does not include liquid chemical sterilant products (including any sterilant or subordinate disinfectant claims on such products) for use on a critical or semi-critical device, as defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321). For purposes of the preceding sentence, the term *critical device* includes any device which is introduced directly into the human body, either into or in contact with the bloodstream or normally sterile areas of the body and the term *semi-critical device* includes any device which contacts intact mucous membranes but which does not ordinarily penetrate the blood barrier or otherwise enter normally sterile areas of the body.

Pesticide handler shall mean any person, including a self-employed person, who performs any of the following tasks:

(*1*) Mixing, loading, transferring, or applying pesticides;

(*2*) Disposing of pesticides or pesticide containers;

(*3*). Handling opened containers of pesticides;

(*4*) Acting as a flagger;

(*5*) Cleaning, adjusting, handling, or repairing the parts of mixing, loading, or application equipment that may contain pesticide residues;

(*6*) Assisting with the application of pesticides;

(*7*) Entering a greenhouse or other enclosed area after the application and before the inhalation exposure level listed in the labeling has been reached or one of the ventilation criteria established by 40 CFR 170.110(c)(3) or in the labeling has been met to operate ventilation equipment, to adjust or remove coverings used in fumigation, or to monitor air levels;

(*8*) Entering a treated area outdoors after application of any soil fumigant to adjust or remove soil coverings such as tarpaulins;

(*9*) Performing tasks as a crop advisor during any pesticide application, before the inhalation exposure level listed in the labeling has been reached or one of the ventilation criteria established by 40 CFR 170.110(c)(3) or in the labeling has been met, or during any restricted-entry interval.

(10) The term *pesticide handler* does not include any person who is only handling pesticide containers that have been emptied or cleaned according to pesticide product labeling instructions or, in the absence of such instructions, have been subjected to triple-rinsing or its equivalent.

(ii) [Reserved]

(11) *Occupations involving the handling of blasting agents (Ag H.O. 11).* Handling or using a blasting agent, including but not limited to, dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord.

(12) *Occupations involving the transporting, transferring, or applying of anhydrous ammonia (Ag H.O. 12).*

(13) *Occupations involving the production and curing of tobacco (Ag H.O. 13).* All work in the production and curing of tobacco, including, but not limited to, planting, cultivating, topping, harvesting, baling, barning, and curing.

11. Revise § 570.123 to read as follows:

§ 570.123 Agriculture

(a) Section 13(c)(1) and (c)(2) of the Act, when read together with section 3(l), provide an almost complete exemption from the child labor provisions for any youth who is employed in agriculture by his or her parent (or by a person standing in the place of his or her parent) on a farm owned by such parent or person. By virtue of the parental exemption provided in sections 3 and 13 of the Act, children under 16 years of age are permitted to work, for their parent (or person standing in place thereof) on a farm owned by such parent or person at any time to perform any tasks, provided they are not employed in a manufacturing or mining occupation. Sections 13(c)(1) and (c)(2) also provide a limited exemption from certain of the agricultural child labor provisions for any youth who is employed in agriculture by his or her parent (or by a person standing in the place of that parent) on a farm operated by such parent or person. When employed by a parent or person standing in place of a parent on a farm operated by that parent or person, the minor may perform hazardous work as described in § 570.99(b) of this part, but the minor must be employed outside of school hours for the school district where he or she is living while so employed.

(1) Application of the parental exemption in agriculture is limited to the employment of children exclusively by their parents or person(s) standing in place thereof on a farm owned or operated by the parent(s). Only the sole owner or operator of a farm is in a position to regulate the duties of his or her child and provide guidance. Where the ownership or operation of the farm is vested in persons other than, or in addition to, the parent or person standing in place of the parent, such as a business entity, corporation, or partnership (unless wholly owned by the parent(s)), the child worker is responsible to persons other than his or her parent, and his or her duties would be regulated by the corporation or partnership.

(2) A relative, such as a grandparent or aunt or uncle, who assumes the duties and responsibilities of the parent to a child regarding all matters relating to the child's safety, rearing, support, health and well-being is a ''person standing in the place of'' the child's parent. It does not matter if the assumption of the parental duties is permanent or temporary, such as a period of three months during the summer school vacation during which the youth resides with the relative. Generally, a period of less than one month would not be sufficient for the parental exemption to apply in such situations.

(3) The ''parent or person standing in the place of the parent'' shall be a human being and not an institution or facility, such as a corporation, business, partnership, orphanage, school, church, or a farm dedicated to the rehabilitation of delinquent children.

(4) ''Operated by'' the parent or person standing in the place of the parent means that he or she exerts active and direct control over the operation of the farm or ranch by making day to day decisions affecting basic income, work assignments, hiring and firing of employees, and exercising direct supervision of the farm or ranch work. A ranch manager who meets these criteria could employ his or her own children under 16 years of age on the ranch he or she operates to perform any tasks, but only outside of school hours for the school district where the youth is living while so employed.

(5) A child who is exempt from the agricultural child labor provisions of the FLSA when employed on his or her parent's farm would lose that exempt status (not be exempt) when employed on a farm owned or operated by a neighbor or non-parental relative. Such youth could not be employed during school hours, nor could he or she perform any tasks prohibited by an Ag. H.O unless exempt as a student-learner in accordance with § 570.98(b) of this part. This is true even if the youth is operating equipment owned by his or her parent.

(b) Section 13(c)(1) provides additional exemptions from the Act's child labor provisions for the following employees employed in agriculture outside of school hours for the school district where such employees are living while so employed if not employed in an occupation that the Secretary of Labor finds and declares to be particularly hazardous for the employment of children below the age of 16:

(1) An employee less than twelve years of age who is employed with the written consent of his or her parent or person standing in the place of his or her parent on a small farm where none of the employees are required to be paid the Federal minimum wage prescribed by FLSA section 6(a)(5) because the criteria of FLSA section 13(a)(6)(A) have been met;

(2) An employee who is 12 or 13 years of age and such employment is either with the written consent of his or her parent or person standing in place of his or her parent or his or her parent is employed on the same farm as the youth; and

(3) An employee who is 14 years of age or older.

(c)(1) The exemptions discussed in paragraph (b) of this section apply only when the employment is limited to periods outside of school hours for the school district where the minor resides while so employed.

(2) The applicability of the exemptions to employment in agriculture discussed in paragraph (b) of this section depends in general upon whether such employment conflicts with the school hours for the locality where the child lives. Since the phrase ''school hours'' is not defined in the Act, it must be given the meaning that it has in ordinary speech. Moreover, the statute speaks of school hours ''for the school district'' rather than for the individual child. Thus, the provision does not depend for its application upon the individual student's requirements for attendance at school. For example, if an individual student is excused from his studies for a day or a part of a day by the superintendent or the school board, the exemption would not apply if school was in session then. ''Outside of school hours'' generally may be said to refer to such periods as before or after school hours, holidays, summer vacation, Sundays, or any other days on which the school for the district in which the minor lives does not assemble. Since ''school hours for the school district'' do not apply to minors who have graduated from high school (successfully completed the 12th grade or a high school general equivalency diploma (GED) program), the entire year would be considered ''outside of school hours'' and, therefore, their employment in agriculture would be permitted at any time. While it is the position of the Department that a minor who leaves one district where schools are closed for the summer and moves into and lives in another district where schools are still in session is subject to the hours that schools are in session in the new district, the Department generally will not assert a violation for the agricultural employment of that minor during those few weeks that the schools in the new district are still in session. As a reasonable precaution against employing children during school hours, however, no employer should employ a child under such circumstances before June 1, and after that date it should do so only if shown by the minor satisfactory evidence in the form of a written statement signed by a school official stating that the school with which he is connected is the one last attended by the minor and

that the school is closed for summer vacation. Such statement should contain the minor's name, the name and address of the school, the date the school closed for the current year, the date the statement was signed, and the title of the school official signing the statement. In addition, the minor could allow the employer to examine or even photocopy his or her report card to document that the minor has completed the school year prior to seeking agricultural employment.

(d) The hazardous occupations orders contained in subpart E of this part declaring certain occupations to be particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being shall not apply to employment in agriculture. Agricultural employment is subject to the agricultural hazardous occupations orders contained in subpart F of this part.

PART 579—CHILD LABOR VIOLATIONS—CIVIL MONEY PENALTIES

12. The authority citation for part 579 continues to read as follows:

Authority: 29 U.S.C. 203(l), 211, 212, 213(c), 216; Reorg. Plan No. 6 of 1950, 64 Stat. 1263, 5 U.S.C. App; secs. 25, 29, 88 Stat. 72, 76; Secretary of Labor's Order No. 09–2009 (Nov. 16, 2009): Delegation of Authorities and Assignment of Responsibilities to the Administrator, Wage and Hour Division, 74 FR 58836; 104 Stat. 890 (28 U.S.C. 2461 note), as amended by 110 Stat. 1321–373 and 112 Stat. 3293.

13. Revise § 579.2 to read as follows:

§ 579.2 Definitions.

As used in this part and part 580 of this chapter:

Act means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201, *et seq.*);

Administrative law judge means a person appointed as provided in 5 U.S.C. 3105 and qualified to preside at hearings under 5 U.S.C. 554–557.

Administrator means the Administrator of the Wage and Hour Division, U.S. Department of Labor, and includes an authorized representative designated by the Administrator to perform any of the functions of the Administrator under this part and part 580 of this chapter.

Agency has the meaning given it by 5 U.S.C. 551.

Caused by a child labor violation means that there is a relationship between the violation that occurred and the serious injury or death of a minor employee. Causation shall be found when the injury or death can be directly attributed to the performance of a violative act listed in § 579.3. Causation may also be found if the death or serious injury occurs while the youth is employed in an occupation, workplace, or industry that the Secretary has found and declared in subpart E of part 570 of this chapter to be particularly hazardous for the employment of workers 16 and 17 years of age, such as in a saw mill, in a meat processing plant, as a roofer, or in a mine. Causation may also be found when a minor under 16 years of age was killed or seriously injured while employed in an agricultural occupation or workplace that the Secretary has found and declared in subpart F of part 570 of this chapter (previously subpart E–1) to be particularly hazardous for the employment of children below the age of 16, such as handling or using a blasting agent or working inside a manure pit. Causation may also be found when a minor under 16 years of age was killed or seriously injured while employed in an occupation, workplace, or industry that the Secretary has found and declared, in accordance with § 570.33 of this chapter, to not be a permitted occupation, workplace, or industry for the employment of 14- and 15-year-olds, such as work in a warehouse, in construction, in transportation, or in a room where manufacturing or processing takes place. Finally, causation may be found when a minor was seriously injured or killed as a result of a violation of the hours and times of day standards established by § 570.35 of this chapter when it can be demonstrated that the time of day or the number of hours worked by the minor employed in violation jeopardized his or her health, safety, alertness, or mental acumen.

Chief Administrative Law Judge means the Chief Administrative Law Judge, Office of Administrative Law Judges, U.S. Department of Labor, 800 K Street, NW., Suite 400, Washington, DC 20001–8002.

Child Labor Enhanced Penalty Program (CLEPP) refers to the process the Department has developed to assess a civil money penalty of up to $50,000 for each violation that caused the serious injury or death of any employee under the age of 18 as authorized by section 16(e) of the FLSA, as amended by the Genetic Information Nondiscrimination Act of 2008. Such penalties may be doubled, up to $100,000, when the violation is determined to be repeated or willful. An employer may be assessed CLEPP and Non-CLEPP penalties for violations documented during the same investigation.

CLEPP serious injury means an injury to a minor employee that: occurred after May 20, 2008; was *caused by a child labor violation* as defined in this section; and involves the permanent loss or substantial impairment of one of the senses (sight, hearing, taste, smell, tactile sensation); the permanent loss or substantial impairment of the function of a bodily member, organ, or mental faculty, including the loss of all or part of an arm, leg, foot, hand or other body part; or permanent paralysis or substantial impairment that causes loss of movement or mobility of an arm, leg, foot, hand or other body part. The Department's assessment whether the injury resulted in substantial impairment will take into account the nature and degree of the impairment and its expected duration. A cut or abrasion that impairs a youth's ability to bend his or her knee for one week, for example, will not rise to the level of a substantial impairment because the injury is neither significant nor long-lasting, while a puncture or laceration that results in permanent numbness or scarring to a youth's finger will be deemed to have substantially impaired the youth's sense of touch. Even if an injury is expected to eventually heal with no lasting effects, it may qualify as a substantial impairment under CLEPP if the initial injury, such as a fall that shatters a youth's leg, impairs a body part, sense, or mobility for a significant period of time. While injuries resulting in substantial impairment will generally take longer than six weeks to heal, an impairment may be substantial for purposes of CLEPP even if it lasts, or is expected to last, for fewer than six weeks, particularly if the youth is unable to attend school or work for that period of time.

Contributed to the death or injury of a minor means that although there may not be a direct causal relationship between the child labor violation and the death or injury, the death or injury would not have occurred if a minor were not employed in violation of a child labor provision at the time of the death or injury. For example, if a 14-year-old was employed in a retail store at 9:30 p.m. in violation of the hours standards established by Child Labor Regulation No. 3 (CL Reg. 3) (subpart C of part 570 of this chapter) and was crushed to death because a large box that was improperly stowed fell from a high shelf, the hours standards violation would not have caused the death. But the hours standards violation would have contributed to the minor's death because had he or she not been

employed at that time, the death would not have occurred.

Death means the cessation of life, even if the death does not occur immediately but eventually results from an injury. A child labor civil money penalty may be assessed under CLEPP if the death of an employee under the age of 18 years occurred after May 20, 2008 and the death was caused by a child labor violation listed in § 579.3 of this chapter. A child labor civil money penalty of up to $11,000 may be assessed for each violation that caused or contributed to the death of a minor when the violations do not fall under CLEPP.

De minimis means something of such minimal importance or trifling nature that the law does not refer to it and will not consider it. A *de minimis* child labor violation, for the purpose of determining the amount of child labor civil money penalties that will be assessed an employer, includes only those CL Reg. 3 hours standards violations that involve the employment of no more than one minor and recordkeeping violations that involve the employment of no more than one minor. Violations of the CL Reg. 3 hours standards (beginning and ending of work day, total number of hours worked in a day, and total number of hours worked in a week) could be *de minimis* only if the individual violations: are the only child labor violations documented by the investigation of the employer; do not violate the standard by more than 15 minutes—*i.e.,* the minor worked no later than 7:15 p.m. on a winter evening, did not work before 6:45 a.m., or worked no more than 3¼ hours on a school day; such violations involve the employment of a only a single minor; and there are no more than three such violations involving exceeding the CL Reg. 3 hours standards during that minor's employment with the employer. A recordkeeping violation may be considered a *de minimis* child labor violation only when the employer fails to maintain a record of the date of birth of no more than one minor employee and no other child labor violations are documented by the investigation of the employer. The following types of child labor violations cannot be considered *de minimis* for the purpose of determining the amount of child labor civil money penalties that will be assessed:

(1) Violations involving hazardous occupations orders detailed in subparts E and F of part 570 of this chapter;

(2) Violations which caused or contributed to the death, CLEPP serious injury, serious injury (Non-CLEPP), or nonserious injury of a minor;

(3) Violations involving CL Reg. 3 occupation standards detailed in subpart C of part 570 of this chapter;

(4) Violations involving minors under the age of 14 in nonagricultural employment and under the age of 12 in agricultural employment;

(5) Violations involving minors under 16 years of age working during school hours; and

(6) Repeated or willful violations as defined in this section.

Department means the U.S. Department of Labor.

First aid shall mean any one-time treatment of a nonserious injury. Such one-time treatment is considered *first aid* even though provided by a physician or registered medical professional personnel.

Nonserious injury means any injury that requires treatment no more extensive than first aid and results in the youth missing school or work, or having their normal activities curtailed, for less than five days. A *nonserious injury* may be caused by a child labor violation or the violation may have only contributed to the injury. A child labor civil money penalty may only be assessed for a *nonserious injury* when the minor whose employment is in violation of a child labor provision is also the minor who suffered the *nonserious injury.* A *nonserious injury* will never fall under the provisions of CLEPP.

Person includes any individual, partnership, corporation, association, business trust, legal representative, or organized group of persons. For purposes of the assessment of child labor civil money penalties, the term person shall also include a parent when he or she is the employer of his or her child and that child's employment is not in compliance with the provisions of part 570 of this chapter and not otherwise exempt.

Repeated violations have two components. An employer's violation of section 12 or section 13(c) of the Act relating to child labor or any regulation issued pursuant to such sections shall be deemed to be *repeated:*

(1) Where the employer has previously violated section 12 or section 13(c) of the Act relating to child labor or any regulation issued pursuant to such sections, provided the employer has previously received notice, through a responsible official of the Wage and Hour Division or otherwise authoritatively, that the employer allegedly was in violation of the provisions of the Act; or,

(2) Where a court or other tribunal has made a finding that an employer has previously violated section 12 or section 13(c) of the Act relating to child labor or any regulation issued pursuant to such sections, unless an appeal therefrom which has been timely filed is pending before a court or other tribunal with jurisdiction to hear the appeal, or unless the finding has been set aside or reversed by such appellate tribunal.

Secretary means the Secretary of Labor, U.S. Department of Labor, or an authorized representative of the Secretary.

Serious injury (Non-CLEPP) means an injury that, while significantly impacting the life of the minor, fails to meet any or all of the criteria listed in the definition of *CLEPP serious injury.* A *serious injury (Non-CLEPP)* is one that did not: Occur after May 20, 2008; fall within one of the three categories of CLEPP serious injury; and/or meet the level of causation required by CLEPP, but which either requires treatment more extensive than *first aid* or which curtails the minor's normal activities (school, work, sports) for at least five days. A *serious injury (Non-CLEPP)* includes situations where a minor is required to return to a medial practitioner after an accident to have stitches removed or for an evaluation of the healing process. A child labor civil money penalty may only be assessed for a *serious injury (Non-CLEPP)* when the minor whose employment is in violation of a child labor provision is also the minor who suffered the *serious injury (Non-CLEPP).*

Solicitor of Labor means the Solicitor, U.S. Department of Labor, and includes attorneys designated by the Solicitor to perform functions of the Solicitor under this part and part 580 of this chapter.

Willful violations have several components. An employer's violation of section 12 or section 13(c) of the Act relating to child labor or any regulation issued pursuant to such sections shall be deemed to be *willful* where the employer knew that its conduct was prohibited by the Act or showed reckless disregard for the requirements of the Act. All of the facts and circumstances surrounding the violation shall be taken into account in determining whether a violation was willful. In addition, an employer's conduct shall be deemed knowing, among other situations, if the employer received advice from a responsible official of the Wage and Hour Division to the effect that the conduct in question is not lawful. An employer's conduct shall be deemed to be in reckless disregard of the requirements of the Act, among other situations, if the employer should have inquired further into whether its conduct was in compliance

with the Act, and failed to make adequate further inquiry.

14. Amend § 579.3 by:

a. Redesignating paragraphs (a)(5) and (6) as paragraphs (a)(3) and (4), respectively;

b. Revising newly redesignated paragraph (a)(4); and

c. Revising paragraphs (b)(2)(i) through (iii), (b)(4)(ii), and (c)(1) and (3) to read as follows:

§ 579.3 Violations for which child labor civil money penalties may be assessed.

(a) * * *

(4) The failure by an employer employing any minor subject to any provision of FLSA sections 12 and 13 and/or any provision of part 570 of this chapter to take or cause to be taken such action as is necessary to assure compliance with all requirements of such provisions which, by the Act and the regulations in such part, are conditions for lawful employment of such minor.

(b) * * *

(2) * * *

(i) During school hours for the school district where such minor is living while so employed; or

(ii) In any manufacturing or mining occupation; or

(iii) In agriculture in any occupation found and declared by the Secretary, as set forth in subpart F of part 570 of this chapter, to be particularly hazardous for the employment of minors below such age; or

* * * * *

(4) * * *

(ii) Is employed with the written consent of a parent or person standing in place of a parent of such minor, on a farm where, because of the provisions of section 13(a)(6)(A) of the Act, none of the employees are required to be paid at the wage rate prescribed by section 6(a)(5) of the Act.

(c) * * *

(1) That none of the child labor provisions of section 12 shall apply to:

(i) Any child employed as an actor or performer in motion pictures or theatrical productions, or in radio or television productions;

(ii) Any employee engaged in the delivery of newspapers to the consumer;

(iii) Any homeworker engaged in the making of wreaths composed principally of natural holly, pine, cedar, or other evergreens (including the harvesting of the evergreens or other forest products used in making such wreaths); or

(iv) Any employee whose services during the workweek are performed in a workplace within a foreign country or within territory under the jurisdiction of the United States other than the States, territories, and possessions listed in section 13(f) of the Act (*see* Act, sections 13(c)(3), 13(d), 13(f));

* * * * *

(3) That, with respect to violations described in paragraph (a)(2) of this section resulting from employment of minors as described in paragraph (b)(2)(iv) of this section, a parent or person standing in place of a parent may lawfully employ his or her own child or a child in his or her custody under the age of 16 years in an occupation other than:

(i) Manufacturing;

(ii) Mining; or

(iii) An occupation found and declared by the Secretary of Labor to be particularly hazardous for the employment of children between the ages of 16 and 18 years or detrimental to their health or well-being, and an employer may lawfully employ a young worker between 14 and 16 years of age in an occupation permitted and under conditions prescribed by part 570 of this chapter, subpart C;

* * * * *

15. Add § 579.4 to read as follows:

§ 579.4 Determining the initial amount of the penalty for child labor violations that caused the death or serious injury of a minor under the Child Labor Enhanced Penalty Program (CLEPP).

(a) *General.* This section addresses the administrative determination of the initial amount of the civil money penalty that may be assessed for each violation that occurred after May 20, 2008 and caused the death or CLEPP serious injury of an employee under 18 years of age.

(b) *CLEPP assessment for minor's death.* The Department will generally determine an initial child labor civil money penalty amount of $50,000 for each violation that occurred after May 20, 2008 that caused the death of any employee under 18 years of age. In accordance with FLSA section 16(e), the minor who was killed need not be the minor whose employment is the subject of such violation. For example, if a 17-year-old minor, while operating a forklift in violation of Hazardous Occupations Order No. 7, ran over and killed another 15-year-old employee, the Department could determine an initial civil money penalty amount under CLEPP of $50,000 because the 17-year-old was employed in violation of the child labor provisions and the violation caused the death of any employee under the age of 18 years.

(c) *Assessment for CLEPP serious injuries.* (1) The Department will conduct a general review of each CLEPP serious injury and determine where, on the continuum of serious injuries, the permanent loss, permanent paralysis, or substantial impairment falls. When evaluating the seriousness of the injury, WHD will consider the totality of the injury, including such things as the nature and degree of the permanent loss, permanent paralysis, or substantial impairment, potential for recovery, recovery time, impact of the injury on the minor's daily life, the prognosis by medical practitioners and therapists, and evaluations of the degree of loss or impairment pursuant to sources such as the American Medical Association's *Guide to the Evaluation of Permanent Impairment* or a determination by a state or Federal worker's compensation authority.

(i) With respect to the evaluation of a substantial impairment, as the degree of impairment increases, the duration that is necessary for the impairment to qualify as substantial decreases. Even if an injury is expected eventually to heal with no lasting effects, it may qualify as a substantial impairment under CLEPP if the impairment lasts for a significant period of time, or it has a significant, albeit temporary, impact.

(ii) Generally, a total body impairment rating of 35 percent or more will merit placement at the higher (more serious) end of the continuum. Those injuries that merit an impairment rating of between 20 percent and 35 percent will generally merit placement in the middle of the continuum. Finally, those injuries that are the least severe but still fall within the definition of a CLEPP serious injury—that merit an impairment rating of less than 20 percent—will generally merit placement at the lower end of the continuum.

(2) In accordance with FLSA section 16(e)(1)(A)(ii), which addresses the death or serious injury of any employee under the age of 18 years, the minor who suffered the CLEPP serious injury need not be the minor whose employment is the subject of such violation. For example, if a 16-year-old minor employee, while operating a motor vehicle in the course of his or her employment on a public road in violation of Hazardous Occupations Order No. 2 (*see* § 570.52 of this chapter), caused an accident that resulted in the CLEPP serious injury of a 17-year-old co-worker who was riding in the vehicle as a passenger, the Department would determine an initial civil money penalty under CLEPP because the 16-year-old was employed in violation of the child labor provisions and the violation caused the CLEPP serious injury of any employee under the age of 18 years. The amount of the

initial penalty determination would be based on the severity of the minor's injury.

(3) The amount of the initial civil money penalty determination will be $40,000 for each violation that causes a CLEPP serious injury to any employee under the age of 18 years that the Department determines belongs on the higher (more serious) end of the serious injury continuum.

(4) The amount of the initial civil money penalty determination will be $25,000 for each violation that causes a CLEPP serious injury to any employee under the age of 18 years that the Department determines belongs in the middle of the serious injury continuum.

(5) The amount of the initial civil money penalty determination will be $15,000 for each violation that causes a CLEPP serious injury to any employee under the age of 18 years that the Department determines belongs at the lower (least serious) end of the serious injury continuum.

(6) The initial civil money penalty amount may be reduced in consideration of the small size of the employer's business in accordance with § 579.6(b)(3). The initial civil money penalty amount may also be increased, up to a maximum of $50,000 or $100,000 if the violation is repeated or willful, in accordance with the provisions of § 579.6(b)(2).

16. Revise § 579.5 to read as follows:

§ 579.5 Determining the initial amount of the penalty for child labor violations that do not fall under the Child Labor Enhanced Penalty Program (CLEPP).

(a) This section addresses the administrative determination of the initial amount of the civil money penalty that may be assessed for each violation that does not fall under CLEPP, *i.e.,* those violations that occurred before May 21, 2008 and/or did not cause the death or serious injury of an employee under 18 years of age. Paragraph (b) of this section addresses the determination of initial penalty amounts for Non-CLEPP violations that do not involve the death or injury (serious or nonserious) of a minor. Paragraph (c) of this section addresses the determination of penalty amounts for violations of child labor provisions that caused or contributed to the death, serious injury (Non-CLEPP) and/or nonserious injury of an employee under 18 years of age.

(b) For Non-CLEPP violations that involve the employment of a minor who was the subject of a violation of section 12 or section 13(c)(5) of the Act relating to child labor or of any regulation issued under those sections but that did not result in a youth's injury, the Department may assess a civil money penalty not to exceed $11,000 for all child labor violations impacting his or her employment. The assessment of the penalty will be based on the available evidence. The Department will use, as an initial starting point for determining the amount of the penalty, a predetermined amount established for each type of violation based on the relative gravity of the violation when compared to the universe of violations. The initial penalty amounts are stratified to take into consideration the gravity of each violation, when compared to the array of possible violations. The more egregious violations—those that place young workers at greater risk—warrant a higher initial civil money penalty amount. The Department has published this list on the WHD Web site and may periodically increase the initial penalty amounts listed in accordance with § 579.1(b) of this part or for other reasons, such as a strategic effort by the Department to increase compliance regarding specific types of violations or within specific types of industries.

(c) When determining the initial penalty amounts for those child labor violations that do not qualify under CLEPP but caused or contributed to the death, serious injury (Non-CLEPP), or nonserious injury of a minor employee, the Department will consider the following:

(1) The Department will conduct a general review of each serious injury (Non-CLEPP) and determine where, on the continuum of injuries, the injury falls, depending on the severity and permanency of the injury. When evaluating the seriousness of the injury, WHD will consider the totality of the injury, including such things as the nature and degree of impairment, potential for recovery, recovery time, impact of the injury on the minor's daily life, the prognosis by medical practitioners and therapists, and evaluations of the degree of loss or impairment pursuant to sources such as the American Medical Association's *Guide to the Evaluation of Permanent Impairment* or a determination by a state or Federal worker's compensation authority. Generally, a total body impairment rating of 35 percent or more or a recovery period of three months or more will merit placement at the higher (more serious) end of the continuum. Those injuries that merit an impairment rating of between 20 percent and 35 percent or a recovery period between one and two months will generally merit placement in the middle of the continuum. Finally, those injuries that are the least severe but still fall within the definition of a CLEPP serious injury—that merit an impairment rating of less than 20 percent or a recovery period of less than one month—will generally merit placement at the lower end of the continuum. In accordance with FLSA section 16(e)(1)(A)(i), the minor who suffered the serious injury (Non-CLEPP) must also be the minor whose employment is the subject of such violation.

(i) The amount of the initial civil money penalty determination will be $10,000 for each child labor violation that causes or contributes to a serious injury (Non-CLEPP) to the employee employed in violation when the Department determines the serious injury belongs on the higher (most serious) end of the injury continuum.

(ii) The amount of the initial civil money penalty determination will be $8,000 for each child labor violation that causes or contributes to a serious injury (Non-CLEPP) to the employee employed in violation when the Department determines the injury belongs in the middle of the injury continuum.

(iii) The amount of the initial civil money penalty determination will be $6,000 for each child labor violation that causes or contributes to a serious injury (Non-CLEPP) to the employee employed in violation when the Department determines the injury belongs at the lower (least serious) end of the injury continuum.

(iv) The initial civil money penalty for violations causing or contributing to these serious injuries (Non-CLEPP) may be reduced in consideration of the small size of the employer's business in accordance with § 579.6(b)(3). Such initial civil money penalty may also be increased, up to a maximum of $11,000 for each violation, in accordance with the provisions of § 579.6(b)(1) and (c) when appropriate.

(2) For each violation (Non-CLEPP) that contributed to the death of an employee under 18 years of age, WHD will generally assess an initial penalty of $11,000.

(3) For each violation that caused or contributed to the nonserious injury of a minor under 18 years of age, the initial penalty amount will be three times the predetermined amount that is listed for the violation on the List of Initial Child Labor Civil Money Penalty Amounts posted on the Wage and Hour Division's Web site (*www.dol.gov*). The initial civil money penalty for violations causing or contributing to a nonserious injury may be reduced in consideration of the small size of the employer's business in accordance with § 579.6(b)(3). Such

initial civil money penalty may also be increased, up to a maximum of $11,000 per child in accordance with the provisions of § 579.6(b)(1) and (c).

17. Add new §§ 579.6 and 579.7 to read as follows:

§ 579.6 Determining the amount of the civil money penalty to assess.

(a) All initial child labor civil money penalty amounts will be reviewed by the WHD assessing official for conformance with the provisions of the FLSA and this part. The Department will adjust the initial civil money penalty amounts to arrive at the amount to be assessed as discussed in paragraphs (b) through (e) of this section, as appropriate.

(b) When determining the amount of the penalty, the Department may reduce certain initial civil money penalty assessments in consideration of the size of the business of the person(s) charged with the violation(s) and the gravity of the violation(s). The Department will typically not find reductions to be appropriate in those cases where a violation (or violations) causes or contributes to a youth's death; causes the most serious type of CLEPP serious injury; or causes or contributes to the most serious type of serious injury (Non-CLEPP), but will consider the facts of each individual case before making such a determination.

(1) Adjustments to the Non-CLEPP initial penalty amounts may be made in the following manner. The initial penalty amounts may be doubled, not to exceed $11,000 per violation, when any of the following aggravating factors are present:

(i) It is determined that any of the employer's child labor violations were repeated or willful;

(ii) The employer falsified records to conceal child labor violations;

(iii) The employer concealed child labor violations during the investigation that led to the assessment of civil money penalties; or

(iv) The employer did not agree to future compliance with the child labor provisions, did not achieve such compliance when advised of the violations, or gave promises of future compliance which, in WHD's sole estimation, cannot be relied upon.

(2) The initial civil money penalty amounts computed pursuant to § 579.4(b) and (c) for CLEPP assessments may be doubled, not to exceed $100,000, for each violation that is determined to be repeated or willful.

(3) Certain CLEPP and Non-CLEPP initial penalty amounts may be reduced as provided in paragraph (b)(3)(i) or (ii) of this section. WHD will generally find such reduction to be appropriate only when: none of the violations caused or contributed to the death of an employee under the age of 18 or a serious injury that the Department has determined is among the most serious type of CLEPP serious injury or serious injury (Non-CLEPP); none of the aggravating factors listed in paragraph (b)(1) of this section were present; and the employer's gross annual dollar volume of sales made or business done, exclusive of excise taxes, did not exceed $1,000,000 at any time during the period of the investigation that documented the child labor violations. However, WHD will consider the appropriateness of a civil money penalty reduction based on the facts of each case.

(i) The initial child labor civil money penalty amounts may be reduced by 50 percent if the employer never employed more than 20 employees during any workweek during the period of investigation; or

(ii) The initial child labor civil money penalty amounts may be reduced by 30 percent if the employer employed at least 21 employees, but never more than 99 employees, during any workweek during the period of investigation.

(c) When a violation of a child labor provision listed in § 579.3 causes or contributes to the death, CLEPP serious injury, or serious injury (Non-CLEPP) of an employee under 18 years of age, the Department will generate the initial penalty amounts regarding the employment of the youth employed in violation using the formulae detailed in § 579.4 or § 579.5 as appropriate. The Department will also increase the initial penalty amounts for any minor employees also employed by the employer who—although themselves not killed or seriously injured—performed the same violative act(s) as those that caused or contributed to the death or serious injury of the minor. The initial penalty for such minors will be five times the predetermined amount listed for each violation on the List of Initial Child Labor Civil Money Penalty Amounts posted on the Wage and Hour Division's Web site (*http://www.dol.gov*). The total child labor civil money penalty addressing the employment of any such minor employee who was not himself or herself killed or injured may not exceed $11,000.

(d) In determining the amount of the child labor civil money penalty, the Department will also consider, when appropriate, whether the evidence shows that the child labor violation is *de minimis,* whether the violation involved any intentional or heedless exposure of any minor to any obvious hazard or detriment to health or well-being or was inadvertent, whether the person so charged has given credible assurance of future compliance, and whether a civil money penalty in the circumstances is necessary to achieve the objectives of the Act.

(e) Factors that the Department will not consider when determining the amount of the child labor civil money penalty include whether the minor or his or her parent or guardian provided an incorrect birth date, whether the minor's actions contributed to the violation and/or his or her injury or death, and whether the parent or guardian attempted to or agreed to waive the child labor provisions on behalf of the minor.

§ 579.7 Assessment and finality of the penalty.

(a) An administrative determination of the amount of the civil money penalty for a particular violation or particular violations of FLSA sections 12 and 13(c) relating to child labor or any regulation issued under those sections shall become final 15 days after receipt of the notice of penalty by certified mail by the person so charged unless such person has, pursuant to § 580.6 of this chapter, filed with the Secretary an exception to the determination that the violation or violations for which the penalty is imposed occurred.

(b) A determination of the penalty made in an administrative proceeding after opportunity for hearing as provided in section 16(e) of the Act and pursuant to part 580 of this chapter shall be final.

[FR Doc. 2011–21924 Filed 8–31–11; 8:45 am]

BILLING CODE 4510–27–P

FEDERAL REGISTER

Vol. 76 Friday,

No. 171 September 2, 2011

Part III

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 660

Fisheries Off West Coast States; Pacific Coast Groundfish Fishery Management Plan; Trawl Rationalization Program; Program Improvement and Enhancement; Amendment 21–1; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 110616336–1501–01]

RIN 0648–BB13

Fisheries Off West Coast States; Pacific Coast Groundfish Fishery Management Plan; Trawl Rationalization Program; Program Improvement and Enhancement; Amendment 21–1

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed action would implement revisions to the Pacific coast groundfish trawl rationalization program (program), a catch share program, and includes regulations that affect all commercial sectors (limited entry trawl, limited entry fixed gear, and open access) managed under the Pacific Coast Groundfish Fishery Management Plan (FMP). This action includes regulatory amendments to further implement Amendments 20 and 21 to the FMP and an FMP amendment to further revise Amendment 21 (called Amendment 21–1). This action includes, but is not limited to: revisions to the Pacific halibut trawl bycatch mortality limit, clarification that Amendment 21 supersedes limited entry/open access allocations for certain groundfish species, revisions to the observer coverage requirement while a vessel is in port and before the offload is complete, revisions to the electronic fish ticket reporting requirements, revisions to the first receiver site license requirement, further clarification on moving between limited entry and open access fisheries, a process for end-of-the-year vessel account reconciliation, and an exemption from processing at sea for qualified participants in the Shorebased Individual Fishing Quota (IFQ) Program.

DATES: Comments on this proposed rule must be received no later than October 14, 2011.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2011–0201, by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal, at *http://www.regulations.gov.* To submit comments via the e-Rulemaking Portal, first click the ''submit a comment'' icon, then enter NOAA–NMFS–2011–0201 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the ''Submit a Comment'' icon on the right of that line.
- *Fax:* 206–526–6736; Attn: Jamie Goen.
- *Mail:* William W. Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070; *Attn:* Jamie Goen.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, *etc.*) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments (if submitting comments via the Federal e-Rulemaking portal, enter ''N/A'' in the relevant required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

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 William W. Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070, and to OMB by e-mail to *OIRA_Submission@omb.eop.gov,* or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Jamie Goen, 206–526–4656; (fax) 206–526–6736; *Jamie.Goen@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

In January 2011, NMFS implemented a trawl rationalization program, a catch share program, for the Pacific coast groundfish fishery's trawl fleet. The program was adopted through Amendment 20 to the FMP and consists of an IFQ program for the shorebased trawl fleet (including whiting and non-whiting fisheries); and cooperative (coop) programs for the at-sea mothership (MS) and catcher/processor (C/P) trawl fleets (whiting only). Allocations to the limited entry trawl fleet for certain species were developed through a parallel process with Amendment 21 to the FMP.

On May 12, 2010 (75 FR 26702), NMFS published a notice of availability of Amendments 20 and 21, and—consistent with requirements of the Magnuson-Stevens Fishery Conservation and Management Act (MSA)—made its decision to partially approve the amendments on August 9, 2010. Because of the complexity of Amendments 20 and 21, NMFS implemented them through multiple rulemakings. Over 2010, NMFS published three rulemakings related to the trawl rationalization program. The first was a final rule to collect ownership information from all potential participants in the program and to notify them of the databases that would be used for initial issuance and the date by which to make any changes to those databases (75 FR 4684, January 29, 2010). The second was a final rule to restructure the Pacific coast groundfish regulations, establish the allocations set forth under Amendment 21, and establish procedures for the initial issuance of permits, endorsements, quota share, and catch history assignments under the IFQ and coop programs (75 FR 60868, October 1, 2010; correction published 75 FR 67032, November 1, 2010). The third was a final rule to establish several of the program components required for implementation of the rationalized trawl fishery in January 2011, including IFQ gear switching provisions, details of observer requirements and first receiver catch monitor programs, first receiver site licenses, equipment requirements, catch weighing requirements, retention requirements in the Shorebased IFQ Program, quota share (QS) accounts, vessel accounts for use of quota pounds, requirements for coop permits and coop agreements, further tracking and monitoring components, and economic data collection requirements (75 FR 78344, December 15, 2010).

The regulations implementing the program became effective January 1, 2011; however, necessary tracking systems to make the program operational did not become active until January 11, 2011, the date fishing began under the new program. Since that time, the Pacific Fishery Management Council (Council) and NMFS have been addressing implementation issues as they arise, some of which are the subject of this proposed rule. This proposed rule also includes items that are further revisions and refinements to the program to further implement Amendments 20 and 21, and corrects errors or old regulatory language that need to be corrected, revised, or made consistent with other sections of the regulations. Additionally, the Council took final action at its June 2011

meeting on some trailing actions for the program that are also included in this proposed rule. The trailing actions include an FMP amendment stating that Amendment 21 trawl/non-trawl allocations supersede the limited entry and open access allocations originally established in Amendment 6 for species listed in Amendment 21; an FMP amendment to revise the calculation of the Pacific halibut trawl bycatch mortality limit; a regulatory amendment to provide an exemption from the prohibition on processing groundfish at-sea for qualified participants in the Shorebased IFQ Program; a regulatory amendment for the adaptive management program (AMP) to extend the ''pass-through'' of non-whiting quota pounds through 2014 or until an AMP quota pound allocation process is established, whichever is earlier; and a regulatory amendment to allow a change in registration of a mothership catcher vessel (MS/CV) endorsement and its associated catch history assignment from one limited entry trawl endorsed permit to another. These trailing actions are discussed in more detail later in the preamble. Additional rulemakings would follow in the future and include other operational components of the catch share program, such as the requirements for new observer provider certification and an adaptive management program. NMFS is also planning a future ''cost recovery'' rule based on a recommended methodology currently under development by the Council.

The Council discussed the items included in this proposed rule over its March, April and June 2011 meetings, with some preliminary discussions occurring at the September and November 2010 Council meetings.

In addition to this proposed rule, NMFS is in the process of publishing a correction to regulations for the trawl program to update erroneous cross references, outdated terms, and duplicate regulatory entries. The correction is expected to publish in August or September 2011.

Some of the provisions in this proposed rule may affect all sectors of the commercial groundfish fishery (limited entry trawl, limited entry fixed gear, and open access), some provisions apply to several or all of the trawl programs (*i.e.,* Shorebased IFQ Program, MS Coop Program, C/P Coop Program), while other details only affect one program, as discussed below.

Changes Applicable to All Commercial Groundfish Sectors

Moving Between Limited Entry and Open Access Fisheries

Since implementation of the trawl catch share program, there has been interest in the rules and restrictions concerning movement between limited entry and open access fisheries or even between sectors within the limited entry trawl fishery. NMFS developed a matrix, or table, to guide participants on the requirements (see NMFS' public notice dated January 19, 2011, and the small entity compliance guide revised February 25, 2011). In general, current groundfish regulations had been interpreted to allow all limited entry fishermen (trawl and fixed gear) to move between limited entry and open access fisheries with no permit action by simply changing their fishery declaration between fishing trips, with 3 exceptions (non-groundfish trawl gear for California halibut, ridgeback prawn, and sea cucumber). Under this interpretation moving between the IFQ fishery and open access fishery is distinct from ''gear switching'' under the Shorebased IFQ Program. Under gear switching, all catch is covered by quota pounds regardless of gear used. However, while quota pounds cover catch in the IFQ fishery, trip limits cover catch in the open access fishery.

In discussing this issue with Council staff, NMFS realized that the current groundfish regulations only partially match the Council's action from Amendment 20. Amendment 20 requires quota pounds for catch of IFQ species by vessels registered to a limited entry trawl permit, regardless of gear used unless that gear is exempted. Thus, in order for a vessel registered to a limited entry trawl permit to participate in another fishery without being required to cover catch of IFQ species with quota pounds, the vessel would need to remove the limited entry trawl permit, unless it were using one of the exempted gears. In other words, only vessels using certain gears would be able to move between the limited entry trawl and open access fisheries by changing their declaration without requiring a corresponding change to remove their limited entry trawl permit so that it is no longer registered to the vessel. As specified in current regulations at § 660.140(e)(1)(i), these exempted gears are: Non-groundfish trawl; gear types defined in the coastal pelagic species FMP; gear types defined in the highly migratory species FMP; salmon troll; crab pot; and limited entry fixed gear when the vessel also has a limited entry permit endorsed for fixed gear and has declared that they are fishing in the limited entry fixed gear fishery (*i.e.,* a dual-endorsed permit). This rule proposes language that makes explicit the requirement to remove the limited entry trawl permit, unless using exempt gear. New regulatory language is proposed at § 660.60(h)(7)(ii)(B).

This rule also proposes further revisions to § 660.140(e)(1)(i) to clarify that limited entry permitted vessels are subject to the open access fishery regulations when declared in to an open access fishery. This rule also proposes changes to § 660.333(b), (c), and (d) in the open access fishery regulations to reflect changes from Amendment 20 which no longer require the limited entry permit to be removed from vessels participating in the non-groundfish trawl fisheries for ridgeback prawn, California halibut, and sea cucumber fisheries. No changes are needed for the non-groundfish trawl fishery for pink shrimp because regulations do not specify a requirement to remove the limited entry permit from the vessel to participate.

Since 2004, regulations have stated that a vessel participating in the ridgeback prawn, sea cucumber, or California halibut trawl fishery must not have a Federal limited entry groundfish permit registered to the vessel. Amendment 20 added a gear exception that included the non-groundfish trawl fleet and provided them more flexibility. The result is that a vessel registered to a limited entry trawl permit may participate in the IFQ fishery or the non-groundfish trawl fishery by simply changing their vessel declaration.

In addition, to clarify that ridgeback prawn, California halibut, and sea cucumber are open access fisheries, NMFS intends to add the words ''open access, non-groundfish trawl'' to those regulations. This would distinguish the open access, non-groundfish trawl gear used for those fisheries from other gear that may be used for those fisheries.

These proposed regulations would be more narrow than the January 19th public notice and would only allow a subset of vessels to do so (*i.e.,* those subject to the gear exception listed above and at § 660.140(e)(1)(i) and those in the limited entry fixed gear fishery). These proposed changes do not affect the limited entry fixed gear fisheries. Any limited entry vessel could also move to the open access fishery by removing the limited entry permit from the vessel and then declaring in to the open access fishery.

NMFS and the Council will continue to review the regulations on this issue for future refinements. NMFS solicits

public comment on these proposed changes and other sections of the regulations which may need further revisions to provisions regarding vessels moving between limited entry and open access fisheries.

Crossover Provisions

Crossover provisions apply to two activities: (1) Fishing on different sides of a management line, or (2) fishing in both the limited entry and open access fisheries during a two-month cumulative limit period. The crossover provisions were structured for trip limit fisheries. In some places, the current regulations do not fully implement the trawl rationalization program adopted under Amendment 20.

NMFS proposes some revisions to the language in the crossover provisions to more accurately reflect the changes in the groundfish fishery since implementation of the trawl rationalization program. NMFS is revising regulations on crossover provisions for the groundfish fishery overall in subpart C, and is removing duplicate regulatory text in the sector regulations for the limited entry trawl fishery, limited entry fixed gear, and open access fisheries (subparts D through F, respectively). These sector regulations will reference the overall groundfish fishery crossover provisions and any sector specific crossover provisions. NMFS is also proposing to change the term ''operate'' in the crossover provisions to ''fishing'' to more accurately reflect the applicable regulated activity. NMFS is proposing revisions to the crossover provisions in the following regulations: § 660.60(h)(7) for the general groundfish fishery, §§ 660.120 and 660.130(c) for the limited entry trawl fishery, § 660.220 for the limited entry fixed gear fishery, and § 660.320 for the open access fishery. Regulations at §§ 660.120, 660.220, and 660.320 would be revised to remove duplicative language that is covered in § 660.60(h)(7) for the general groundfish fishery. Regulations at 660.130(c) would be revised to update limited entry trawl fishery management measures under the trawl rationalization program. NMFS is soliciting public comment on these proposed revisions and any implications they may have, especially for dual-endorsed limited entry permits.

Corrections/Consistency

NMFS proposes to clarify the regulations to be more specific regarding permit actions for changes in permit ownership and vessel registrations. NMFS would replace the word ''transfer,'' where appropriate, and use terms such as ''change in permit ownership'' or ''change in vessel registration.'' NMFS is making this change to avoid confusion because the term ''transfer'' is susceptible to more than one meaning. The following regulations would be revised: § 660.12(d)(2); § 660.14(d)(4)(iii) and (vii); § 660.25(b)(1)(iii) and (v), (b)(3)(i), (b)(3)(iv)(A)(*1*) and (*2*), (b)(3)(iv)(C)(*4*) and (*5*), (b)(3)(vii), (b)(4)(iv)(C), (b)(4)(v)(C) and (D), (b)(4)(vi)(B), (b)(4)(vii) introductory text, (b)(4)(vii)(F), (b)(4)(viii), (b)(4)(ix), and (f); § 660.112(b)(1)(iv); § 660.140(d)(3)(ii)(A), (d)(4)(v), and (f)(7); § 660.150(d)(1)(iii)(A)(*1*)(*vi*), (f)(2)(i), (f)(3)(i), (g)(1)(iii), and (g)(3)(i); § 660.160(d)(1)(iii)(A)(*1*)(*iv*), (e)(1)(i), (e)(2)(i); and § 660.231(b)(4)(i) and (b)(4)(ii)(A).

NMFS proposes to clarify regulations regarding what constitutes a change in ownership for all limited entry permits (limited entry trawl, limited entry fixed gear and MS permits), for QS permits, and for vessel accounts. Changing the legal, registered name of the limited entry permit owner, the QS permit owner, or the vessel account owner is considered a change in ownership and must be reported to NMFS to ensure the agency has accurate records. In other words, adding or removing an individual or entity from the legal, registered name on the permit or vessel account is a change in ownership and would require a change in permit ownership form and any other required forms (*i.e.,* ownership interest form) or documentation. NMFS must have accurate records to track any required ownership or accumulation limits. The following regulations would be revised: § 660.25(b)(4)(iv)(A) for limited entry permits, § 660.140(d)(3)(ii)(A) for QS permits and accounts and § 660.140(e)(3)(ii) for vessel accounts.

NMFS proposes to clarify regulatory titles on size limits and weight conversions to more accurately reflect the regulatory language within those sections. The title to paragraph § 660.60 (h)(5)(i) should be specific to length measurements, while (h)(5)(ii) should be specific to weight conversions and size limits.

Changes Applicable to All Trawl Programs

Amendment 21 Supersedes Limited Entry/Open Access Allocations for Amendment 21 Species

Amendment 21 to the FMP established allocations to the limited entry trawl fishery participants. As part of Amendment 21, allocations were established between the trawl and non-trawl sectors for certain groundfish species (called Amendment 21 species). In a letter to the Council dated August 9, 2010, NMFS disapproved part of Amendment 21 because the FMP language available to the public and to the Council during the Council's decision making did not clearly state that the Amendment 21 allocations for certain species supersede the previous limited entry/open access allocations originally established under Amendment 6 to the FMP, which established the limited entry fishery. In other words, the partial disapproval of Amendment 21 was because of a concern over the public record and procedural issues regarding the record. This issue has since been addressed through the Council process by providing FMP and regulatory language at the Council's March, April, and June 2011 meetings.

This action includes an FMP amendment (called Amendment 21–1) and proposed revisions to regulatory language at § 660.55(a) and (e)(2) implementing Amendment 21 explicitly stating that, for Amendment 21 species, allocations decided under Amendment 21 supersede allocations previously decided between limited entry and open access fisheries.

NMFS published a notice of availability for this FMP amendment, Amendment 21–1, on August 15, 2011 (76 FR 50449). Consistent with requirements of the MSA, NMFS must make a decision to approve, disapprove, or partially approve the amendment by November 13, 2011. Comments on whether the amendment should be approved must be submitted to NMFS by October 14, 2011.

Halibut Trawl Bycatch Mortality Limit

Amendment 21 to the FMP established a trawl bycatch mortality limit for Pacific halibut. The trawl bycatch mortality limit for halibut under Amendment 21 set a total catch limit of Pacific halibut in the limited entry trawl fishery for the trawl rationalization program to reduce trawl bycatch of halibut in future fisheries in order to provide more yield to directed Area 2A (Washington, Oregon, and California) halibut fisheries (*i.e.,* primary use of halibut is to provide fish for the directed Tribal, commercial, and recreational fisheries). However, before the start date of the trawl rationalization program, new scientific information was released indicating that the total catch of halibut (legal+sublegal) was higher than previously considered by the Council and that the formula previously adopted under Amendment 21 did not fit the intended reduction. The Council had intended a 50 percent reduction in trawl

bycatch mortality from historical levels, but the formula applied to the new information result in approximately a 66 percent reduction. In response, NMFS implemented interim measures for the 2011 groundfish fishery which interpreted the trawl bycatch mortality limit described in Amendment 21 to be legal halibut totaling no more than 130,000 lb net weight. ''Legal'' refers to halibut over 32 inches in length, as opposed to sublegal; ''net weight'' refers to the weight of a halibut with its head attached but entrails removed, as opposed to round weight. In contrast, Amendment 21 stated that the trawl bycatch mortality limit legal and sub-legal halibut set at 15 percent of the International Pacific Halibut Commission's (IPHC's) constant exploitation yield (CEY, composed of legal halibut only) not to exceed 130,000 lbs annually for the first four years and not to exceed 100,000 lbs annually beginning in the fifth year. For NMFS management purposes, the interim measure resulted in calculation of the trawl bycatch mortality limit by converting from net weight to round weight and by converting legal sized halibut to legal and sublegal sized halibut. This calculation reflects the difference between the total constant exploitation yield (TCEY) established by the IPHC (net weight, legal-sized fish) and NMFS management of groundfish and halibut (round weight, legal and sublegal-sized fish). The interim measure also removed the 15 percent cap and established the 2011 trawl bycatch mortality limit at 130,000 lbs. It also noted that the 10 mt set-aside for the at-sea trawl sectors and the shorebased sector south of 40°10′ N. lat was for legal and sublegal sized halibut, round weight.

Because the interim measures expire at the end of 2011, the Council has recommended a long term solution by making further revisions to Amendment 21 for calculation of the halibut trawl bycatch mortality limit. For 2012 and beyond, the Council recommended amending the FMP to (1) Specify that the trawl bycatch mortality limit would be calculated by converting to total round weight of legal and sublegal sized halibut, (2) base the trawl bycatch mortality limit on the best estimate of TCEY from the IPHC (*i.e.,* preliminary IPHC estimate from their interim meeting of TCEY), and (3) clarify that the 10 mt set aside is for legal and sublegal, round weight. These revisions require an amendment to the FMP and the implementing regulations to change provisions related to the amount of Pacific halibut bycatch mortality for which the limited entry trawl fishery will be managed.

NMFS published a notice of availability for this FMP amendment, Amendment 21–1, on August 15, 2011 (76 FR 50449). Consistent with requirements of the MSA, NMFS must make a decision to approve, disapprove, or partially approve the amendment by November 13, 2011. Comments on whether the amendment should be approved must be submitted to NMFS by October 14, 2011.

This preamble provides information about the implementing regulations that would result from this FMP amendment. Regulations at §§ 660.55(m) and 660.140(d)(1)(ii)(C) regarding the Pacific halibut trawl bycatch mortality limit would be revised to reflect these changes. NMFS also recognizes that if Pacific halibut IBQ pounds are subject to the carryover provisions in the Shorebased IFQ Program, it is not clear what effect it would have on the calculation of the trawl bycatch mortality limit in a subsequent year, and NMFS specifically requests public comment to address this issue.

Process To Issue Interim Allocations

NMFS is aware of the management possibility of having to provide allocations before harvest specifications and management measures are final, as was the case in 2011 for the Shorebased IFQ Program. Should this event occur in the future, NMFS is proposing a framework approach to provide NMFS the implementation authority to issue interim allocations for any of the trawl rationalization program sectors (Shorebased IFQ Program, MS Coop Program, and C/P Coop Program). This approach is consistent with existing regulations for the Pacific whiting allocation in the Shorebased IFQ Program where the final whiting harvest specifications are not effective until spring each year. It provides a parallel process should the situation occur for non-whiting groundfish or Pacific halibut in the Shorebased IFQ Program and for any allocated species in the MS or C/P Coop Programs. NMFS proposes changes to the regulations at § 660.140(d)(1)(ii)(A) and (C) for the Shorebased IFQ Program, at § 660.150(c)(2)(i)(A) and (B) for the MS Coop Program, and at § 660.160(c)(2) and (3) for the C/P Coop Program to establish a process to issue interim allocations.

Threshold Rules for Annual Issuance of Allocation

During the annual issuance of individual allocations of quota pounds (QP) to QS permits in the Shorebased IFQ Program or to MS coops or the non-coop fishery in the MS Coop Program, NMFS endeavors to ensure that the individual allocations total 100 percent of the sector allocation. However, because of rounding rules, calculations may not add up to 100 percent. For example, if several QS permits have similar percentages, the rounding rules may cause the calculation to never quite reach 100 percent.

Accordingly, NMFS proposes to set a threshold above which it would not need to continue to run iterations redistributing the allocation. Regulations at § 660.140(d)(1)(ii) for the Shorebased IFQ Program and at § 660.150(c)(2) for the MS Coop Program would state that NMFS' annual allocations must be equal to or greater than 99.99 percent, but not to exceed 100 percent.

While the language in this proposed regulation follows the Council motion on this issue, NMFS solicits public comment on an alternate approach that would state, ''Rounding rules may affect distribution of the entire shorebased trawl allocation [or allocations to the mothership coop or non-coop fisheries]; NMFS will distribute such allocations to the maximum extent practicable, not to exceed the total allocation.'' NMFS suggests this alternative language to account for circumstances where despite NMFS' best efforts, it is unable to distribute allocations equal to or greater than 99.99 percent but no more than 100 percent. Such a circumstance may occur, for instance, for quota pound distributions of IFQ species that have a very small shorebased trawl allocation, especially since quota pound distributions must be made in one pound increments. In any event, under the alternate language suggested here, NMFS would still endeavor to distribute as much of the allocation as possible.

Fishery Declarations

NMFS proposes to change some open access fishery declarations in regulations to be more specific to the types of open access net gears available to target different species. At § 660.13(d)(5)(iv)(A), NMFS would replace ''open access net gear'' with the following two declarations: (1) Open access CPS net gear; (2) open access CA gillnet complex gear. This change is consistent with the reporting categories available on the declaration worksheet.

Corrections/Consistency

NMFS proposes to delete regulatory language referring to the effective date of the trawl rationalization program because it is no longer needed. The sentence was included with the October

1, 2010, final rule (75 FR 60868) to make it clear that while these paragraphs were effective for initial issuance of new permits and endorsements, the overall program did not begin until January 1, 2011. Because the program is already implemented, these sentences would be removed from §§ 660.140(a), 660.150(a), and 660.160(a).

Changes Applicable to the Shorebased IFQ Program

Observer and Catch Monitor Coverage at Offload

Because Amendment 20 to the FMP required 100 percent observer coverage, NMFS implemented a requirement for the observer to remain onboard the vessel until all IFQ species are offloaded, as specified at § 660.112(b)(1)(xiii) and 660.140(h)(1)(i). NMFS and the Council have received feedback from the industry that this requirement is overly restrictive, a burden on the industry, and a concern for the observer providers. In response to the Council's discussion on allowing the observer to depart the vessel upon return to port and for the catch monitor to conduct the hold inspection at the end of the offload, the following changes are being proposed to allow this action while ensuring catch accountability (especially for overfished species).

For bocaccio, yelloweye rockfish, canary rockfish, cowcod, and other species, as deemed necessary by the Council or NMFS, if an observer is to leave the vessel after arriving in port and prior to the offloading, the observer will document the weight and number of these retained species on a form. A copy of the form will be retained by the observer and the vessel operator, and would be made available to the catch monitor. The West Coast Groundfish Observer Program (WCGOP) will develop protocols for dealing with any discrepancies. For example, if the discrepancy is due to a disagreement on the species identification, the observer would take a picture. If the vessel operator does not agree with the documentation on the observer program form, the vessel operator could have the discrepancy noted on the observer program form and the observer could leave the vessel once in port or the vessel operator could request that the observer not submit the form and the vessel operator would be required to maintain observer (or catch monitor) coverage while in port and until all IFQ species have been offloaded.

If upon offload the number of species recorded on the catch monitor's form and observed by the catch monitor is less than that recorded by the observer on the observer form, the catch monitor will use the number and weight of the species recorded by the observer in the catch monitor's offload report submitted for catch accounting. This would be the only time that the information from this observer form documenting the weight and number of these retained species is used in catch accounting.

NMFS proposes to revise regulations at § 660.112(b)(1)(xiii) and § 660.140(h)(1)(i) to allow an exemption from the requirement to maintain observer coverage until final offload of the catch as long as the observer has documented specified IFQ species on the observer program form and has submitted that form to the catch monitor.

NMFS also proposes to designate any changes to the list of IFQ species reported on the observer form as a ''routine management measure.'' Under the PCGFMP and implementing regulations at § 660.60(c)(1), NMFS can designate management measures as ''routine,'' meaning that they can be adjusted on a biennial or more frequent basis, addressed at a single Council meeting, and announced through a single notification in the **Federal Register**. To initially designate a management measure as routine, it must first be addressed during at least two Council meetings. Flexibility for the Council or NMFS to modify the list of IFQ species reported on the observer form was addressed at both the April and June 2011 Council meetings. Since it has been addressed at two Council meetings, this rule proposes to designate modification of the list of IFQ species as a routine management measure. New regulations are being proposed to be added at § 660.60(c)(1)(iv), in addition to revising regulations at § 660.112(b)(1)(xiii) and § 660.140(h)(1)(i) to address this issue.

Additionally, the term ''catch monitor'' would be included in regulations at § 660.112(b)(1)(xiii) and § 660.140(h)(1)(i). Adding the term ''catch monitor'' to these regulations allows the catch monitor to maintain coverage of the vessel in lieu of the observer while the vessel is in port. It would also allow catch monitors to complete functions such as hold inspections in lieu of the observer to ensure that all IFQ species have been offloaded.

This change may also require a change in the insurance coverage provided by catch monitor providers for the catch monitors as specified at § 660.17(e)(1)(vii)(C) to provide adequate coverage while the catch monitors are on the vessel. Because NMFS is uncertain whether such insurance is available or necessary, NMFS solicits public comment on whether this change would require catch monitor providers to have the increased insurance coverage provided by Maritime Liability insurance to cover ''seamen's'' claims under the Merchant Marine Act (Jones Act) and General Maritime Law ($1 million minimum) or whether current coverage required by regulation is sufficient. The regulations at § 660.17(e)(1)(vii)(C) currently require the following certificates of insurance: (1) Coverage under the U.S. Longshore and Harbor Workers' Compensation Act ($1 million minimum); (2) States Worker's Compensation as required; and (3) Commercial General Liability.

New Process for IFQ First Receivers and Catch Monitors To Address Trucking/Transport

Since implementation of the program in January 2011, there have been some procedural issues with the prohibition upon IFQ first receivers transporting, or trucking, catch away from the point of landing until the catch has been sorted, weighed, and recorded for submittal on the electronic fish ticket (e-ticket). Current regulations at § 660.112(b)(2)(iv) state that it is prohibited to: ''Transport catch away from the point of landing before that catch has been sorted and weighed by Federal groundfish species or species group, and recorded for submission on an electronic fish ticket. (If fish will be transported to a different location for processing, all sorting and weighing to Federal groundfish species groups must occur before transporting the catch away from the point of landing).'' In addition, e-tickets must be submitted within 24 hours of the date of receipt of the fish as specified at § 660.113(b)(4)(ii)(D). These regulations do not specify that the e-ticket must be filled out at the offload site nor do they specify that the e-ticket must be submitted before the catch is transported or trucked away from the offload site. They do state that the information that will be used to fill out the e-ticket must be recorded before the catch is transported away from the offload site. No changes are being proposed to these regulations with this rulemaking.

NMFS interprets these regulations to mean that the e-ticket can be filled out and submitted at a different location, but the recording of information that will be used for the e-ticket must be done prior to transport. For example, the e-ticket could be filled out and submitted 20 hours or more after the vessel offload at another facility in the port, but the fish must not be trucked

away from the point of landing until the information that will be used to fill out the e-ticket has been recorded.

NMFS proposes to add some additional regulations outlining the reporting requirements for IFQ first receivers and catch monitors whether transporting fish away from the offload site or not, to add additional required fields for e-tickets (explained below in the preamble under ''additional e-ticket fields''), and to add additional requirements for catch monitoring plans. These changes were developed in close consultation with the Council and its constituents and were recommended by the Council at its June 2011 meeting. These changes should better align the regulations with industry business practices while at the same time maintaining accurate catch accounting and supporting implementation of the trawl rationalization program. In addition, these changes should further facilitate state adoption of the Pacific States Marine Fisheries Commission's (PSMFC) e-ticket format.

The additional reporting requirements for IFQ first receivers and catch monitors are outlined below and differ depending on whether the catch is being processed at the offload site or whether it is being trucked or transported away for processing at a different location. In addition, NMFS is proposing language in addition to the Council recommendation, and included in the process described below in this preamble, to specify which process must be followed in cases where fish will be transported away for processing at a different location, but for which an electronic fish ticket must be recorded prior to transport. NMFS is proposing this addition to accommodate any more restrictive state reporting requirements. All existing e-ticket recording and submittal regulations would remain in place with the modifications outlined below.

The following process is proposed for offloading at an IFQ first receiver where the fish will be processed at the offload site or if an electronic fish ticket is recorded prior to transport:

1. The first receiver will communicate the e-ticket number to the catch monitor.

2. After completing the offload, the e-ticket information will be recorded immediately.

3. Prior to submittal of the e-ticket, the information recorded for the e-ticket will be reviewed by the catch monitor and the vessel operator who delivered the fish.

4. After review, the first receiver and the vessel operator will sign a printed hard copy of the e-ticket or the original dock ticket if the delivery occurs outside of business hours.

5. Three copies of the signed e-ticket will then be produced by the first receiver with the following distribution: One copy retained by the vessel operator, one copy retained by the first receiver, and one copy sent to the state of origin if required by state regulations.

6. After review and signature, the e-ticket will be submitted within 24 hours of the completion of the offload.

For offloading at a first receiver where the fish will be transported or trucked for processing at a different location if an electronic fish ticket is not recorded prior to transport, the following process is being proposed:

1. The first receiver will communicate the e-ticket number to the catch monitor at the beginning of the offload.

2. The vessel name and the e-ticket number will be recorded on each dock ticket related to that delivery. The term ''dock ticket,'' as used here, means a form generally accepted by the state to record the landing, receipt, purchase, or transfer of fish.

3. Upon completion of the dock ticket, but prior to transfer of the offload to another location, the dock ticket information that will be used to complete the e-ticket will be reviewed by the catch monitor and the vessel operator who delivered the fish.

4. After review, the first receiver and the vessel operator will sign the original copy of each dock ticket related to that delivery.

5. Three copies of the signed dock ticket will then be produced by the first receiver with the following distribution: One copy retained by the vessel operator, one copy retained by the first receiver, and one copy sent to the state of origin if required by state regulations.

6. Based on the information contained in the signed dock ticket, the e-ticket will be completed and submitted within 24 hours of the completion of the offload.

7. To facilitate monitoring and catch tracking, original dock tickets must be retained by the first receiver submitting the e-ticket as required by state and Federal regulations.

8. Upon submittal of the e-ticket, three copies of the e-ticket will be produced by the first receiver with the following distribution: One copy retained by the vessel operator, one copy retained by the first receiver, and one copy sent to the state of origin if required by state regulations.

It is NMFS' understanding that transport requires supporting documentation per state regulations and that this process would support the state regulation by allowing dock tickets with e-ticket numbers or printed e-tickets to accompany the transported catch. The term ''dock ticket'' means a form accepted by the state to record the landing, receipt, purchase, or transfer of fish. The states may use different terms for this document.

The States of Washington, Oregon, and California retain the option to address areas of Federal regulations with more specific and restrictive state regulations. For example, it is NMFS' understanding that the state of Washington may require the e-ticket or state fish receiving ticket to be submitted before the catch is transported out of the state of Washington.

In addition to the reporting and process changes outlined above, the catch monitoring plan requirements as part of the first receiver site license application will be revised to add an additional requirement detailing how the e-ticket submittal requirements will be met. As with other aspects of the catch monitoring plans, e-ticket submittal proposals will be evaluated and accepted or rejected by NMFS.

These changes are being proposed by revisions and additions to the following regulations: §§ 660.11 for definitions; 660.113(a)(2) and (b)(4)(i) and (ii) for recordkeeping and reporting of e-tickets; and 660.140(f)(3)(iii)(C) for the catch monitoring plan requirements. NMFS is not proposing changes to the regulations at § 660.112(b)(2)(iv) on prohibitions, described above in the preamble, because those regulations do not restrict the process and changes outlined here. NMFS solicits public comment on these proposed changes, especially on the proposed changes at § 660.113(b)(4)(ii)(E) and (F) regarding the process and submittal requirements for dock tickets and e-tickets.

Additional e-Ticket Fields

NMFS proposes several new fields to be added to electronic fish tickets and is making it mandatory to complete the existing ex-vessel value field on e-tickets. Many of these new fields are being added to further facilitate state adoption of the PSMFC's e-ticket format. These new fields include: (1) A field to type the name of the vessel operator; (2) a signature block for the vessel operator's written signature for printed documents; (3) a signature block for first receiver's written signature for printed documents; and (4) a drop down box titled ''Inside/Outside State Waters,'' containing the following: Caught outside 3 miles, caught inside 3 miles, or both.

The additional e-ticket field to document whether the fish were caught

in state waters, Federal waters, or both will aid enforcement. Federal jurisdiction over the Pacific coast groundfish fishery under the MSA applies only to fishing in the exclusive economic zone, beyond three miles from shore, and to some extent also on the high seas beyond the exclusive economic zone. In a MSA groundfish enforcement case, part of the burden is to prove the illegal fish were caught in Federal waters, *i.e.,* beyond three miles. It is NMFS' understanding that the Washington state fish ticket form includes three boxes to check, including ''fish caught outside 3 miles.'' The burden of proof for enforcement cases can also be met in other ways, such as logbook entries or statements by the skipper, but a check box would make the burden of proof clearer for both state and Federal enforcement cases.

While a field for ex-vessel value already exists on the e-ticket, NMFS has had mixed reporting of the ex-vessel value on the e-ticket because it is not currently listed in the ''required information'' section of the regulations. Regulations at § 660.113(b)(4)(i) require first receivers to complete certain fields on an e-ticket. These regulations also have a clause that the Regional Administrator may deem other information as required to be completed by the IFQ first receiver on the e-ticket. In a memo dated April 4, 2011, NMFS's Northwest Regional Administrator determined that the ex-vessel value of the landing is a mandatory field that must be completed by the IFQ first receiver.

NMFS has determined that the ex-vessel value of the landing is a mandatory reporting requirement for several reasons. In order for the states to have the option of adopting the Federal e-ticket to cover their state reporting requirements, the e-ticket must include the items required to be reported on the state fish tickets. The ex-vessel prices are a state reporting requirement for the state to be able to collect excise taxes and fees. The ex-vessel value will be also used in the cost recovery program that is currently being developed by the Council and NMFS. The ex-vessel value is not collected through the economic data collection program forms and is necessary information for that program to measure the economic changes in the fishery for the 5-year review of the program and beyond. The ex-vessel value may also be used by NMFS in required regulatory flexibility analyses for rulemakings.

NMFS expects and requires that the information reported by IFQ first receivers on the e-ticket is true and accurate. If any of the information on the e-ticket changes after it has been submitted, including the ex-vessel value of the landing, then the e-ticket should be revised. For example, if the price of Pacific whiting is not known until after the e-ticket has been submitted, then the initial e-ticket would report the best estimate of the ex-vessel value and would be revised once the ex-vessel value is known. Because ex-vessel value as reported on the e-ticket may change after sorting or marketing, the first receiver or processor must either edit the e-ticket or submit a revised e-ticket according to state requirements. Similarly, other information on an e-ticket, such as the species and weight in an offload, may change after the original e-ticket has been submitted due to new information from cutting and processing the offload. However, the gross weight of the sorted offload, as observed by the catch monitor should not change, except for the rare occurrence of a data entry error not found upon review prior to e-ticket submittal.

State requirements for editing and revising fish tickets vary (*e.g.* up to 6 years for Oregon versus California which doesn't allow edits but allows tickets to be voided and new tickets entered). In addition, the state regulations can be more conservative than Federal regulation. Because state requirements vary and state regulation can be more conservative, NMFS decided a timeframe for editing or revising e-tickets would be more appropriate in state regulation and is not necessary in Federal regulation.

NMFS has added the ex-vessel value of the landing as a mandatory field to be completed on the e-ticket through the April 4, 2011 memo and corresponding public notice. This rulemaking would update the regulations at § 660.113(b)(4)(i) with language to reflect this mandatory requirement. In addition, this rulemaking proposes to add the new fields listed above to e-tickets.

Updated e-Ticket Hardware/Software Requirements

Current hardware and software requirements for e-tickets, specified in regulations at § 660.15(d), are insufficient and incorrect. NMFS is proposing to update the hardware and software requirements for e-tickets to reflect more current computer operating systems and the minimum requirements necessary to run the software for e-tickets.

First Receiver Site License

NMFS proposes several changes that would affect the first receiver site license requirements. First, NMFS proposes revisions to who is required to have a first receiver site license to require only buyers of fish from vessels making an IFQ landing to have a first receiver site license for each physical location at which they receive, purchase, or take custody, control, or possession of an IFQ landing. The buyer, as represented on the e-ticket, would be required to be the first receiver in all cases.

There has been some confusion regarding the state licensed buyer, as reported on the e-ticket, and the associated first receiver, which is not specifically designated on the e-ticket. In some cases to date, the buyer has not held a first receiver site license. For example, an IFQ first receiver with a site license (Bob) has been contracted by the buyer (Joe) to receive, sort, account for the IFQ groundfish, and fill out the e-ticket in the name of the buyer (Joe). Using this example with the proposed changes to the first receiver site license requirements, Joe would be the one required to have the first receiver site license; Bob would act as an agent for Joe and would report Joe's buyer name and identification number on the e-ticket, but Bob would not be required to have a first receiver site license for this offload. Joe could also fill out the e-ticket himself if so chooses. Either way, Joe's buyer name and identification number would be reported on the e-ticket.

This would help align the state paper fish ticket system with the Federal e-ticket system. It would continue to allow the state buyer to be reported on the ticket for revenue and tax purposes as required by the states. Even though the first receiver site license number would not appear on the e-ticket, the Federal requirement would associate a buyer on an e-ticket as the buyer registered to a Federal first receiver site license.

NMFS acknowledges that this would require some additional buyers to apply for a first receiver site license(s), possibly for multiple locations. It would also require some existing buyers to apply for a first receiver site licenses at additional locations, and to pay the application fee(s). NMFS does not expect this to increase community impacts because many buyers already have their first receiver site licenses and the application fee is $50. In addition, for buyers sharing a physical location, the catch monitoring plan could be shared among the applicants, reducing the paperwork burden.

NMFS proposes to revise the following regulations to reflect these changes: Prohibitions at § 660.112(b)(2)(i), first receiver site

license requirements at § 660.140(f)(1), (f)(2), (f)(3), and (j)(1).

Second, NMFS proposes to revise the application process for a first receiver site license so that it does not require a separate written request for site inspection. Currently, the regulations require a separate written request for a site inspection that must be included with the application for the first receiver site license. This requirement is redundant. NMFS proposes to revise the regulations at § 660.140(f)(3)(iii)(B) to state that NMFS will contact applicants to arrange an inspection after receiving a complete first receiver site license application, including the proposed catch monitoring plan. In addition, NMFS solicits public comment on a reasonable timeframe between an application for a first receiver site license and NMFS conducting the site inspection. To reduce the costs of running the program, NMFs is considering whether to adopt a policy of batching the site inspections to only conduct inspections in a particular state once a month or within 60 days of receiving an application, and requests comment to assist its consideration of such policy.

Third, NMFS proposes some revisions to merge the effective date language for first receiver site license in to one paragraph. Regulations at § 660.140(f)(2), (f)(5), and (f)(6) would be revised.

Fourth, as described in the above preamble under the section titled, ''new process for first receivers and catch monitors to address trucking/transport,'' NMFS also proposes to add a requirement to the catch monitoring plan as part of the first receiver site license application to require the IFQ first receiver to detail in the catch monitoring plan how the e-ticket submittal requirements will be met.

Conflict of Interest Regulations for Catch Monitor and Catch Monitor Providers

The current conflict of interest regulations for catch monitors and catch monitor providers apply to any interest in a business involving vessels and shorebased or floating stationary processor facility. These regulations should have also included ''first receivers'' for the same reason it included processors. This was an inadvertent omission and NMFS proposes to revise the regulations at § 660.18(c)(1) and (d) to add ''first receivers'' to the list of businesses.

Catch Monitor Training and Certification

The regulations at § 660.17(e)(14) list items and responsibilities of the catch monitor regarding training and certification, but are listed under the catch monitor provider section of the regulations. NMFS proposes moving paragraph (e)(14) to the appropriate place under § 660.17(a).

Sorting/Weighing Requirements for Non-Whiting IFQ Species

The groundfish regulations for the sorting and weighing requirements for non-whiting IFQ species are inconsistent. The prohibitions at § 660.112(b)(2)(ii) makes it unlawful to fail to sort fish received from a IFQ landing prior to first weighing after offloading, except the vessels declared in to the limited entry midwater trawl, Pacific whiting shorebased IFQ may weigh catch on a bulk scale before sorting. The regulations on sorting requirements at § 660.130(d)(2)(i) make a similar statement. The regulations at § 660.140(j)(2)(ix) on catch weighing requirements state that for all other IFQ landings (except for Pacific whiting as mentioned above) a belt or automatic hopper scale may be used to weigh all of the catch prior to sorting. All but the predominant species must then be reweighed.

The prohibition at § 660.112(b)(2)(ii) and the sorting requirements at § 660.130(d)(2)(i) restricts what § 660.140(j)(2)(ix)(A) allows for non-whiting groundfish. The activity listed in § 660.140(j)(2) has occurred in the past in Washington and may still be occurring. The state laws on this have differed, so § 660.140(j)(2) was to allow groundfish to be weighed in a hopper scale, then sorted by species, and each species (or group) weighed back and deducted from original total weight, if it was allowed by state law. This activity has also been previously allowed under an exempted fishing permit for both whiting and non-whiting groundfish.

Therefore, NMFS proposes to revise regulations § 660.112(b)(2)(ii) and § 660.130(d)(2)(i) to make them consistent with § 660.140(j)(2)(ix)(A).

QS Permits and Vessel Accounts

NMFS proposes several changes that affect QS permits and their corresponding QS accounts and vessel accounts. First, NMFS proposes to add a prohibition at § 660.112(b)(1)(xvi) against fraudulent use of QS accounts or vessel accounts. NMFS originally proposed this addition as part of a suite of proposals presented to the Council for its consideration at its June 2011 meeting, and the change was included as part of the Council's recommendations for this rule. On further consideration, NMFS questions whether this prohibition is needed, and solicits public comment on the need for or any concerns about this prohibition.

Second, NMFS proposes a process for end-of-the-year vessel account reconciliation, especially with regard to implementing the carryover provision for a surplus in a vessel account (unused QP at the end of the year). This is a database and accounting issue to address a fishery that is open year round and setting up a time to reconcile vessel accounts. At its June 2011 meeting, the Council recommended against a proposal that fishing be prohibited for a period of time to address end-of-the-year vessel account reconciliation. Instead, the Council recommended that NMFS populate QS accounts with the next year's available QP or IBQ pounds on or near January 1. After populating QS accounts, QP or IBQ pounds could then be transferred to vessel accounts and any QP or IBQ pound deductions made to vessel accounts for using the carryover provision to cover a deficit in the previous year. Vessel accounts must be cleared of any deficit from the previous year within 30 days of NMFS issuance of QP or IBQ pounds to QS accounts. Then, later in the year once data are available, NMFS would calculate any surplus carryover in each vessel account from the previous year and add that amount to the vessel account. NMFS proposes these end-of-the-year vessel account reconciliation regulations at § 660.140(e)(5)(i).

Third, NMFS proposes to remove references to designating an account manager from the regulations for QS and vessel accounts. In an effort to reduce the paperwork and regulatory burden, NMFS intends to remove the optional requirement for business entities to designate an account manager with NMFS. No later than 2012, account owners will have the capability to designate individuals to have certain roles and associated privileges within their online IFQ system under an ''account information'' tab. For example, account owners would be able to designate whether an individual can initiate or accept/reject transfers, while others would be designated to only view account balances. The regulations at § 660.140(d)(2)(ii), (d)(3)(i)(D), (e)(2)(ii), and (e)(3)(i)(D) would be revised to remove the reference to designating an account manager.

Fourth, NMFS proposes to revise the regulations at § 660.112(b)(1)(iv) to consistently use the term ''deficit''

instead of ''overage'' in regards to vessel accounts.

Fifth, NMFS proposes to revise regulations at § 660.140(e)(4)(i) regarding annual and daily vessel limits. Language at § 660.140(e)(4)(i) would be expanded to describe what values in a vessel account contribute to the calculation of a vessel limit. The QP Vessel Limit (Annual Limit) is calculated as unused available QPs plus used QPs (landings and discards) plus any pending outgoing transfer of QPs. The Unused QP Vessel Limits (Daily Limit) is calculated as unused available QPs plus any pending outgoing transfer of QPs. These changes would clarify the calculation and allow tracking of pass through QP. For example, QP that are transferred into vessel account 1 and subsequently transferred to vessel account 2 would not be counted towards compliance with vessel limits in vessel account 1 once transferred to the vessel account 2 (*i.e.,* pass through QP). Regulations would be revised to specify these calculations.

Finally, NMFS proposes clarifications to the regulations on changes in ownership for QS permits/account and vessel accounts as described earlier in the preamble under ''Corrections/consistency'' for all commercial groundfish sectors.

Adaptive Management Program

The trawl catch share program allocated 10 percent of the nonwhiting QS for an adaptive management program (AMP). For the first two years of the program, the annually issued QP derived from this allocation is passed through to the other QS owners in proportion to their QS. The catch share program specifies that the Council will develop alternative criteria for distribution of the AMP QP beginning in year three of the program. The Council considered that such alternative criteria may not be ready by 2013 and that no procedure existed for distribution of the AMP QP should this occur, and recommended extending the pass through of AMP QP through 2014 in the event that the AMP distribution criteria are not finalized before then. Accordingly, this regulation would extend the pass-through to 2014, unless implementation occurs sooner. In addition, this rule proposes to cross reference the AMP language in the section of the regulations at § 660.140(d)(1) that explains the annual allocation for the Shorebased IFQ Program. Regulatory sections 660.140(d)(1)(ii)(A) and (l)(2) would be affected by this rule.

Any Size Halibut Counts Against IBQ

For Pacific halibut caught north of 40°10′ N. latitude, halibut of any size (greater than, equal to, or less than 32 inches) counts against the individual bycatch quota (IBQ) pounds. This is not a change from existing regulations, but NMFS proposes to further clarify this at § 660.140(d)(1)(ii)(C).

Exemption From Prohibition on Processing at Sea

In January 2011, NMFS implemented a prohibition on processing at-sea for the IFQ fishery with some exceptions, as specified at § 660.112(b)(1)(xii). Processing is defined in groundfish regulations at § 660.11 as ''* * * the preparation or packaging of groundfish to render it suitable for human consumption, retail sale, industrial uses or long-term storage, including, but not limited to, cooking, canning, smoking, salting, drying, filleting, freezing, or rendering into meal or oil, but does not mean heading and gutting unless additional preparation is done. * * * (1) At-sea processing means processing that takes place on a vessel or other platform that floats and is capable of being moved from one location to another, whether shore-based or on the water * * *''

The prohibition on processing at sea in the Shorebased IFQ Program was described in the preamble to the proposed rule dated August 31, 2010 (75 FR 53380). The previous regulations before the trawl rationalization program was implemented did not include a general prohibition on processing all groundfish at-sea for non-whiting trawl vessels landing groundfish at shorebased processors. In other words, previously, the non-whiting trawl vessels were not prohibited from processing non-whiting catch. The Shorebased IFQ Program envisioned that participants would not process their catch at sea and that all catch was delivered to shorebased processors for further processing. This was intended to maintain the character of the fleet and the coastal communities that relied on this fleet delivering their catch to processors on land. During the Council's review of the draft regulations over 2010 and its regulatory deeming process, the Council specified that processing at sea should be prohibited under the Shorebased IFQ Program with two exceptions. The two exceptions were for processing that was already allowed in the groundfish fishery before the trawl rationalization program and included exemptions for the following: (1) Any vessel that is 75-ft (23-m) or less length overall that harvests whiting and, in addition to heading and gutting, cuts the tail off and freezes the whiting, is not considered to be a catcher/processor nor is it considered to be processing fish, and (2) a vessel that has a sablefish at-sea processing exemption, defined at § 660.25(b)(3)(iv)(D), may process sablefish at-sea in both the limited entry fixed gear primary sablefish fishery or in the Shorebased IFQ Program.

At the Council's March, April and June 2011 meetings, in response to public testimony, Oregon Department of Fish and Wildlife (ODFW) requested that the Council consider an exemption from the prohibition on processing at sea in the Shorebased IFQ Program (see Agenda Item H.2.c, ODFW Report 2, March 2011; Agenda Item E.6.b, ODFW Letter (excerpt), June 2011). The public testimony disclosed that some participants in the shorebased non-whiting fishery had invested in processing equipment and developed markets for non-whiting groundfish glazed (frozen) at sea while the trawl rationalization program was still under development.

At its June 2011 meeting, the Council decided that it had not intended to negatively impact any at-sea non-whiting processing operations that existed prior to the announcement of the prohibition on processing at sea in the Shorebased IFQ Program. The Council recommended an exemption from the prohibition on processing at sea for select participants in the Shorebased IFQ Program that could prove they had legally processed groundfish other than Pacific whiting at sea before the trawl rationalization program was implemented. To qualify under the Council's recommendation, vessels registered to a limited entry trawl permit must have legally processed groundfish other than Pacific whiting at sea prior to July 20, 2010, as verified by fish tickets, dock receiving tickets, landing receipts, or other official documents. This exemption would only apply to the vessel while operating under the Shorebased IFQ Program regardless of the type of gear used. The Council recommended the date of July 20, 2010, as the cut-off date for qualification to ensure that processing-prohibition exemptions would be provided only to individuals that had been processing at-sea without prior knowledge of the upcoming prohibition. Accordingly, this proposed rule incorporates that cut-off date. However, the regulation to prohibit processing at sea for the Shorebased IFQ Program was proposed and published in the **Federal Register** for the first time on August 31, 2010 (75 FR 53380). NMFS is considering whether to adjust the cut-off

date for qualification to August 31, 2010, and specifically requests comment on the implications of such a change from the Council motion.

The Council expressed its intent to structure the exemption from the prohibition on processing at sea in the Shorebased IFQ Program in a manner similar to the previous exemption that was created under Amendment 14 for the sablefish permit stacking program and implemented in a rule that published March 2, 2006 (71 FR 10614). Thus, similar to the existing exemption for sablefish at sea processing specified at § 660.25(b)(3)(iv)(D), the at-sea processing exemption for non-whiting groundfish in the Shorebased IFQ Program would be open to applicants during a one-time application process during early 2012. It would be issued to the particular vessel and the permit and/or vessel owner who requests the exemption and meets the qualifying requirements. The exemption would not be part of the limited entry permit and would not be transferable to any other vessel, vessel owner, or permit owner for any reason. The non-whiting at-sea processing exemption would expire upon registration of the vessel to a new owner or if the vessel is totally lost. After NMFS conducts an application and appeals process (expected to be finished in spring/summer of 2012) and issues any resulting exemptions, processing at sea by qualified participants would be allowed.

To propose this new exemption from the prohibition on processing non-whiting groundfish at sea for the Shorebased IFQ Program and the one-time application and appeals process for the exemption, NMFS proposes revisions to the regulations at § 660.112(b)(1)(xii) on prohibitions, and a new paragraph at § 660.25(b)(6) on the exemption and application process.

In addition, the Council's motion from its June 2011 meeting included a statement that ''Regulatory language should also include an appropriate conversion factor and/or an appropriate process for calculating a conversion factor for glazed groundfish.'' In a letter to the Council (Agenda Item E.6.b, ODFW Letter (excerpt), June 2011), ODFW recommended a weight conversion factor as well as a process for calculating a conversion factor as follows: ''The following conversion applies to vessels landing sorted catch that is frozen (glazed) in the Shorebased IFQ Program. A conversion factor of 0.95 must be applied when there are fewer than 60 individuals of any species or species group in a single landing. Conversion factors must be calculated for each landing for each species or species group when there are 60 or greater individuals in a category (=species or species group) in a single landing as follows: Weigh a sample of at least 20 glazed fish to obtain the glazed weight; Completely remove glaze from individual fish making up the sample; Re-weigh the sample to obtain the non-glazed weight; Divide the non-glazed weight by the glazed weight to obtain the conversion factor; A separate conversion factor may be calculated for each size grade of a species, but may only be applied to landings of that size grade; documentation of this calculation must be retained with the dock receiving ticket.''

When NMFS implemented weight conversion factors for the Shorebased IFQ Program, NMFS stated that the weight conversion factors used on electronic fish tickets (a Federal reporting requirement) must be a consistent coastwide value. In the preamble to the proposed rule published on August 31, 2010 (75 FR 53380), NMFS stated the reasons why a consistent coastwide value was necessary, including providing consistency in catch estimates between states, preventing artificial influences on individual landings choices, and benefiting NMFS's ability to track landings values. NMFS based the Federal weight conversion factors on published values. The weight conversions for dressed IFQ species were derived from an Alaska Sea Grant College Program publication titled, ''Recoveries and Yields from Pacific Fish and Shellfish'' (Marine Advisory Bulletin number 37, 2004). For Pacific whiting that has been dressed (headed and gutted) with tails removed, the weight conversion was derived from the value for pollock as published at § 679 for the Alaska groundfish fishery. These values are codified at § 660.60(h)(5)(ii)(B).

ODFW's proposed conversion factor is not a consistent value by species and, potentially, is not a consistent value within a species for different size grades or volumes of fish. Because the online IFQ system automatically applies the weight conversion factor depending on the species condition code reported on the electronic fish ticket, a variable conversion factor is not practical. In addition, NMFS is not aware of published values for glazed groundfish species nor of a consistent coastwide value used by the states for glazed groundfish species. Therefore, NMFS is not proposing a Federal weight conversion factor for freezing or glazing non-whiting groundfish species at this time. The weight reported on the electronic fish ticket for glazed non-whiting groundfish should be the actual scale weight with no conversion factor applied. The states may continue to have a state weight conversion factor for freezing and glazing on their state fish ticket. NMFS is aware of the need to develop conversion factors for freezing and glazing and to review existing Federal weight conversion factors specified in the groundfish regulations. NMFS brought this issue forward as a potential future Council action at the Council's April and June 2011 meetings (Agenda Item E.6.b, NMFS Report 1, June 2011). However, due to workload, this has not been a priority for NMFS or the Council. NMFS specifically requests public comment on this issue.

Changes Applicable to the At-Sea Whiting Fisheries (MS Coop Program and C/P Coop Program)

Severability of MS/CV Endorsements (MS Coop Program Only)

With implementation of the trawl rationalization program, an MS/CV endorsement was issued to each limited entry trawl permit that met specified qualification requirements for participation in the mothership sector of the whiting fishery. These endorsements included a whiting catch history assignment (CHA) based on the catch history of the individual permits during the allocation period. There are some permits that during the qualifying period participated primarily in the shoreside fishery but had some relatively minor amounts of catch history in the at-sea whiting mothership fishery. These permits received MS/CV endorsements with small amounts of whiting CHA. For the small amounts of mothership whiting catch history that some permits received, the burden (transaction costs) of joining a coop may not be worth the benefits that permit's CHA would bring to the coop's allocation. These permit owners could sell their limited entry trawl permits to mothership whiting fishery participants; however, they might not want to because they need a limited entry trawl permit to participate in the Shorebased IFQ Program. If permit owners with small amounts of CHA join coops each year, there may be transaction costs that offset the benefits of the small CHA, reducing the overall efficiency and benefits from the trawl rationalization program. If permits with small CHA amounts do not join a coop, their CHA would automatically be assigned to the non-coop fishery where it may go unharvested. If all other MS/CV-endorsed permits have joined coops and the owners of the permits with small CHAs do not have interest in gearing up

for the mothership whiting fishery or incurring the burden associated with joining a coop, it may contribute toward an incentive for MS/CV-endorsed permits to enter the non-coop fishery instead of joining a coop, decreasing the effectiveness of the trawl rationalization program. In order to address these concerns, the Council took final action at their June 2011 meeting to allow MS/CV-endorsed permit owners to change the registration of the MS/CV endorsement and its associated CHA from one limited entry trawl permit to another (called severability in Council documents).

Under the Council's recommendation, each MS/CV endorsement would be permanently linked with its CHA as originally issued by NMFS and could not be divided or registered separately to two different limited entry trawl permits. In addition to being linked together, an MS/CV endorsement and CHA would only be able to be registered to a limited entry trawl permit, as required in current regulations, and any change in registration of an MS/CV endorsement and CHA would be required to be to another limited entry trawl permit. Ownership of an MS/CV endorsement and associated CHA would be required to be the same as the owner of the limited entry trawl permit to which the endorsement is registered. Multiple MS/CV endorsements and associated CHA would be allowed to be registered to a single limited entry trawl permit. If multiple endorsements are registered to a single limited entry trawl permit, the whiting CHA amount (expressed as a percent) would remain in the amount that it was originally issued by NMFS and would not be combined to a single larger CHA, unless two or more MS/CV-endorsed permits were to be combined for purposes of increasing the size endorsement, as specified at § 660.25(b)(4)(ii)(B). Because of this, NMFS would establish a unique identifier for each individual MS/CV endorsement and associated CHA listed on a limited entry trawl permit for tracking purposes. If this requirement is implemented, NMFS would need to reissue all MS/CV-endorsed permits with these unique endorsement identifier numbers attached to the permits.

With this proposed action, MS/CV-endorsed limited entry trawl permit owners would have the following three alternative permit arrangements available to them:

(1) Change registration of an MS/CV endorsement and associated CHA from one limited entry trawl permit to another. This is the new proposed option and could result in the receiving permit having two or more MS/CV endorsements and associated CHAs listed on the permit.

(2) Combine two limited entry trawl permits to get a single limited entry trawl permit with a larger size endorsement. If, for example, both of the limited entry trawl permits have an MS/CV endorsement on them, the single resulting limited entry trawl permit would have a single MS/CV endorsement and a single larger CHA. This requirement is in existing regulations at § 660.150(g)(2)(iv) on combining permits.

(3) Follow number (1) above and then combine two limited entry trawl permits to get a single limited entry trawl permit with a larger size endorsement. This is a mix of the new proposed option and the existing regulations on combining permits and results in a single limited entry trawl permit with a larger size endorsement and multiple MS/CV endorsements and associated CHAs listed on the permit (*i.e.,* not combined into a single MS/CV endorsement and larger CHA).

As outlined in the three permit arrangements described above, combining limited entry trawl permits would not require combining endorsements associated with those permits. For MS/CV-endorsed permit owners that have already combined permits before January 1, 2012, a window of time would be provided to change that permit arrangement by sending a letter to NMFS. Regulations for this opportunity are proposed at § 660.150(g)(2)(vi).

With regards to the timing of a change in endorsement registration, the MS/CV endorsement and associated CHA can only be registered to another limited entry trawl permit during the limited entry permit renewal period, from September 1 through December 31 each year, and effective the following year. The first time that a change in endorsement registration would be permitted would be during the permit renewal period from September 1 through December 31, 2012, to be effective in 2013.

Under the proposed rule, a limited entry trawl permit owner with more than one MS/CV endorsement may join more than one coop, or join both a coop and the non-coop fishery; however, each endorsement and its associated CHA may only be assigned to one coop or the non-coop fishery. Additionally, each coop would also continue to be required to include at least 20 percent of all MS/CV-endorsed permits as members.

Regulatory sections § 660.25(b)(3)(v), (b)(4)(ii)(B), and (b)(4)(iv)(D), and § 660.150(c)(2)(i)(A), (d)(1)(iii) introductory text, (g)(1)(iii), (g)(2)(iv) through (vi) would be affected by this proposed rule.

Responsibility for Daily Testing of At-Sea Scales (MS Coop Program and C/P Coop Program)

NMFS proposes regulations to make it more clear who is responsible for the daily testing of at-sea scales. NMFS interprets current regulations to require the vessel operator to ensure that the vessel crew performs the daily testing of at-sea scales, including both belt scales and platform scales. The regulations at § 660.15(b)(3) would be revised accordingly to make this interpretation explicit.

Classification

Pursuant to section 304(b)(1)(A) of the MSA, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Pacific Coast Groundfish FMP, other provisions of the MSA, and other applicable law, subject to further consideration after public comment.

The Council prepared a final environmental impact statement (EIS) for Amendment 20 and Amendment 21 to the Pacific Coast Groundfish FMP; a notice of availability for each of these final EISs was published on June 25, 2010 (75 FR 36386). An environmental assessment (EA) has been prepared for the following trailing actions: (1) An allocation of Pacific halibut bycatch to the trawl fishery, and (2) an exemption from the prohibition on processing at sea for qualified participants in the Shorebased IFQ Program. The Amendments 20 and 21 EISs and the draft EA are available on the Council's Web site at *http://www.pcouncil.org/*or on NMFS' Web site at *http://www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Fishery-Management/Trawl-Program/index.cfm.* The remaining regulatory changes in this proposed rule either required no further analysis under the National Environmental Policy Act (NEPA) or were categorically excluded from the requirement to prepare a NEPA analysis.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the

SUMMARY section of the preamble. A copy of the IRFA is available from NMFS (see **ADDRESSES**) and a summary of the IRFA, per the requirements of 5 U.S.C. 603(a) follows:

As of August 2011, there are 176 limited entry trawl permits and 6 mothership processor permits. The limited entry trawl permits are associated with three groups of trawlers. Some trawlers (132) deliver to shorebased processing plants. Some of these trawlers as well as other trawlers (total = 36) deliver to mothership processors (6). Some trawlers are catcher-processors (10)—vessels that both trawl and process fish. In January 2011, NMFS and the Pacific Fishery Management Council set up a new management program called the trawl rationalization program. This program significantly changes how two of these groups work. Shore trawlers now fish under their own set of individual species quotas by vessel. In prior years, there were different rules for shore trawlers depending on their target catch. Nonwhiting trawlers fished under common trip limits while whiting trawlers fished under a common quota without trip limits. In prior years, the mothership fishery consisted of independent at-sea processors each receiving catch from several trawlers. Now the mothership fishery works as a coop where catcher-vessels and motherships work together collectively. The catcher-processor fleet continues as a single coop.

A specific set of groundfish species and bycatch of Pacific halibut are managed under the trawl rationalization program. Human observation and electronic reporting tools account for all catch of these species. Computer programs match the catch against individual species quotas (quota pounds or QP) or coop allocations. All vessels must carry observers who watch and measure the harvests and discards of these groundfish. All shore plants must have catch monitors to watch all vessel offloads and record the species and amounts landed. In the shorebased fishery, online accounting programs issue and track quota shares, quota pounds, and catch by species. Computer programs compare fish tickets to catch monitor reports and calculate the quota pounds landed by an individual vessel. Observer reports are used to account for the vessel's discards. An online ''banking system'' is used to debit landings and discards against the vessel's quota pounds. Quota pounds are deposited to a vessel's account based on a transfer from a quota share account or from another vessel account.

As discussed in the summary above, this proposed rule would revise the Pacific coast groundfish trawl rationalization program. These revisions would affect not only limited entry trawl fisheries but also other fisheries including the limited entry fixed gear and open access fisheries. Discussed above are revisions that would address the movement between limited entry and open access fisheries. Other revisions concern vessels fishing in different management areas within one trip. Rules about permit ownership and transfer have been edited. The regulations would clarify the relationship of Amendment 21 to previous amendments concerning how certain species are allocated between the limited entry and open access sectors. Participants in the fishery would find the regulations easier to comply with and easier to understand. There would also be less confusion as to how fish are allocated.

The proposed actions would establish new or modified processes concerning how much fish can be allocated and harvested. A new process involving the use of interim allocations should the biennial management and specification process not be completed in a timely way would be established based on similar processes used by emergency rule making for 2011. This would reduce the potential delay in the annual allocation of quota pounds. The ''carry-over'' process would be modified so that there is no need to close the fishery in December for end-of-the-year account reconciliation. The Adaptive Management pass-through of quota pounds process would be extended through 2014 or the implementation of the Adaptive Management Program details, whichever is earlier. These actions would provide benefits as they avoid major shut downs of the fishery and they would facilitate multi-year planning.

Offload monitoring procedures would be revised. There would also be new procedures associated with electronic fish ticket reporting when trawlers land fish at one site but the fish are trucked to another site for processing. These procedures would also apply when the fish ticket is completed in another office as compared to the landing site. The electronic fish ticket format would be revised to better match the state paper fish ticket requirements. These revised procedures and changes to the fish ticket format and completion process would provide benefits by reducing the monitoring burden on fishermen and processors. They would provide flexibility to first receivers and fish buyers. They would also aid adoption of the electronic fish ticket by the states and would increase the potential that redundant data collection systems are reduced. Most importantly, they would improve the timeliness and accuracy of the data reported.

The proposed action would expand the list of exemptions to the prohibition on processing at sea. Fishermen who could show that they were legally processing nonwhiting groundfish prior to the implementation of Amendment 20 would be able to apply for an exemption to continue processing at sea. This exemption would address the Council intent not to negatively impact these operations.

Revising the halibut trawl bycatch mortality limit formulas would provide benefits to the trawl fishery as they provide slightly higher catch compared to the existing regulations while continuing to provide increased halibut opportunities for non-trawl fisheries. It is recognized that increased halibut mortality by trawlers would mean less halibut for other commercial and recreational fisheries. However these revisions would move the trawl fishery closer to the Council's original goal of 50 percent reduction of halibut mortality by the trawl fleet.

To participate in the mothership fishery, harvesting vessels must have an endorsed permit. The endorsement has an associated catch history amount, called a catch history assignment in regulations. Vessels wishing to sell their catch history to a coop must sell both their limited entry trawl permit and MS/CV endorsement. The proposed regulations would ''sever'' the MS/CV endorsement with its catch history assignment from the associated limited entry permit. Under the revised regulations, fishermen could sell or assign their MS/CV endorsements and associated catch history assignments while keeping their permits so they could continue to fish in other limited entry fisheries. This change would aid coop formation and may minimize the costs of joining a coop for fishermen.

The following provides some perspective on the economic dimensions of the fisheries. Over the years 2005–2009, the limited entry trawl fishery has averaged annual inflation adjusted revenues of about $57 million and total landings of about 215,000 tons. Pacific whiting ex-vessel revenues have averaged about $25 million. However, differences between years have varied greatly. Whiting trawlers harvested about 216,000 tons of whiting worth about $51 million in ex-vessel revenues in 2008. Revenues were high because of high landings and high prices. Ex-vessel prices of $235 per ton were the highest

on record. In comparison, the 2007 fishery harvested about 214,000 tons worth $29 million at an average ex-vessel price of about $137 per ton. The 2009 fishery harvested about 99,000 tons worth about $12 million at a price of $120 per ton.

While the Pacific whiting fishery has grown in importance in recent years, harvests in the non-whiting component of the limited entry trawl fishery have declined steadily since the 1980s. Non-whiting trawl ex-vessel revenues in the fishery peaked in the mid-1990s at about $40 million. Following the passage of the Sustainable Fisheries Act (1996) and the listing of several species as overfished, harvests became increasingly restricted and landings and revenues declined steadily until 2002. Over the years 2005 to 2009, non-whiting groundfish ex-vessel revenues have averaged $27 million annually. These revenues have ranged from $24 million (2005) to $32 million (2008). The 2009 fishery earned $30 million in ex-vessel revenues. Total shorebased revenues (whiting and non-whiting) have averaged about $36 million annually over the last five years. (*Note:* Ex-vessel revenues are just one indicator of ''revenue''; they understate the wholesale, export, and retail revenues earned from the fishery. Data on these other indicators is either incomplete or unavailable.)

This proposed rule would regulate businesses that harvest groundfish and processors that wish to process limited entry trawl groundfish. Under the RFA, the term ''small entities'' includes small businesses, small organizations, and small governmental jurisdictions. For small businesses, the SBA has established size criteria for all major industry sectors in the U.S., including fish harvesting and fish processing businesses. A business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual receipts not in excess of $4.0 million for all its affiliated operations worldwide. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full time, part time, temporary, or other basis, at all its affiliated operations worldwide. A business involved in both the harvesting and processing of seafood products is a small business if it meets the $4.0 million criterion for fish harvesting operations. A wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full time, part time, temporary, or other basis, at all its affiliated operations worldwide. For marinas and charter/party boats, a small business is one with annual receipts not in excess of $7.0 million. The RFA defines a small organization as any nonprofit enterprise that is independently owned and operated and is not dominant in its field. The RFA defines small governmental jurisdictions as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of less than 50,000.

NMFS makes the following conclusions based primarily on analyses associated with fish ticket data and limited entry permit data, available employment data provided by processors, information on the charterboat and Tribal fleets, and available industry responses to ongoing surveys on ownership. The non-trawl businesses are the following fleets: Limited entry fixed gear (approximately 150 companies), open access groundfish (1,100), charterboats (465), and the Tribal fleet (four Tribes with 66 vessels). Available information on average revenue per vessel suggests that all the entities in this group can be considered small. In addition, the proposed rules would change requirements associated with catch monitors and observers that are currently being supplied to the fishery by five companies. Based on analysis done on observer issues by the NMFS Alaska Regional Office, these five companies are also small companies.

For the trawl sector, there are 177 permit owners. Nine limited entry trawl permits are attached to catcher-processing vessels and are considered ''large'' companies. Of the remaining 168 limited entry permits, 25 limited entry trawl permits are either owned or closely associated with a ''large'' shorebased processing company or with a non-profit organization who considers itself a ''large'' organization. Nine other permit owners indicated that they were large ''companies.'' Almost all of these companies are associated with the shorebased and mothership whiting fisheries. The remaining 134 limited entry trawl permits are projected to be held by ''small'' companies. Three of the six mothership processors are ''large'' companies. Within the 14 shorebased whiting first receivers/processors, there are four ''large'' companies. Including the shorebased whiting first receivers, in 2008, there were 75 first receivers that purchased limited entry trawl groundfish. There were 36 small purchasers (less than $150,000); 26 medium purchasers (purchases greater than $150,000 but less than $1,000,000); and 13 large purchasers (purchases greater than $1.0 million). These regulations also affect the five companies that provide observer and catch monitor services to the industry. Based on analyses and conclusions undertaken for these companies by the NMFS Alaska Regional Office, these companies are considered small companies.

As indicated above, the actions proposed by this rule would be generally beneficial to the various sectors of the fishery. The only explicit cost impact is the expansion of the requirement that all fish buyers obtain a $50 first receiver site license. Therefore, negative impacts to the industry, if any, appear to be minimal and do not favor large entities over small entities.

No Federal rules have been identified that duplicate, overlap, or conflict with the alternatives. Public comment is hereby solicited, identifying such rules. A copy of this analysis is available from NMFS (see **ADDRESSES**).

This proposed rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). These requirements have been submitted to OMB for approval. OMB control number 0648–0611, Rationalization of the Pacific Coast Groundfish Trawl Limited Entry Fishery, would be revised to include an application for an exemption from the prohibition on processing nonwhiting groundfish at sea in the Shorebased IFQ Program. Public reporting burden for the revised OMB control number 0648–0611 is estimated to average 3 hours per response (543 responses). OMB control number 0648–0619, Northwest Region Groundfish Trawl Fishery Monitoring and Catch Accounting Program, would be revised to include the additional reporting requirements for IFQ first receivers on electronic fish tickets, updated hardware and software requirements for electronic fish tickets, and an updated process for first receivers and catch monitors to address offload and trucking issues. Public reporting burden for the revised OMB control number 0648–0619 is estimated to average 30 minutes per response (6,059 responses). OMB control number 0648–0620, Pacific Coast Groundfish Trawl Rationalization Program Permit and License Information Collection, would be revised to include a form for changing the registration of MS/CV endorsements and associated catch history assignments from one limited entry trawl permit to another and changes to the first receiver site license application requirements. Public

reporting burden for the revised OMB control number 0648–0620 are estimated to average 30 minutes per response (1,955 responses). These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS, Northwest Region, at the **ADDRESSES** section above; and to OMB 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, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

NMFS issued Biological Opinions under the ESA on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999 pertaining to the effects of the Pacific Coast groundfish FMP fisheries on Chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley spring, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal), chum salmon (Hood Canal summer, Columbia River), sockeye salmon (Snake River, Ozette Lake), and steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south/central California, northern California, southern California). These biological opinions have concluded that implementation of the FMP for the Pacific Coast groundfish fishery was not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat.

NMFS reinitiated a formal section 7 consultation under the ESA in 2005 for both the Pacific whiting midwater trawl fishery and the groundfish bottom trawl fishery. The December 19, 1999, Biological Opinion had defined an 11,000 Chinook incidental take threshold for the Pacific whiting fishery. During the 2005 Pacific whiting season, the 11,000 fish Chinook incidental take threshold was exceeded, triggering reinitiation. Also in 2005, new data from the West Coast Groundfish Observer Program became available, allowing NMFS to complete an analysis of salmon take in the bottom trawl fishery.

NMFS prepared a Supplemental Biological Opinion dated March 11, 2006, which addressed salmon take in both the Pacific whiting midwater trawl and groundfish bottom trawl fisheries. In its 2006 Supplemental Biological Opinion, NMFS concluded that catch rates of salmon in the 2005 whiting fishery were consistent with expectations considered during prior consultations. Chinook bycatch has averaged about 7,300 fish over the last 15 years and has only occasionally exceeded the reinitiation trigger of 11,000 fish.

Since 1999, annual Chinook bycatch has averaged about 8,450 fish. The Chinook ESUs most likely affected by the whiting fishery has generally improved in status since the 1999 section 7 consultation. Although these species remain at risk, as indicated by their ESA listing, NMFS concluded that the higher observed bycatch in 2005 does not require a reconsideration of its prior ''no jeopardy'' conclusion with respect to the fishery. For the groundfish bottom trawl fishery, NMFS concluded that incidental take in the groundfish fisheries is within the overall limits articulated in the Incidental Take Statement of the 1999 Biological Opinion. The groundfish bottom trawl limit from that opinion was 9,000 fish annually. NMFS will continue to monitor and collect data to analyze take levels. NMFS also reaffirmed its prior determination that implementation of the Groundfish FMP is not likely to jeopardize the continued existence of any of the affected ESUs.

Lower Columbia River coho (70 FR 37160, June 28, 2005) were recently listed and Oregon Coastal coho (73 FR 7816, February 11, 2008) were recently relisted as threatened under the ESA. The 1999 biological opinion concluded that the bycatch of salmonids in the Pacific whiting fishery were almost entirely Chinook salmon, with little or no bycatch of coho, chum, sockeye, and steelhead.

The Southern Distinct Population Segment (DPS) of green sturgeon was listed as threatened under the ESA (71 FR 17757, April 7, 2006). The southern DPS of Pacific eulachon was listed as threatened on March 18, 2010, under the ESA (75 FR 13012). NMFS has reinitiated consultation on the fishery, including impacts on green sturgeon, eulachon, marine mammals, and turtles.

After reviewing the available information, NMFS has concluded that, consistent with sections 7(a)(2) and 7(d) of the ESA, the action would not jeopardize any listed species, would not adversely modify any designated critical habitat, and would not result in any irreversible or irretrievable commitment of resources that would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures.

This proposed rule was developed after meaningful consultation and collaboration, through the Council process, with the Tribal representative on the Council. The FMP Amendment and these proposed regulations have no direct effect on the Tribes; these proposed regulations were deemed by the Council as ''necessary or appropriate'' to implement the FMP as amended.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Indian fisheries.

Dated: August 26, 2011.

Samuel D. Rauch III,

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

For the reasons stated in the preamble, 50 CFR chapter VI is proposed to be amended as follows:

50 CFR Chapter VI

PART 660—FISHERIES OFF WEST COAST STATES

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

2. In § 660.11, add the definition for ''Dock ticket'' in alphabetical order to read as follows:

§ 660.11 General definitions.

* * * * *

Dock ticket means a form accepted by the state to record the landing, receipt, purchase, or transfer of fish.

* * * * *

3. In § 660.12, revise paragraph (d)(2) to read as follows:

§ 660.12 General groundfish prohibitions.

* * * * *

(d) * * *

(2) Make a false statement on an application for issuance, renewal, permit registration, vessel registration, replacement of a limited entry permit, or a declaration of ownership interest in a limited entry permit.

* * * * *

4. In § 660.13, revise paragraph (d)(5)(iv)(A)(*23*) and add paragraph (d)(5)(iv)(A)(*26*) to read as follows:

§ 660.13 Recordkeeping and reporting.

* * * * *

(d) * * *

(5) * * *

(iv) * * *

(A) * * *

(*23*) Open access Coastal Pelagic Species net gear,

* * * * *

(*26*) Open access California gillnet complex gear.

* * * * *

5. In § 660.14, revise paragraph (d)(4)(iii) and (vii) to read as follows:

§ 660.14 Vessel Monitoring System (VMS) requirements.

* * * * *

(d) * * *

(4) * * *

(iii) *Permit exemption.* If the limited entry permit had a change in vessel registration so that it is no longer registered to the vessel (for the purposes of this section, this includes permits placed into ''unidentified'' status), the vessel may be exempted from VMS requirements providing the vessel is not used to fish in state or Federal waters seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California (0–200 nm offshore) for the remainder of the fishing year. If the vessel is used to fish in this area for any species of fish at any time during the remaining portion of the fishing year without being registered to a limited entry permit, the vessel is required to have and use VMS.

* * * * *

(vii) *Valid exemption reports.* For an exemption report to be valid, it must be received by NMFS at least 2 hours and not more than 24 hours before the exempted activities defined at paragraphs (d)(4)(i) through (iv) of this section occur. An exemption report is valid until NMFS receives a report canceling the exemption. An exemption cancellation must be received at least 2 hours before the vessel re-enters the EEZ following an outside areas exemption; at least 2 hours before the vessel is placed back in the water following a haul out exemption; at least 2 hours before the vessel resumes fishing for any species of fish in state or Federal waters off the States of Washington, Oregon, or California after it has received a permit exemption; or at least 2 hours before a vessel resumes fishing in the open access fishery after a long-term departure exemption. If a vessel is required to submit an activation report under paragraph (d)(2)(i) of this section before returning to fish, that report may substitute for the exemption cancellation. Initial contact must be made with NMFS OLE not more than 24 hours after the time that an emergency situation occurred in which VMS transmissions were disrupted and followed by a written emergency exemption request within 72 hours from when the incident occurred. If the emergency situation upon which an emergency exemption is based is resolved before the exemption expires, an exemption cancellation must be received by NMFS at least 2 hours before the vessel resumes fishing.

* * * * *

6. In § 660.15, revise paragraphs (b)(3), and (d)(1) through (3) to read as follows:

§ 660.15 Equipment requirements.

* * * * *

(b) * * *

(3) *Daily testing.* The vessel operator must ensure that the vessel crew test each required scale daily and ensure that each scale meets the maximum permissible error (MPE) requirements described at paragraph (b)(4) of this section.

* * * * *

(d) * * *

(1) *Hardware and software requirements.* A personal computer system with the following minimum requirements:

(i) Processor: 500-megahertz (MHz) or higher processor;

(ii) Random Access Memory (RAM): 256 megabytes (MB) or higher;

(iii) Hard disk space:

(A) If already have MS Access 2007 or 2010, 200 MB available disk size.

(B) If loading the MS Access 2007 runtime, then 700 MB available disk size.

(iv) Monitor: 1024 x 768 or higher display resolution;

(v) Operating system: Microsoft Windows XP with Service Pack (SP) 2, Windows Server 2003 with SP1, or later operating system such as Windows Vista or Windows 2007;

(vi) Software: Microsoft Access 2007 or Microsoft Access 2010, or a runtime version provided by the Pacific States Marine Fisheries Commission.

(2) *NMFS-approved software standards and Internet access.* The IFQ first receiver is responsible for obtaining, installing, and updating electronic fish tickets software either provided by Pacific States Marine Fisheries Commission, or compatible with the data export specifications specified by Pacific States Marine Fisheries Commission and for maintaining Internet access sufficient to transmit data files. Requests for data export specifications can be submitted to: *Attn:* Electronic Fish Ticket Monitoring, National Marine Fisheries Service, Northwest Region, Sustainable Fisheries Division, 7600 Sand Point Way, NE., Seattle, WA 98115.

(3) *Maintenance.* The IFQ first receiver is responsible for ensuring that all hardware and software required under this subsection are fully operational and functional whenever they receive, purchase, or take custody, control, or possession of an IFQ landing. ''Functional'' means that the software requirements and minimum hardware requirements described at paragraphs (d)(1) and (2) of this section are met and data transmissions to Pacific States Marine Fisheries Commission can be executed effectively by the equipment.

* * * * *

7. In § 660.17, revise paragraph (a) and remove paragraph (e)(14) to read as follows:

§ 660.17 Catch monitors and catch monitor service providers.

(a) *Catch monitor program training and certification.* Catch monitor certification authorizes an individual to fulfill duties as specified by NMFS while under the employ of a certified catch monitor provider.

(1) A training certification signifies the successful completion of the training course required to obtain catch monitor certification. This endorsement expires when the catch monitor has not been deployed and performed sampling duties as required by the catch monitor program office for a period of time, specified by the catch monitor program, after his or her most recent debriefing. The catch monitor can renew the certification by successfully completing training once more.

(2) *Catch monitor program annual briefing.* Each catch monitor must attend an annual briefing prior to his or her first deployment within any calendar year subsequent to a year in which a training certification is obtained. To maintain certification, a catch monitor must successfully complete the annual briefing, as specified by the catch monitor program. All briefing attendance, performance, and conduct

standards required by the catch monitor program must be met.

(3) *Maintaining the validity of a catch monitor certification.* After initial issuance, a catch monitor must keep their certification valid by meeting all of the following requirements specified below:

(i) Successfully perform their assigned duties as described in the Catch Monitor Manual or other written instructions from the catch monitor program.

(ii) Accurately record their data, write complete reports, and report accurately any observations of suspected violations of regulations relevant to conservation of marine resources or their environment.

(iii) Not disclose collected data and observations made on board the vessel or in the first receiver facility to any person except the owner or operator of the observed vessel, first receiver management or an authorized officer or NMFS.

(iv) Successfully complete NMFS-approved annual briefings as prescribed by the catch monitor program.

(v) Successful completion of a briefing by a catch monitor consists of meeting all attendance and conduct standards issued in writing at the start of training; meeting all performance standards issued in writing at the start of training for assignments, tests, and other evaluation tools; and completing all other briefing requirements established by the catch monitor program.

(vi) Successfully meet all expectations in all debriefings including reporting for assigned debriefings.

(vii) Submit all data and information required by the catch monitor program within the program's stated guidelines.

* * * * *

8. In § 660.18, revise paragraphs (c)(1)(i) through (iii) and (d)(1) through (3) to read as follows:

§ 660.18 Certification and decertification procedures for catch monitors and catch monitor providers.

* * * * *

(c) * * *

(1) * * *

(i) Any ownership, mortgage holder, or other secured interest in a vessel, first receiver, shorebased or floating stationary processor facility involved in the catching, taking, harvesting or processing of fish,

(ii) Any business involved with selling supplies or services to any vessel, first receiver, shorebased or floating stationary processing facility; or

(iii) Any business involved with purchasing raw or processed products from any vessel, first receiver, shorebased or floating stationary processing facilities.

* * * * *

(d) * * *

(1) Any ownership, mortgage holder, or other secured interest in a vessel, first receiver, shorebased or floating stationary processor facility involved in the catching, taking, harvesting or processing of fish,

(2) Any business involved with selling supplies or services to any vessel, first receiver, shorebased or floating stationary processing facility; or

(3) Any business involved with purchasing raw or processed products from any vessel, first receiver, shorebased or floating stationary processing facilities.

* * * * *

9. In § 660.25,

a. Remove paragraph (b)(3)(iv)(D);

b. Revise paragraphs (b)(1)(iii) and (v), (b)(3)(i), (b)(3)(iv)(A)(*1*) and (*2*), (b)(3)(iv)(C)(*4*) and (*5*), (b)(3)(v), (b)(3)(vii), (b)(4)(ii)(B), (b)(4)(iv)(A) and (C), (b)(4)(v)(C) and (D), (b)(4)(vi)(B), (b)(4)(vii) introductory text, (b)(4)(vii)(F), (b)(4)(viii), (b)(4)(ix) and (f);

c. Add paragraphs (b)(4)(iv)(D) and (b)(6) to read as follows:

§ 660.25 Permits.

* * * * *

(b) * * *

(1) * * *

(iii) *Registration.* Limited entry permits will normally be registered for use with a particular vessel at the time the permit is issued, renewed, or replaced. If the permit will be used with a vessel other than the one registered on the permit, the permit owner must register that permit for use with the new vessel through the SFD. The reissued permit must be placed on board the new vessel in order for the vessel to be used to fish in the limited entry fishery.

(A) For all limited entry permits, including MS permits, MS/CV-endorsed permits, and C/P-endorsed permits when they are not fishing in the at-sea whiting fisheries, registration of a limited entry permit to be used with a new vessel will take effect no earlier than the first day of the next major limited entry cumulative limit period following the date SFD receives the change in vessel registration form and the original permit.

(B) For MS permits, MS/CV-endorsed permits, and C/P-endorsed permits when they are fishing in the at-sea whiting fisheries, registration of a limited entry permit to be used with a new vessel will take effect on the date NMFS approves and issues the permit.

* * * * *

(v) *Initial administrative determination.* SFD will make a determination regarding permit endorsements, renewal, replacement, change in permit ownership and change in vessel registration. SFD will notify the permit owner in writing with an explanation of any determination to deny a permit endorsement, renewal, replacement, change in permit ownership or change in vessel registration. The SFD will decline to act on an application for permit endorsement, renewal, replacement, or change in registration of a limited entry permit if the permit is subject to sanction provisions of the Magnuson-Stevens Act at 16 U.S.C. 1858(a) and implementing regulations at 15 CFR part 904, subpart D, apply.

* * * * *

(3) * * *

(i) *''A'' endorsement.* A limited entry permit with an ''A'' endorsement entitles the vessel registered to the permit to fish in the limited entry fishery for all groundfish species with the type(s) of limited entry gear specified in the endorsement, except for sablefish harvested north of 36° N. lat. during times and with gears for which a sablefish endorsement is required. See paragraph (b)(3)(iv) of this section for provisions on sablefish endorsement requirements. An ''A'' endorsement is affixed to the limited entry permit. The limited entry permit with an ''A'' endorsement may be registered to another person (*i.e.,* change in permit ownership), or to a different vessel (*i.e.,* change in vessel registration) under paragraph (b)(4) of this section. An ''A'' endorsement expires on failure to renew the limited entry permit to which it is affixed. An MS permit is not considered a limited entry ''A''-endorsed permit.

* * * * *

(iv) * * *

(A) * * *

(*1*) A sablefish endorsement with a tier assignment will be affixed to the permit and will remain valid when the permit is registered to another permit owner (*i.e.,* change in permit ownership) or to another vessel (*i.e.,* change in vessel registration).

(*2*) A sablefish endorsement and its associated tier assignment are not separable from the limited entry permit, and therefore, may not be registered to another permit owner (*i.e.,* change in permit ownership) or to another vessel (*i.e.,* change in vessel registration) separately from the limited entry permit.

* * * * *

(C) * * *

(*4*) Any partnership or corporation with any ownership interest in or that holds a limited entry permit with a sablefish endorsement shall document the extent of that ownership interest or the individuals that hold the permit with the SFD via the Identification of Ownership Interest Form sent to the permit owner through the annual permit renewal process and whenever a change in permit owner, permit holder, and/or vessel registration occurs as described at paragraph (b)(4)(iv) and (v) of this section. SFD will not renew a sablefish-endorsed limited entry permit through the annual renewal process described at paragraph (b)(4)(i) of this section, or approve a change in permit owner, permit holder, and/or vessel registration unless the Identification of Ownership Interest Form has been completed. Further, if SFD discovers through review of the Identification of Ownership Interest Form that an individual person, partnership, or corporation owns or holds more than 3 permits and is not authorized to do so under paragraph (b)(3)(iv)(C)(*2*) of this section, the individual person, partnership or corporation will be notified and the permits owned or held by that individual person, partnership, or corporation will be void and reissued with the vessel status as ''unidentified'' until the permit owner owns and/or holds a quantity of permits appropriate to the restrictions and requirements described in paragraph (b)(3)(iv)(C)(*2*) of this section. If SFD discovers through review of the Identification of Ownership Interest Form that a partnership or corporation has had a change in membership since November 1, 2000, as described in paragraph (b)(3)(iv)(C)(*3*) of this section, the partnership or corporation will be notified, SFD will void any existing permits, and reissue any permits owned and/or held by that partnership or corporation in ''unidentified'' status with respect to vessel registration until the partnership or corporation is able to register ownership of those permits to persons authorized under this section to own sablefish-endorsed limited entry permits.

(*5*) A person, partnership, or corporation that is exempt from the owner-on-board requirement may sell all of their permits, buy another sablefish-endorsed permit within one year of the date of approval of the last change in permit ownership, and retain their exemption from the owner-on-board requirements. An individual person, partnership or corporation could only obtain a permit if it has not added or changed individuals since November 1, 2000, excluding individuals that have left the partnership or corporation or that have died.

* * * * *

(v) *MS/CV endorsement.* An MS/CV endorsement on a trawl limited entry permit conveys a conditional privilege that allows a vessel registered to it to fish in either the coop or non-coop fishery in the MS Coop Program described at § 660.150. The provisions for the MS/CV-endorsed limited entry permit, including eligibility, renewal, change of permit ownership, vessel registration, combinations, accumulation limits, fees, and appeals are described at § 660.150. Each MS/CV endorsement has an associated catch history assignment (CHA) that is permanently linked as originally issued by NMFS and which cannot be divided or registered separately to another limited entry trawl permit. Regulations detailing this process and MS/CV-endorsed permit combinations are outlined in § 660.150(g)(2).

* * * * *

(vii) *Endorsement and exemption restrictions.* ''A'' endorsements, gear endorsements, sablefish endorsements and sablefish tier assignments, MS/CV endorsements, and C/P endorsements may not be registered to another permit owner (*i.e.,* change in permit ownership) or to another vessel (*i.e.,* change in vessel registration) separately from the limited entry permit. At-sea processing exemptions, specified at paragraph (b)(6) of this section, are associated with the vessel and not with the limited entry permit and may not be registered to another permit owner or to another vessel without losing the exemption.

* * * * *

(4) * * *

(ii) * * *

(B) *MS/CV-endorsed permit.* When an MS/CV-endorsed permit is combined with another MS/CV-endorsed permit or with another limited entry trawl permit with no MS/CV or C/P endorsement, the resulting permit will be MS/CV-endorsed with the associated CHA as specified at § 660.150(g)(2)(iv) and (v). If an MS/CV-endorsed permit is combined with a C/P-endorsed permit, the MS/CV endorsement and CHA will not be reissued on the combined permit.

* * * * *

(iv) * * *

(A) *General.* The permit owner may convey the limited entry permit to a different person. The new permit owner will not be authorized to use the permit until the change in permit ownership has been registered with and approved by the SFD. The SFD will not approve a change in permit ownership for a limited entry permit with a sablefish endorsement that does not meet the ownership requirements for such permit described at paragraph (b)(3)(iv)(C) of this section. The SFD will not approve a change in permit ownership for a limited entry permit with an MS/CV endorsement or an MS permit that does not meet the ownership requirements for such permit described at § 660.150(g)(3), and § 660.150(f)(3), respectively. Change in permit owner and/or permit holder applications must be submitted to SFD with the appropriate documentation described at paragraph (b)(4)(vii) of this section. NMFS considers the following as a change in permit ownership that would require registering with and approval by SFD, including but not limited to: Selling the permit to another individual or entity; adding an individual or entity to the legal name on the permit; or removing an individual or entity from the legal name on the permit.

* * * * *

(C) *Sablefish-endorsed permits.* If a permit owner submits an application to register a sablefish-endorsed limited entry permit to a new permit owner or holder during the primary sablefish season described at § 660.231 (generally April 1 through October 31), the initial permit owner must certify on the application form the cumulative quantity, in round weight, of primary season sablefish landed against that permit as of the application signature date for the then current primary season. The new permit owner or holder must sign the application form acknowledging the amount of landings to date given by the initial permit owner. This certified amount should match the total amount of primary season sablefish landings reported on state landing receipts. As required at § 660.12(b), any person landing sablefish must retain on board the vessel from which sablefish is landed, and provide to an authorized officer upon request, copies of any and all reports of sablefish landings from the primary season containing all data, and in the exact manner, required by the applicable state law throughout the primary sablefish season during which a landing occurred and for 15 days thereafter.

(D) *Change in MS/CV endorsement registration.* The requirements for a change in MS/CV endorsement registration between limited entry trawl permits are specified at § 660.150(g)(2)(iv).

* * * * *

(v) * * *

(C) *Effective date.* Changes in vessel registration on permits will take effect no sooner than the first day of the next major limited entry cumulative limit period following the date that SFD receives the signed permit change in vessel registration form and the original limited entry permit, except that changes in vessel registration on MS permits and C/P-endorsed permits will take effect immediately upon reissuance to the new vessel, and a change in vessel registration on MS/CV-endorsed permits will take effect immediately upon reissuance to the new vessel only on the second change in vessel registration for the year. No change in vessel registration is effective until the limited entry permit has been reissued as registered with the new vessel.

(D) *Sablefish-endorsed permits.* If a permit owner submits an application to register a sablefish-endorsed limited entry permit to a new vessel during the primary sablefish season described at § 660.231 (generally April 1 through October 31), the initial permit owner must certify on the application form the cumulative quantity, in round weight, of primary season sablefish landed against that permit as of the application signature date for the then current primary season. The new permit owner or holder associated with the new vessel must sign the application form acknowledging the amount of landings to date given by the initial permit owner. This certified amount should match the total amount of primary season sablefish landings reported on state landing receipts. As required at § 660.12(b), any person landing sablefish must retain on board the vessel from which sablefish is landed, and provide to an authorized officer upon request, copies of any and all reports of sablefish landings from the primary season containing all data, and in the exact manner, required by the applicable state law throughout the primary sablefish season during which a landing occurred and for 15 days thereafter.

* * * * *

(vi) * * *

(B) *Limited entry fixed gear and trawl-endorsed permits (without MS/CV or C/P endorsements).* Limited entry fixed gear and trawl-endorsed permits (without MS/CV or C/P endorsements) permits may not be registered for use with a different vessel more than once per calendar year, except in cases of death of a permit holder or if the permitted vessel is totally lost as defined in § 660.11. The exception for death of a permit holder applies for a permit held by a partnership or a corporation if the person or persons holding at least 50 percent of the ownership interest in the entity dies.

* * * * *

(vii) *Application and supplemental documentation.* Permit owners may request a change in vessel registration and/or change in permit ownership by submitting a complete application form. In addition, a permit owner applying for renewal, replacement, or change in permit ownership or change in vessel registration of a limited entry permit has the burden to submit evidence to prove that qualification requirements are met. The following evidentiary standards apply: * * *

* * * * *

(F) For a request to change a permit's ownership that is necessitated by the death of the permit owner(s), the individual(s) requesting conveyance of the permit to a new owner must provide SFD with a death certificate of the permit owner(s) and appropriate legal documentation that either: Specifically registers the permit to a designated individual(s); or, provides legal authority to the transferor to convey the permit ownership or to request a change in vessel registration.

* * * * *

(viii) *Application forms available.* Application forms for a change in vessel registration and a change in permit ownership of limited entry permits are available from the SFD at: NMFS Northwest Region, Sustainable Fisheries Division, *Attn:* Applications, 7600 Sand Point Way, NE., Seattle, WA 98115; or *http://www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Permits/index.cfm.* Contents of the application, and required supporting documentation, are specified in the application form.

* * * * *

(ix) *Records maintenance.* The SFD will maintain records of all limited entry permits that have been issued, renewed, registered, or replaced.

* * * * *

(6) *At-sea processing exemptions*—(i) *Sablefish at-sea processing exemption.* As specified at §§ 660.112(b)(1)(xii) and at 660.212(d)(3), vessels are prohibited from processing sablefish at sea that were caught in the primary sablefish fishery without a sablefish at-sea processing exemption. The sablefish at-sea processing exemption has been issued to a particular vessel and that permit and vessel owner who requested the exemption. The exemption is not part of the limited entry permit. The exemption cannot be registered with any other vessel, vessel owner, or permit owner for any reason. The sablefish at-sea processing exemption will expire upon registration of the vessel to a new owner or if the vessel is totally lost, as defined at § 660.11.

(ii) *Non-whiting at-sea processing exemption.* As specified at § 660.112(b)(1)(xii), vessels are prohibited from processing non-whiting groundfish at sea that were caught in the Shorebased IFQ Program without a non-whiting at-sea processing exemption. A permit and/or vessel owner may get an exemption to this prohibition by applying for the exemption as provided in paragraph (b)(6)(ii)(B) of this section and if his/her vessel meets the exemption qualifying criteria provided in paragraph (b)(6)(ii)(A) of this section. The non-whiting at-sea processing exemption is issued to a particular vessel and that permit and/or vessel owner who requested the exemption. The exemption is not part of the limited entry permit. The exemption is not transferable to any other vessel, vessel owner, or permit owner for any reason. The non-whiting at-sea processing exemption will expire upon registration of the vessel to a new owner or if the vessel is totally lost, as defined at § 660.11.

(A) *Qualifying criteria.* A non-whiting at-sea processing exemption will be issued to any vessel registered for use with a limited entry trawl permit that meets the non-whiting at-sea processing exemption qualifying criteria and for which the vessel owner submits a timely and complete application. The qualifying criteria for a non-whiting at-sea processing exemption are that the vessel must have been registered to a limited entry trawl permit, the vessel must have legally processed non-whiting groundfish at sea prior to July 20, 2010, and that the vessel landed that processed catch at a shorebased processor or buyer. The best evidence of a vessel having met these qualifying criteria will be receipts of processed product from shorebased processors, buyers, or exporters, accompanied by the state fish tickets or landings receipts appropriate to the processed product. Documentation showing investment in freezer equipment without also showing evidence of landing processed product is not sufficient evidence to qualify a vessel for a non-whiting at-sea processing exemption. All landings of processed non-whiting groundfish must have been harvested in waters managed under this part. Non-whiting groundfish taken in Tribal fisheries or taken outside of the fishery management area, as defined at § 660.10, does not meet the qualifying criteria.

(B) *Application and issuance process for non-whiting at-sea processing exemptions.*

(*1*) The SFD will mail non-whiting at-sea processing exemption applications to all current trawl permit holders and will make the application available online at *http://www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Permits/index.cfm.* Permit holders will have until February 15, 2012 to submit applications. A permit holder who believes that their vessel may qualify for the non-whiting at-sea processing exemption must submit evidence with their application showing how their vessel has met the qualifying criteria described at paragraph (b)(6)(ii)(A) of this section. Paragraph (b)(6)(ii)(C) of this section sets out the relevant evidentiary standards and burden of proof. Applications must be postmarked or hand-delivered no later than close of business February 15, 2012, to NMFS at: NMFS Northwest Region, Sustainable Fisheries Division, ATTN: Fisheries Permit Office—Processing Exemption, 7600 Sand Point Way, NE., Seattle, WA 98115.

(*2*) After receipt of a complete application, the SFD will notify applicants by letter of initial administrative determination (IAD) whether their vessel qualifies for the non-whiting at-sea processing exemption. A person who has been notified by the SFD that their vessel qualifies for a non-whiting at-sea processing exemption will be issued an exemption letter by SFD that must be onboard the vessel at all times.

(*3*) If an applicant chooses to file an appeal of the IAD letter under paragraph (b)(6)(ii)(B)(*2*) of this section, the applicant must follow the appeals process outlined at paragraph (g) of this section and, for the timing of the appeals, at paragraph (g)(4)(ii) of this section.

(C) *Evidence and burden of proof.* A permit and/or vessel owner applying for issuance of a non-whiting at-sea processing exemption has the burden to submit evidence to prove that qualification requirements are met. The following evidentiary standards apply:

(*1*) A copy of the current vessel documentation or registration (USCG or state) is the best evidence of vessel ownership.

(*2*) A copy of a state fish receiving ticket is the best evidence of a landing and of the type of gear used.

(*3*) A copy of a state fish receiving ticket, dock receiving ticket, landing receipt, or other written receipt indicating the name of their buyer, the date, and a description of the product form and the name and amount of non-whiting groundfish landed is the best evidence of the commercial transfer of processed product (including glazing).

(*4*) A copy of a sales receipt is the best evidence of the purchase of freezing equipment.

(*5*) Such other relevant, credible evidence as the applicant may submit, or the SFD or the Regional Administrator request or acquire, may also be considered.

* * * * *

(f) *Permit fees.* The Regional Administrator is authorized to charge fees to cover administrative expenses related to issuance of permits including initial issuance, renewal, permit registration, vessel registration, replacement, and appeals. The appropriate fee must accompany each application.

* * * * *

10. In § 660.55, revise paragraphs (a), (e)(2) introductory text, and (m) to read as follows:

§ 660.55 Allocations.

(a) *General.* An allocation is the apportionment of a harvest privilege for a specific purpose, to a particular person, group of persons, or fishery sector. The opportunity to harvest Pacific Coast groundfish is allocated among participants in the fishery when the ACLs for a given year are established in the biennial harvest specifications. For any stock that has been declared overfished, any formal allocation may be temporarily revised for the duration of the rebuilding period. For certain species, primarily trawl-dominant species, beginning with the 2011–2012 biennial specifications process, separate allocations for the trawl and nontrawl fishery (which for this purpose includes limited entry fixed gear, directed open access, and recreational fisheries) will be established biennially or annually using the standards and procedures described in Chapter 6 of the PCGFMP. Chapter 6 of the PCGFMP provides the allocation structure and percentages for species allocated between the trawl and nontrawl fisheries. Also, for those species not subject to the trawl and nontrawl allocations specified under Amendment 21 and in paragraph (c)(1) of this section, separate allocations for the limited entry and open access fisheries may be established using the procedures described in Chapters 6 and 11 of the PCGFMP and this subpart. Allocation of sablefish north of 36° N. lat. is described in paragraph (h) of this section and in the PCGFMP. Allocation of Pacific whiting is described in paragraph (i) of this section and in the PCGFMP. Allocation of black rockfish is described in paragraph (l) of this section. Allocation of Pacific halibut bycatch is described in paragraph (m) of this section. Allocations not specified in the PCGFMP are established in regulation through the biennial harvest specifications and are listed in Tables 1a through d and Tables 2a through d of this subpart.

* * * * *

(e) * * *

(2) *Species with LE/OA allocations.* For species with LE/OA allocations that are not subject to Amendment 21 allocations, the allocation between the limited entry (both trawl and fixed gear) and the open access fisheries is determined by applying the percentage for those species with a LE/OA allocation to the commercial harvest guideline plus the amount set-aside for the non-groundfish fisheries.

* * * * *

(m) *Pacific halibut bycatch allocation.* The Pacific halibut fishery off Washington, Oregon and California (Area 2A in the halibut regulations) is managed under regulations at 50 CFR part 300, subpart E. The PCGFMP sets the trawl bycatch mortality limit at 15 percent of the Area 2A total constant exploitation yield (TCEY) for legal size halibut (net weight), not to exceed 130,000 pounds annually for legal size halibut (net weight) for 2012 through 2014 and, beginning in 2015, not to exceed 100,000 pounds annually for legal size halibut (net weight). The TCEY used for these calculations will be the best estimate of the TCEY available from the International Pacific Halibut Commission at the time of the calculation. To determine the trawl bycatch mortality limit, the pounds of halibut available to the trawl fleet will be expanded from the legal sized halibut mortality (net weight) to a round weight legal and sublegal sized amount. To convert from net weight to round weight, multiply by the conversion factor used by the International Pacific Halibut Commission at the time of calculation for net weight to round weight. To convert from legal sized halibut to legal and sublegal sized halibut, multiply by the conversion factor from the NMFS trawl fishery bycatch report as reported to the International Pacific Halibut Commission at the time of calculation for legal sized to legal and sublegal sized halibut. The bycatch allocation percent can be adjusted downward or upward through the biennial specifications and management measures process but the upper bound on the maximum pounds of allocation can only be changed though an FMP

amendment. Part of the overall total mortality limit is a set-aside of 10 mt of Pacific halibut (legal and sublegal, round weight), to accommodate bycatch in the at-sea Pacific whiting fishery and in the shorebased trawl fishery south of 40°10' N. lat. (estimated to be approximately 5 mt each). This set-aside can be adjusted through the biennial specifications and management measures process.

11. In § 660.60,

a. Add paragraph (c)(1)(iv),

b. Revise headings to paragraphs (h)(5), (h)(5)(i), and (h)(5)(ii); and

c. Revise paragraph (h)(7), to read as follows:

§ 660.60 Specifications and management measures.

* * * * *

(c) * * *

(1) * * *

(iv) *List of IFQ species documented on observer form.* As specified at §§ 660.112(b)(1)(xiii) and 660.140(h)(1)(i), observer or catch monitor coverage while in port depends on documentation of specified retained IFQ species while the vessel is at sea by the observer program on a form. The list of IFQ species documented on the observer program form may be modified on a biennial or more frequent basis.

* * * * *

(h) * * *

(5) *Size limits, length measurement, and weight conversions.* * * *

(i) *Length measurement.* * * *

(ii) *Weight conversions and size limits.* * * *

* * * * *

(7) *Crossover provisions.* Crossover provisions apply to two activities: fishing on different sides of a management line, or fishing in both the limited entry and open access fisheries. NMFS uses different types of management areas for West Coast groundfish management, such as the *north-south management areas* as defined in § 660.11. Within a management area, a large ocean area with northern and southern boundary lines, trip limits, seasons, and conservation areas follow a single theme. Within each management area, there may be one or more conservation areas, defined at § 660.11 and §§ 660.70 through 660.74. The provisions within this paragraph apply to vessels fishing in different management areas. Crossover provisions also apply to vessels that fish in both the limited entry and open access fisheries, or that use open access non-trawl gear while registered to limited entry fixed gear permits. Fishery specific crossover provisions can be found in subparts D through F of this part.

(i) *Fishing in management areas with different trip limits.* Trip limits for a species or a species group may differ in different management areas along the coast. The following crossover provisions apply to vessels fishing in different geographical areas that have different cumulative or ''per trip'' trip limits for the same species or species group, with the following exceptions. Such crossover provisions do not apply to: IFQ species defined at § 660.140(c), for vessels that are declared into the Shorebased IFQ Program (see § 660.13(d)(5)(iv)(A), for valid Shorebased IFQ Program declarations), species that are subject only to daily trip limits, or to the trip limits for black rockfish off Washington, as described at § 660.230(e) and § 660.330(e).

(A) *Going from a more restrictive to a more liberal area.* If a vessel takes and retains any groundfish species or species group of groundfish in an area where a more restrictive trip limit applies before fishing in an area where a more liberal trip limit (or no trip limit) applies, then that vessel is subject to the more restrictive trip limit for the entire period to which that trip limit applies, no matter where the fish are taken and retained, possessed, or landed.

(B) *Going from a more liberal to a more restrictive area.* If a vessel takes and retains a groundfish species or species group in an area where a higher trip limit or no trip limit applies, and takes and retains, possesses or lands the same species or species group in an area where a more restrictive trip limit applies, that vessel is subject to the more restrictive trip limit for the entire period to which that trip limit applies, no matter where the fish are taken and retained, possessed, or landed.

(C) *Fishing in two different areas where a species or species group is managed with different types of trip limits.* During the fishing year, NMFS may implement management measures for a species or species group that set different types of trip limits (for example, per trip limits versus cumulative trip limits) for different areas. If a vessel fishes for a species or species group that is managed with different types of trip limits in two different areas within the same cumulative limit period, then that vessel is subject to the most restrictive overall cumulative limit for that species, regardless of where fishing occurs.

(D) *Minor rockfish.* Several rockfish species are designated with species-specific limits on one side of the 40°10' N. lat. management line, and are included as part of a minor rockfish complex on the other side of the line. A vessel that takes and retains fish from a minor rockfish complex (nearshore, shelf, or slope) on both sides of a management line during a single cumulative limit period is subject to the more restrictive cumulative limit for that minor rockfish complex during that period.

(*1*) If a vessel takes and retains minor slope rockfish north of 40°10′ N. lat., that vessel is also permitted to take and retain, possess or land splitnose rockfish up to its cumulative limit south of 40°10′ N. lat., even if splitnose rockfish were a part of the landings from minor slope rockfish taken and retained north of 40°10′ N. lat.

(*2*) If a vessel takes and retains minor slope rockfish south of 40°10′ N. lat., that vessel is also permitted to take and retain, possess or land POP up to its cumulative limit north of 40°10′ N. lat., even if POP were a part of the landings from minor slope rockfish taken and retained south of 40°10′ N. lat.

(ii) *Fishing in both limited entry and open access fisheries.*

(A) *Fishing in limited entry and open access fisheries with different trip limits.* Open access trip limits apply to any fishing conducted with open access gear, even if the vessel has a valid limited entry permit with an endorsement for another type of gear, except such provisions do not apply to IFQ species defined at § 660.140(c), for vessels that are declared into the Shorebased IFQ Program (see § 660.13(d)(5)(iv)(A) for valid Shorebased IFQ Program declarations). A vessel that fishes in both the open access and limited entry fisheries is not entitled to two separate trip limits for the same species. If a vessel has a limited entry permit registered to it at any time during the trip limit period and uses open access gear, but the open access limit is smaller than the limited entry limit, the open access limit may not be exceeded and counts toward the limited entry limit. If a vessel has a limited entry permit registered to it at any time during the trip limit period and uses open access gear, but the open access limit is larger than the limited entry limit, the smaller limited entry limit applies, even if taken entirely with open access gear.

(B) *Limited entry permit restrictions for vessels fishing in the open access fishery.*—(*1*) *Vessel registered to a limited entry trawl permit.* To participate in the open access fishery, described at part 660, subpart F, with open access gear, defined at § 660.11, a vessel registered to a limit entry trawl permit must make the appropriate fishery declaration, as specified at

§ 660.14(d)(5)(iv)(A). In addition, a vessel registered to a limit entry trawl permit must remove the permit from their vessel, as specified at § 660.25(b)(4)(v), unless the vessel will be fishing in the open access fishery under one of the following declarations specified at § 660.13(d):

(*i*) Non-groundfish trawl gear for pink shrimp,

(*ii*) Non-groundfish trawl gear for ridgeback prawn,

(*iii*) Non-groundfish trawl gear for California halibut,

(*iv*) Non-groundfish trawl gear for sea cucumber,

(*v*) Open access Dungeness crab pot/trap gear,

(*vi*) Open access HMS line gear,

(*vii*) Open access salmon troll gear,

(*viii*) Open access Coastal Pelagic Species net gear.

(*2*) *Vessel registered to a limited entry fixed gear permit.* To participate with open access gear, defined at § 660.11, subpart C, a vessel registered to a limit entry fixed gear permit must make the appropriate open access declaration, as specified at § 660.14(d)(5)(iv)(A).

12. In § 660.111, revise the definition for ''Catch history assignment'' to read as follows:

§ 660.111 Trawl fishery—definitions.

* * * * *

Catch history assignment or CHA means a percentage of the mothership sector allocation of Pacific whiting based on a limited entry permit's qualifying history and which is specified on the MS/CV-endorsed limited entry permit.

* * * * *

13. In § 660.112,

a. Revise paragraphs (b)(1)(iv) and (b)(1)(xii)(B); and add paragraph (b)(1)(xii)(C);

b. Revise paragraph (b)(1)(xiii), and add (b)(1)(xvi);

c. Revise paragraphs (b)(2)(i) and (ii) to read as follows:

§ 660.112 Trawl fishery—prohibitions.

* * * * *

(b) * * *

(1) * * *

(iv) Register the limited entry trawl endorsed permit to another vessel or sell the limited entry trawl endorsed permit to another owner if the vessel registered to the permit has a deficit (negative balance) in their vessel account, until the deficit is covered, regardless of the amount of the deficit.

* * * * *

(xii) * * *

(B) A vessel that has a sablefish at-sea processing exemption, described at § 660.25(b)(6)(i) may process sablefish at-sea.

(C) A vessel that has a non-whiting at-sea processing exemption, described at § 660.25(b)(6)(ii) may process non-whiting groundfish at sea.

* * * * *

(xiii) Retain any IFQ species/species group onboard a vessel unless the vessel has observer coverage during the entire trip and observer or catch monitor coverage while in port until all IFQ species from the trip are offloaded, except for the following IFQ species: bocaccio, yelloweye rockfish, canary rockfish, and cowcod. If the observer makes available to the catch monitor an observer program form reporting the weight and number of each of the IFQ species that were retained onboard the vessel during that trip and noting any discrepancy in those species between the vessel operator and observer, the vessel would not need to maintain observer or catch monitor coverage on the vessel while in port and until the offload is complete. A vessel may deliver IFQ species/species groups to more than one IFQ first receiver, but must maintain observer coverage onboard the vessel during any transit between delivery points. Once transfer of fish begins, all fish aboard the vessel are counted as part of the same landing as defined at § 660.11. Modifying the list of IFQ species to which this exception applies has been designated as a ''routine management measure'' and may be modified through an inseason action, as specified at § 660.60(c)(1)(iv).

* * * * *

(xvi) Fraudulently use a QS account or vessel account.

* * * * *

(2) * * *

(i) Receive, purchase, or take custody, control, or possession of an IFQ landing from a vessel that harvested the catch while fishing under the Shorebased IFQ Program without a valid first receiver site license.

(ii) Fail to sort fish received from a IFQ landing prior to first weighing after offloading as specified at § 660.130(d)(2) for the Shorebased IFQ Program, with the following exception. Vessels declared in to the Shorebased IFQ Program at § 660.13(d)(5)(iv)(A), may weigh catch on a bulk scale or automatic hopper scale before sorting as described at § 660.140(j)(2)(viii), for Pacific whiting taken with midwater trawl gear, and at § 660.140(j)(2)(ix)(A), for all other IFQ landings. For this exception, all but the predominant species must then be reweighed.

* * * * *

14. In § 660.113, revise paragraphs (a)(2) and (b)(4)(i) and (ii) to read as follows:

§ 660.113 Trawl fishery—recordkeeping and reporting.

* * * * *

(a) * * *

(2) *Retention of records.* All records used in the preparation of records or reports specified in this section or corrections to these reports must be maintained for a period of not less than three years after the date of landing and must be immediately available upon request for inspection by NMFS or authorized officers or others as specifically authorized by NMFS. Records used in the preparation of required reports specified in this section or corrections to these reports that are required to be kept include, but are not limited to, any written, recorded, graphic, electronic, or digital materials as well as other information stored in or accessible through a computer or other information retrieval system; worksheets; weight slips; preliminary, interim, and final tally sheets; receipts; checks; ledgers; notebooks; diaries; spreadsheets; diagrams; graphs; charts; tapes; disks; or computer printouts. All relevant records used in the preparation of electronic fish ticket reports or corrections to these reports, including dock tickets, must be maintained for a period of not less than three years after the date and must be immediately available upon request for inspection by NMFS or authorized officers or others as specifically authorized by NMFS.

(b) * * *

(4) * * *

(i) *Required information.* All IFQ first receivers must provide the following types of information: Date of landing, vessel that made the delivery, vessel account number, name of the vessel operator, gear type used, catch area, first receiver, actual weights of species landed listed by species or species group including species with no value, condition landed, number of salmon by species, number of Pacific halibut, ex-vessel value of the landing by species, fish caught inside/outside 3 miles or both, and any other information deemed necessary by the Regional Administrator as specified on the appropriate electronic fish ticket form.

(ii) *Submissions.* The IFQ first receiver must:

(A) Include as part of each electronic fish ticket submission, the actual scale weight for each groundfish species as specified by requirements at § 660.15(c), and the vessel identification number.

(B) Use for the purpose of submitting electronic fish tickets, and maintain in good working order, computer equipment as specified at § 660.15(d);

(C) Install, use, and update as necessary, any NMFS-approved software described at § 660.15(d);

(D) Submit a completed electronic fish ticket for every IFQ landing no later than 24 hours after the date the fish are received, unless a waiver of this requirement has been granted under provisions specified at paragraph (b)(4)(iv) of this section.

(E) Follow these process and submittal requirements for offloading at a first receiver site where the fish will be processed at the offload site or if an electronic fish ticket will be recorded prior to transport:

(*1*) The IFQ first receiver must communicate the electronic fish ticket number to the catch monitor.

(*2*) After completing the offload, the electronic fish ticket information must be recorded immediately.

(*3*) Prior to submittal of the electronic fish ticket, the information recorded for the electronic fish ticket must be reviewed by the catch monitor and the vessel operator who delivered the fish.

(*4*) After review, the IFQ first receiver and the vessel operator must sign a printed hard copy of the electronic fish ticket or, if the delivery occurs outside of business hours, the original dock ticket.

(*5*) Prior to submittal, three copies of the signed electronic fish ticket must be produced by the IFQ first receiver and a copy provided to each of the following:

(*i*) The vessel operator,

(*ii*) The state of origin if required by state regulations, and

(*iii*) The IFQ first receiver.

(*6*) After review and signature, the electronic fish ticket must be submitted within 24 hours of the completion of the offload, as specified in paragraph (b)(4)(ii)(D) of this section.

(F) Follow these process and submittal requirements for offloading at a first receiver site where the fish will be transported for processing at a different location if an electronic fish ticket is not recorded prior to transport:

(*1*) The IFQ first receiver must communicate the electronic fish ticket number to the catch monitor at the beginning of the offload.

(*2*) The vessel name and the electronic fish ticket number must be recorded on each dock ticket related to that delivery.

(*3*) Upon completion of the dock ticket, but prior to transfer of the offload to another location, the dock ticket information that will be used to complete the electronic fish ticket must be reviewed by the catch monitor and the vessel operator who delivered the fish.

(*4*) After review, the IFQ first receiver and the vessel operator must sign the original copy of each dock ticket related to that delivery.

(*5*) Prior to submittal of the electronic fish ticket, three copies of the signed dock ticket must be produced by the IFQ first receiver and a copy provided to each of the following:

(*i*) The vessel operator,

(*ii*) The state of origin if required by state regulations, and

(*iii*) The IFQ first receiver.

(*6*) Based on the information contained in the signed dock ticket, the electronic fish ticket must be completed and submitted within 24 hours of the completion of the offload, as specified in paragraph (b)(4)(ii)(D) of this section.

(*7*) Three copies of the electronic fish ticket must be produced by the IFQ first receiver and a copy provided to each of the following:

(*i*) The vessel operator,

(*ii*) The state of origin if required by state regulations, and

(*iii*) The IFQ first receiver.

* * * * *

15. Revise § 660.120 to read as follows:

§ 660.120 Trawl fishery—crossover provisions.

The crossover provisions listed at § 660.60(h)(7), apply to vessels fishing in the limited entry trawl fishery.

16. In § 660.130, remove paragraph (c)(4)(ii)(B) and redesignate paragraph (c)(4)(ii)(C) as paragraph (c)(4)(ii)(B), revise paragraph (c) introductory text, (c)(4) introductory text, (d) introductory text, and (d)(2)(i) to read as follows:

§ 660.130 Trawl fishery—management measures.

* * * * *

(c) *Restrictions by limited entry trawl gear type.* Management measures may vary depending on the type of trawl gear (*i.e.,* large footrope, small footrope, selective flatfish, or midwater trawl gear) used and/or on board a vessel during a fishing trip, cumulative limit period, and the area fished. Trawl nets may be used on and off the seabed. For some species or species groups, Table 1 (North) and Table 1 (South) of this subpart provide trip limits that are specific to different types of trawl gear: large footrope, small footrope (including selective flatfish), selective flatfish, midwater, and multiple types. If Table 1 (North) and Table 1 (South) of this subpart provide gear specific limits for a particular species or species group, it is unlawful to take and retain, possess or land that species or species group with limited entry trawl gears other than those listed.

* * * * *

(4) *More than one type of trawl gear on board.* The trip limits in Table 1 (North) or Table 1 (South) of this subpart must not be exceeded.

* * * * *

(d) *Sorting.* Under § 660.12(a)(8), it is unlawful for any person to ''fail to sort, prior to the first weighing after offloading, those groundfish species or species groups for which there is a trip limit, size limit, scientific sorting designation, quota, harvest guideline, ACL or ACT or OY, if the vessel fished or landed in an area during a time when such trip limit, size limit, scientific sorting designation, quota, harvest guideline, ACL or ACT or OY applied.'' The States of Washington, Oregon, and California may also require that vessels record their landings as sorted on their state landing receipt. Sector specific sorting requirements and exceptions are listed at paragraphs (d)(2) and (d)(3) of this section.

* * * * *

(2) * * *

(i) *First receivers.* Fish landed at IFQ first receivers (including shoreside processing facilities and buying stations that intend to transport catch for processing elsewhere) must be sorted, prior to first weighing after offloading from the vessel and prior to transport away from the point of landing, with the following exception. Vessels declared in to the Shorebased IFQ Program at § 660.13(d)(5)(iv)(A), may weigh catch on a bulk scale or automatic hopper scale before sorting as described at § 660.140(j)(2)(viii), for Pacific whiting taken with midwater trawl gear, and at § 660.140(j)(2)(ix)(A), for all other IFQ landings. For this exception, all but the predominant species must then be reweighed.

* * * * *

17. In § 660.140,

a. Revise paragraph (a) introductory text, paragraphs (d)(1)(ii) introductory text, (d)(1)(ii)(A) and (C), (d)(2)(ii), (d)(3)(i)(D), (d)(3)(ii)(A), (d)(4)(v), (e)(1)(i), (e)(2)(ii), (e)(3)(i)(D), (e)(3)(ii), (e)(4)(i) introductory text, (e)(5)(i), (f)(1) and (2), (f)(3) introductory text, (f)(3)(iii) introductory text, (f)(3)(iii)(B), (f)(5), (f)(6), (f)(7), (h)(1)(i), (j)(1), and (l)(2);

b. Add paragraphs (f)(3)(ii)(D) and (f)(3)(iii)(C)(*11*) to read as follows:

§ 660.140 Shorebased IFQ Program.

(a) *General.* The Shorebased IFQ Program applies to qualified participants in the Pacific Coast Groundfish fishery and includes a system of transferable QS for most groundfish species or species groups, IBQ for Pacific halibut, and trip limits or set-asides for the remaining groundfish species or species groups. NMFS will issue a QS permit to eligible

participants and will establish a QS account for each QS permit owner to track the amount of QS or IBQ and QP or IBQ pounds owned by that owner. QS permit owners may own QS or IBQ for IFQ species, expressed as a percent of the allocation to the Shorebased IFQ Program for that species. NMFS will issue QP or IBQ pounds to QS permit owners, expressed in pounds, on an annual basis, to be deposited in the corresponding QS account. NMFS will establish a vessel account for each eligible vessel owner participating in the Shorebased IFQ Program, which is independent of the QS permit and QS account. In order to use QP or IBQ pounds, a QS permit owner must transfer the QP or IBQ pounds from the QS account into the vessel account for the vessel to which the QP or IBQ pounds is to be assigned. Harvests of IFQ species may only be delivered to an IFQ first receiver with a first receiver site license. In addition to the requirements of this section, the Shorebased IFQ Program is subject to the following groundfish regulations of subparts C and D:

* * * * *

(d) * * *

(1) * * *

(ii) *Annual QP and IBQ pound allocations.* QP and IBQ pounds will be deposited into QS accounts annually. QS permit owners will be notified of QP deposits via the IFQ Web site and their QS account. QP and IBQ pounds will be issued to the nearest whole pound using standard rounding rules (*i.e.* decimal amounts less than 0.5 round down and 0.5 and greater round up), except that in the first year of the Shorebased IFQ Program, issuance of QP for overfished species greater than zero but less than one pound will be rounded up to one pound. After making best attempts to distribute 100 percent of the Shorebased IFQ Program allocations among individual QS accounts, NMFS may determine the QP or IBQ pounds allocations to individual permits that are equal to or greater than 99.99 percent, but do not exceed 100 percent, are considered fully allocated. QS permit owners must transfer their QP and IBQ pounds from their QS account to a vessel account in order for those QP and IBQ pounds to be fished. QP and IBQ pounds must be transferred in whole pounds (*i.e.* no fraction of a QP or IBQ pound can be transferred). All QP and IBQ pounds in a QS account must be transferred to a vessel account by September 1 of each year in order to be fished.

(A) *Nonwhiting QP annual sub-allocations.* NMFS will issue QP for IFQ species other than Pacific whiting and Pacific halibut annually by multiplying the QS permit owner's QS for each such IFQ species by that year's shorebased trawl allocation for that IFQ species. Deposits to QS accounts for IFQ species other than Pacific whiting and Pacific halibut will be made on or about January 1 each year. Until the method for distributing the QP issued for adaptive management program QS, specified at paragraph (l) of this section, is developed and implemented or through 2014, whichever is earlier, the resulting AMP QP will be issued to all QS permit owners in proportion to their non-whiting QS.

(*1*) In years where the groundfish harvest specifications are known by January 1, deposits to QS accounts for IFQ species will be made on or about January 1.

(*2*) In years where the groundfish harvest specifications are not known by January 1, NMFS will issue QP in two parts. On or about January 1, NMFS will deposit QP based on the shorebased trawl allocation multiplied by the lower end of the range of potential harvest specifications for that year. After the final harvest specifications are established later in the year, NMFS will deposit additional QP to the QS account.

* * * * *

(C) *Pacific halibut IBQ pounds annual allocation.* NMFS will issue IBQ pounds for Pacific halibut annually by multiplying the QS permit owner's IBQ percent by the Shorebased IFQ Program component of the trawl bycatch mortality limit for that year. Deposits to QS accounts for Pacific halibut IBQ pounds will be made on or about January 1 each year. Mortality of any size Pacific halibut count against IBQ pounds.

(*1*) In years where the Pacific halibut total constant exploitation yield is known by January 1, deposits to QS accounts will be made on or about January 1.

(*2*) In years where the Pacific halibut total constant exploitation yield is not known by January 1, NMFS will issue QP in two parts. On or about January 1, NMFS will deposit QP based on some portion of the International Pacific Halibut Commission's staff recommended total constant exploitation yield from their interim meeting. After the final Pacific halibut total constant exploitation yield is established from the International Pacific Halibut Commission's annual meeting, NMFS will deposit additional QP to the QS account.

* * * * *

(2) * * *

(ii) *Registration.* A QS account will be established by NMFS with the issuance of a QS permit. The administrative functions associated with the Shorebased IFQ Program (*e.g.,* account registration, landing transactions, and transfers) are designed to be accomplished online; therefore, a participant must have access to a computer with Internet access and must set up online access to their QS account to participate. The computer must have Internet browser software installed (*e.g.,* Internet Explorer, Netscape, Mozilla Firefox); as well as the Adobe Flash Player software version 9.0 or greater. NMFS will mail initial QS permit owners instructions to set up online access to their QS account. NMFS will use the QS account to send messages to QS permit owners; it is important for QS permit owners to monitor their online QS account and all associated messages.

(3) * * *

(i) * * *

(D) QS permits will not be renewed until SFD has received a complete application for a QS permit renewal, which includes payment of required fees, complete documentation of QS permit ownership on the Trawl Identification of Ownership Interest Form as required under paragraph (d)(4)(iv) of this section, a complete economic data collection form if required under § 660.114. The QS permit renewal will be considered incomplete until the required information is submitted.

* * * * *

(ii) * * *

(A) *Change in QS permit ownership.* Ownership of a QS permit cannot be registered to another individual or entity. The QS permit owner cannot change or add additional individuals or entities as owners of the permit (*i.e.,* cannot change the legal name of the permit owner(s) as given on the permit). Any change in ownership of the QS permit requires the new owner(s) to apply for a QS permit, and is subject to accumulation limits and approval by NMFS.

* * * * *

(4) * * *

(v) *Divestiture.* Accumulation limits will be calculated by first calculating the aggregate nonwhiting QS limit and then the individual species QS or IBQ control limits. For QS permit owners (including any person who has ownership interest in the owner named on the permit) that are found to exceed the accumulation limits during the initial issuance of QS permits, an adjustment period will be provided after

which they will have to completely divest of QS or IBQ in excess of the accumulation limits. QS or IBQ will be issued for amounts in excess of accumulation limits only for owners of limited entry permits as of November 8, 2008, if such ownership has been registered with NMFS by November 30, 2008. The owner of any permit acquired after November 8, 2008, or if acquired earlier, not registered with NMFS by November 30, 2008, will only be eligible to receive an initial allocation for that permit of those QS or IBQ that are within the accumulation limits; any QS or IBQ in excess of the accumulation limits will be redistributed to the remainder of the initial recipients of QS or IBQ in proportion to each recipient's initial allocation of QS or IBQ for each species. Any person that qualifies for an initial allocation of QS or IBQ in excess of the accumulation limits will be allowed to receive that allocation, but must divest themselves of the excess QS or IBQ during years three and four of the IFQ program. Holders of QS or IBQ in excess of the control limits may receive and use the QP or IBQ pounds associated with that excess, up to the time their divestiture is completed. At the end of year 4 of the IFQ program, any QS or IBQ held by a person (including any person who has ownership interest in the owner named on the permit) in excess of the accumulation limits will be revoked and redistributed to the remainder of the of the QS or IBQ owners in proportion to the QS or IBQ holdings in year 5. No compensation will be due for any revoked shares.

* * * * *

(e) * * *

(1) * * *

(i) *Gear exception.* Vessels registered to a limited entry trawl permit using the following gears would not be required to cover groundfish catch with QP or Pacific halibut catch with IBQ pounds: Non-groundfish trawl, gear types defined in the coastal pelagic species FMP, gear types defined in the highly migratory species FMP, salmon troll, crab pot, and limited entry fixed gear when the vessel also has a limited entry permit endorsed for fixed gear and has declared that it is fishing in the limited entry fixed gear fishery. Vessels using gears falling under this exception are subject to the open access fishery restrictions and limits when declared in to an open access fishery.

* * * * *

(2) * * *

(ii) *Registration.* A vessel account must be registered with the NMFS SFD Permits Office. A vessel account may be established at any time during the year. An eligible vessel owner must submit a request in writing to NMFS to establish a vessel account. The request must include the vessel name; USCG vessel registration number (as given on USCG Form 1270) or state registration number, if no USCG documentation; all vessel owner names (as given on USCG Form 1270, or on state registration, as applicable); and business contact information, including: Address, phone number, fax number, and e-mail. Requests for a vessel account must also include the following information: A complete economic data collection form as required under § 660.113(b), (c) and (d), and a complete Trawl Identification of Ownership Interest Form as required under paragraph (e)(4)(ii) of this section. The request for a vessel account will be considered incomplete until the required information is submitted. Any change specified at paragraph (e)(3)(ii) of this section, including a change in the legal name of the vessel owner(s), will require the new owner to register with NMFS for a vessel account. A participant must have access to a computer with Internet access and must set up online access to their vessel account to participate. The computer must have Internet browser software installed (*e.g.,* Internet Explorer, Netscape, Mozilla Firefox); as well as the Adobe Flash Player software version 9.0 or greater. NMFS will mail vessel account owners instructions to set up online access to their vessel account. NMFS will use the vessel account to send messages to vessel owners in the Shorebased IFQ Program; it is important for vessel owners to monitor their online vessel account and all associated messages.

(3) * * *

(i) * * *

(D) Vessel accounts will not be renewed until SFD has received a complete application for a vessel account renewal, which includes payment of required fees, a complete documentation of permit ownership on the Trawl Identification of Ownership Interest Form as required under (e)(4)(ii) of this section, and a complete economic data collection form as required under § 660.114. The vessel account renewal will be considered incomplete until the required information is submitted.

* * * * *

(ii) *Change in vessel account ownership.* Vessel accounts are non-transferable and ownership of a vessel account cannot change (*i.e.,* cannot change the legal name of the owner(s) as given on the vessel account). If the ownership of a vessel changes (as given on a USCG or state vessel registration documentation), then a new vessel account must be opened by the new owner in order for the vessel to participate in the Shorebased IFQ Program.

* * * * *

(4) * * *

(i) *Vessel limits.* For each IFQ species or species group specified in this paragraph, vessel accounts may not have QP or IBQ pounds in excess of the QP Vessel Limit (Annual Limit) in any year, and, for species covered by Unused QP Vessel Limits (Daily Limit), may not have QP or IBQ pounds in excess of the Unused QP Vessel Limit at any time. The QP Vessel Limit (Annual Limit) is calculated as unused available QPs plus used QPs (landings and discards) plus any pending outgoing transfer of QPs. The Unused QP Vessel Limits (Daily Limit) is calculated as unused available QPs plus any pending outgoing transfer of QPs. These vessel limits are as follows:

* * * * *

(5) * * *

(i) *Surplus QP or IBQ pounds.* A vessel account with a surplus of QP or IBQ pounds (unused QP or IBQ pounds) for any IFQ species at the end of the fishing year may carryover for use in the immediately following year an amount of unused QP or IBQ pounds up to its carryover limit. The carryover limit for the surplus is calculated as 10 percent of the cumulative total QP or IBQ pounds (used and unused, less any transfers or any previous carryover amounts) in the vessel account at the end of the year. NMFS will credit the carryover amount to the vessel account in the immediately following year once NMFS has completed its end-of-the-year account reconciliation. NMFS will notify vessel account owners through the online IFQ system of any additional QP or IBQ pounds resulting from a carryover of surplus pounds. If there is a decline in the OY between the base year and the following year in which the QP or IBQ pounds would be carried over, the carryover amount will be reduced in proportion to the reduction in the OY. Surplus QP or IBQ pounds may not be carried over for more than one year. Any amount of QP or IBQ pounds in a vessel account and in excess of the carryover amount will expire on December 31 each year and will not be available for any future use.

* * * * *

(f) * * *

(1) *General.* The first receiver site license authorizes the holder to receive, purchase, or take custody, control, or

possession of an IFQ landing at a specific physical site onshore directly from a vessel. Each buyer of groundfish from a vessel making an IFQ landing must have a first receiver site license for each physical location where the IFQ landing is offloaded.

(2) *Issuance.*—(i) First receiver site licenses will only be issued to a person registered to a valid license issued by the state of Washington, Oregon, or California, and that authorizes the person to receive fish from a catcher vessel.

(ii) A separate first receiver site license will be issued for each IFQ first receiver for each specific physical location where the IFQ first receiver will receive, purchase or take custody, control, or possession of an IFQ landing from a vessel.

(iii) An IFQ first receiver may apply for a first receiver site license at any time during the calendar year.

(iv) IFQ first receivers must reapply for a first receiver site license as specified at paragraphs (f)(6) and (7) of this section.

* * * * *

(3) *Application process.* Persons interested in being licensed as an IFQ first receiver for a specific physical location must submit a complete application for a first receiver site license to NMFS, Northwest Region, Permits Office, *Attn:* Catch Monitor Coordinator, Bldg. 1, 7600 Sand Point Way NE., Seattle, WA 98115. NMFS will only consider complete applications for approval. A complete application includes:

* * * * *

(ii) * * *

(D) The name and signature of the person submitting the application and the date of the application.

* * * * *

(iii) *A catch monitoring plan.* All IFQ first receivers must prepare and operate under a NMFS-accepted catch monitoring plan for each specific physical location. A proposed catch monitoring plan detailing how the IFQ first receiver will meet each of the performance standards in paragraph (f)(3)(iii)(C) of this section must be included with the application. NMFS will not issue a first receiver site license to a person that does not have a current, NMFS-accepted catch monitoring plan.

* * * * *

(B) *Arranging an inspection.* After receiving a complete application for a first receiver site license, including the proposed catch monitoring plan, NMFS will contact the applicant to schedule a site inspection.

* * * * *

(C) * * *

(*11*) *Electronic fish ticket submittal.* Describe how the electronic fish ticket submittal requirements specified at § 660.113(b)(4)(ii) will be met.

* * * * *

(5) *Effective date.* The first receiver site license is effective upon approval and issuance by NMFS and will be effective for one year from the date of NMFS issuance, or until the state license required by paragraph (f)(2)(i) of this section is no longer effective, whichever occurs first.

(6) *Reissuance in subsequent years.* Existing license holders must reapply annually. If the existing license holder fails to reapply, the first receiver's site license will expire as specified in paragraph (f)(5) of this section. The IFQ first receiver will not be authorized to receive IFQ species from a vessel if their first receiver site license has expired.

(7) *Change in ownership of an IFQ first receiver.* If there are any changes to the owner of a first receiver registered to a first receiver site license during a calendar year, the first receiver site license is void. The new owner of the first receiver must apply to NMFS for a first receiver site license. A first receiver site license may not be registered to any other person.

* * * * *

(h) * * *

(1) * * *

(i) Any vessel participating in the Shorebased IFQ Program must carry a NMFS-certified observer during any trip and must maintain observer or catch monitor coverage while in port until all fish from that trip have been offloaded, with the following exception. If the observer makes available to the catch monitor an observer program form reporting the weight and number of those overfished species identified in § 660.112(b)(1)(xiii) that were retained onboard the vessel during that trip and noting any discrepancy in those species between the vessel operator and observer, the vessel would not need to maintain observer or catch monitor coverage on the vessel while in port and until the offload is complete. If a vessel delivers fish from an IFQ trip to more than one IFQ first receiver, the observer must remain onboard the vessel during any transit between delivery points.

* * * * *

(j) * * *

(1) *Catch monitoring plan.* All IFQ first receivers must operate under a NMFS-accepted catch monitoring plan for each specific physical location where IFQ landings will be received, purchased, or taken custody, control, or possession of.

* * * * *

(l) * * *

(2) *AMP QP pass through.* The 10 percent of non-whiting QS will be reserved for the AMP, but the resulting AMP QP will be issued to all QS permit owners in proportion to their non-whiting QS through 2014 or until alternative criteria for distribution of the AMP QP is developed and implemented, whichever is earlier.

18. In § 660.150,

a. Revise paragraph (a) introductory text, (c)(2)(i)(A), (d)(1)(iii) introductory text, (d)(1)(iii)(A)(*1*)(*vi*), (f)(2)(i), (f)(3)(i), (g)(1)(iii), (g)(2)(iv), and (g)(3)(i) introductory text;

b. Add paragraphs (c)(2)(i)(B)(*1*)(*i*) and (*ii*), (c)(2)(i)(C), (c)(2)(ii)(C), (g)(2)(v) and (vi) to read as follows:

§ 660.150 Mothership (MS) Coop Program.

(a) *General.* The MS Coop Program is a general term to describe the limited access program that applies to eligible harvesters and processors in the mothership sector of the Pacific whiting at-sea trawl fishery. Eligible harvesters and processors, including coop and non-coop fishery participants, must meet the requirements set forth in this section of the Pacific Coast groundfish regulations. Each year a vessel registered to an MS/CV-endorsed permit may fish in either the coop or non-coop portion of the MS Coop Program, but not both. In addition to the requirements of this section, the MS Coop Program is subject to the following groundfish regulations of subparts C and D of this part:

* * * * *

(c) * * *

(2) * * *

(i) * * *

(A) *Pacific whiting catch history assignment.* Each MS/CV endorsement's associated catch history assignment of Pacific whiting will be annually allocated to a single permitted MS coop or to the non-coop fishery. If multiple MS/CV endorsements and their associated CHAs are registered to a limited entry permit, that permit may be simultaneously registered to more than one MS coop or to both a coop(s) and non-coop fishery. Once assigned to a permitted MS coop or to the non-coop fishery, each MS/CV endorsement's catch history assignment remains with that permitted MS coop or non-coop fishery for that calendar year. When the mothership sector allocation is established, the information for the conversion of catch history assignment to pounds will be made available to the

public through a **Federal Register** announcement and/or public notice and/or the NMFS Web site. The amount of whiting from the catch history assignment will be issued to the nearest whole pound using standard rounding rules (*i.e.* less than 0.5 rounds down and 0.5 and greater rounds up).

(*1*) In years where the Pacific whiting harvest specification is known by the start of the mothership sector primary whiting season specified at § 660.131(b)(2)(iii)(B), allocation for Pacific whiting will be made by the start of the season.

(*2*) In years where the Pacific whiting harvest specification is not known by the start of the mothership sector primary whiting season specified at § 660.131(b)(2)(iii)(B), NMFS will issue Pacific whiting allocations in two parts. Before the start of the primary whiting season, NMFS will allocate Pacific whiting based on the MS Coop Program allocation percent multiplied by the lower end of the range of potential harvest specifications for Pacific whiting for that year. After the final Pacific whiting harvest specifications are established, NMFS will allocate any additional amounts of Pacific whiting to the MS Coop Program.

(B) * * *

(*1*) * * *

(*i*) In years where the groundfish harvest specifications are known by the start of the mothership sector primary whiting season specified at § 660.131(b)(2)(iii)(B), allocation of non-whiting groundfish species with an allocation will be made by the start of the season.

(*ii*) In years where the groundfish harvest specifications are not known by the start of the mothership sector primary whiting season specified at § 660.131(b)(2)(iii)(B), NMFS will issue allocations for non-whiting groundfish species with an allocation in two parts. Before the start of the whiting primary season, NMFS will allocate non-whiting groundfish species with an allocation based on the MS Coop Program allocation percent multiplied by the lower end of the range of potential harvest specifications for those species for that year. After the final groundfish harvest specifications are established, NMFS will allocate any additional amounts of non-whiting groundfish species with an allocation to the MS Coop Program.

* * * * *

(C) After making best attempts to distribute 100 percent of the MS Coop Program allocations among the catch history assignments for individual MS/CV-endorsed permits, NMFS may determine the allocations to individual permits that are equal to or greater than 99.99 percent, but do not exceed 100 percent, are considered fully allocated.

* * * * *

(ii) * * *

(C) If all MS/CV-endorsed permits are members of a single coop in a given year and there is not a non-coop fishery, then NMFS will allocate 100 percent of the MS Coop Program allocation to that coop.

* * * * *

(d) * * *

(1) * * *

(iii) *Application for MS coop permit.* The designated coop manager, on behalf of the coop entity, must submit a complete application form and include each of the items listed in paragraph (d)(1)(iii)(A) of this section. Only complete applications will be considered for issuance of a MS coop permit. An application will not be considered complete if any required application fees and annual coop reports have not been received by NMFS. NMFS may request additional supplemental documentation as necessary to make a determination of whether to approve or disapprove the application. Application forms and instruction are available on the NMFS NWR Web site (*http://www.nwr.noaa.gov*) or by request from NMFS. The designated coop manager must sign the application acknowledging the responsibilities of a designated coop manager defined in paragraph (b)(3) of this section. For permit owners with more than one MS/CV endorsement and associated CHA, paragraph (g)(2)(iv)(D) of this section specifies how to join an MS coop(s).

(A) * * *

(*1*) * * *

(*vi*) A clause stating that if a permit is registered to a new permit owner during the effective period of the coop agreement, any new owners of that member permit would be coop members required to comply with membership restrictions in the coop agreement.

* * * * *

(f) * * *

(2) * * *

(i) *Renewal.* An MS permit must be renewed annually consistent with the limited entry permit regulations given at § 660.25(b)(4). If a vessel registered to the MS permit will operate as a mothership in the year for which the permit is renewed, the permit owner must make a declaration as part of the permit renewal that while participating in the whiting fishery it will operate solely as a mothership during the calendar year to which its limited entry permit applies. Any such declaration is binding on the vessel for the calendar year, even if the permit is registered to a different permit owner during the year, unless it is rescinded in response to a written request from the permit owner. Any request to rescind a declaration must be made by the permit owner and granted in writing by the Regional Administrator before any unprocessed whiting has been taken on board the vessel that calendar year.

* * * * *

(3) * * *

(i) *MS permit usage limit.* No person who owns an MS permit(s) may register the MS permit(s) to vessels that cumulatively process more than 45 percent of the annual mothership sector Pacific whiting allocation. For purposes of determining accumulation limits, NMFS requires that permit owners submit a complete trawl ownership interest form for the permit owner as part of annual renewal for the MS permit. An ownership interest form will also be required whenever a new permit owner obtains an MS permit as part of a request for a change in permit ownership. Accumulation limits will be determined by calculating the percentage of ownership interest a person has in any MS permit. Determination of ownership interest will subject to the individual and collective rule.

* * * * *

(g) * * *

(1) * * *

(iii) *MS/CV endorsement and CHA non-severable.* Subject to the regulations at paragraphs (g)(2)(iv) and (v) of this section, an MS/CV endorsement and its associated CHA are permanently linked together as originally issued by NMFS and cannot be divided or registered separately to another limited entry trawl permit. An MS/CV endorsement and its associated CHA must be registered to a limited entry trawl permit and any change in endorsement registration must be to another limited entry trawl permit.

* * * * *

(2) * * *

(iv) *Change in MS/CV endorsement registration.* As specified at § 660.25(b)(3)(v), each MS/CV endorsement has an associated CHA that is permanently linked as originally issued by NMFS and cannot be divided or registered separately to another limited entry trawl permit. An MS/CV endorsement and associated CHA must be registered to a limited entry trawl permit and any change in MS/CV endorsement registration must be to another limited entry trawl permit. Any

change in MS/CV endorsement registration will be registered separately on the limited entry trawl permit. An MS/CV endorsement and its associated CHA cannot be registered to any other person other than the specified owner of the limited entry trawl permit to which it is registered.

(A) *Multiple MS/CV endorsements on a limited entry trawl permit.* Multiple MS/CV endorsements and associated CHAs may be registered to a single limited entry trawl permit. If multiple endorsements are registered to a single limited entry trawl permit, the whiting CHA amount (expressed as a percent) will remain in the amount that it was originally issued by NMFS and will not be combined as a single larger CHA, unless two or more MS/CV-endorsed permits are combined for purposes of increasing the size endorsement, as specified at § 660.25(b)(4)(ii)(B). Any change in MS/CV endorsement registration may be disapproved if the person owning the limited entry trawl permit has aggregate CHA amounts in excess of the accumulation limits specified at paragraph (g)(3) of this section.

(B) *Application.* A request for a change in MS/CV endorsement registration must be made between September 1 and December 31 of each year. Any transfer of MS/CV endorsement and its associated CHA to another limited entry trawl permit must be requested using a change in permit ownership form and the permit owner or an authorized representative of the permit owner must certify that the application is true and correct by signing and dating the form. In addition, the form must be notarized, and the permit owner selling the MS/CV endorsement and CHA must provide the sale price of the MS/CV endorsement and its associated CHA. If any assets in addition to the MS/CV endorsement and its associated CHA are included in the sale price, those assets must be itemized and described.

(C) *Effective date.* Any change in MS/CV endorsement registration from one limited entry trawl permit to another limited entry trawl permit will be effective on January 1 in the year following the application period.

(D) A limited entry trawl permit with multiple MS/CV endorsement registrations may be simultaneously registered to more than one coop or to both a coop(s) and non-coop fishery. In such cases, as part of the coop permit application process, specified at paragraph (d)(iii) of this section, the permit owner must specify on the coop permit application form which MS/CV endorsement and associated CHA is specifically registered to a particular coop or to the non-coop fishery.

(v) *Combination.* An MS/CV-endorsed permit may be combined with one or more other limited entry trawl permits; the resulting permit will be a single permit with an increased size endorsement. If the MS/CV-endorsed permit is combined with another limited entry trawl-endorsed permit other than a C/P-endorsed permit, the resulting permit will be MS/CV-endorsed. If an MS/CV-endorsed permit is combined with a C/P-endorsed permit, the resulting permit will be exclusively a C/P-endorsed permit, and will not have an MS/CV endorsement. If an MS/CV-endorsed permit is combined with another MS/CV-endorsed permit, the combined catch history assignment of the permit(s) will be added to the active permit (the permit remaining after combination) and the other permit will be retired. If a trawl permit has more than one MS/CV endorsements and it is combined with a non C/P-endorsed trawl permit with no such endorsements, the MS/CV endorsements on the resulting permit will be maintained as separate endorsements on the resulting permit. NMFS will not approve a permit combination if it results in a person exceeding the accumulation limits specified at paragraph (g)(3) of this section. Any request to combine permits is subject to the provision provided at § 660.25(b), including the combination formula for resulting size endorsements.

(vi) *One-time request to undo a permit combination.* If two or more MS/CV-endorsed permits have been combined before January 1, 2012 for purposes of increasing the vessel's size endorsement, a permit owner of the resulting combined permit will have until [*Insert date 90 days after date of publication of the final rule in the FEDERAL REGISTER*] to undo that permit combination. The permit owner must submit a letter to NMFS requesting such action. The letter must be postmarked or hand-delivered to NMFS by the deadline.

* * * * *

(3) * * *

(i) *MS/CV-endorsed permit ownership limit.* No person shall own MS/CV-endorsed permits for which the collective Pacific whiting allocation total is greater than 20 percent of the total mothership sector allocation. For purposes of determining accumulation limits, NMFS requires that permit owners submit a complete trawl ownership interest form for the permit owner as part of annual renewal of an MS/CV-endorsed permit. An ownership interest form will also be required whenever a new permit owner obtains an MS/CV-endorsed permit as part of a request for a change in permit ownership. Accumulation limits will be determined by calculating the percentage of ownership interest a person has in any MS/CV-endorsed permit and the amount of the Pacific whiting catch history assignment given on the permit. Determination of ownership interest will be subject to the individual and collective rule.

* * * * *

19. In § 660.160,

a. Revise paragraphs (a) introductory text, (d)(1)(iii)(A)(*1*)(*iv*), (e)(1)(i), (e)(2)(i);

b. Add paragraphs (c)(2)(i) and (ii), and (c)(3)(i)(A) and (B) to read as follows:

§ 660.160 Catcher/processor (C/P) Coop Program.

(a) *General.* The C/P Coop Program is a limited access program that applies to vessels in the C/P sector of the Pacific whiting at-sea trawl fishery and is a single voluntary coop. Eligible harvesters and processors must meet the requirements set forth in this section of the Pacific Coast groundfish regulations. In addition to the requirements of this section, the C/P Coop Program is subject to the following groundfish regulations:

* * * * *

(c) * * *

(2) * * *

(i) In years where the Pacific whiting harvest specification is known by the start of the catcher/processor sector primary whiting season specified at § 660.131(b)(2)(iii)(A), allocation for Pacific whiting will be made by the start of the season.

(ii) In years where the Pacific whiting harvest specification is not known by the start of the catcher/processor sector primary whiting season specified at § 660.131(b)(2)(iii)(A), NMFS will issue Pacific whiting allocations in two parts. Before the start of the primary whiting season, NMFS will allocate Pacific whiting based on the C/P Coop Program allocation percent multiplied by the lower end of the range of potential harvest specifications for Pacific whiting for that year. After the final Pacific whiting harvest specifications are established, NMFS will allocate any additional amounts of Pacific whiting to the C/P Coop Program.

(3) * * *

(i) * * *

(A) In years where the groundfish harvest specifications are known by the start of the catcher/processor sector primary whiting season specified at § 660.131(b)(2)(iii)(A), allocation of non-

whiting groundfish species with an allocation will be made by the start of the season.

(B) In years where the groundfish harvest specifications are not known by the start of the catcher/processor sector primary whiting season specified at § 660.131(b)(2)(iii)(A), NMFS will issue allocations for non-whiting groundfish species with an allocation in two parts. Before the start of the primary whiting season, NMFS will allocate non-whiting groundfish species with an allocation based on the C/P Coop Program allocation percent multiplied by the lower end of the range of potential harvest specifications for those species for that year. After the final groundfish harvest specifications are established, NMFS will allocate any additional amounts of non-whiting groundfish species with an allocation to the C/P Coop Program.

* * * * *

(d) * * *

(1) * * *

(iii) * * *

(A) * * *

(*1*) * * *

(*iv*) A clause stating that if a permit is registered to a new permit owner during the effective period of the coop agreement, any new owners of that member permit would be coop members and are required to comply with membership restrictions in the coop agreement.

* * * * *

(e) * * *

(1) * * *

(i) *Non-severable.* A C/P endorsement is not severable from the limited entry trawl permit, and therefore, the endorsement may not be registered to another permit owner or to another vessel separately from the limited entry trawl permit.

* * * * *

(2) * * *

(i) *Renewal.* A C/P-endorsed permit must be renewed annually consistent with the limited entry permit regulations given at § 660.25(b)(4). If a vessel registered to the C/P-endorsed permit will operate as a mothership in the year for which the permit is renewed, the permit owner must make a declaration as part of the permit renewal that while participating in the whiting fishery they will operate solely as a mothership during the calendar year to which its limited entry permit applies. Any such declaration is binding on the vessel for the calendar year, even if the permit is registered to a different permit owner during the year, unless it is rescinded in response to a written request from the permit owner. Any request to rescind a declaration must be made by the permit owner and granted in writing by the Regional Administrator before any unprocessed whiting has been taken on board the vessel that calendar year.

* * * * *

20. In § 660.212, revise paragraph (d)(3) to read as follows:

§ 660.212 Fixed gear fishery—prohibitions.

* * * * *

(d) * * *

(3) Process sablefish taken at-sea in the limited entry fixed gear sablefish primary fishery defined at § 660.231, from a vessel that does not have a sablefish at-sea processing exemption, described at § 660.25(b)(6)(i).

21. Revise 660.220 to read as follows:

§ 660.220 Fixed gear fishery—crossover provisions.

The crossover provisions listed at § 660.60(h)(7), apply to vessels fishing in the limited entry fixed gear fishery.

22. In § 660.231, revise paragraph (b)(4)(i) and (b)(4)(ii)(A) to read as follows:

§ 660.231 Limited entry fixed gear sablefish primary fishery.

* * * * *

(b) * * *

(4) * * *

(i) The person, partnership or corporation had ownership interest in a limited entry permit with a sablefish endorsement prior to November 1, 2000. A person who has ownership interest in a partnership or corporation that owned a sablefish-endorsed permit as of November 1, 2000, but who did not individually own a sablefish-endorsed limited entry permit as of November 1, 2000, is not exempt from the owner-on-board requirement when he/she leaves the partnership or corporation and purchases another permit individually. A person, partnership, or corporation that is exempt from the owner-on-board requirement may sell all of their permits, buy another sablefish-endorsed permit within up to a year from the date the last change in permit ownership was approved, and retain their exemption from the owner-on-board requirements. Additionally, a person, partnership, or corporation that qualified for the owner-on-board exemption, but later divested their interest in a permit or permits, may retain rights to an owner-on-board exemption as long as that person, partnership, or corporation purchases another permit by March 2, 2007. A person, partnership or corporation could only purchase a permit if it has not added or changed individuals since November 1, 2000, excluding individuals that have left the partnership or corporation, or that have died.

(ii) * * *

(A) Evidence of death of the permit owner shall be provided to NMFS in the form of a copy of a death certificate. In the interim before the estate is settled, if the deceased permit owner was subject to the owner-on-board requirements, the estate of the deceased permit owner may send a letter to NMFS with a copy of the death certificate, requesting an exemption from the owner-on-board requirements. An exemption due to death of the permit owner will be effective only until such time that the estate of the deceased permit owner has registered the deceased permit owner's permit to a beneficiary or up to three years after the date of death as proven by a death certificate, whichever is earlier. An exemption from the owner-on-board requirements will be conveyed in a letter from NMFS to the estate of the permit owner and is required to be on the vessel during fishing operations.

* * * * *

23. Revise 660.320 to read as follows:

§ 660.320 Open access fishery—crossover provisions.

The crossover provisions listed at § 660.60(h)(7), apply to vessels fishing in the open access fishery.

24. In § 660.333, revise paragraphs (b) through (d) to read as follows:

§ 660.333 Open access non-groundfish trawl fishery—management measures.

* * * * *

(b) *Participation in the ridgeback prawn fishery.* A trawl vessel will be considered participating in the open access, non-groundfish trawl ridgeback prawn fishery if:

(1) It is declared ''non-groundfish trawl gear for ridgeback prawn'' under § 660.13(d)(5)(iv), regardless of whether it is registered to a Federal limited entry trawl-endorsed permit; and

(2) The landing includes ridgeback prawns taken in accordance with California Fish and Game Code, section 8595, which states: ''Prawns or shrimp may be taken for commercial purposes with a trawl net, subject to Article 10 (commencing with Section 8830) of Chapter 3.''

(c) *Participation in the California halibut fishery.* A trawl vessel will be considered participating in the open access, non-groundfish trawl California halibut fishery if:

(1) It is declared ''non-groundfish trawl gear for California halibut'' under § 660.13(d)(5)(iv), regardless of whether it is registered to a Federal limited entry trawl-endorsed permit;

(2) All fishing on the trip takes place south of Pt. Arena, CA (38°57.50′ N. lat.); and

(3) The landing includes California halibut of a size required by California Fish and Game Code section 8392, which states: ''No California halibut may be taken, possessed or sold which measures less than 22 in (56 cm) in total length, unless it weighs 4-lb (1.8144 kg) or more in the round, 3 and one-half lbs (1.587 kg) or more dressed with the head on, or 3-lbs (1.3608 kg) or more dressed with the head off. Total length means the shortest distance between the tip of the jaw or snout, whichever extends farthest while the mouth is closed, and the tip of the longest lobe of the tail, measured while the halibut is lying flat in natural repose, without resort to any force other than the swinging or fanning of the tail.''

(d) *Participation in the sea cucumber fishery.* A trawl vessel will be considered to be participating in the open access, non-groundfish trawl sea cucumber fishery if:

(1) It is declared ''non-groundfish trawl gear for sea cucumber'' under § 660.13(d)(5)(iv), regardless of whether it is registered to a Federal limited entry trawl-endorsed permit;

(2) All fishing on the trip takes place south of Pt. Arena, CA (38°57.50′ N. lat.); and

(3) The landing includes sea cucumbers taken in accordance with California Fish and Game Code, section 8405, which requires a permit issued by the State of California.

* * * * *

[FR Doc. 2011–22311 Filed 9–1–11; 8:45 am]

BILLING CODE 3510–22–P

FEDERAL REGISTER

Vol. 76 Friday,

No. 171 September 2, 2011

Part IV

The President

Proclamation 8700—National Preparedness Month, 2011

Federal Register
Vol. 76, No. 171
Friday, September 2, 2011

Presidential Documents

Title 3—

The President

Proclamation 8700 of August 31, 2011

National Preparedness Month, 2011

By the President of the United States of America

A Proclamation

Whenever our Nation has been challenged, the American people have responded with faith, courage, and strength. This year, natural disasters have tested our response ability across all levels of government. Our thoughts and prayers are with those whose lives have been impacted by recent storms, and we will continue to stand with them in their time of need. This September also marks the 10th anniversary of the tragic events of September 11, 2001, which united our country both in our shared grief and in our determination to prevent future generations from experiencing similar devastation. Our Nation has weathered many hardships, but we have always pulled together as one Nation to help our neighbors prepare for, respond to, and recover from these extraordinary challenges.

In April of this year, a devastating series of tornadoes challenged our resilience and tested our resolve. In the weeks that followed, people from all walks of life throughout the Midwest and the South joined together to help affected towns recover and rebuild. In Joplin, Missouri, pickup trucks became ambulances, doors served as stretchers, and a university transformed itself into a hospital. Local businesses contributed by using trucks to ship donations, or by rushing food to those in need. Disability community leaders worked side-by-side with emergency managers to ensure that survivors with disabilities were fully included in relief and recovery efforts. These stories reveal what we can accomplish through readiness and collaboration, and underscore that in America, no problem is too hard and no challenge is too great.

Preparedness is a shared responsibility, and my Administration is dedicated to implementing a ''whole community'' approach to disaster response. This requires collaboration at all levels of government, and with America's private and nonprofit sectors. Individuals also play a vital role in securing our country. The National Preparedness Month Coalition gives everyone the chance to join together and share information across the United States. Americans can also support volunteer programs through www.Serve.gov, or find tools to prepare for any emergency by visiting the Federal Emergency Management Agency's Ready Campaign website at www.Ready.gov or www.Listo.gov.

In the last few days, we have been tested once again by Hurricane Irene. While affected communities in many States rebuild, we remember that preparedness is essential. Although we cannot always know when and where a disaster will hit, we can ensure we are ready to respond. Together, we can equip our families and communities to be resilient through times of hardship and to respond to adversity in the same way America always has—by picking ourselves up and continuing the task of keeping our country strong and safe.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 2011 as National Preparedness Month. I encourage all Americans to recognize

the importance of preparedness and observe this month by working together to enhance our national security, resilience, and readiness.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of August, in the year of our Lord two thousand eleven, and of the Independence of the United States of America the two hundred and thirty-sixth.

[FR Doc. 2011–22768
Filed 9–1–11; 11:15 am]
Billing code 3195–W1–P

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